

AGENDA ITEM NO. 9/2(d)

Parish:	Downham West	
Proposal:	Retrospective change of use of annexe to create independant new home and associated works to create residential curtilage (part retrospective).	
Location:	Appletree Cottage The Lane Salters Lode Norfolk PE38 0DL	
Applicant:	Mr & Mrs Crawford	
Case No:	23/00879/F (Full Application)	
Case Officer:	Bradley Downes	Date for Determination: 19 July 2023 Extension of Time Expiry Date: 9 February 2024

Reason for Referral to Planning Committee – Called in by Cllr Spikings

Neighbourhood Plan: No

Case Summary

The application is retrospective for the change of use of a residential outbuilding and subdivision of curtilage to create an independent dwelling. The outbuilding was originally approved as a detached garage serving a replacement dwelling. Planning permission was granted for a first-floor extension to the garage, which remained ancillary to the replacement dwelling. The building been subject of enforcement investigations concerning use as a separate dwelling contrary to the authorised use. The applicant is content that the outbuilding comprises an appropriate building for conversion to a modest “stand-alone” single dwelling and has now submitted the application for the regularisation of this matter.

The outbuilding lies immediately adjacent the donor dwelling Appletree Cottage and situated within a small group of dwellings on the edge of Salters Lode, which is designated as a smaller village or hamlet in Policy CS02 of the Core Strategy 2011. The Lane is single track width and lies adjacent the embankment of the river Ouse.

Key Issues

Planning history
Principle of development
Impact on neighbour amenity
Highway safety
Flood risk

Recommendation

REFUSE

THE APPLICATION

The application is retrospective for the change of use of a residential outbuilding and subdivision of curtilage to create an independent dwelling. The outbuilding was originally approved as a detached garage as part of a scheme for a replacement dwelling. Planning permission was granted for a first-floor extension to the garage with the decision subject to the condition that the use of the extended garage be limited to the needs and personal enjoyment of the occupants of the dwelling. The building has been subject of enforcement investigations related to unauthorised use as a separate dwelling.

The outbuilding lies adjacent Appletree Cottage, The Lane, and originally served as a detached garage for the property with a footprint of approximately 32sqm. The site lies within a small group of dwellings on the edge of Salters Lode, which is designated as a smaller village or hamlet in Policy CS02 of the Core Strategy 2011. As such Salters Lode does not have a development boundary and the site is classed as countryside, where Policy DM2 states that development is more restricted and limited to that identified as suitable in other areas of the Development Plan. The Lane is single track width and lies adjacent the embankment of the river Ouse, hence Flood Risk is a key consideration.

SUPPORTING CASE

The following summary has been prepared by Sequence (UK) Ltd in support of application 23/00879/F for permanent residential use of The Annexe, Appletree Cottage, Salters Lode. This summary sets out our compelling case as to why planning permission should be granted, which is detailed in full within the submitted Planning Statement. We reserve the right to comment further once we have seen the officer's report and recommendation and are grateful to members of the planning committee for their consideration of this summary.

It is important to clarify that there are no physical works proposed under this application. The application is solely to allow permanent residential occupancy of The Annexe independent to Appletree Cottage as a variation to the lawful annexe use.

Therefore, a fundamental point is that if planning permission is granted, there would be no physical changes. The built form of The Annexe, parking provision, private garden space to the rear and general arrangement would remain exactly the same as the current position.

Similarly, addressing that the application is part-retrospective, it should be clarified that if planning permission was refused, again there would be no physical change. All physical works on site are lawful, and therefore there are no unlawful elements that are under consideration and that would be removed if planning permission is refused. Again, the application is solely to allow permanent, independent occupation of The Annexe.

The submitted application demonstrates that there is a high level of residential amenity provided for both The Annexe and retained for Appletree Cottage and no conflict between the 2 properties (or other neighbours). Both homes have sufficient parking provision to meet the adopted standards and a good level of private rear garden space. The nature of the 2 homes with The Annexe having no windows to the rear at first floor level, and Appletree Cottage having only high level rooflights and a bathroom window with frosted glass, ensure there is no overlooking of rear gardens, giving a high level of privacy within those spaces. There are also no windows to the sides of the respective properties, thereby not facing each other, or other neighbouring properties.

The Annexe also exceeds the nationally described space standards in terms of its internal layout, being entirely suitable for permanent residential use. It is understood from the most

recent correspondence from the case officer (email to agent dated 16 January 2024) that planning officers agree that there are no grounds to refuse planning permission in terms of residential amenity and relevant planning policies (CS06, DM15 and DM17) are met.

Policy DM3 allows for sensitive infilling of small gaps to provide new homes within 'Smaller Villages and Hamlets' such as Salters Lode. The minor variation in use of an existing annexe building located within a gap between dwellings to provide a new home could not be more sensitive with no physical works proposed. The proposal therefore meets policy DM3 in full.

It is our contention that Policy DM3 is more directly applicable to the proposals as set out above. However Policy CS06 which allows for the re-use of buildings for residential use is also met by the proposals with The Annexe making a positive contribution to the landscape, non-residential use not being viable in this location and the site being broadly sustainable in terms of access to housing and other services.

Whether considered under policy DM3 or CS06, the plot layouts are in keeping with the pattern of the settlement, which has no distinct prevailing character. Again no physical works are proposed under this application to change this, the layout will remain exactly as the current lawful position should planning permission be granted.

There are no technical objections to the scheme from statutory consultees. Updated information was provided and consulted on to confirm parking arrangements with Norfolk County Council highways who offer no objection subject to standard conditions. The site lies within flood zone 1 and we have worked collaboratively with the Environment Agency (EA) to address flood resilience in the highly unlikely event of a breach of flood defences that would affect The Annexe. Accordingly they have no objection to the proposals. It is important to clarify the building is flood resilient in its current form and no further physical works are required in this context.

There is acknowledged support from the Parish Council. We recognise 1 letter of objection has been received from the property to the north but officers agree with the applicant's position that there are no concerns in terms of residential amenity and we would suggest this objection should be given very limited weight.

The proposal is therefore considered to be in full accordance with the development plan in the form of the 2011 Core Strategy, and 2016 Site Allocations and Development Management Policies DPD, with no grounds for refusal.

The agent Graham Bloomfield of Sequence (the national brand for William H Brown) will attend the committee meeting on 05 February 2024 and will be happy to answer any questions that members of the planning committee may have.

PLANNING HISTORY

16/00843/F: Application Permitted: 06/07/16 - Single storey and two storey extension to dwelling - Appletree Cottage, The Lane, Salters Lode

05/02579/F: Application Permitted: 03/02/06 - Extension to garage forming car port and loft - Appletree Cottage, The Lane, Salters Lode

2/02/1287/F: Application Permitted: 26/09/02 - Substantial alterations and extension to create two storey dwelling - The Bungalow, The Lane, Salters Lode

2/01/0256/O: Application Permitted: 04/04/01 - Site for construction of dwelling after demolition of existing dwelling - Land adj South View, The Lane, Salters Lode

RESPONSE TO CONSULTATION

Parish Council: SUPPORT

Local Highway Authority: NO OBJECTION

With reference to the revised plan, the parking levels for the existing cottage and the proposed home would accord with standards and are accessed from existing points of access. Recommend condition to ensure parking and turning areas permanently retained.

Environment Agency: NO OBJECTION

No objection to the proposed development but strongly recommend that mitigation measures set out in Flood Risk Assessment are adhered to. These include no ground floor sleeping accommodation and that in any future development on the site the applicants considers use of flood resilient materials.

IDB: NO OBJECTION

Boards byelaws must be complied with.

NCC Public Rights of Way: NO OBJECTION

Public right of way known as Downham West Bridleway 4 is aligned along the river bank adjacent to the site. The full legal extent of this bridleway must remain open and accessible for the duration of the development and subsequent occupation.

Emergency Planning: NO OBJECTION

Occupiers should sign up to the EA flood warning system and a flood evacuation plan should be prepared.

Natural England: NO OBJECTION

Standing advice in relation to GIRAMs.

REPRESENTATIONS

THREE third party letters were received raising **OBJECTIONS** to the development. The following concerns were raised:

- Proposed dwelling had permission for a garage and now is larger than South View cottage and overlooks its gardens and bedrooms.
- Tenants of Appletree Cottage are often noisy and show no caution when driving on the lane.
- Traffic is already an issue with another recent death on the A1122 bad bend.
- Devaluation to neighbouring property.
- Concerned with fire risk due to timber framed building.
- Tenants of Appletree cottage have been running businesses from the property impeding parking.

- Garage becoming a house has made life a misery.
- Chimney is not correct height or specification, smoke gets blown across windows of South View.
- Security lights on property shining into neighbours windows.
- South View has been a registered smallholding for 40 years with operational outbuildings along the length of the boundary with the site obscuring view and causing associated noise and disturbance.
- Noise from residents and parking issues.
- Retrospective application makes a mockery of planning regulations.
- Building has been extended without permission.
- Would a dwelling really be permitted if it was applied for initially?
- Concerned that Parish is biased towards applicants due to the fact that one of them is on the Parish Council.

LDF CORE STRATEGY POLICIES

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM2 – Development Boundaries

DM3 - Development in the Smaller Villages and Hamlets

DM15 – Environment, Design and Amenity

NEIGHBOURHOOD PLAN POLICIES

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)
 Planning Practice Guidance (PPG)
 National Design Guide 2021

PLANNING CONSIDERATIONS

The main considerations are:

- Planning history
- Principle of development
- Impact on neighbour amenity
- Highway safety
- Flood risk

Planning history:

The application is retrospective for change of use of the domestic garage and subdivision of curtilage to create an independent dwelling. The garage was originally permitted as a single

storey building of approximately 32sqm footprint with flat roof under 2/01/0256/O as part of the scheme for a replacement dwelling resulting in the current Appletree Cottage. The garage then underwent significant extension to add first-floor storage space together with a pitched roof and windows resulting in a total footprint of approximately 55sqm. (72sqm floorspace including both storeys) under 05/02579/F. That permission was subject to a condition that the use of the building be limited to purposes incidental to the needs and personal enjoyment of the occupants of the dwelling to safeguard the amenities and interests of the occupiers of nearby property. Since 2005, additional extensions and alterations have been carried out to the building so that now the total footprint is approximately 87sqm (119sqm of floorspace including both storeys). These alterations are not the subject of this application.

Enforcement complaints have been received stating that the garage building was being rented and occupied independently of the main dwelling. An enforcement notice was served on the 15th November 2022. The notice alleged that the Council considers condition 3 of 05/02579/F is not being complied with. The reasons for issuing the notice were that the breach of planning control had occurred within the last 4 years and that condition 3 was imposed to safeguard the amenities and interests of the occupiers of nearby property. The notice required the applicants to comply with condition 3 by ensuring the use of the garage, car port and loft shall be limited to purposes incidental to the needs and personal enjoyment of the occupants of the dwelling and shall at no time be used for business or commercial purposes.

The applicant has appealed the breach of condition notice under Ground B, stating that no breach has occurred as a matter of fact. Notwithstanding the ongoing enforcement appeal, the applicant has applied for retrospective full planning permission for subdivision of the curtilage and change of use of the 'annexe' to an independent dwelling and seeks to regularise the breach observed by Officers.

Principle of development:

Salters Lode is a smaller village or hamlet and is therefore classified as countryside where Policy DM2 states development is more restricted and limited to that identified as suitable in rural areas in other policies in the plan. Policy DM3 sets out that one such appropriate category of development is for the conversion of existing buildings in line with Policy CS06.

Policy CS06 states that the Core Strategy is supportive of the conversion of existing buildings to residential use where:

- The existing building makes a positive contribution to the landscape;
- A non-residential use is proven to be unviable;
- The accommodation is commensurate to the site's relationship with the settlement pattern; and
- The building is easily accessible to existing housing, employment and services.

Regarding the first bullet point, the existing building is a domestic detached garage finished in timber cladding with a red pantile roof and brown uPVC fenestration. It is considered the appearance of the existing building is appropriate as a domestic outbuilding of the main dwelling Appletree Cottage. However, the building does not have any significant architectural merit, heritage significance or otherwise have any significant positive contribution to the landscape. As such it is considered the first bullet point is not met. The aim of this part of the policy is to encourage the conversion of buildings in rural areas where they contribute positively to the visual amenities of the area because it enables the building to provide that benefit to future generations and not fall into disuse or disrepair.

Regarding the second bullet point, 'a non-residential use is proven to be unviable'. This point is usually applied in relation to commercial/agricultural buildings so that viable employment facilities are not lost. As the building is already used for residential purposes, it is considered this bullet point is complied with in default as no employment use is in fact lost.

Regarding the third bullet point, the proposed dwelling is situated in a close juxtaposition with the donor dwelling which is considered would lead to a detrimental impact on the grain of development in the area. While the building already exists, there is a distinct change in character from a domestic outbuilding to an independent dwelling. Condition 3 of 05/02579/F requires that the use of the building remains incidental to the needs and personal enjoyment of the occupants of the dwelling. The reason given for this condition confirms that it is required to protect the amenity of the adjacent occupiers. Officers consider amenity issues separately in the following section. As such, it is considered the building is only suitable when used as a domestic outbuilding. Further intensification of use either commercial or residential is prohibited by the condition as it is considered inappropriate due to the poor relationship with surrounding dwellings.

Lastly, the proposed building would not be considered to have easy access to employment or community facilities and services. The site lies relatively close to a bus stop approximately 280m walk to the west which is connected via footpath to the site and which offers a semi-regular service from Downham Market to Wisbech. Otherwise, Salters Lode itself does not have any facilities or services and lies approximately 2km away from Downham Market to the east. It is highly likely that occupants of the proposed dwelling would use their own private car to travel.

Overall, it is considered the proposed development would not meet the criteria within Policy CS06 to enable conversion of the building. The existing building does not have a positive contribution on the landscape, the resulting dwelling would not be commensurate with the settlement pattern and the site is remote from employment opportunities, community facilities and services. It is considered the proposed dwelling would represent unsustainable residential development in the countryside. The proposal would be contrary to Policies DM2 and DM15 of the SADMPP 2016 and CS06 of the Core Strategy 2011.

Impact on Neighbour Amenity:

The proposed dwelling would not have any significant overbearing or overshadowing impact on neighbouring occupiers as the building already exists and no operational development is involved in the proposed change of use. The use of the building as a dwelling has also not resulted in any additional windows or have any significantly greater overlooking impact on neighbouring occupiers. However, it is considered occupation of the building as a dwelling would give rise to conditions detrimental to residential amenity due to the juxtaposed relationship of the dwellings and frequency of vehicular movements and general activities in close proximity to the donor dwelling.

The enforcement notice served on the dwelling states that the reason for issuing the notice is as follows: "Condition 3 was imposed to safeguard the amenities and interests of the occupiers of nearby property, in accordance with Policy 9/29 of the Local Plan. While now superseded by more recently adopted Policy, it is considered the wording still carries forward into the current development plan. Policy 9/29 states that the Council will promote good standards of building design and landscaping, and a respect for visual and residential amenities. This is similar to Policy DM15 which goes into more detail and states that proposals will be assessed against their impact on neighbouring uses and their occupants as well as the amenity of future occupiers. Development that has a significant adverse impact on the amenity of others will be refused.

The enforcement notice was served as it was considered the creation of an independent dwelling resulted in a development which was contrary to the Development Plan in terms of impact on residential amenity. The proposed dwelling is situated in a cramped relationship with the donor dwelling which is likely to give rise to an unneighbourly relationship. The parking areas for the proposed dwelling lie immediately adjacent the side elevation and part of the rear garden area for the donor dwelling which could result in disturbance via noise and vibration. Other domestic fixtures such as external lighting would also have potential to adversely affect the amenity of neighbouring occupiers due to the spatial relationship.

A third party comment has brought attention to the property South View being part of a smallholding with various outbuildings adjacent the site which have potential to generate noise and disturbance. It is considered the presence of this unit would not result in any adverse impact on future occupiers of the proposed dwelling sufficient to warrant refusal by itself, but it does contribute to the overall concerns related to the cramped form of development. It is considered the siting of the proposed dwelling is poorly designed and gives rise to impacts detrimental to the amenity of neighbouring occupiers. Subsequently the proposal is contrary to Policy DM15 of the SADMPP 2016 and the NPPF.

Highway Safety:

A third-party comment has raised concern with highway safety due to the access point onto the A1122 and parking arrangements. The scheme has set out that parking spaces previously used for Appletree cottage are now proposed to be used for the proposed dwelling, and new parking spaces within the spacious private driveway will be created for use by Appletree Cottage. The Local Highway Authority do not object to the proposed development on the basis that parking and turning facilities for both Appletree Cottage and the proposed dwelling are provided and retained in perpetuity. It is considered the proposed development would not have any significant adverse impact on highway safety.

Flood Risk:

The site lies in Flood Zone 3a and could be at risk from a breach of the adjacent embankment. It is considered the overall risk of flooding on the site is low and in the unlikely event of a breach of defences immediately adjacent the site, the submitted FRA indicates that flood depths could reach approximately 1m with very fast velocity. This would pose a risk to human life, however the proposed dwelling retains all sleeping accommodation to first floor level, and due to the relatively low flood depth, safe refuge at first floor level can be achieved.

The FRA also recommends that future development of the building 'considers' using flood resilient materials, and this statement is echoed in the EA response. It would not be enforceable or necessary to impose a condition requiring the applicant 'considers' using flood resilient construction in any future development of the site. However, permitted development rights can be removed so that any proposals for extensions or outbuildings would be subject to the approval of the Local Planning Authority to ensure that they can be made reasonably safe from the risks of flooding.

On the basis of the above, it is considered occupants of the proposed dwelling would not be subject to significant risk in the event of a flood or breach of adjacent defences in accordance with Policy CS08 of the Core Strategy 2011 and the NPPF. Notwithstanding, permission is recommended for refusal for other reasons set out in this report.

Specific comments and issues:

A third party comment raised concern that the proposed development would devalue neighbouring property. The impact of proposals on the value of neighbouring property is not a material planning consideration. The third party comment also raised concern regarding a potential fire risk due to the timber clad exterior of the building. Timber buildings are common throughout the borough and the proposed development does not include any operational development. The timber clad exterior was approved in 2005 when the garage was extended, this application is only dealing with the use of the building.

Concerns have been raised that businesses are being run from the donor dwelling Appletree Cottage. In addition, concern was raised with a chimney on the proposed dwelling. These are not a matter for the planning application and should be referred to Planning Enforcement. Lastly, concern was raised that one of the applicants is a councillor at the Parish Council. Parish Clerk for Downham West has stated in a telephone conversation that one of the applicants may have been involved in the Parish Council in the past but are not currently serving on the Parish Council.

RECOMMENDATION:

REFUSE for the following reason(s):

- 1 The site lies in a smaller village or hamlet which is classified as countryside where in accordance with Policy DM2 development is restricted and limited to that identified as suitable in rural areas. Policy CS06 outlines an exception where conversion of existing buildings to residential can be acceptable subject to meeting specific criteria.

It is considered in this case that the proposed dwelling would lie in an area that would not be easily accessible to community facilities /services and employment opportunities. In addition that the existing buildings are not considered to have any significant positive contribution to the landscape which would otherwise justify their retention and conversion for alternative uses. Furthermore, the proposed dwelling would represent a cramped form of development detrimental to the local pattern of development and would have an unacceptably detrimental impact on the amenity of adjacent occupiers. As such the proposal would not meet all the requisite criteria in Policy CS06 for the conversion of buildings to residential use, and would otherwise represent unsustainable development in a countryside location for a new dwelling contrary to Policy DM2 and Policy CS06, together with Paragraphs 84 and 124 of the NPPF