

ITEM:		RECOMMENDATION: APPROVAL
REF NO:	3PL/2017/1472/F	CASE OFFICER Laura Craddock
LOCATION:	WHINBURGH&WESTFIELD Lowdells House, Shop Street Whinburgh	APPNTYPE: Full POLICY: Out Settlement Bndry ALLOCATION: N CONS AREA: N LB GRADE: N TPO: N
APPLICANT:	Mrs Avril Mackay Lowdells House, Shop Street	
AGENT:	John Jenkins Architectural Design The Thatch Seething Fen	
PROPOSAL:	2 new detached 4-bedroom dwellings with detached double garages	

REASON FOR COMMITTEE CONSIDERATION

The application is referred to Planning Committee as the proposal is outside of a Settlement Boundary and recommended for approval contrary to policy.

KEY ISSUES

Principle of development
Impact on character and appearance of area
Impact upon amenity
Contaminated land
Impact upon trees
Drainage issues
Impact upon highways
Rights of way
Impact upon ecology

DESCRIPTION OF DEVELOPMENT

The proposal is for two 4 bedroom (1½ storey) detached dwellings, each with detached double garages. Plot 1 would have red facing brickwork walls with smut clay pantiles on the roof and stained or painted joinery. Plot 2 would have colour-washed render walls with red/orange clay pantiles on the roof and stained or painted joinery.

Each dwelling would have a large garden. A mixed native hedge would be planted between the new dwellings as a boundary between the two.

SITE AND LOCATION

The application site is on Shop Street, Whinburgh. The application site is a large plot of open space forming

part of Lowdells House's land, which sits immediately to the east. Beyond Lowdells House are several more residential properties along Shop Street. To the south of the application site, Shop Street curves round and is fronted by a row of houses on each side of the road.

The application site's boundaries are formed with native hedging and tree planting. Beyond the boundary to the north and west is open space.

Whinburgh is not within a Settlement Boundary and there are limited services and facilities within the immediate locality. The centre of Dereham lies approximately 3.5 miles to the north.

EIA REQUIRED

No

RELEVANT SITE HISTORY

3PL/2002/1630/F Permission 06-01-03
Detached garage, single storey rear extension and other alterations

POLICY CONSIDERATIONS

The following policies of the adopted Breckland Core Strategy and Development Control Policies and the adopted Site Specific Policies and Proposals Document, including the Proposals Maps, have been taken into consideration in the determination of this application. The provisions of the National Planning Policy Framework and National Planning Policy Guidance have also been taken into account, where appropriate

CP.04	Infrastructure
CP.09	Pollution and Waste
CP.10	Natural Environment
CP.14	Sustainable Rural Communities
DC.01	Protection of Amenity
DC.02	Principles of New Housing
DC.12	Trees and Landscape
DC.13	Flood Risk
DC.16	Design
DC.19	Parking Provision
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
SS1	Spatial Strategy

OBLIGATIONS/CIL

Not applicable.

CONSULTATIONS

WHINBURGH & WESTFIELD P C

Objects on the grounds that (a) it is outside any settlement boundary and in an unsustainable location, (b) the access is over a public footpath, very narrow, involving exiting on to Shop Street on a bend with no visibility to the right and inaccessible to emergency vehicles (although the application form incorrectly says that there is to be no new access to the public highway), (c) it is currently agricultural land which is virtually a bog, and this Council has not seen any sort of environmental impact assessment, (d) there appears to be no assessment of the impact on trees on the site. (e) understand that there are nesting barn owls on the site, which makes the objections stronger

NORFOLK COUNTY COUNCIL HIGHWAYS

No objections subject to conditions relating to the public right of way and the provision and retention of a visibility splay.

TREE AND COUNTRYSIDE CONSULTANT

Some concerns that have been addressed throughout the determination of the application. No objections subject to details being provided about the surfacing of the proposed access.

CONTAMINATED LAND OFFICER

No objections subject to a condition and informative note.

PUBLIC RIGHTS OF WAY OFFICER

The proposed access to the development is a private track with public rights over it (Whinburgh Footpath 3). This means the public have rights to walk along the track. Norfolk County Council is not the Freehold owner of the land and the track is not adopted. We would only ensure that the public rights to use the track are available.

We would seek further clarification regarding the ground specification which would need to be agreed with Norfolk County Council.

The applicant will need to apply for a Temporary Traffic Regulation Order which must be confirmed before any works commence which would impact upon the PROW.

We would also require an agreement to clarify that the maintenance of the new surface remains with the landowner/access rights holders.

We note that the applicant has provided a statutory declaration of rights of access over the track, which is necessary prior to any work taking place.

RAMBLERS ASSOCIATION: NORFOLK AREA

We would request that, if the application is approved, users of footpath Whinburgh FP3 are segregated and kept safe from any vehicular traffic accessing the development. Otherwise, we have no objection, providing Whinburgh FP3 is kept open throughout any works and any damage to it is repaired without delay.

FLOOD & WATER MANAGEMENT TEAM

The County Council as Lead Local Flood Authority has no comments to make.

ECOLOGICAL AND BIODIVERSITY CONSULTANT

We agree with the mitigation measures outlined in sections 4.1, 4.2, 4.3, 4.3.1 and 4.3.2 of the Preliminary Ecological Appraisal report (Biome Consulting; August 2018) and therefore recommend conditioning the implementation of mitigation measures outlined in the above sections of the report to reduce the likelihood of impacts on habitats and species to acceptable levels. No assessment of the impacts of the proposed development on designated sites has been carried out, however due to the scale of proposed works and the

distances involved it is unlikely there will be impacts on designated sites.

We would suggest a condition requiring a biodiversity enhancement plan for the site in accordance with the NPPF..

REPRESENTATIONS

The application was advertised on site and in the local press, and neighbours were directly notified. 13 representations were made.

11 were objections that raised the following main issues:

- The proposed access would go across the public footpath.
- The footpath may have to be shut off during construction.
- The proposed access would have to cross a deep drainage ditch. The footpath becomes badly flooded and any hard surfacing of this area could exacerbate the problem.
- There is a problem with surface water flooding in Shop Street.
- Access would go across the root protection area for the protected tree on the adjacent property.
- The development would not be "infill" as stated in the application.
- Visibility entering onto Shop Street from the development would not be good due to bend and high hedge.
- The proposed access point currently provides a safe passing place.
- Shop Street is not suitable for motor vehicles and there are no public passing places.
- It does not appear that the access would meet the requirements for emergency vehicle access.
- The proposed development would be over development and outside the settlement boundary.
- The proposed development could set a precedent.
- Barn owls nests on the site.
- The proposed properties do not follow the roof line of existing houses.
- The proposed properties would not be affordable homes.
- the proposed Eco grid surface would not cope with the use of the properties, delivery vehicles and development traffic.

One representation had no objection to the proposal in principle but noted that good drainage provisions must be made to overcome concerns about surface water.

Another representation did not support or object to the proposal but did question the accuracy of the information provided by the applicant regarding the proposed passing places, noting that many form the splays from the properties and are in private ownership, not part of the highway.

ASSESSMENT NOTES

1.0 Principle of development

1.1 The application seeks planning permission for the development of two dwellings and associated garages. The application site is not within a defined Settlement Boundary. The proposal would therefore conflict in principle with policies DC2 and CP14 of the Core Strategy and Development Control Policies Development Plan Document (2009), which seek to focus new housing within defined Settlement Boundaries.

1.2 However, as advised within the Breckland Statement of Five Year Housing Land Supply (July 2017), the district cannot currently demonstrate a five year housing land supply. The National Planning Policy

Framework (NPPF), states that where an authority does not have an up-to-date five year housing land supply the relevant local policies for the supply of housing as referred to above should not be considered up-to-date and that housing applications should be considered in the context of the presumption in favour of sustainable development. In such cases, Paragraph 11 of the NPPF advises that planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole or in part that indicate development should be restricted.

1.3 The NPPF constitutes guidance for LPAs and decision takers, and is a material consideration in the determination of planning applications to achieve sustainable development. The NPPF identifies three objectives of sustainable development:

- Economic, in terms of building a strong economy and in particular by ensuring that sufficient land of the right type is available in the right places
- Social, by supporting, strong vibrant and healthy communities by providing the supply of housing required to meet future need in a high quality environment with accessible local services and
- Environmental, through the protection and enhancement of the natural, built and historic environment.

1.4 Paragraph 8 of the NPPF also stresses that these objectives are interdependent and need to be pursued in mutually supportive ways; therefore, a balanced assessment against these three roles is required.

1.5 In terms of the economic criteria, the proposal would provide two additional dwellings and would therefore make a positive, albeit very small, contribution to the housing supply and longer-term economic benefits through the additional household spend within the wider area that would be generated by the provision of two dwellings.

1.6 The social role of sustainable development seeks to ensure, amongst other matters, the creation of a high quality built environment with accessible local services. The application site sits outside of the Settlement Boundary in Whinburgh. Whinburgh has a pub/restaurant, a church and a park. These are limited facilities and would not meet the essential day-to-day needs of occupiers of the proposed dwellings. In this respect, the proposal would not make a significant contribution to the enhancement or maintenance of the vitality of rural communities. Services and facilities to meet day-to-day needs, including shops and schools, would be found in higher order settlements, with Dereham likely to provide most of these. A range of services and facilities can be found on the southern part of the built-up area of Dereham, approximately 2.5 miles away from the application site. A bus service operates between Whinburgh and Dereham once a day, on select days of the week.

1.7 In terms of the environmental role it is not considered that the siting of two dwellings in this location would result in any significant adverse impact on the openness or character and appearance of the landscape having regard to Policy CP11 and on balance is considered acceptable in environmental terms.

2.0 Impact on character and appearance of area

2.1 Whinburgh features buildings of varying design. Materials, styles and scales differ throughout the village. Properties within larger plots often have outbuildings.

2.2 The proposed dwelling in Plot 1 would have red facing brickwork walls with smut clay pantiles on the roof and stained or painted windows and doors. The proposed dwelling in Plot 2 would have colour-washed render walls with red/orange clay pantiles on the roof and stained or painted windows and doors.

2.3 The proposed dwellings would be one and a half storey in height. That is, the first floor accommodation

would be within the pitched roof space with dormer windows. The neighbouring properties range from single storey bungalows to two floors plus a pitched roof. The height of the proposed dwellings is therefore acceptable. The footprint of the proposed dwellings would not be dissimilar to other properties in the vicinity. Both dwellings would have a cart-style single storey double garage with pitched roof. The proposed dwellings and garages would sit comfortably within their large plots.

2.4 Although outside of the Settlement Boundary, the proposed development would be located within an established ribbon of development along Shop Street. It is considered that the proposal would adversely impact on the character and appearance of the landscape having regard to Policy CP11. The overall design and appearance of the proposed dwellings is considered acceptable having regard to Policy DC16 as well as having regard to paragraph 127 of the NPPF.

3.0 Impact upon amenity

3.1 Policy DC1 sets out that for all new development, consideration will need to be given to the impact upon amenity. Development will not be permitted where there are unacceptable effects on the amenities of the area or the residential amenity of neighbouring occupants, or future occupants of the development site.

3.2 The siting of the proposed dwellings would not result in any issues with regards to over dominance, overshadowing or affect on privacy of neighbours having regard to Policy DC1. An adequate curtilage areas would also be provided for each dwelling for the amenities of future occupiers.

4.0 Contaminated land

4.1 No objections are raised in terms of contamination subject to an appropriate condition. Accordingly, the application is considered to have appropriate regard to policy CP09 (pollution and waste).

5.0 Impact upon trees

5.1 A Tree Survey accompanied the application which notes that the site contains 11 trees and one group, with a further tree on neighbouring land. Four of the trees are identified as being of low quality; two of which are described as dangerous and are recommended to be felled.

5.2 The Tree and Countryside Consultant agrees that the tree survey provides a fair representation of the trees on and adjacent to the site. Concerns were originally raised that the westernmost proposed dwelling would be close to the canopy spread of trees to be retained and likely to lead to shading issues as well as other nuisance/apprehension issues from future occupiers. In response to these comments, the applicant amended the plans so that the proposed dwelling would be further to the north and away from the trees.

5.3 The Tree Officer had also raised concerns about access to the application site, which would pass over the root protection area (RPA) of a tree that is in third party ownership. Construction and use of the access could cause compacting of the RPA or physical damage to the underlying roots. The Tree and Countryside Consultant has advised that a specific product and method statement for the new access would be required. It is advised that a no-dig construction should be followed in the root protection area, probably using a cellular confinement system. A hard core base would not be suitable. This can be secured via condition should planning permission be granted.

5.4 The submitted Tree Survey contains information on tree protection during the construction and root protection areas are mapped out. To ensure the protection of trees on site and appropriate condition can be imposed to secure this.

6.0 Drainage issues

6.1 A number of representations have raised concerns about drainage and flooding issues. As per the information provided by the Environment Agency, the application site is not within an area at risk of flooding or within the proximity of a water course.

6.2 The application sets out that surface water would be disposed of by a soakaway and foul sewage would be disposed of by a package treatment plant. Given the concerns set out in representations and to ensure the development would be in accordance with policy DC13 on flood risk, it would be reasonable to include conditions on any grant of planning permission that would require full details on the proposed surface and foul water disposal.

7.0 Impact upon highways

In terms of highway issues the hedge to the south of the track is currently encroaching on the highway however if removed/cut back, then visibility would be acceptable for traffic speed. Since visibility is required to facilitate development, currently the track only has status as a public right of way on foot not for vehicular traffic, it will be for the developer to resolve this issue with the adjoining landowner.

7.2 Whilst some concerns relating to the width of Shop Street and the availability of passing places were raised. It is considered that in overall planning balance terms given the amount of vehicular use within Shop Street, the existing passing places, and limited additional traffic generated from the proposed development, any impact would not be so significant to justify refusal.

7.3 Subject to a condition on the provision and retention of a visibility splay, the proposal is acceptable having regard to policies CP4 and DC19.

8.0 Rights of way

8.1 The proposed access to the development is a private track with public rights over it (Whinburgh Footpath 3). This means the public have rights to walk along the track. Norfolk County Council is not the Freehold owner of the land and the track is not adopted. The applicant has provided a statutory declaration of rights of access over the track.

8.3 The Public Rights of Way team have advised that they consider that an eco grid surface would be suitable, but would this would need to be a small grid to avoid difficulties in walking, pushing prams, etc. Further clarification regarding the specification is required along with the maintenance of the surface both of which can however be appropriately conditioned.

8.4 The full legal extent of the Public Right of Way must remain open and accessible for the duration of the development and subsequent occupation of the dwellings. The applicant would also need to apply for and have confirmed a Temporary Traffic Regulation Order before any works commence that would impact upon the Public Right of Way again this can be appropriately conditioned.

9.0 Impact upon Ecology

9.1 The Preliminary Ecological Appraisal (PEA) concludes that the site has a generally low potential as a habitat for protected species, apart from barn owls. The development would see the loss of a barn owl roosting site. The PEA sets out a number of precautionary and mitigation measures to avoid harm to protected species, including the provision of a barn owl box to replace the lost roosting site.

9.2 The Ecology Officer has considered the proposal and agrees with the PEA's conclusions. Accordingly it is recommended that the mitigation measures outlined in the PEA should be secured through planning condition, along with a condition for the provision of a biodiversity enhancement plan, so that the development would result in net gains in biodiversity.

9.3 Subject to these conditions, the proposal is acceptable having regard to policy CP10 on the natural environment.

10.0 Conclusion

10.1 In terms of the overall planning balance of the proposal, whilst it is noted that the site is outside of a designated Settlement Boundary, as the Council cannot demonstrate a five year housing land supply, the relevant policies for the supply of housing cannot be considered up to date. In these cases, planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.

10.2 The proposal would contribute two additional dwellings to the District's housing supply. Whilst residents would be reliant on private vehicle to meet their needs, it is not considered in planning judgement terms that the proposal would represent such an adverse impact to outweigh the proposal. Approval of the application, subject to conditions, is accordingly recommended.

CONDITIONS

- 2 Full Permission Time Limit (2 years)**

The development must be begun not later than the expiration of TWO YEARS beginning with the date of this permission.
Reason for condition:
As required by section 91 of the Town & Country Planning Act 1990 (as amended) and to ensure the deliverability of the scheme to contribute to the five year housing land supply.
- 3 In accordance with submitted plans NEW 2017**

The development must be carried out in strict accordance with the application form, and approved documents and drawings as set out in the table at the end of this notice.
Reason for condition:
To ensure the satisfactory development of the site.
- 4 External materials to be approved**

Prior to the commencement of any works above slab level precise details of the external materials shall be submitted to and approved in writing by the Local Planning Authority.

Only such agreed materials shall be used in connection with this approval.

Reason for condition:

To ensure the satisfactory appearance of the development, in accordance with Policy DC 1 and DC 16 of the Adopted Core Strategy and Development Control Policies Development Plan Document 2009.

This condition will require to be discharged

5 Contaminated Land - Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with details to be agreed in writing with the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority.

Reason for condition:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

This condition is imposed in accordance with CP9 of the Breckland Adopted Core Strategy.

This condition will require to be discharged

6 Non-standard condition

Prior to the commencement of development, a biodiversity enhancement plan shall be submitted and approved in writing by the local planning authority, detailing the enhancement measures for biodiversity on site. The biodiversity enhancement plan should include numbers and locations of bird boxes, bat boxes, habitat enhancements. The measures shall be carried out strictly in accordance of the approved scheme.

Reason for condition:

In the interest of biodiversity and in accordance with the NPPF.

7 Non-standard condition

The development hereby permitted must be constructed following the mitigation measures outlined in sections 4.1, 4.2, 4.3, 4.3.1 and 4.3.2 of the Preliminary Ecological Appraisal report (Biome Consulting; August 2018).

Reason for condition:

In the interest of biodiversity and in accordance with Policy CP10 of the Adopted Core Strategy and Development Control Policies Document 2009.

8 Precise details of surface water disposal

Prior to the commencement of any works above slab level precise details of the means of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. Only such agreed system or works shall be used in connection with this approval.

Reason for condition:

The details are required to be submitted prior to the commencement of development to minimise the possibilities of flooding from the outset of the development.

This condition is imposed in accordance with Policies DC 1 and DC 13 of the Adopted Core Strategy and Development Control Policies Development Plan Document 2009

- This condition will require to be discharged**
- 9 Provision of visibility splays - conditioned**
- Prior to the first occupation of the development hereby permitted a visibility splay measuring 2.4 x 43 metres shall be provided to each side of the access track where it meets the Shop Street and such splays shall thereafter be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the adjacent highway carriageway.
- Reason for condition:
In the interest of highway safety.
- This condition will require to be discharged**
- 10 Precise details of foul water disposal**
- Prior to the commencement of any works above slab level precise details of the means of foul water disposal shall be submitted to and approved in writing by the Local Planning Authority.
- Reason for condition:
The details are required to be submitted prior to the commencement of development to minimise the possibilities of flooding from the outset of the development.
This condition is imposed in accordance with Policies DC 1 and DC 13 of the Adopted Core Strategy and Development Control Policies Development Plan Document 2009
- This condition will require to be discharged**
- 11 Non-standard landscaping condition**
- The tree protection measures outlined in the approved Tree Survey (JAD Tree Surveys, dated 21/12/2016) should be followed in their entirety throughout the duration of the development.
- Reason for condition:
In the interests of tree protection.
- 12 Non-standard landscaping condition**
- No development shall take place in pursuance of this permission until details of the no-dig construction as well as of an auditable system of arboricultural site supervision and inspection for the duration of the no dig construction works associated with the site entrance have been submitted to and approved in writing with the Local Planning Authority. It will be necessary to provide details of the product to be used including the sub base, infill material and surface material. Specifications must be based on existing ground conditions and soil information (CBR) details of which should be provided. Loading information should be included specifying assumed maximum gross vehicle weight and assumed maximum axle load.
- Reason for condition:
In the interest of tree protection and highway safety.
- 13 Traffic regulation orders**
- The full legal extent of the Public Right of Way must remain open and accessible prior to and throughout the duration of the development and retained thereafter. Should any works affect the Public Right of Way, no works shall commence on the site until a relevant Traffic Regulation Order has been secured by the Highway Authority.
- Reason for condition:
In the interests of highway safety and the retention of a public right of way.
- This condition will require to be discharged**

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Non-standard condition

Details for the long term maintenance arrangements for any vehicular access which will not be adopted shall be submitted and approved in writing by the Local Planning Authority prior to the first occupation of any of the dwellings hereby permitted. The management of these areas shall be carried out in accordance with the approved maintenance arrangements.

Reason for condition:

To ensure the satisfactory maintenance of unadopted vehicular access roads.