

Development Control Committee



Title	Agenda		
Date	Wednesday 7 February 2024		
Time	10.00am		
Venue	Conference Chamber West Suffolk House Western Way Bury St Edmunds IP33 3YU		
Full Members	<p style="text-align: center;">Chair Andrew Smith</p> <p style="text-align: center;">Vice Chairs Jon London and Phil Wittam</p> <p>Conservative Group (7) Carol Bull Ian Houlder Mike Chester Sara Mildmay-White Susan Glossop Andrew Smith Rachel Hood</p> <p>Independents (5) Mick Bradshaw Jim Thorndyke Roger Dicker Phil Wittam Andy Neal</p> <p>Progressive Alliance Grouping (4) Jon London Marilyn Sayer Lora-Jane Miller-Jones David Smith</p>		
Substitutes	<p>Conservative Group (3) Andy Drummond Andrew Speed Charlie Lynch</p> <p>Independents (2) David Taylor Don Waldron</p> <p>Progressive Alliance Grouping (2) Peter Armitage Donna Higgins</p>		
Interests – declaration and restriction on participation	Members are reminded of their responsibility to declare any disclosable pecuniary interest, other registerable or non-registerable interest which they have in any item of business on the agenda, no later than when that item is reached and, when appropriate, to leave the meeting prior to discussion and voting on the item.		
Quorum	Six Members		
Committee administrator	Helen Hardinge Democratic Services Officer Telephone 01638 719363 Email democratic.services@westsuffolk.gov.uk		
	<i>Details of site visits overleaf...</i>		

A SITE VISIT WILL BE HELD ON MONDAY 5 FEBRUARY 2024 AT THE FOLLOWING TIME:

As there is only one site visit and car parks available nearby, no coach will be provided and Members are asked to make their own way to site and to car share wherever possible. A postcode has been included with the address below.

Planning Application DC/23/0812/FUL - 9 Risbygate Street, Bury St Edmunds, IP33 3AA

Planning application - first floor flat above existing restaurant as amended by plans received 08 September 2023

Site visit to be held at 9.45am

Development Control Committee Agenda notes

Subject to the provisions of the Local Government (Access to Information) Act 1985, all the files itemised in this Schedule, together with the consultation replies, documents and letters referred to (which form the background papers) are available for public inspection.

All applications and other matters have been considered having regard to the Human Rights Act 1998 and the rights which it guarantees.

Material planning considerations

1. **It must be noted that when considering planning applications (and related matters) only relevant planning considerations can be taken into account. Councillors and their officers must adhere to this important principle which is set out in legislation and Central Government guidance.**
2. **Material planning considerations include:**
 - Statutory provisions contained in planning acts and statutory regulations and planning case law
 - Central Government planning policy and advice as contained in circulars and the National Planning Policy Framework (NPPF)
 - Supplementary planning guidance/documents eg. Affordable Housing SPD
 - Master plans, development briefs
 - Site specific issues such as availability of infrastructure, density, car parking
 - Environmental; effects such as effect on light, noise overlooking, effect on street scene
 - The need to preserve or enhance the special character or appearance of designated conservation areas and protect listed buildings
 - Previous planning decisions, including appeal decisions
 - Desire to retain and promote certain uses e.g. stables in Newmarket.
 - The following planning local plan documents covering West Suffolk Council:
 - Joint development management policies document 2015
 - In relation to the Forest Heath area local plan:
 - i. The Forest Heath Core Strategy 2010 as amended by the High Court Order 2011
 - ii. Core strategy single issue review of policy CS7 2019
 - iii. Site allocations local plan 2019
 - In relation to the St Edmundsbury area local plan:
 - i. St Edmundsbury core strategy 2010
 - ii. Vision 2031 as adopted 2014 in relation to:
 - Bury St Edmunds
 - Haverhill
 - Rural

Note: The adopted Local Plans for the former St Edmundsbury and Forest Heath areas (and all related policy documents, including guidance and SPDs) will continue to apply

to those parts of West Suffolk Council area until a new Local Plan for West Suffolk is adopted.

3. The following are **not** material planning considerations and such matters must **not** be taken into account when determining planning applications and related matters:
 - Moral and religious issues
 - Competition (unless in relation to adverse effects on a town centre as a whole)
 - Breach of private covenants or other private property or access rights
 - Devaluation of property
 - Protection of a private view
 - Council interests such as land ownership or contractual issues
 - Identity or motives of an applicant or occupier
4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permission must be determined in accordance with the Development Plan (see section 3 above) unless material planning considerations indicate otherwise.
5. A key role of the planning system is to enable the provision of homes, buildings and jobs in a way that is consistent with the principles of sustainable development. It needs to be positive in promoting competition while being protective towards the environment and amenity. The policies that underpin the planning system both nationally and locally seek to balance these aims.

Documentation received after the distribution of committee papers

Any papers, including plans and photographs, received relating to items on this Development Control Committee agenda, but which are received after the agenda has been circulated will be subject to the following arrangements:

- a. Officers will prepare a single committee update report summarising all representations that have been received up to 5pm on the **Thursday** before each committee meeting. This report will identify each application and what representations, if any, have been received in the same way as representations are reported within the Committee report;
- b. the update report will be sent out to Members by first class post and electronically by noon on the **Friday** before the committee meeting and will be placed on the website next to the committee report.

Any late representations received after 5pm on the **Thursday** before the committee meeting will not be distributed but will be reported orally by officers at the meeting.

Public speaking

Members of the public have the right to speak at the Development Control Committee, subject to certain restrictions. Further information is available on the Council's website.

Development Control Committee

Decision making protocol

The Development Control Committee usually sits once a month. The meeting is open to the general public and there are opportunities for members of the public to speak to the Committee prior to the debate.

Decision making protocol

This protocol sets out our normal practice for decision making on development control applications at Development Control Committee. It covers those circumstances where the officer recommendation for approval or refusal is to be deferred, altered or overturned. The protocol is based on the desirability of clarity and consistency in decision making and of minimising financial and reputational risk, and requires decisions to be based on material planning considerations and that conditions meet the tests of Circular 11/95: "The Use of Conditions in Planning Permissions." This protocol recognises and accepts that, on occasions, it may be advisable or necessary to defer determination of an application or for a recommendation to be amended and consequently for conditions or refusal reasons to be added, deleted or altered in any one of the circumstances below:

- Where an application is to be deferred, to facilitate further information or negotiation or at an applicant's request.
- Where a recommendation is to be altered as the result of consultation or negotiation:
 - The presenting officer will clearly state the condition and its reason or the refusal reason to be added/deleted/changed, together with the material planning basis for that change.
 - In making any proposal to accept the officer recommendation, a Member will clearly state whether the amended recommendation is proposed as stated, or whether the original recommendation in the agenda papers is proposed.
- Where a member wishes to alter a recommendation:
 - In making a proposal, the member will clearly state the condition and its reason or the refusal reason to be added/deleted/changed, together with the material planning basis for that change.
 - In the interest of clarity and accuracy and for the minutes, the presenting officer will restate the amendment before the final vote is taken.
 - Members can choose to;
 - delegate the detailed wording and reason to the Assistant Director (Planning and Regulatory);
 - delegate the detailed wording and reason to the Assistant Director (Planning and Regulatory) following consultation with the Chair and Vice Chair(s) of Development Control Committee.

- Where Development Control Committee wishes to overturn a recommendation and the decision is considered to be significant in terms of overall impact; harm to the planning policy framework, having sought advice from the Assistant Director (Planning and Regulatory) and the Assistant Director (Human Resources, Legal and Democratic) (or officers attending Committee on their behalf);
 - A final decision on the application will be deferred to allow associated risks to be clarified and conditions/refusal reasons to be properly drafted.
 - An additional officer report will be prepared and presented to the next Development Control Committee detailing the likely policy, financial and reputational etc risks resultant from overturning a recommendation, and also setting out the likely conditions (with reasons) or refusal reasons. This report should follow the Council's standard risk assessment practice and content.
 - In making a decision to overturn a recommendation, members will clearly state the material planning reason(s) why an alternative decision is being made, and which will be minuted for clarity.
- In all other cases, where Development Control Committee wishes to overturn a recommendation:
 - Members will clearly state the material planning reason(s) why an alternative decision is being made, and which will be minuted for clarity.
 - In making a proposal, the member will clearly state the condition and its reason or the refusal reason to be added, deleted or altered, together with the material planning basis for that change.
 - Members can choose to:
 - delegate the detailed wording and reason to the Assistant Director (Planning and Regulatory)
 - delegate the detailed wording and reason to the Assistant Director (Planning and Regulatory) following consultation with the Chair and Vice Chair(s) of Development Control Committee
- Member Training
 - In order to ensure robust decision-making all members of Development Control Committee are required to attend Development control training.

Notes

Planning Services (Development Control) maintains a catalogue of 'standard conditions' for use in determining applications and seeks to comply with Circular 11/95 "The Use of Conditions in Planning Permissions."

Members and officers should have proper regard to probity considerations and relevant codes of conduct and best practice when considering and determining applications.

Agenda

Procedural matters

Part 1 – public

1. **Apologies for absence**
2. **Substitutes**
Any member who is substituting for another member should so indicate, together with the name of the relevant absent member.
3. **Minutes** **1 - 8**
To confirm the minutes of the meeting held on 3 January 2024 (copy attached).
4. **Declarations of interest**
Members are reminded of their responsibility to declare any disclosable pecuniary interest, other registerable or non-registerable interest which they have in any item of business on the agenda, **no later than when that item is reached** and, when appropriate, to leave the meeting prior to discussion and voting on the item.
5. **Planning Application DC/22/1887/FUL - Land off The Street, Fornham All Saints** **9 - 26**
Report No: **DEV/WS/24/004**

Planning application - create access into All Saints Golf and Country Club
6. **Planning Application DC/23/0133/FUL - Land off Fordham Road, Freckenham** **27 - 56**
Report No: **DEV/WS/24/005**

Planning application - change of use of agricultural land to enclosed field for dog training and exercising and associated access and parking

Continued overleaf...

7. Planning Application DC/23/0783/VAR - Doctors Hall, Bury Lane, Stanton 57 - 82

Report No: **DEV/WS/24/006**

Planning application - application to vary conditions 2 (approved plans), 4 (insulation details) and 6 (breeding bitch numbers) of DC/17/1652/FUL for the material change in the use of the land from paddock to the breeding and keeping of dogs comprising the following: (a) 2.1 metre high close boarded timber fence and concrete post; (b) car parking area; (c) 2no. dog kennels and (d) 1no. stable block as amended by plans received 15 November 2023

8. Planning Application DC/23/0812/FUL - 9 Risbygate Street, Bury St Edmunds 83 - 104

Report No: **DEV/WS/24/007**

Planning application - first floor flat above existing restaurant as amended by plans received 08 September 2023

Development Control Committee



Minutes of a meeting of the **Development Control Committee** held on **Wednesday 3 January 2024** at **10.00 am** in the **Conference Chamber, West Suffolk House**, Western Way, Bury St Edmunds IP33 3YU

Present

Councillors

Chair Andrew Smith

Vice Chairs Jon London and Phil Wittam

Mick Bradshaw

Sara Mildmay-White

Carol Bull

Lora-Jane Miller-Jones

Mike Chester

Andy Neal

Roger Dicker

Marilyn Sayer

Susan Glossop

David Smith

Ian Houlder

Jim Thorndyke

Charlie Lynch

In attendance

Indy Wijenayaka – Ward Member: Withersfield

402. **Apologies for absence**

Apologies for absence were received from Councillor Rachel Hood.

403. **Substitutes**

The following substitution was declared:

Councillor Charlie Lynch substituting for Councillor Rachel Hood

404. **Minutes**

The minutes of the meeting held on 6 December 2023 were confirmed as a correct record and signed by the Chair.

405. **Declarations of interest**

Members' declarations of interest are recorded under the item to which the declaration relates.

406. **Planning Application DC/23/0493/FUL - Milton House, Thurlow Road, Withersfield (Report No: DEV/WS/24/001)**

Planning Application - five dwellings (following demolition of existing house)

This application was originally referred to the Development Control Committee on 6 December 2023 as the previous applications on the site were refused by the Committee in September 2020 and June 2021.

At the December meeting of the Committee, Members resolved to defer consideration of the application in order to allow the Committee the opportunity to visit the site. A Member site visit was therefore held on Tuesday 2 January 2024.

Withersfield Parish Council objected to the proposal, which Officers were continuing to recommend for approval, subject to conditions as set out in Paragraph 64 of Report No DEV/WS/24/001.

As part of his presentation to the meeting the Principal Planning Officer also provided videos of the site by way of a further virtual 'site visit'.

Speakers: Denis Elavia (neighbouring objector, speaking on behalf of himself and other neighbouring objectors) spoke against the application
Councillor Frank Eve (Vice Chair of Withersfield Parish Council) spoke against the application
Councillor Indy Wijenayaka (Ward Member: Withersfield) spoke against the application
David Barker (agent) spoke in support of the application

Councillor David Smith made reference to Plots 1 and 5 and stated that the Member site visit had reaffirmed his concerns in relation to the proximity of these plots, in particular, to the existing neighbouring premises. He considered the proposal to be overdevelopment and also referenced highway safety concerns. Councillor Smith therefore moved that the application be refused, contrary to the Officer recommendation, and this was duly seconded by Councillor Lora-Jane Miller-Jones.

During further discussion other Members made similar comments, with Councillor Sara Mildmay-White highlighting that the separation distance between Plot 1 and the neighbouring premises had simply not been addressed.

Councillor Carol Bull further highlighted the impact the proposed scheme would have on the amenity of the future residents of Plot 1 due to the proximity of that dwelling to the road/access into the development.

The Service Manager (Planning – Development) addressed the meeting on the motion for refusal. She highlighted that there was no evidence from the Highways Authority, who had been consulted on the proposal, to support a refusal on a highways safety basis and she would therefore recommend that was removed from the reasons for refusal.

In relation to overdevelopment and the overbearing impact on the residential amenity of The Old Bakery and Thistledown Cottage brought about by Plots 1 and 5, in particular, this would relate to policies DM2 and DM22 and would not require the Decision Making Protocol to be invoked.

Furthermore, the proposer and seconder of the motion were asked if they also wished to include the impact on the amenity of the future residents of Plot 1 (due to the proximity of that dwelling to the road/access) as a further reason for refusal, as referenced by Councillor Bull. Councillors Smith and Miller-Jones confirmed that they supported this additional inclusion and the removal of the reference to highway safety.

Accordingly, upon being put to the vote and with 12 voting for the motion and with 4 against it was resolved that

Decision

Planning permission be **REFUSED, CONTRARY TO THE OFFICER RECOMMENDATION** for the following reason:

1. Thistledown Cottage adjoining the site to the south currently has a relatively open aspect to its northern boundary, with ground floor windows to the gable end of the dwelling. Furthermore, the Old Bakery to the north west of the site currently enjoys a relatively verdant view to Milton House.

The proposed development of five dwellings, gardens, parking and hardstanding is considered to be an overdevelopment of the site resulting in plot 1 being sited 3.7 metres from the boundary to Thistledown Cottage, and 4.7 metres from the boundary of The Old Bakery. This siting would have an overbearing impact on the residential amenity enjoyed by both Thistledown Cottage and The Old Bakery. Furthermore, the north elevation of plot 1 containing bedroom and sitting room windows is sited 1 metre from the access road to the site. This close proximity to an access road serving an additional 4 dwellings, would result in a reduced level of amenity for the occupiers of this dwelling.

The harmful impact on the amenity of the neighbouring dwellings, and the poor standard of living conditions for the future occupiers of plot 1 is contrary to Joint Development Management Policies DM2 and DM22, which amongst other things, requires new development to avoid harm to existing residential amenity, and be fit for purpose and function well, providing adequate space, and privacy.

(On conclusion of this item the Chair permitted a short comfort break.)

407. **Planning Application DC/23/0133/FUL - Land off Fordham Road, Freckenham (Report No: DEV/WS/24/002)**

Planning application - change of use of agricultural land to enclosed field for dog training and exercising and associated access and parking

This application was referred to the Development Control Committee following consideration by the Delegation Panel.

Officers were recommending that the application be refused, for the reason set out in Paragraph 60 of Report No DEV/WS/24/002, which was contrary to the support given by the Parish Council and District Ward Member.

A Member site visit was held prior to the meeting. As part of her presentation to the meeting the Senior Planning Officer also provided videos of the site by way of a further virtual 'site visit'.

The Committee was advised that during the course of the application two consultations had taken place with statutory consultees and neighbouring properties due to a number of amendments being received, including alterations to the site layout and the addition of landscaping to the site.

Speakers: Andrew Fleet (agent) and Tracy Cannam (applicant) jointly spoke in support of the application

During the debate comments were made on the reason for refusal in respect of the impact the proposed scheme would have on the countryside landscape.

A number of Members highlighted that prior to the 1950s/1960s and the introduction of modern farming methods, the landscape would have been very different with frequent visual interruptions such as hedgerows or woodland, and some Members also commented that the landscape impact of the proposal would not be objectionable.

The reintroduction of the native hedging and trees proposed in the application was therefore seen as a real biodiversity benefit by some of the Committee.

Councillor Lora-Jane Miller-Jones made specific reference to the benefits the reintroduction of native hedging could bring about to the owl population. Accordingly, she proposed that the application be approved, contrary to the Officer recommendation, and this was duly seconded by Councillor Jon London.

During further discussion questions were posed by the Committee in respect of the hours/days of operation and how usage of the facility was to be managed.

The Senior Planning Officer explained that the hours of operation applied for were daylight hours Monday to Sunday, therefore, a condition would be added to the permission, if granted, limiting the use of the site from 8.00am to 8.00pm. Users would pre-book 45-minute slots which allowed for a 15-minute changeover period. Each 45-minute slot was restricted to two owners with a maximum of 6 dogs in total.

This response then promoted further questions in relation to the use of the site during the winter months of the year when there was limited sunlight. The Senior Planning Officer confirmed that lighting had not been applied for and would not be able to be installed without approval.

Questions were posed in relation to what height the proposed hedging would be when planted and whether the fencing could be a colour which would blend

in with the surroundings until the hedging had become established, in order to soften the addition of the fencing.

Discussion also took place as to whether equipment was to be used as part of dog training/exercise and the visual impact this specifically could have on the landscape.

The Service Manager (Planning – Development) addressed the meeting on the motion for approval. She explained that the Decision Making Protocol would be invoked in order to allow appropriate conditions to be drafted. Particularly, being mindful that the Eastern boundary of the site did not have landscaping included in the proposal before the Committee.

Furthermore, this would allow additional time in which for Officers to seek clarity from the applicant in respect of the winter operation of the facility (in view of the reduced hours of sunlight) and whether or not any form of equipment would be used on the site for dog training/exercise.

Upon being put to the vote and with 13 voting for the motion and with 3 against, it was resolved that

Members were **MINDED TO APPROVE THE APPLICATION, CONTRARY TO THE OFFICER RECOMMENDATION** due to the biodiversity benefits the native hedging and trees would bring about, and their view that the landscape impact of the proposals would not be adverse. A Risk Assessment would therefore be produced for consideration by the Committee at a future meeting.

(On conclusion of this item the Chair permitted a short comfort break.)

408. **Planning Application DC/23/1639/FUL - Land adjacent to Home Farm Barns, Edmunds Hill, Stradishall (Report No: DEV/WS/24/003)**

(Councillor Roger Dicker declared, in the interests of openness and transparency, that he was well acquainted with the applicant as he was a regular customer of the Post Office Councillor Dicker operated. He would therefore refrain from taking part in consideration of the application and the voting thereon.)

Planning application - one dwelling

This application was referred to the Development Control Committee following consideration by the Delegation Panel.

The Parish Council had raised no objection to the scheme. Officers were recommending that it be refused, for the reasons set out in Paragraph 55 of Report No DEV/WS/24/003.

Speaker: Harry Dibden (architect) spoke in support of the application

Further to discussion by the Committee, the Service Manager (Planning – Development) explained that no ecological assessment or details of biodiversity enhancement had been submitted with this application, likewise

no flood risk assessment or drainage strategy had been provided, receipt of this further information may have enabled refusal reasons Nos 4 and 5 to be overcome.

Councillor Sara Mildmay-White supported the Officer's recommendation and therefore moved that the application be refused. This was duly seconded by Councillor Mike Chester.

Upon being put to the vote and with 10 voting for the motion, 4 against and with 2 abstentions it was resolved that

Decision

Planning permission be **REFUSED** for the following reasons:

- 1 The National Planning Policy Framework (NPPF) requires the planning system to recognise the intrinsic character and beauty of the countryside and actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus development in sustainable locations. Policy DM5 of the Joint Development Management Policies Document (Development within the Countryside) provides that areas designated as countryside will be protected from unsustainable development and policy DM27 sets out the strict circumstances where dwellings will be permitted outside of the identified settlement boundaries. The site does not form part of a cluster of 10 or more dwelling. The site is also not a small undeveloped plot or part of an otherwise continuous frontage. The proposal does not meet the provisions of policies DM5 or DM27 and there are no material considerations which outweigh this very significant conflict with the Development Plan. The Local Planning Authority is able to demonstrate an up to date 5-year housing supply and as such, given that the principle of development in this location is not supported, are under no pressure to approve applications for development which are in conflict with the development plan. In addition, the site's location would require future occupiers of the proposed dwelling to travel to access shopping, education, employment, recreation, and social facilities. The majority of these journeys would inevitably, given the rural location, be by private motor vehicle. The proposal for an additional residential dwelling in this countryside location, beyond any defined settlement boundaries therefore represents an unsustainable form of development. Accordingly, the proposal fails to satisfy policies RV1 and RV3 of the Rural Vision, policies CS1 and CS4 of the St Edmundsbury Core Strategy 2010 and policies DM5 and DM27 of the Joint Development Management Policies Document 2015.
- 2 Policy DM2 requires that development recognises and addresses the key features and characteristics of an area. This is reiterated in policy DM22 which seeks to secure appropriate residential design that accords with the local area, through its built form. The proposal will have a detrimental impact on the undeveloped and rural character of the locality. Given the rural setting of the site, the introduction of a permanent structure and its associated domestic paraphernalia within a large garden will erode the spacious views of Home Farm Barns which

themselves contribute to the character of the local area on the edge of Stradishall. The proposal results in development which encroaches into the open countryside beyond the historic arrangement of nearby buildings. The proposal would therefore fail to preserve or enhance the character, appearance and setting of the conservation area. The proposal would therefore be contrary to the provisions of policies DM2, DM17 and DM22 of the Joint Development Management Policies Document 2015 and policy CS3 of the Core Strategy 2010.

- 3 Policy DM15 states that proposals to alter, extend or change the use of a listed building or development affecting its setting will be permitted where they are of an appropriate scale, form, height, massing and design which respects the existing building and its setting. Home Farm Barns exhibits evidence of the former courtyard arrangement where maps indicate historically the yard was enclosed on all sides by buildings with the farmhouse located outside of the yard further to the north east. This arrangement is a common arrangement for farmsteads within the eastern region. The setting of the farmstead appears to have changed little according to map regression and remains undeveloped today. The development to include a dwelling and associated domestic garden would fail to relate to the enclosed courtyard arrangement of the historic farmstead and its undeveloped setting where agricultural buildings were centered around the yard. Such an arrangement was often dictated by the type of farming and use of buildings. Proposals which fail to respect the historic arrangement compromising the undeveloped setting would fail to accord with the requirement to preserve the building or its setting causing harm to significance. The NPPF requires great weight to be given to the asset's conservation with any harm or loss (to include harm arising from development within its setting) requiring clear and convincing justification. The proposed development is considered to cause less than substantial harm (towards the upper end of less than substantial harm) to the significance of a number of heritage assets. Paragraph 202 of the NPPF is therefore engaged. As a market dwelling is proposed there are no public benefits to this proposal and therefore no benefit that would outweigh the harm identified. The proposal is therefore contrary to policy DM15 of the Joint Development Management Policies Document 2015 and paragraph 202 of the NPPF (2023).
- 4 As required by the National Planning Policy Framework (2023) at paragraphs 8, 174 and 180, the Local Planning Authority have a duty to consider the conservation of biodiversity and to ensure that valued landscapes or sites of biodiversity are protected when determining planning applications. At a local level, this is exhibited through policies CS2, DM10, DM11 and DM12. Noting this is a greenfield site on the edge of the open countryside and within a 200m buffer for protected and notable species (Barn Owl), however, no ecological assessment or details of biodiversity enhancement has been submitted with this application. Therefore, the LPA cannot confirm whether or not the proposal would have adverse impacts in relation to biodiversity. As such, the application contains insufficient information to demonstrate compliance with policies CS2 of the Core Strategy 2010 and policies

DM10, DM11 and DM12 of the Joint Development Management Policies Document 2015.

- 5 Part of the site is identified as being within the 1 in 1000 year flood risk area for surface water flooding. No flood risk assessment or drainage strategy has been provided so it is not possible to determine that the development of the site will not cause or exacerbate flooding elsewhere. The proposal is therefore contrary to policy DM6 and para 159 of the NPPF which seeks to ensure new development is directed to areas of lowest flood risk.

The meeting concluded at 12.19pm

Signed by:

Chair

Development Control Committee

7 February 2024

Planning Application DC/22/1887/FUL – Land off The Street, Fornham All Saints

Date registered:	4 November 2022	Expiry date:	7 th February 2024 (Agreed EOT)
Case officer:	James Morriss	Recommendation:	Approve application
Parish:	Fornham All Saints	Ward:	The Fornhams and Great Barton
Proposal:	Planning application - create access into All Saints Golf and Country Club		
Site:	Land off The Street, Fornham All Saints		
Applicant:	M and D Developments Limited		

Synopsis:

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and associated matters.

Recommendation:

It is recommended that the committee determine the attached application and associated matters.

CONTACT CASE OFFICER:

James Morriss

Email: james.morriss@westsuffolk.gov.uk

Telephone: 01284 757370

Background

This application was presented at Delegation Panel on 16 January 2024 as the Officer's recommendation of APPROVAL conflicts with the Parish Council's and Ward Member Councillor Beccy Hopfensperger's objection.

The application was referred to Development Control Committee due to the public interest in the proposed development.

Proposal:

1. Planning permission is sought for a maintenance access to serve All Saints Golf and Country Club. The vehicular access will be located at land off The Street in the location of a historic access onto the northwestern section of the golf course.
2. The access involves construction over a drainage ditch with the creation of an engineered brick retaining wall and the ditch would be piped in accordance with Suffolk County Council's highways standards.
3. The existing footpath section will be tarmacked and beyond the footpath the access is proposed to be surfaced using grasscrete for a length of approximately 5.8 meters. The proposal includes 'estate' style gates and powder coated black fencing at a height of 1.25 metres. Biodiversity enhancements in the form of 3no. bird and bat boxes are also proposed.
4. The applicant has stated that current access to this section of the golf course requires a convoluted route involving crossing several water courses or traveling a greater distance around the golf course to avoid these. The new access would eliminate the need to cross the water courses and assist with efficiency.

Application supporting material:

5. The plans originally submitted have been amended including a relocation by approximately 13.5 meters further West away from the Larks Gate junction. The access has been reduced in width and lengths and the surface was changed from tarmac to grasscrete. The style and height of the proposed gates and fencing has been amended from industrial style wire fencing and gate to more sympathetic estate type gates and black powder coated fencing. In support of the amended scheme an ecology report and heritage impact assessment have been provided.
 - Amended Proposed Location and Block Plan (7400-AR01 REV D)
 - Amended Proposed Elevations (7400-AR01 REV A)
 - Amended Swept Path (7300-AR01 REV D)
 - Amended Ecological Assessment
 - Amended Grasscrete Brochure
 - Amended Heritage Impact Assessment

Site details:

6. The application site forms part of the golf course associated with All Saints Hotel and Country Club. From a planning policy perspective, the application site is located within the countryside. On the opposite side of the road B1106 is residential development, which is within Fornham All Saints Conservation Area. The proposed access would be located across the road from Acer Lodge. As noted above the proposed maintenance access would provide vehicular access to the northwestern section of the golf course. The application site is rural, open and verdant in character.

Planning history:

7. There is extensive planning history relating to All Saints Golf and Country Club however, none of the previous applications are directly relevant to this proposal.

Consultations:

Conservation Officer

8. Comments on original scheme:

'The application proposes the provision of a new vehicular access to serve an existing golf course with the purpose of providing 'immediate access onto the North West side of the golf club to an area which isn't easily accessed from elsewhere on the site for ongoing and future maintenance.'

The application includes an existing and proposed location plan; a proposed site plan indicating the location and details of the proposed access and the application form.

The conservation area boundary at this particular point runs parallel with the southern side of the highway. The junction between highway and access therefore would appear to sit on the boundary of the conservation area. The remaining development would appear to sit outside the conservation area but immediately abuts its boundary. Given the relationship with the conservation area boundary the proposed development has the potential to affect the setting and therefore significance of the conservation area.

Little information has been submitted to support the proposals other than the details listed above. No description of any Heritage Assets (to include the conservation area) potentially affected by the proposal has been provided as required to enable the impact on the significance of assets affected to be determined.

The southern boundary of this particular part of the conservation area is characterised by a continuous row of Poplar trees(?) running parallel with and set back from the road behind a green verge and footpath. Beyond the trees lies the closely mown undulating landscape of the golf course interspersed with trees all of which provide a constant, verdant backdrop to the conservation area at this point which in contrast to the northern side of the highway is uninterrupted by notable development (in the sense of hard surfacing and groups of housing). The current state provides an

attractive setting to the conservation area which positively contributes towards its significance.

It is unclear if the proposals would involve the loss of any of the trees but the introduction of a highway compliant vehicular access would result in a break in the continuous line of vegetation replaced by a hard engineered surface abutting the conservation area whilst projecting some distance into an area which currently provides a softer setting to the conservation area. As a consequence the provision of the proposed access is not considered to either preserve or enhance the character or appearance of the conservation area affecting a setting which currently makes a positive contribution towards its significance.

Based on the limited information submitted and reference to street view it would appear the ability to maintain the area concerned is currently achievable. Whilst the proposed access may be a desirable improvement on the current access, it would appear that the current access is adequate. As such there would appear to be little public benefit to outweigh the harm caused.

The proposed development would therefore fail to meet the requirements of section 72 of the Planning (Listed building and conservation areas) Act 1990 where special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area Forest Heath and St Edmundsbury Local Plan policy DM17 and para 202 of the NPPF'

The application is therefore recommended for refusal.

9. Comments on amended plans:

In response to the amended proposal the conservation officer responded, on the basis the proposal involves the reinstatement of an historic access; the size of the proposed access has been reduced by 13m in length and 1 metre in width; a planting scheme has already been approved to be reinstated along the boundary and the fencing and gate are to match existing. The impact on the setting of the conservation area is considered to be notably reduced particularly if the planting can be enforced. On that basis conservation concerns would largely be addressed and objections would therefore be removed.

Highways

10. Comments on original scheme:

'Suffolk County Council as Highway Authority hereby recommends a Holding Objection is upheld until the information requested within this consultation response has been submitted for review, in the interests of providing safe and suitable access to the site for all users, compliant with Paragraph 110 (b) of the National Planning Policy Framework (NPPF) 2019.

There has been no justification given as to why a standard vehicular crossover cannot be used in this instance. As such it is unclear why SCC drawing no. DM04 is being used considering that DM04 access do not

prioritise pedestrians unlike a standard vehicular crossover. Justification of this decision should be provided in detail in any further documents.

Details of the vehicles that will be using the proposed access should be provided alongside swept paths for the largest anticipated vehicles so judgement on the suitability of a DM04 standard access can be made.'

11. Comments on amended plans:

Suffolk County Council have no objections subject to conditions ensuring that the access be constructed in accordance with highways standards. The below response to neighbour concerns raised has also been received from Highways Officers:

'Many of the points raised either had little impact on safety or were not significant enough to warrant a refusal, for us to refuse an application we must have enough justification to uphold our decision should the applicant apply for an appeal as such a refusal is a last resort and unless there are serious safety concerns, we seek to improve the proposal and gain betterments where possible.

We are happy to provide our comments surrounding the impact on pedestrians as well as our judgement on the use of grasscrete, however the other points raised were not significant enough in our assessment to warrant a refusal.

Impact on pedestrians:

This is a due consideration as pedestrian safety is of utmost concern within current legislation. As such and as shown within the provided plans the access will provide 2mx2m pedestrian splays as is standard for access' crossing footways. This is achievable as following our first holding objection the applicant changed the specification of the access to be in line with SCC DM03 standard access drawing which is more pedestrian friendly than the original proposal.

The use of grasscrete:

Due to the abundance of vegetation nearby, grasscrete in this instance would be a suitable material as a way to reduce the access' impact on the street scene.'

Ward Councillor Beccy Hopfensperger:

12. Objection due to impact upon highway safety, loss of amenity and adverse effects on a Conservation Area.

Fornham All Saints Parish Council & Fornham St Martin Parish Council

13. Objection due to adverse impact upon amenity, highway safety and the Conservation Area.

Representations:

14. A total of 22 representations have been received with 20 objections and 2 comments neither supporting nor objecting to the proposal. The reasons for the objections relate to concerns over:

- The impact upon highway and pedestrian safety
- The impact upon the drainage ditch
- The need / justification for the proposal and future use
- Loss of privacy / neighbour amenity

Policy:

15. On 1 April 2019 Forest Heath District Council and St Edmundsbury Borough Council were replaced by a single authority, West Suffolk Council. The development plans for the previous local planning authorities were carried forward to the new Council by regulation. The development plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies Document (which had been adopted by both councils), set out policies for defined geographical areas within the new authority. It is therefore necessary to determine this application with reference to policies set out in the plans produced by the now dissolved St Edmundsbury Borough Council.

16. The following policies of the Joint Development Management Policies Document and the St Edmundsbury Core Strategy 2010 & Vision 2031 have been taken into account in the consideration of this application:

Policy DM1 - Presumption in Favour of Sustainable Development

Policy DM2 - Creating Places – Development Principles and Local Distinctiveness

Policy DM5 – Development in the Countryside

Policy DM11 – Protected Species

Policy DM12 – Mitigation Enhancement, Management and Monitoring of Biodiversity

Policy DM17 – Conservation Areas

Policy DM42 - Open Space, Sport and Recreation Facilities

Policy CS2 – Sustainable Development

Policy CS4 - Settlement Hierarchy

Policy CS13 – Rural Areas

Other planning policy:

17. National Planning Policy Framework (NPPF)

18. The NPPF was revised in December 2023 and is a material consideration in decision making from the day of its publication. Paragraph 225 is clear however, that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework; the greater weight that may be given. The policies set out within the Joint Development Management Policies have been assessed in detail and are considered sufficiently aligned with the provision of the 2023 NPPF that full weight can be attached to them in the decision making process.

Officer comment:

19. The issues to be considered in the determination of the application are:

- The principle of development
- Impact upon character of the area
- Impact upon the Conservation Area
- Impact on amenity
- Impact on ecology
- Impact on the highway safety

The principle of development

20. From a planning policy perspective the application site is located adjacent to Fornham All Saint's defined housing settlement boundary which is an infill village as defined within Policy CS4. The site and wider golf course are located within the countryside for planning policy purposes. The proposed access will serve the existing golf course for easier access to this part of the existing sport and recreation facility.

21. Policy DM5 states that areas designated as countryside will be protected from unsustainable development and that proposals for economic growth and expansion of all types of business and enterprise that recognise the intrinsic character and beauty of the countryside will be permitted. Policy DM42 supports proposals for the provision, enhancement and/or expansion of amenity, sport or recreation open space or facilities subject to compliance with other Policies in the Joint Development Management Plan Document and other adopted Local Plans.

22. The proposed vehicular maintenance access will serve the northwestern section of the golf course. The development relates to the on-going management and maintenance of All Saints Golf and Country Club and therefore gains support through Policy DM5 and DM42. The principle of development for a maintenance access in this location is considered acceptable subject to further material planning considerations and policy considerations which are discussed in more detail below.

Impact upon character of the area

23. The application site lies opposite the developed village edge and in contrast has a rural and open character with tranquil views from the public highway extending deep within the golf course. The open and undeveloped nature of the golf course is a key feature and characteristic of Fornham All Saints.

Whilst not situated within Fornham All Saints Conservation Area the proposed access is located adjacent to its boundary. The impact of this development upon the Conservation Area is discussed in more detail under a separate section below.

24. Policy DM2 is clear that planning permission for all developments should recognise and address the key features, characteristics of the area and its landscape character.
25. Policy DM5 seeks to ensure that development for economic growth and expansion within the countryside should not have a significant detrimental impact upon the historic environment or harm the character and appearance of the area.
26. Policy CS13 states that development outside of defined settlements should be strictly controlled with a priority on protecting and enhancing the character, appearance, historic qualities and biodiversity of the countryside.
27. Planning permission was originally sought for the access at a width of 9 metres and length of 20 metres with a tall, industrial looking wire fence gate. Officers considered that the superseded scheme would have resulted in an unacceptable urbanising and harmful impact upon the rural character and appearance of the area. There was no justification for an access of this size.
28. Policy DM1 states when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible.
29. The amended scheme proposes a significant reduction in width to 6.3 metres and length to 7.5 metres. The amended design includes the provision of grasscrete as an alternative to tarmac beyond the edge of the public highway. The dropped kerb and altered footpath would be finished in tarmac in accordance with highway standards and subject to a S278 legal agreement. The alterations also include new gates and fencing at a reduced height of 1.25 metres in an 'estate' style to reflect the rural character. A modest engineered brick retaining wall will be constructed no higher than 600mm above the road level. A condition will secure the specification, type and appearance of the brick.
30. The proposed development is not considered to result in an adverse impact upon the rural character and appearance of the area. Whilst the development will create a break in the otherwise continuous verdant roadside, the amendments secured have significantly reduced the visual impact of this development. The access now appears sympathetic and appropriate for this location.
31. The proposal therefore satisfies Policies DM2, DM5, DM42 and CS13.

Impact upon the Conservation Area

32. Policy DM17 states that development within, adjacent to or visible from a Conservation Area should preserve and enhance the character and appearance of the Conservation Area or its setting.
33. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
34. Following concerns raised by the Conservation Officer in response to the original scheme, the applicant has provided a Heritage Impact Assessment (HIA) which considers the potential impact of this development upon the setting and significance of the Conservation Area. Having reviewed the amendments and updated design and HIA the Conservation Officer no longer objects to this application.
35. The HIA identifies a historic access off The Street opposite a farmstead with a large opening within the field drainage system. The HIA states that there is a long-established functional relationship between the meadows to the south of The Street and Bridge House (Grade II Listed). The historic drainage system appears to have been adapted for access to the meadows roughly within the same location as the proposed development. The assessment considers that the reduction of the proposed access in size has also significantly reduced the visual impact on the setting of the Conservation Area in addition to reinstating a historic feature.
36. The Conservation Officer does not object to the amended scheme on the basis that the proposal involves the reinstatement of a historic access which has been considerably reduced in size. The proposal therefore does not conflict with Policy DM17 and will not result in harm to the setting of the Conservation Area.

Impact upon amenity

37. Policy DM2 is also relevant in considering the impact on the amenity of adjacent dwellings. The policy requires that the amenities of adjacent areas by reason of noise, smell, vibration, overlooking, overshadowing, loss of light or other pollution (including light pollution, or volume or type or vehicular activity generated) must be considered.
38. Concern has been raised over the impact of the proposed maintenance access upon the privacy of Acer Lodge, given the access is located opposite their front lounge window. Acer Lodge is located approximately 13.8 metres from the proposed access and separated by the B1106 highway and a low brick wall. Any front elevation of a dwelling is generally expected to benefit from less privacy than, for example, rear amenity space or windows. The proposed maintenance access to the front of the dwelling, due to this separation and the nature of the development is therefore not considered to result in unacceptable loss of privacy or residential amenity. The proposal therefore satisfies Policy DM2 in this respect.

Ecology Matters

39. When determining applications, the LPA has a statutory duty to consider biodiversity. The NPPF (2023) within section 15, para 180 seeks to conserve and enhance biodiversity and suggest that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.
40. At a local level, this is exhibited through policies CS2, DM11 and DM12.
41. Following concerns raised by Officers a preliminary ecology report has been submitted to determine the potential impacts of this development upon ecology and protected species. The report concludes that the proposed new access will not result in any significant adverse ecological effects and includes biodiversity enhancement measures with the conclusion that the proposed bat and bird boxes would be appropriate and proportionate to the scale of the development. The proposed development therefore satisfies the above criteria.

Impact on highway safety

42. The applicant's agent states that All Saints Golf and Country Club is approximately 150 acres and that its upkeep and management requires a significant undertaking. Having strategic access points around the perimeter of the site will assist in efficient upkeep and maintaining the quality of the environment. It is noted that access to this section of the golf course is currently achieved from the opposite side of the golf course off Mildenhall Road.
43. Policy DM2 states that proposals for development should produce design in accordance with standards that maintain or enhance the safety of the highway network.
44. Paragraph 115 of the National Planning Policy Framework (2023) states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.
45. The proposed access would be constructed in accordance with Suffolk County Council's DM03 Domestic Vehicular Access drawing. This access type has been suggested by Highways Officers as it requires a 2 metre by 2 metre pedestrian visibility splay. This section of B1106 highway has a 30mph speed restriction. The proposed block plan indicates a 90 metre visibility splay looking both east and west. The access will be piped with a 600mm concrete pipe which highways consider is acceptable.
46. The proposed swept path plan has been generated to determine the largest possible maintenance vehicle that could use this access. The swept path shows a 2.3 metre wide and 7.17 metre long rigid axle vehicle manoeuvring into the site either in a reverse gear or a forward gear. It is noted that this drawing solely seeks to demonstrate the largest possible vehicle that the access could accommodate. However, the applicant has confirmed that the type of machinery requiring access would include telehandlers, forklifts, 360 JCB, tractors and trailers.

47. The Highway Authority do not object to this application and have confirmed that the proposed development would not result in an unacceptable risk to highway safety that would justify refusal.

48. On the basis of the above, the proposal does not conflict with policy DM2 and the NPPF in this respect.

Conclusion:

49. In conclusion, the principle and detail of the development as now amended is considered to be acceptable and in compliance with relevant development plan policies and the National Planning Policy Framework.

Recommendation:

50. It is recommended that planning permission be **APPROVED** subject to the following conditions:

1. Time Limit

The development hereby permitted shall be begun not later than three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990.

2. Approved Plans

The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents, unless otherwise stated below:

- Amended Proposed Location and Block Plan (7400-AR01 REV D)
- Amended Proposed Elevations (7400-AR01 REV A)
- Amended Swept Path (7300-AR01 REV D)
- Amended Ecological Assessment
- Amended Grasscrete Brochure
- Amended Heritage Impact Assessment

Reason: To define the scope and extent of this permission.

3. Materials

No development shall take place until a brick sample for the proposed retaining wall has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the area, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 12 of the National Planning Policy Framework and all relevant Core Strategy Policies.

4. Restrict Use

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended (or any Order revoking and re-enacting that Order) and the Town and Country Planning (General Permitted Development) Order 2015, as amended, the proposed access shall be used only as a maintenance access to serve All Saints Golf and Country Club and for no other purpose.

Reason: To safeguard the character and appearance of the area, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 12 of the National Planning Policy Framework and all relevant Core Strategy Policies.

5. Soft Landscaping

No development above ground level shall take place until a scheme of soft landscaping for the site drawn to a scale of not less than 1:200 has been submitted to and approved in writing by the Local Planning Authority. The soft landscaping details shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant sizes and proposed numbers/ densities. The approved scheme of soft landscaping works shall be implemented not later than the first planting season following commencement of the development (or within such extended period as may first be agreed in writing with the Local Planning Authority). Any planting removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season thereafter with planting of similar size and species unless the Local Planning Authority gives written consent for any variation.

Reason: To assimilate the development into its surroundings and protect the character and appearance of the area, in accordance with policies DM2, DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapters 12 and 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

6. Visibility Splays

Before the access is first used visibility splays shall be provided as shown on Drawing No.AR01 Rev D with an X dimension of 2.4 metres and a Y dimension of 90 metres [tangential to the nearside edge of the carriageway] and thereafter retained in the specified form.

Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction to visibility shall be erected, constructed, planted or permitted to grow over 0.6 metres high within the areas of the visibility splays.

Reason: To ensure drivers of vehicles entering the highway have sufficient visibility to manoeuvre safely including giving way to approaching users of the highway without them having to take avoiding action and to ensure drivers of vehicles on the public highway have sufficient warning of a vehicle emerging in order to take avoiding action, if necessary.

7. Access

No other part of the development hereby permitted shall be commenced until the new access has been laid out and completed in all respects in accordance with drawing no. AR01 Rev D with an entrance width of 3m. Thereafter it shall be retained in its approved form.

Reason: To ensure the access is laid out and completed to an acceptable design in the interests of the safety of persons using the access and users of the highway.

8. Gradient

The gradient of the vehicular access shall not be steeper than 1 in 20 for the first five metres measured from the nearside edge of the highway. The gradient of the access driveway shall not be steeper than 1 in 12 measured from the nearside of the edge of the highway.

Reason: To ensure that vehicles can enter and leave the public highway in a safe manner.

9. Surfacing

Prior to the access being first used, the new access onto the highway shall be properly surfaced with a bound material for a minimum distance of 5 metres measured from the nearside edge of the metalled carriageway, in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure construction of a satisfactory access and to avoid unacceptable safety risks arising from materials deposited on the highway from the development.

10. Drainage Ditch

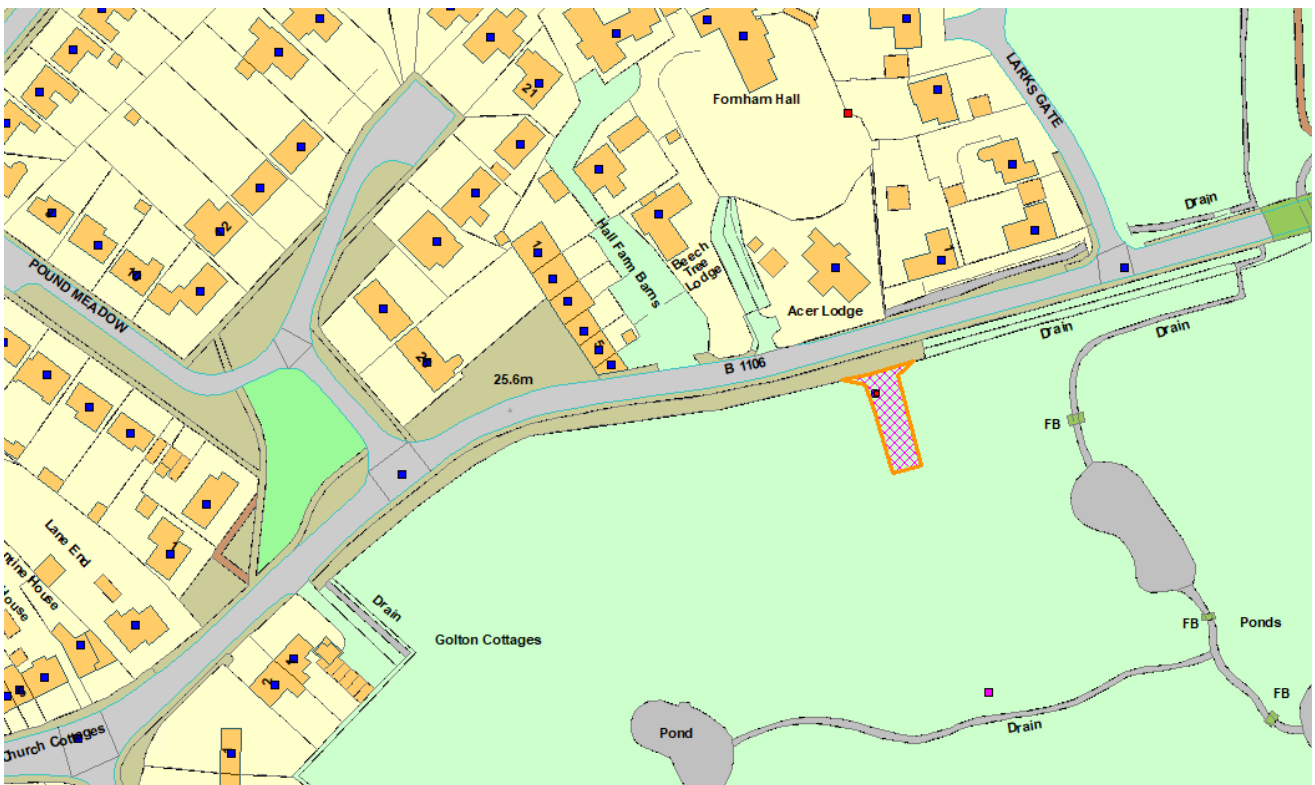
Prior to the access being constructed the ditch beneath the proposed access shall be piped or bridged in accordance with details that previously shall have been submitted to and approved in writing by the Local Planning Authority. The piped or bridged ditch shall be retained thereafter in its approved form.

Reason: To facilitate a safe access by ensuring uninterrupted flow of water and reducing the risk of flooding of the highway.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/22/1887/FUL](https://www.dorsetcouncil.gov.uk/DC/22/1887/FUL)

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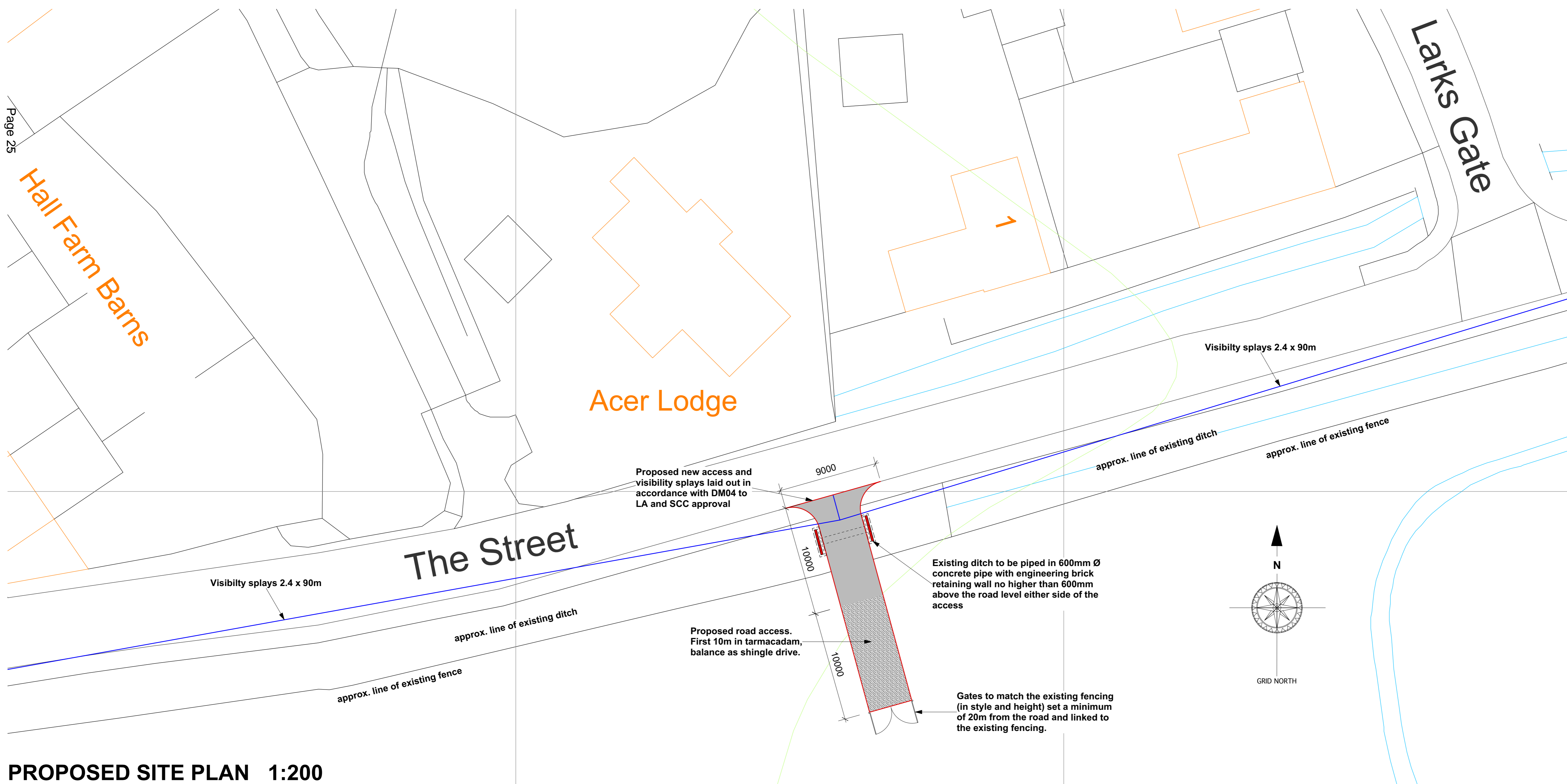
EXISTING LOCATION PLAN 1:1250



PROPOSED LOCATION PLAN 1:1250

NOTE DO NOT SCALE THIS DRAWING - USE DIMENSIONS
 The Contractor is to check and verify all dimensions on site before starting work and report any omissions or errors.
 This drawing is to be read in conjunction with all relevant consultants and specialists drawings.
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REVISIONS			
Rev	Notes	By	Date



PROPOSED SITE PLAN 1:200

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RIBA
 Chartered Practice

client:
M & D Developments

project:
All Saints Hotel
 Fornham St Genevieve,
 Bury St Edmunds, Suffolk

drawing title:
 Proposed Access Road

project no: 7400	dwg no: AR01	rev: mlk	drawn: stated	scale: 	date: Oct 22
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drawing status: **Planning**

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Development Control Committee

7 February 2024

Planning Application DC/23/0133/FUL – Land off Fordham Road, Freckenham

Date Registered: 17 March 2023 **Expiry Date:** EOT 09 February 2024

Case Officer: Amey Yuill **Recommendation:** Refuse Application

Parish: Freckenham **Ward:** Manor

Proposal: Planning application - change of use of agricultural land to enclosed field for dog training and exercising and associated access and parking

Site: Land off Fordham Road, Freckenham

Applicant: Messrs Cannam, Cross and Whitehead

Synopsis:

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and Associated matters.

Recommendation:

It is recommended that the Committee determine the attached application and associated matters.

CONTACT CASE OFFICER:

Amey Yuill

Email: amey.yuill@westsuffolk.gov.uk

Telephone: 01284 763233

Background

The application was considered at the Development Control Committee meeting on 3 January 2024 and a Committee site visit was undertaken on 2 January 2024.

Officers were recommending that the planning application be REFUSED for the reason outlined in Paragraph 60 of the report. This recommendation was in conflict with the view of Freckenham Parish Council and Councillor Taylor (Manor Ward Member) who supported the proposal.

Members at the meeting resolved that they were 'minded to' approve the planning application, subject to conditions, contrary to the officer recommendation of refusal. At this point, the decision making protocol was invoked, requiring a risk assessment report to be prepared for this matter before any decision is made.

The reason why members resolved that they were minded to approve the application was that they took into account the biodiversity benefits the native hedging and trees would bring about and they considered that the landscape impact of the proposals would not be adverse.

The purpose of this report is to provide a risk assessment for Members in accordance with the Decision-Making Protocol which sets out the potential risks that might arise should planning permission be approved, as well as providing clarity on queries raised during the meeting and to also allow appropriate conditions to be drafted.

The previous Officer report for the 3 January 2024 meeting of the Development Control Committee is included as Working Paper 1 to this report. Members are directed to this paper for details of the site and development, summaries of consultation responses and neighbour representations, and for the officer assessment of the proposal.

Proposal

1. Please refer to Working Paper 1 Paragraph 1 and 2 for a description of the proposal.

Application Supporting Material:

2. Please refer to Working Paper 1 Paragraph 3 for a description of the supporting material.

Site Details:

3. Please refer to Working Paper 1 Paragraph 4 for site details.

Planning History

4. Please refer to Working Paper 1 for planning history.

Consultations:

5. Please refer to Working Paper 1 for a summary of consultation responses.

Representations:

6. Please refer to Working Paper 1 for representations received.

Policy:

7. On 1 April 2019 Forest Heath District Council and St Edmundsbury Borough Council were replaced by a single Authority, West Suffolk Council. The development plans for the previous local planning authorities were carried forward to the new Council by Regulation. The Development Plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies document (which had been adopted by both Councils), set out policies for defined geographical areas within the new authority. It is therefore necessary to determine this application with reference to policies set out in the plans produced by the now dissolved Forest Heath.
8. Please refer to Working Paper 1 for a list of policies and guidance that have been taken into account in the consideration of the application.

Other Planning Policy:

9. National Planning Policy Framework (NPPF)
10. The NPPF was revised in December 2023 and is a material consideration in decision making from the day of its publication. Paragraph 225 is clear however, that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework; the greater weight that may be given. The policies set out within the Joint Development Management Policies have been assessed in detail and are considered sufficiently aligned with the provision of the 2023 NPPF that full weight can be attached to them in the decision making process.

Officer Comment

11. Please refer to Working Paper 1 from Paragraph 17 onwards for the officer assessment of the proposal.

Update

12. Following the 3 January 2024 meeting of the Development Control Committee, in order to accurately assess the risk of approving the proposal, and in accordance with the Decision-Making Protocol, clarification was sought by Officers with the applicant regards the following points:
- A. The requirement of a native species hedge along the Eastern Boundary of the site.
 - B. Confirmation of the height the hedge would be when planted.
 - C. The colour of the fencing, considering it would be slightly exposed before the hedging has grown to a suitable height.
 - D. Confirmation that there would be no external lighting.
 - E. Hours of use for the site.
 - F. Confirmation what constitutes 'training'.
 - G. Confirmation that there would be no other structures within the field other than 'poo' bins.
13. **A. Native species hedge to eastern boundary** – An amended Proposed Site Layout Plan (drawing no. 22:123 – 2C) has been received which indicates a native species hedge along the eastern boundary, as well as the southern, western and northern boundaries.
14. **B. Hedge height when planted** – The height of the Bare Root plants proposed for the native hedge landscaping on the site boundaries have been increased to between 1200 and 1500mm high, which has been detailed on the Proposed Site Layout Plan (drawing no. 22:123 – 2c). This will leave between 300 and 600mm of the fence exposed at the point when the landscaping is first planted, reducing as it grows. It has been advised that species to comprise of *Carpinus betula* (hornbeam) and *Fagus sylvatica* (beech) hedges are to be planted in two straight rows, set 335mm apart and staggered, at a density of 6 plants per linear metre. The two rows shall be placed in the centre of the bed and shall be offset so that the plants are alternate and not opposite each other. Plants to be open ground stock 1200 - 1500mm high. The *Fagus sylvatica* is detailed as growing between 400 - 600mm a year and the *Carpinus betula* between 200 - 400mm a year.
15. **C. Colour of fencing** – The secure dog proof fencing proposed is manufactured by Clipex, 1.80m high, with standard steel Clipex deer posts with diagonal steel strainer post where required and with rectangular wire netting between the posts. Following the Committee meeting on 3 January 2024, the applicant investigated whether there would be a possibility of purchasing the fencing with a coloured finish, however, it is only available in a galvanised finish. Therefore, the posts, strainer posts and wire netting proposed would all be galvanised and would be in a dull grey / silver colour. Examples of other dog training facilities in West Suffolk have been provided

and find those that were visited by the applicant all have galvanised wire fencing (photographs will be included in the Committee presentation), albeit, the fence posts in these examples are timber and the fence proposed for this development has galvanised posts/poles.

- 16.**D. External lighting** – The applicant has confirmed they are not proposing any external lighting for the scheme, with the use only taking place during daylight hours, with maximum hours of 8.00am to 8.00pm, depending on time of year. The applicants have advised they are fully aware a further Planning Application would be required should external lighting ever be required and have made reference to no external lighting being proposed on the amended Proposed Site Layout Plan (drawing no. 22:123 – 2c).
- 17.**E. Hours of use** – Within the application form submitted the applicant has stated that the hours of use being sought would be Monday to Sunday during daylight hours. With the exact hours of use being dependant upon the time of year, the Environmental Health Officer recommended that should permission be granted, the hours of the site’s use should be limited to 8am until 8pm daily, to protect residential amenity. The applicant has confirmed that they are in agreement to the restriction on hours and have detailed this within the amended Proposed Site Layout Plan (drawing no. 22:123 – 2c).
- 18.**F. Meaning of the word ‘training’** – The applicant has explained that the reference to the field being used for training refers to obedience training, not the training of dogs over other fixed equipment or obstacles located within the field. This has been clarified within the amended Proposed Site Layout Plan (drawing no. 22:123 – 2c).
- 19.**G. Structures within the application site** – It has been advised by the application that the only structures proposed above ground within the application site are the seven poo bins and the perimeter fence. This has been detailed within the amended Proposed Site Layout Plan (drawing no. 22:123 – 2c).

Risk Assessment:

- 20.If the Committee remains of the opinion that this application should be approved then the potential risks of doing so must be considered.
- 21.Attention is drawn specifically to the original Landscape Officer comments summarised in Paragraph 9 of Working Paper 1. Attention is also drawn to the officer’s comments in Paragraphs 26-37 relating to relevant landscape policies and their assessment.
- 22.However, the landscape impacts and the degree to which these are harmful and offend the relevant policies of the development plan are subjective judgements and therefore, the risks of granting planning permission in this case are on the lower end of the scale. It should be noted, however, that applications for dog walking and training fields are becoming more common and that, therefore, careful consideration should be given when determining this application in order to ensure a consistency of approach.

23. Officers remain of the opinion, notwithstanding the clarifications and revisions sought following the January meeting, that the development proposed in this case is contrary to policies DM2, DM5 and DM13 of the Joint Development Management Policies Document, CS2, CS3 and CS5 of the Forest Heath Core Strategy and the provisions of the National Planning Policy Framework. It is not considered that in this case that the material planning considerations, such as the economic, social, and ecological benefits, would outweigh the harm to the landscape character.
24. A further risk to the Authority from an approval is reputational as it may show a lack of regard for the interpretation of landscape protection policies, plus may lead to an inconsistent approach in relation to the assessment of dog exercising proposals elsewhere. Although it should also be noted that each application must be considered on its own merits having regard to the particular circumstances of each proposal. In coming to their decision Members must therefore clearly identify whether they consider the proposal complies with the development plan and their reasons for reaching their decision.

Refusal Reasons

25. The Officer recommendation remains one of **REFUSAL**, as per Paragraph 60 of Working Paper 1, and set out below. It must be noted that since the publication of that report that the NPPF has been updated. While the content of the NPPF relevant to this application has not changed, some of the Paragraph numbering has changed, and this is reflected in the reason for refusal below albeit the substance of the reason remains identical:

Para.135 and 180 (previously para. 130 and 174) of the NPPF state that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change, as well as protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.

This is endorsed by policy local policies DM2, DM5 and DM13 of the JPDO, as well as policies CS2, CS3 and CS5 of the FHCS, which require developments to recognise and address the key features, characteristics, landscape character, local distinctiveness, and special qualities of the area and for developments to take into account the intrinsic character and beauty of the countryside, the local distinctiveness and sensitivity to change of distinctive landscape character types, protect areas of landscape, and local distinctiveness from harm.

The site is located in the countryside, in a very exposed location, with no hedge boundaries to fields, only the occasional roadside tree, and is open to the surrounding countryside, which is characterised by large arable fields on gently rising ground. This means that the site is highly visible from the surrounding road

networks and public rights of way in both the near and far distance due to the lack of any visual interruptions such as hedgerows or woodland.

The proposed new use for the site, with the associated car parking and vehicular access and metal perimeter fencing, and bins and the mitigating landscaping proposals in themselves, will present as detracting factors in this open landscape setting. The landscape and visual impacts of the proposed dog training operation are not negligible. Therefore, it is considered that the change of use of the site would lead to an adverse impact on landscape character, despite the benefits of mitigation hedge and tree planting to the perimeter and site frontage, and to a level which would be contrary to policies DM2, DM5 and DM13 of the JDMPD, CS2, CS3 and CS5 of the FHCS and the provisions of the NPPF, to a degree which would warrant the refusal of the application, and which is not outweighed by any economic or social benefits arising.

26. Following the submission of amended plans and clarification of points brought up in the Committee meeting by members, the proposal is still considered to be contrary to the provisions of the development plan and is not considered to accord with the provisions of the National Planning Policy Framework (2023), as detailed within Working Paper 1.

27. Accordingly, and if notwithstanding the above advice, the Committee remains of the opinion that this application should be approved, then Officers would recommend the following conditions:

- 1 The development hereby permitted shall be begun not later than three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents, unless otherwise stated below:

Reason: To define the scope and extent of this permission.

Reference number	Plan type	Date received
	Application Form	27 January 2023
22:123-1	Location Plan	27 January 2023
22:123-2 C	Proposed Site Layout	17 January 2024
22:123-3	Proposed Elevations	6 March 2023
304/2023/02 P1	Vehicle Tracking Alignments Plan – Forward Bay Parking	17 November 2023

304/2023/03 P1	Vehicle Tracking Alignments Plan – Reverse Bay Parking	17 November 2023
	Fence Specifications	27 January 2023
	Landscape and Visual Impact Assessment	4 September 2023
	SUDs Proforma	17 March 2023
	Statement	27 January 2023
	Parking Details	17 November 2023
	Landscaping Specifications	17 January 2024

- 3 No development above slab level shall take place until details of the fencing shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the area, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 12 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 4 All planting comprised in the approved details of landscaping shall be carried out in the first planting season following the commencement of the development (or within such extended period as may first be agreed in writing with the Local Planning Authority). Any planting removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season thereafter with planting of similar size and species unless the Local Planning Authority gives written consent for any variation.

Reason: To enhance the appearance of the development and ensure a satisfactory environment, in accordance with policies DM2, DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapters 12 and 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 5 The use of the development hereby approved shall only permit a maximum of 6 (six) dogs for exercising on the land at any one time and up to two owners at any one time. There shall not at any time be any professional training, obedience, agility classes or similar taking place on the site.

Use of the site shall be restricted to only between the hours of 8am to 8pm hours on any day.

Reason: To protect the amenity of occupiers of adjacent properties

from noise and disturbance, in accordance with policies DM2 and DM14 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 6 No external lighting shall be installed on the application site without prior written consent from the Local Planning Authority.

Reason: To safeguard the residential amenity of neighbouring properties and to minimise light pollution, in accordance with policy DM2 and DM14 of the West Suffolk Joint Development Management Policies Document 2015, the provisions of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 7 Before the access is first used visibility splays shall be provided as shown on Drawing No. 22:123-2 Rev C with an X dimension of 2.4 metres and a Y dimension of 45 metres [tangential to the nearside edge of the carriageway] and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction to visibility shall be erected, constructed, planted or permitted to grow over 0.6 metres high within the areas of the C.

Reason: To ensure drivers of vehicles entering the highway have sufficient visibility to manoeuvre safely including giving way to approaching users of the highway without them having to take avoiding action and to ensure drivers of vehicles on the public highway have sufficient warning of a vehicle emerging in order to take avoiding action, if necessary, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 9 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 8 No other part of the development hereby permitted shall be commenced until the new access has been laid out and completed in all respects in accordance with drawing no. 22:123-2 Rev C with an entrance width of 6 metres.

Reason: To ensure the access is laid out and completed to an acceptable design in the interests of the safety of persons using the access and users of the highway, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 9 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 9 Prior to the development hereby permitted being first occupied, the new access onto the highway shall be properly surfaced with a bound material for a minimum distance of 5 metres measured from the nearside edge of the metalled carriageway, in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure construction of a satisfactory access and to avoid unacceptable safety risks arising from materials deposited on the highway from the development, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 9 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 10 The use shall not commence until the area(s) within the site shown on drawing no's. 22:123-2 Rev C, 304/2023/02, and 304/2023/02 for the purposes of manoeuvring, and parking of vehicles has / have been provided and thereafter the area(s) shall be retained, maintained, and used for no other purposes.

Reason: To ensure that sufficient areas for vehicles to be parked are provided in accordance with Suffolk Guidance for Parking 2019 where on-street parking and manoeuvring would be detrimental to the safe use of the highway, in accordance with policy DM2 and DM46 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 9 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 11 Prior to first use of the development hereby approved, details of biodiversity enhancement measures to be installed at the site, including details of the timescale for installation, shall be submitted to and approved in writing by the Local Planning Authority. Any such measures as may be agreed shall be installed in accordance with the agreed timescales and thereafter retained as so installed. There shall be no occupation unless and until details of the biodiversity enhancement measures to be installed have been agreed in writing by the Local Planning Authority.

Reason: To secure biodiversity enhancements commensurate with the scale of the development, in accordance with policies DM11 and DM12 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

Conclusion

28. For the reasons outlined above and also set out within the original report to Development Control Committee, Officers consider that the development would be harmful to the landscape character of the area, and that there are insufficient benefits to outweigh this harm.
29. In coming to their decision, Members must clearly identify how they consider the proposal complies with the development plan and their reasons for reaching their decision in circumstances such as this.

30. It is **recommended** that planning permission be **REFUSED** for the following reason:

Para. 135 and 180 of the NPPF state that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change, as well as protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.

This is endorsed by policy local policies DM2, DM5 and DM13 of the JPDO, as well as policies CS2, CS3 and CS5 of the FHCS, which require developments to recognise and address the key features, characteristics, landscape character, local distinctiveness, and special qualities of the area and for developments to take into account the intrinsic character and beauty of the countryside, the local distinctiveness and sensitivity to change of distinctive landscape character types, protect areas of landscape, and local distinctiveness from harm.

The site is located in the countryside, in a very exposed location, with no hedge boundaries to fields, only the occasional roadside tree, and is open to the surrounding countryside, which is characterised by large arable fields on gently rising ground. This means that the site is highly visible from the surrounding road networks and public rights of way in both the near and far distance due to the lack of any visual interruptions such as hedgerows or woodland.

The proposed new use for the site, with the associated car parking and vehicular access and metal perimeter fencing and bins and the mitigating landscaping proposals in themselves, will present as detracting factors in this open landscape setting. The landscape and visual impacts of the proposed dog training operation are not negligible. Therefore, it is considered that the change of use of the site would lead to an adverse impact on landscape character, despite the benefits of mitigation hedge and tree planting to the perimeter and site frontage, and to a level which would be contrary to policies DM2, DM5 and DM13 of the JDMPD, CS2, CS3 and CS5 of the FHCS and the provisions of the NPPF, to a degree which would warrant the refusal of the application, and which is not outweighed by any economic or social benefits arising.

Documents:

- All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online DC/23/0133/FUL
- Working Paper 1 – Committee Report of 3 January 2024

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Development Control Committee
3 January 2024

WORKING PAPER 1

**Planning Application DC/23/0133/FUL – Land off
Fordham Road, Freckenham**

Date registered: 17 March 2023

Expiry date: 16 June 2023
EOT 5 January 2024

Case officer: Amey Yuill

Recommendation: Refuse application

Parish: Freckenham

Ward: Manor

Proposal: Planning application - change of use of agricultural land to enclosed field for dog training and exercising and associated access and parking

Site: Land off Fordham Road, Freckenham

Applicant: Messrs Cannam, Cross and Whitehead

Synopsis:

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and associated matters.

Recommendation:

It is recommended that the committee determine the attached application and associated matters.

CONTACT CASE OFFICER:

Amey Yuill

Email: amey.yuill@westsuffolk.gov.uk

Telephone: 01284 763233

Background:

This application was referred to the Delegation Panel due to Freckenham Parish Council supporting the proposal via a letter of support submitted with the application, contrary to the officer's recommendation of REFUSAL. In addition, comments of support were received from Councillor David Taylor (Manor Ward Member).

Following the Delegation Panel meeting on 7 November 2023, it was concluded that the application should be determined by the Development Control Committee.

During the course of the application two consultations have taken place with statutory consultees and neighbouring properties due to a number of amendments being received, including alterations to the site layout and the addition of landscaping to the site.

A site visit is scheduled to take place on Tuesday 2 January 2024.

Proposal:

1. The proposal is for the change of use of agricultural land to an enclosed field for dog training and exercising, including a 1.8 metre boundary fence, associated access from Fordham Road, parking, and landscaping.
2. The initial proposal was for a larger parking area to the front of the site, as well as fencing close to the road and no soft landscaping. Following concerns being raised by the case officer with the applicant, a revised scheme was submitted which has reduced the parking to the front of the site, removed the fencing close to the highway and soft landscaping is now proposed to the south, west and northern boundaries of the application site.

Application supporting material:

3. In support of this advertisement consent application, the following has been provided:
 - Application Form
 - Location Plan (drawing no. 22:123-1)
 - Proposed Site Layout (drawing no. 22:123-2 A)
 - Proposed Elevations (drawing no. 22:123-3)
 - Soft Landscaping Plan 1 (drawing no. 23/175-01)
 - Soft Landscaping Plan 2 (drawing no. 23/175-02)
 - Vehicle Tracking Alignments Plan – Forward Bay Parking (drawing no. 304/2023/02 P1)
 - Vehicle Tracking Alignments Plan – Reverse Bay Parking (drawing no. 304/2023/03 P1)
 - Fence Specifications
 - Statement
 - SUDs Proforma
 - Landscape and Visual Impact Assessment
 - Parking Details

Site details:

- The application site currently comprises an arable agricultural field outside the settlement boundary of Freckenham, on land designated as countryside for the purpose of planning. The site is bounded by agricultural land to the north, east and west, with Fordham Road bounding the site to the south. The settlement of Freckenham lies further to the east, approximately 100 metres from the application site.

Planning history:

5.

Reference	Proposal	Status	Decision date
DC/20/1500/EIASC O	Request for Scoping Opinion under Regulation 15 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 - 55 kilometre potable water pipeline between Bexwell and Bury St Edmunds together with associated connections and above ground apparatus	EIA Screening/Scoping Opinion Issued	23 October 2020
F/99/270/ADI	Retrospective: Information hoarding advertising local public house and restaurant.	Refuse	28 July 1999

Consultations:

- Private Sector Housing and Environmental Health** – Concerns were raised in terms of the adverse impact the proposed development could have on the amenity of residential properties close to the application site, due to noise as a result of dogs barking travelling long distances. However, subject to conditions restricting the number of dogs on the site at any one time to six, the hours of use for the site to 8am until 8pm, as well as limitations on the level of light allowed on the site, no objections were given if permission were to be granted.
- Suffolk County Council Highway Authority** – Following the submission of the revised scheme, which removed the previously proposed turning circle and reducing the parking provision by parking spaces, the Highway Authority raised a holding objection to the development until evidence could be provided that vehicles can enter and exit the highway in a forward gear and the anticipated number of users at any time to enable the accurate assessment if the parking provision provided.
- Additional information was provided in terms of the parking on site, as well as vehicles movement and manoeuvring entering and exiting the highway. Following re-consultation with the Highway Authority, it was confirmed that they were satisfied by the information submitted and raised no

objection to the granting of planning permission on highway grounds, subject to conditions requiring visibility splays to be provided in accordance with the submitted plans, that the access shall be completed prior to any other development on site being commenced, surfacing to be implemented prior to the proposed development being first used, and parking to be provided and thereafter retained and maintained.

9. **Landscape Officer** – Following the submission of a Landscape and Visual Impact Assessment (LVIA), it was advised that whilst the addition of hedging and trees proposed would benefit ecology, the proposed development should be refused, on the basis that the local landscape character would be adversely affected by the proposed change of use to a dog training field in this location, with associated car parking, access and perimeter fencing, as well as paraphernalia required for the use, i.e., poo bins.

Representations:

10. **Freckenham Parish Council** – No comments received from Freckenham Parish Council during the course of the application, however, a letter of support was submitted with the planning application which was from Freckenham Parish Council.
11. **Ward Member** – Comments of support were received from Councillor Taylor (Manor Ward Member) advising “the land will not be changed in anyway and only used for dogs to run and play on, the fence is by no means an eyesore and I believe would blend in with other fencing along the road and the project would seem an excellent use of the land that will not be used for crops”.
12. **Third Party Representation** – One representation was received from Red House in Worlington raising an objection to the proposal due to concerns regarding highway safety, noise pollution, the requirement of such a facility, whether the site is within a green belt area and how the proposed development may impact other neighbouring businesses which are similar.

Policy:

13. On 1 April 2019 Forest Heath District Council and St Edmundsbury Borough Council were replaced by a single authority, West Suffolk Council. The development plans for the previous local planning authorities were carried forward to the new Council by regulation. The development plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies Document (which had been adopted by both councils), set out policies for defined geographical areas within the new authority. It is therefore necessary to determine this application with reference to policies set out in the plans produced by the now dissolved St Edmundsbury Borough Council.
14. The following policies of the Joint Development Management Policies Document and the Forest Heath Core Strategy 2010 have been taken into account in the consideration of this application:
 - Policy DM1 Presumption in Favour of Sustainable Development

- Policy DM2 Creating Places Development Principles and Local Distinctiveness
- Policy DM5 Development in the Countryside
- Policy DM11 Protected Species
- Policy DM12 Mitigation, Enhancement, Management and Monitoring of Biodiversity
- Policy DM13 Landscape Features
- Policy DM14 Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
- Policy DM46 Parking Standards
- Core Strategy Policy CS1 - Spatial Strategy
- Core Strategy Policy CS2 - Natural Environment
- Core Strategy Policy CS3 - Landscape character and the historic environment
- Core Strategy Policy CS5 - Design quality and local distinctiveness
- Core Strategy Policy CS10 - Sustainable rural communities

Other planning policy:

15. National Planning Policy Framework (NPPF)

16. The NPPF was revised in September 2023 and is a material consideration in decision making from the day of its publication. Paragraph 219 is clear however, that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework; the greater weight that may be given. The policies set out within the Joint Development Management Policies have been assessed in detail and are considered sufficiently aligned with the provision of the 2023 NPPF that full weight can be attached to them in the decision making process.

Officer comment:

17. The issues to be considered in the determination of the application are:

- Principle of Development
- Design and Impact on Character of Area and Landscape
- Residential Amenity Impact
- Highway Safety and Parking
- Ecological Impact
- Other matters

Principle of Development

18. This proposal is for the change of use of a Grade 2 arable agricultural field to a dog training field with new vehicular access, hardstanding for parking, perimeter 1.8m high fencing and associated refuse bins within the field.
19. The application site is located outside of any settlement boundary, within land designated as countryside for the purpose of planning, with the Freckenham settlement boundary to the east being approximately 100 metres from the application site.
20. Policy DM5 of the Joint Development Management Policies Document (JDMPD) deals with development within the countryside and states areas designated as countryside will be protected from unsustainable development. This is also required by policy DM1 of the JDMPD and CS1 and CS2 of the Forest Heath Core Strategy (FHCS) which seek to secure sustainable development for all proposals. Policy CS1 recognises that Freckenham is a Secondary Village, where development outside the settlement boundary will be restricted to particular types of development that support the rural economy, meet affordable housing needs, or provide renewable energy, subject to all other material considerations and policies.
21. The application site is not accessible via foot, with no street lighting or pavements from Freckenham to the application site. Therefore, users of the dog training and walking field would exclusively be accessing the site via car. The proposed development is therefore not deemed to be sustainable in the sense of its environmental impact, due to the reliance of cars for the proposed use. However, the proposal is of a low intensity, with only two bookings and a maximum of six dogs allowed at any one time on the field, which could be reasonably controlled via condition if permission were to be granted. Furthermore, the development does provide some social and economic benefits with a new business being proposed. Therefore, on balance, the development is considered to accord with policy DM1 and DM5 of the JDMPD and CS1 and CS2 of the FHCS, in terms of the overall sustainability balance of the proposal when assessed against Policy DM5.
22. DM5 goes on to state that proposals for economic growth and expansion of all types of business and enterprise that recognise the intrinsic character and beauty of the countryside will be permitted where it will not result in the irreversible loss of best and most versatile agricultural land (grades 1, 2 and 3a); there will be no significant detrimental impact on the historic environment, character and visual amenity of the landscape or nature conservation and biodiversity interests; and there will be no significant adverse impact on the local highway network.
23. Furthermore, the National Planning Policy Framework (2023) (NPPF), supports sustainable economic growth and Chapter 6, 'Building a Strong Competitive Economy', states that "planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt". Accordingly, the Forest Heath Core Strategy (FHCS) policy CS10 seeks to develop and sustain the existing economy by stating that the diversification of existing rural enterprises and the development of new enterprises where a rural location is either environmentally or

operationally justified will be supported, provided there are no significant detrimental environmental, landscape, conservation or highway impacts.

24. The site has been in agricultural use recently and is Grade 2 agricultural land, which is the best and most versatile agricultural land. The proposal will lead to its loss, in the sense that it will no longer be capable of being used for agricultural purposes. However, the use proposed is largely temporary in nature, with fencing which could be removed, thereby reverting the site back to agricultural use if needed. Nonetheless, it will be 'lost' for the duration of any consent, and this is a matter that, modestly, does weigh against the proposal in the balance of considerations, albeit not at a level that would justify a refusal, when balanced against the clear economic benefits arising and when the reversible nature of the use is also taken into account.

25. As such, the principle of development is acceptable, subject to compliance with material planning considerations.

Design and Impact on Character of Area and Landscape

26. Development such as the provision of a dog training and walking field will need to be in accordance with both national and local policies relating to design and impact on the character of the area and landscape in general.

27. Para.130 of the NPPF states that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change. This is supported by policy DM2 of the JDMPD and policy CS5 of the FHCS which advise that proposals for all development should, recognise and address the key features, characteristics, landscape/townscape character, local distinctiveness and special qualities of the area and/or building and should be designed to a high quality.

28. In addition, para.174 of the NPPF advises planning policies and decisions should contribute to and enhance the natural and local environment by:

- a. protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b. recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.

29. This is endorsed by policy DM5 and DM13 of the JDPMD, as well as policy CS2 and CS3 of the FHCS, which requires developments to recognise and take into account the intrinsic character and beauty of the countryside, the local distinctiveness and sensitivity to change of distinctive landscape character types, protect areas of landscape, biodiversity and geodiversity interest and local distinctiveness from harm, and will only permit development which will not have an unacceptable adverse impact on the character of the landscape, landscape features, wildlife, or amenity value.

30. In accordance with policy CS3 of the FHCS, landscape types are described in the Forest Heath Landscape Character Assessment (LCA). The Landscape Character Assessment will inform detailed assessment of individual proposals. All schemes should protect and seek to enhance overall landscape character, taking account of the key characteristics and distinctiveness of the landscape and the landscape setting of settlements. This is further embodied in DM5, with the requirement to respect the character and visual amenity of the landscape within the countryside.
31. The site is an existing arable agricultural field set within the countryside to the north of Fordham Road. The site is beyond the limits of the village of Freckenham and separated from the Grange Farm site to the east by two narrow fields. The field is open to neighbouring fields on three sides with a drainage ditch to the front which follows the road alignment. The site is very exposed in its location, with no hedge boundaries to fields, only the occasional roadside tree, and also very open to the surrounding countryside, which is characterised by large arable fields on gently rising ground. This means that the site is visible from surrounding road networks and public rights of way in both the near and far distance due to the lack of any visual interruptions such as hedgerows or woodland.
32. The proposed new use for the site as a dog training field with new vehicular access, hardstanding for parking, perimeter 1.8m high fencing and refuse bins will represent a change in the landscape by means of its associated infrastructure. The proposal is supported by mitigation measures following concerns being raised by the case officer, which include the planting of native trees at the entrance and perimeter hedge planting of hawthorn, with the planting designed to screen and soften views to the parking area from the road, which has been set back from the highway and reduced in scale from the original submission, and also to screen the perimeter metal fencing viewed from beyond the site.
33. A Landscape and Visual Impact Assessment (LVIA) has been submitted in support of the application with the revised scheme. The LVIA has been carried out in line with the principles set out on the third edition of "Guidelines for Landscape and Visual Impact Assessment" (GLVIA3) and includes an assessment of landscape and visual receptors. Given the baseline conditions, the assessment concludes that the effects on landscape character both in landscape and visual terms is in the main, none at all. Despite valid baseline and methodology and viewpoints, the Landscape Officer consulted on the application advised that they disagree with the degree of landscape and visual effects as concluded within the LVIA.
34. The LVIA suggests there is vegetation on site to be retained, however, this is limited to grassland only. Trees and hedges are visible in the viewpoints studied; however, these are growing on the opposite side of Fordham Road and their screening to parked cars would be limited. The inclusion of proposed mitigation is however welcomed in terms of providing some screening of the parking area, fencing and paraphernalia associated with the change of use of the agricultural field and would provide long term biodiversity benefits, therefore, is an improvement on the originally submitted scheme, which proposed a larger parking area and no landscaping.

35. That being said, the Landscape Officer stated that the proposed new use for the site, with the associated car parking and vehicular use and metal perimeter fencing, possible training structures during sessions and bins, will present detracting factors in this open landscape setting. The landscape and visual effects of the proposed dog training operation are not considered to be negligible, contrary to the conclusions of the submitted LVIA. Therefore, officers have concluded that the change of use of the site would lead, overall and on balance, to an adverse impact on landscape character despite the benefits of mitigation hedge and tree planting to the perimeter and site frontage.
36. It is acknowledged that the soft landscaping scheme proposed provides some mitigation planting which will screen intrusive features such as high metal fencing, gates and car parking and will provide biodiversity and landscape benefits. However, with the existing landscape character in this area being large open rolling fields allowing extensive views across the landscape rather than small hedges, the local landscape character would remain adversely affected by the proposed development in this location.
37. Therefore, the proposed development is considered to conflict with policy DM2, DM5 and DM13 of the JDMPD, CS2, CS3 and CS5 of the FHCS and the provisions of the NPPF to a degree which would warrant the refusal of the application due to its adverse impact upon the character of the landscape character and countryside.

Residential Amenity Impact

38. Policies DM2 seeks to ensure that new development does not have a detrimental impact on residential amenity, nor the amenities of the wider area. The policy states that the amenities of adjacent areas by reason of noise, smell, vibration, overlooking, overshadowing, loss of light or other pollution (including light pollution, or volume or type or vehicular activity generated), must be considered.
39. DM14 states that proposals for all new developments should minimise all emissions and other forms of pollution (including light and noise pollution) and ensure no deterioration to either air or water quality. The policy goes on to say that all applications for development where the existence of, or potential for creation of, pollution is suspected must contain sufficient information to enable the Planning Authority to make a full assessment of potential hazards.
40. Concerns have been raised by the residents of the Red House in Worlington in terms of the proposal's potential to impact their amenity as a result of noise pollution. The application site is located over 3.5km from Red House so no impact from noise pollution in terms of dog barking is anticipated, however, the application site is located approximately 90 metres from the nearest residential property to the east, therefore, careful consideration is required as to how the proposed development may impact their residential amenity from noise pollution.
41. The Environmental Health Officer was consulted on the application and advised that they do have concerns regarding the proposal's potential to impact neighbouring amenity regarding noise pollution as dog training and exercising use can include additional activities such as formal training and

/ or agility classes etc. which have the potential to have an unreasonable impact on the living amenity of occupiers of nearby residential properties arising from frequent and / or prolonged barking from excitable dogs. Furthermore, noise from barking in the open air can travel further than might ordinarily be anticipated, particularly over flat terrain, if not adequately mitigated.

42. However, with conditions limiting the maximum number of dogs on the site at any time to six, as well as limiting the hours of use of the site to between 8am until 8pm on any day, the proposed development would raise no objection from the Environmental Health Officer should the application be granted. In addition, it is considered appropriate by the case officer that if the permission were to be granted, a condition should be placed upon the permission which states that no external lighting shall be installed on the application site without prior written consent from the Local Planning Authority, in the interest of residential amenity, visual amenity and the control of light pollution in what is otherwise a rural, unlit area.
43. Therefore, in summary, the proposal is deemed to be acceptable in terms of its impact on residential amenity, subject to the conditions suggested, and would comply with policy DM2 and policy DM14 in that regard.

Highway Safety and Parking

44. Policy DM2 of the Joint Development Management Policies Document seeks to ensure that proposals maintain or enhance the safety of the highway network and para. 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
45. Furthermore, policy DM46 states that all proposals must comply with Suffolk Parking Guidance and Local Planning Authorities will seek to reduce over-reliance on the car and to promote more sustainable forms of transport.
46. The customers for the proposed dog training and walking field would rely on the use of a car to access the dog training and walking field, therefore, an associated access from Fordham Road is required, as well as an area of hardstanding for parking.
47. The original submission for the proposed change of use included eight parking spaces and a turning area to the southeastern corner of the application site. Following concerns being raised by the case officer in terms of the expanse of hardstanding which was considered to have an adverse impact upon the character of the area, a revised scheme was submitted which removed the previously proposed turning circle and reduced the parking provision down to four spaces.
48. Following the submission of the revised proposal, Suffolk County Council Highway Authority raised a holding objection to the development until evidence could be provided that vehicles could enter and exit the highway in a forward gear and the anticipated number of users at any time to enable the accurate assessment if the parking provision provided.

49. Additional information was provided in terms of the parking on site which detailed that only two owners could be booked on the site at any one time and only six dogs on site in total, as well as the vehicle movement and manoeuvring tracking entering and exiting the highway. The Highway Authority confirmed that they are satisfied by the information submitted and raised no objection to the granting of planning permission on highway grounds, subject to conditions requiring visibility splays to be provided in accordance with the submitted plans, that the access shall be completed prior to any other development on site being commenced, surfacing to be implemented prior to the proposed development being first used, and parking to be provided and thereafter retained and maintained. These conditions are considered reasonable and necessary by the case officer, should permission be granted.
50. Objections were raised by one member of the public, who raised concerns in terms of the proposal's impact upon the highway network due to increased traffic. As per para. 111 of the NPPF, development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Therefore, with only six dogs allowed on site at any time and only two owners per slot, meaning a maximum of four cars could be parked on the site and this only being during the changeover times for the booking slots, which could be controlled via condition, it is not anticipated that the proposed change of use would result in such an increase in traffic levels that it would justify the refusal of the application and SCC as Highways Authority raises no objections to the application accordingly.
51. In summary, the proposed development is deemed to comply with both national and local policy in terms of its highway safety impact and parking.

Ecological Impact

52. As required by the National Planning Policy Framework (2023) within Chapter 15, LPA's have a duty to protect and enhance biodiversity when determining planning applications. At a local level, this is exhibited through policies CS2, DM11 and DM12.
53. Policy DM11 states that development will not be permitted unless suitable satisfactory measures are in place to reduce the disturbance to protected species and either maintain the population on site or provide alternative suitable habitats. Policy DM12 seeks to ensure that, where there are impacts to biodiversity, development appropriately avoids, mitigates or compensates for those impacts.
54. This development is sited on an arable agricultural field, which up until recently, has been farmed. Therefore, the proposed development is not considered to have any adverse impacts upon the biodiversity of the area and therefore is in accordance with policy DM11.
55. Ecological enhancements should be secured (as required by NPPF para 174 and DM12), which could be delivered through the proposed new tree and hedge planting, as well as further bespoke biodiversity enhancements that could reasonable be secured on any approval. It is therefore considered

reasonable and necessary, if the permission were to be granted, to condition the requirement for the soft landscaping proposed to be implemented within the first planting season and for it to thereafter be maintained.

Other Matters

56. A third party objection was received from Red House during the course of the application which raised concerns in terms of noise pollution and highway impacts, which has been addressed above. In addition, the objection raised concerns in terms of whether the proposed dog training and walking field is needed, noting there are similar facilities nearby, and how this may impact those businesses, as well as querying whether the site is within a green belt area.

57. The application site is not within a green belt area and the necessity of the dog training and walking field and how this may result in competition to similar businesses nearby are not material planning considerations.

Conclusion:

58. The general principle of the change of use of the land from agricultural to sui generis (dog training) is considered to be acceptable, as the use could be reversed if necessary and reused as agricultural land. The addition of hedging and trees proposed providing some ecological benefit. However, the associated fencing, parking area and paraphernalia associated with a dog training field and mitigation landscaping would lead to an unacceptable impact upon the character of the area and landscape, which is, at present, extremely open and rural. There are some economic and social benefits arising from the proposal, but these are not considered sufficient to outweigh the landscape and visual impact harm.

59. The proposal is therefore considered to be contrary to the policies of the development plan and NPPF relating to impacts on the countryside and landscape character.

Recommendation:

60. It is recommended that planning permission be **REFUSED** for the following reason:

1. Para.130 and 174 of the NPPF state that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change, as well as protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.

This is endorsed by policy local policies DM2, DM5 and DM13 of the JPDO, as well as policies CS2, CS3 and CS5 of the FHCS, which require developments to recognise and address the key features, characteristics, landscape character, local distinctiveness, and special qualities of the area and for developments to take into account the intrinsic character and beauty of the countryside, the local distinctiveness and sensitivity to change of distinctive landscape

character types, protect areas of landscape, and local distinctiveness from harm.

The site is located in the countryside, in a very exposed location, with no hedge boundaries to fields, only the occasional roadside tree, and is open to the surrounding countryside, which is characterised by large arable fields on gently rising ground. This means that the site is highly visible from the surrounding road networks and public rights of way in both the near and far distance due to the lack of any visual interruptions such as hedgerows or woodland.

The proposed new use for the site, with the associated car parking and vehicular access and metal perimeter fencing, possible training structures during sessions and bins and the mitigating landscaping proposals in themselves, will present detracting factors in this open landscape setting. The landscape and visual impacts of the proposed dog training operation are not negligible. Therefore, it is considered that the change of use of the site would lead to an adverse impact on landscape character, despite the benefits of mitigation hedge and tree planting to the perimeter and site frontage, and to a level which would be contrary to policies DM2, DM5 and DM13 of the JDMPD, CS2, CS3 and CS5 of the FHCS and the provisions of the NPPF, to a degree which would warrant the refusal of the application, and which is not outweighed by any economic or social benefits arising.

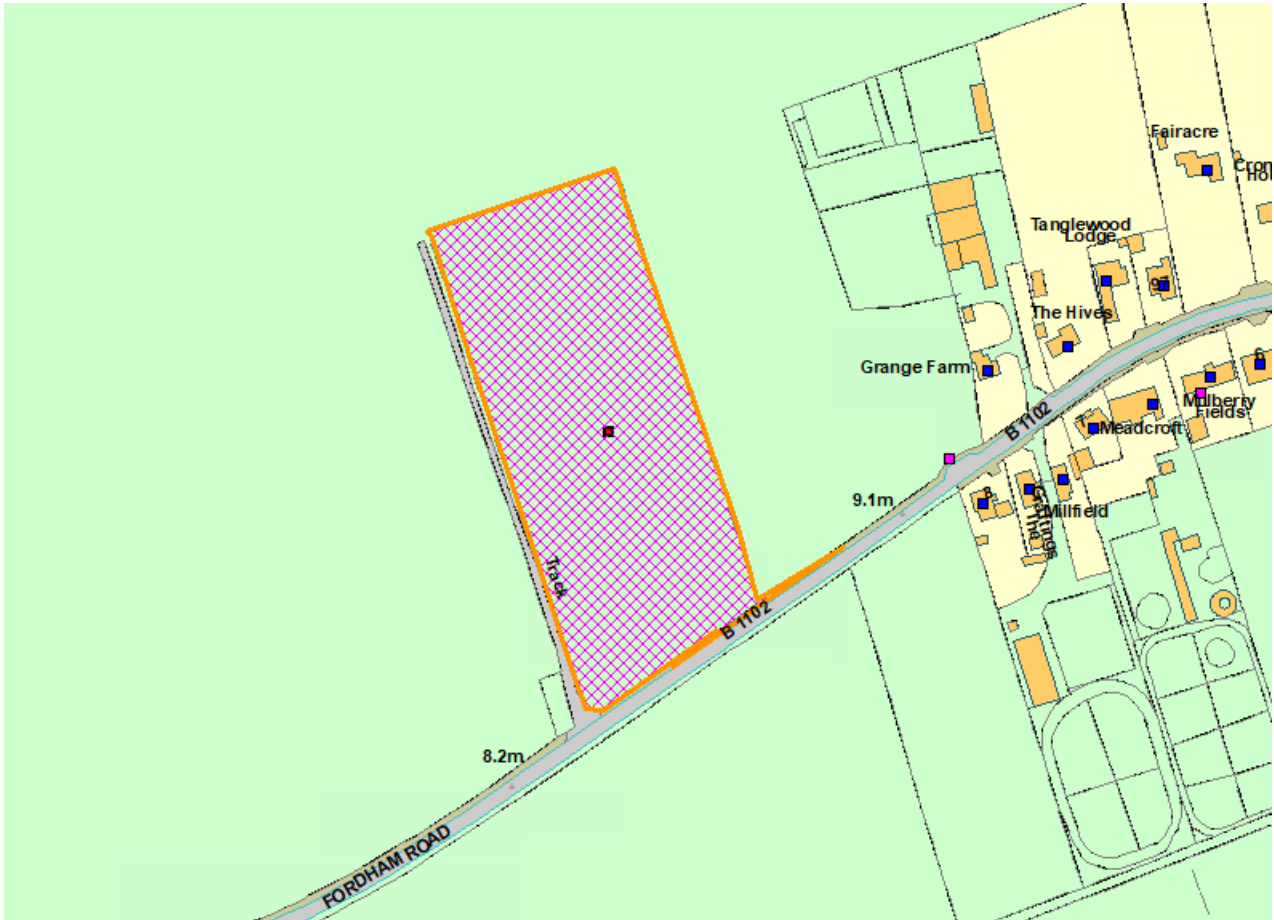
Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/23/0133/FUL](https://www.dorsetcouncil.gov.uk/online-applications/DC/23/0133/FUL)

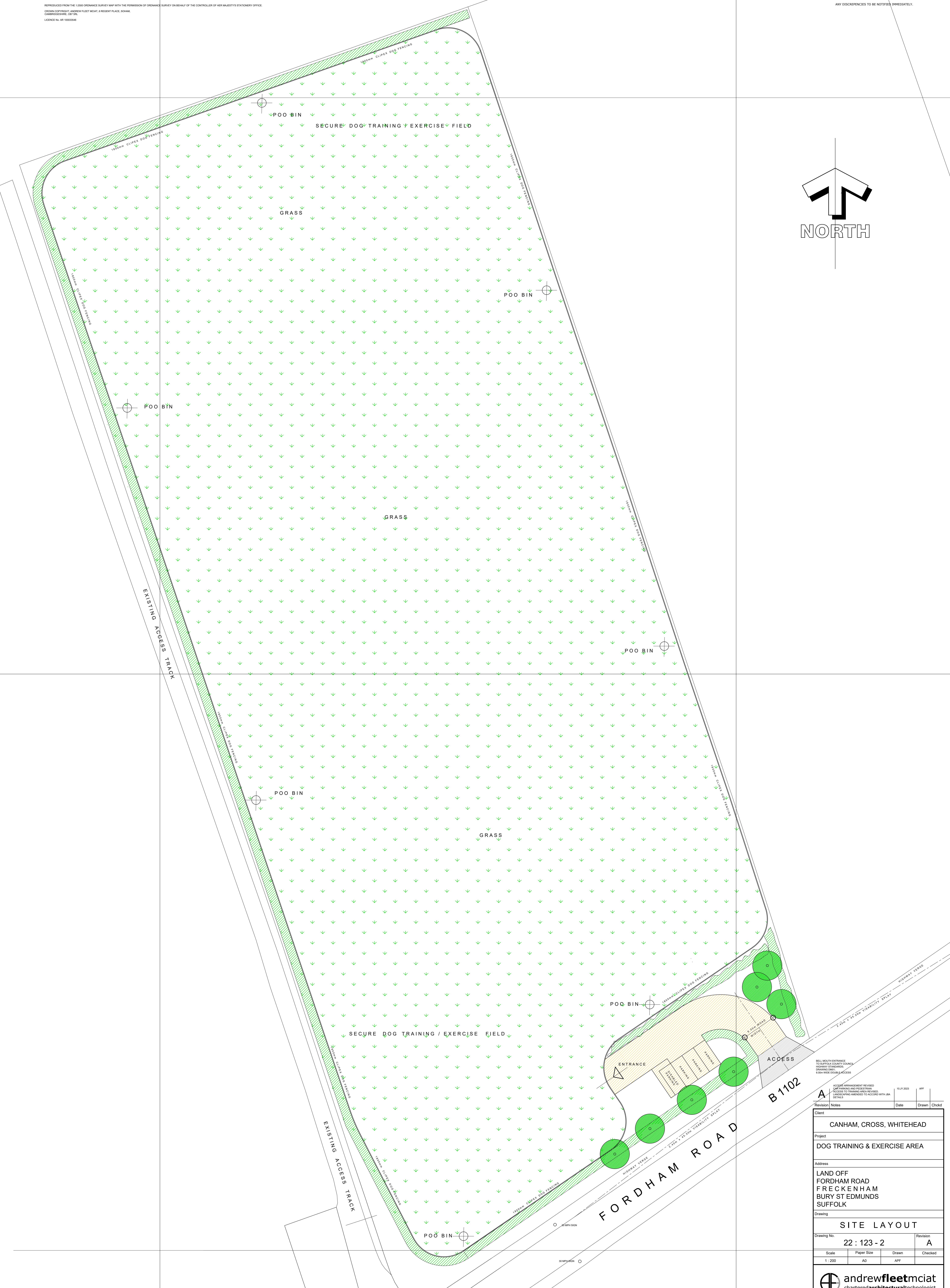
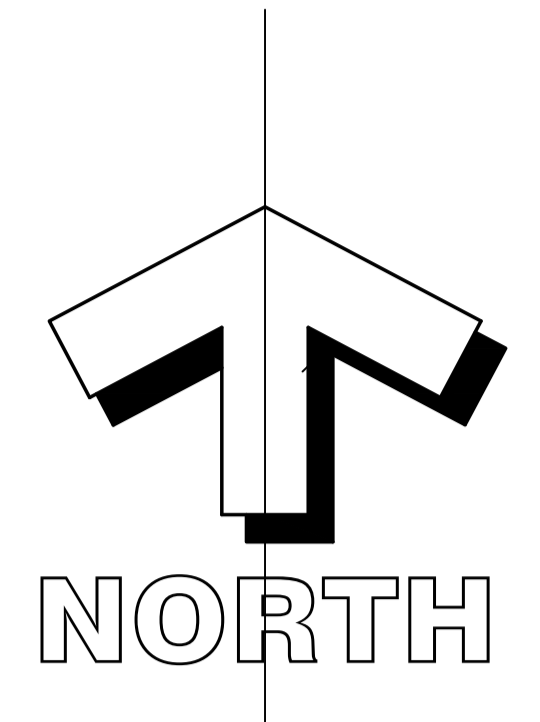
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DC/23/0133/FUL - Land Off Fordham Road, Freckenham



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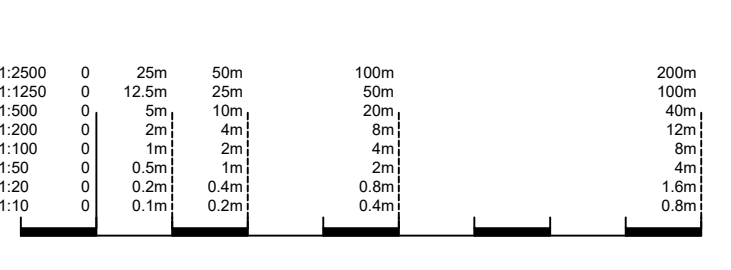


Revision	Notes	Date	Drawn	Checkd
A	ACCESS ARRANGEMENT REVISED TO REFLECT COUNTY COUNCIL HIGHWAY STANDARDS. DRAWING DATE: 8/09/2023. ACCESS: 8.0m WIDE DOUBLE ACCESS.	10/11/2023	APP	

Client	CANHAM, CROSS, WHITEHEAD		
Project	DOG TRAINING & EXERCISE AREA		
Address	LAND OFF FORDHAM ROAD FRECKENHAM BURY ST EDMUNDS SUFFOLK		
Drawing	SITE LAYOUT		
Drawing No.	22 : 123 - 2	Revision	A
Scale	Paper Size	Drawn	Checked
1 : 200	A0	APP	

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Development Control Committee

7 February 2024

Planning Application DC/23/0783/VAR – Doctors Hall, Bury Lane, Stanton

Date registered:	27 July 2023	Expiry date:	22 September 2023 EOT 9 February 2024
Case officer:	Connor Vince	Recommendation:	Approve application
Parish:	Stanton	Ward:	Stanton
Proposal:	Planning application - application to vary conditions 2 (approved plans), 4 (insulation details) and 6 (breeding bitch numbers) of DC/17/1652/FUL for the material change in the use of the land from paddock to the breeding and keeping of dogs comprising the following: (a) 2.1 metre high close boarded timber fence and concrete post; (b) car parking area; (c) 2no. dog kennels and (d) 1no. stable block as amended by plans received 15 November 2023.		
Site:	Doctors Hall, Bury Lane, Stanton		
Applicant:	Wayne Chrzanowski		

Synopsis:

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and associated matters.

Recommendation:

It is recommended that the committee determine the attached application and associated matters.

CONTACT CASE OFFICER:

Connor Vince

Email: connor.vince@westsuffolk.gov.uk

Telephone: 01284 757373

Background:

This application was presented before the Development Control Committee in December 2023, with a recommendation for APPROVAL. The matter was deferred, for the completion of a 'Risk Assessment' report, with the Committee having resolved that it was 'minded to refuse' the application due to concerns about the noise implications of this proposal, and the consequential adverse effects upon amenity.

In accordance with the Council's Decision Making Protocol this report now provides a Risk Assessment of the "minded to refuse" resolution.

This application was referred to the Development Control Committee following consideration by the Delegation Panel. Stanton Parish Council object to the application, contrary to the officer recommendation for approval.

Further 'Background' details can be found in the report at Working Paper 1.

Proposal:

1. Please refer to Working Paper 1 for the description of the proposal.

Application supporting material:

2. Please refer to Working Paper 1 for the supporting material.

Site details:

3. Please refer to Working Paper 1 for the site details.

Planning history:

- 4.

Reference	Proposal	Status	Decision date
DC/21/0688/HH	Householder planning application - first floor side extension with balcony.	Application Granted	20 May 2021
DC/22/1476/VAR	Application to vary condition 6 of DC/17/1652/FUL to change from 10 breeding bitches on the site to 20 to allow for the material change in the use of the land from paddock to the breeding and keeping of dogs comprising the following: (a) 2.1 metre high close boarded timber fence and concrete post; (b) car parking area; (c) 2no. dog	Application Withdrawn	18 October 2022

DC/17/1652/FUL	kennels and (d) 1no. stable block Planning Application - Material Change in the use of the land from paddock to the breeding and keeping of dogs comprising the following: (i) 2.1 metre high close boarded timber fence and concrete post; (ii) car parking area; (iii) 2no. dog kennels and (iv) 1no. stable block (Part Retrospective)	Application Granted	29 November 2017
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Consultations:

5. Please refer to Working Paper 1 for the consultation responses.

Representations:

6. Please refer to Working Paper 1 for the representations.

Policy:

7. On 1 April 2019 Forest Heath District Council and St Edmundsbury Borough Council were replaced by a single authority, West Suffolk Council. The development plans for the previous local planning authorities were carried forward to the new Council by regulation. The development plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies Document (which had been adopted by both councils), set out policies for defined geographical areas within the new authority. It is therefore necessary to determine this application with reference to policies set out in the plans produced by the now dissolved St Edmundsbury Borough Council.
8. The following policies of the Joint Development Management Policies Document and the St Edmundsbury Core Strategy 2010 & Vision 2031 have been taken into account in the consideration of this application:
9. Rural Vision 2031
 - RV1 Presumption in Favour of Sustainable Development
10. St. Edmundsbury Core Strategy:
 - Core Strategy Policy CS3 - Design and Local Distinctiveness
11. Joint Development Management Policies Document (adopted February 2015):
 - Policy DM1 Presumption in Favour of Sustainable Development
 - Policy DM2 Creating Places Development Principles and Local Distinctiveness
 - Policy DM5 Development in the Countryside
 - Policy DM13 Landscape Features
 - Policy DM14 Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards

Other planning policy:

12. The NPPF was revised in December 2023 and is a material consideration in decision making from the day of its publication. Paragraph 225 is clear however, that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework; the greater weight that may be given. The policies set out within the Joint Development Management Policies are considered sufficiently aligned with the provisions of the 2023 NPPF that full weight can be attached to them in the decision making process.
13. Please refer to Working Paper 1 for the Officer assessment of the proposal.

Officer comment:**Response to Committee's Minded to Refusal Reasons**

18. The application was reported to the Development Control Committee in December 2023. The Committee resolved that it was 'minded to refuse' the application based on the adverse impacts upon amenity on nearby dwellings as a consequence of noise from the premises, which was noted as being principally from barking dogs. At this point, the Decision-Making Protocol was invoked requiring the further reporting of this matter to members of the Development Control Committee in the form of a risk assessment report before a decision can be made.
19. The Committee at points discussed the moral and licensing implications arising from the proposal but, noting the advice of Officers that these were not material, concerns in relation to such matters did not form any part of the Committee's resolution. By way of update for information only, the Council's Licensing team carried out an inspection of the premises in late 2023 and the site was considered to be meeting the terms of its licence.
20. Further discussion at the December Committee had centred on the failure of the site operator to have complied with conditions on the previous application, noting that, in particular, the previously approved acoustic fence had not been installed and neither had the required soft landscaping within the site been planted. Again, the Committee was reminded that such matters are not material, insofar as enforcement action can be taken where expedient against breaches of planning control.
21. The Decision Making Protocol states that "where Development Control Committee wishes to overturn a recommendation and the decision is considered to be significant in terms of overall impact/harm to the planning policy framework, having sought advice from the Assistant Director Planning and Regulatory Services and the Assistant Director for Legal and Democratic Services (or Officers attending Committee on their behalf)
- A final decision on the application will be deferred to allow associated risks to be clarified and conditions/refusal reasons to be properly drafted.

- An additional officer report will be prepared and presented to the next Development Control Committee detailing the likely policy, financial and reputational etc. risks resultant from overturning a recommendation and setting out the likely conditions (with reasons) or refusal reasons. This report should follow the Council's standard risk assessment practice and content.
 - In making a decision to overturn a recommendation, Members will clearly state the material planning reason(s) why an alternative decision is being made, and which will be minuted for clarity."
22. The purpose of this report is to provide a risk assessment for Members in accordance with the Decision Making Protocol, should planning permission be refused for the development contrary to the officer recommendation having regard to its accordance with relevant policies.
23. The resolution of the Development Control Committee was that it was minded to refuse on the basis of the adverse impacts upon amenity. It is understood that this concern related to noise from, in particular, barking dogs.
24. In this regard it is noted that the Public Health and Housing Officer is satisfied that the noise implications arising from this application will be satisfactory. This position, and upon which the recommendation of Officers to approve stands, is on the basis that the fencing at the property is either replaced or modified as an acoustic fence, as per the recommendations in the submitted Noise Survey, the conclusion of which are accepted and agreed by Public Health and Housing Officers. Condition 3 of the recommendation before the Committee in December proposed a time limit for the completion of the outstanding measures. A failure to comply with such being a breach of planning control against which enforcement action could be brought.
25. Following the December meeting further discussion with the applicant indicated their commitment to installing the outstanding measures to upgrade the acoustic fence before the end of January 2024. These works would be to ensure compliance with the outstanding breaches that remain from the failure to properly implement the requirements of the permission granted under DC/17/1652/FUL.
26. It has subsequently been confirmed, and photographic evidence provided, of the installation of the required acoustic fence at the site in accordance with the outstanding details. As a consequence of this, proposed condition three has been amended to ensure the retention of this fencing. At the time of writing this report the applicant has confirmed that plants have been ordered and will be delivered in the last week of January 2024, and planted that week. An update in this regard will be provided within the late paper or verbally as the case may be. In any event, noting the separate ability to enforce against breaches of planning control, and consistent with the officer recommendation before the December Committee, the officer position remains that a failure to have complied with the condition, in the event that remains the position in relation to the soft landscaping at the time of the February meeting, is not in and of itself a reason to refuse planning permission when enforcement controls exist.

27. So, in this respect, officers do not consider that amenity concerns would bear scrutiny and there is no supporting evidence to support refusal on that basis. The clear professional advice of specialist officers within the Public Health and Housing team is that, subject to conditions, the noise implications of increasing the number of breeding dogs at the site will be wholly acceptable.
28. Nonetheless, if Members remain minded to refuse, notwithstanding the advice above, the following reason is suggested. The risk of proceeding for refusal is further assessed below.

1. Policy DM2 requires that development proposals do not adversely affect the amenities of adjacent areas by noise. This is further supported by the provisions of Policy DM14 which requires development to minimise emissions and other forms of pollution, including noise, and development will not be permitted where there are likely to be unacceptable impacts. Furthermore, the requirements of Para. 135 of the NPPF seeks to ensure that development provides a high standard of amenity for existing and future users.

In this regard, the increase in the number of breeding dogs at the site is considered to lead to an intensification of the use of the site with harmful impacts upon the amenities of nearby residents by reason of disturbance created through the barking of dogs. Accordingly, the scheme is considered to conflict with Policies DM2 and DM14 of the Joint Development Management Policies Document 2015, and with the relevant provisions of the NPPF.

Risk Assessment

29. The purpose of this report is to advise Members of the risks associated with the 'minded to' resolution to refuse planning permission for the development proposal, having regard to the relevant planning policies and the lack of evidence to support a refusal on noise grounds. For the reason set out in this report it remains Officers' recommendation that permission be approved. If Members remain minded to refuse the application, they must be satisfied that any risks associated with doing so have been properly considered.
30. Officers remain of the opinion that the development proposed fully accords with policy. Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require decisions to be made in accordance with the development plan unless there are material considerations that indicate otherwise.
31. In the absence of evidence to substantiate a reason for refusal it is highly likely that an appeal would be allowed. The applicants would have the right to recover their appeal costs (in full or in part, depending upon the circumstances) from the Council should the Inspector conclude the Local Planning Authority has acted unreasonably. Advice about what can constitute unreasonable behaviour by a Local Authority at appeal is set out in the National Planning Practice Guidance. Relevant examples of unreasonable behaviour include:

- preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
- failure to produce evidence to substantiate each reason for refusal on appeal, and;
- vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.

32. In this case, and for the reasons set out in full in the Officer report attached as Working Paper 1, Officers consider that it would be very difficult to defend the above reason for refusal. There is no technical objection on the grounds of noise impacts from the Public Health and Housing Officer, following their assessment of a professionally prepared noise assessment.

33. In the absence of evidence to substantiate the reason for refusal Officers consider it would be extremely difficult to defend a potential claim for the partial or even full award of costs at appeal. An award of costs (including partial costs) against the Council could have financial and reputational implications for the Council.

34. Whilst it is important to understand these issues as part of the risk assessment process, this section of the report does not form part of the planning assessment of the application. The information does not constitute a material planning consideration. It is included for completeness and should not be relied on or cited as a factor in coming to a decision.

Conclusion:

35. In conclusion, the principle and detail of the development is considered to be acceptable for the reasons outlined above and set out within Working Paper 1. Officers consider that the development should be approved with the conditions contained in working paper 1 and repeated below.

36. The proposal complies with the Development Plan and the National Planning Policy Framework and there are no material planning considerations that indicate that a decision should be taken otherwise than in accordance with the Development Plan. In the absence of any objection from the Public Health and Housing Officer, and noting that enforcement can be taken against any failure to comply with conditions, refusal of the application on the grounds of adverse impact on amenity cannot reasonably be justified.

37. In coming to their decision Members must clearly identify whether they consider the proposal complies with the Development Plan and their reasons for reaching their decision. If it is decided that the proposal does not comply with the policies of the Development Plan members must have clear reasons and evidence to support such a decision.

38. A late paper or verbal update on the day will be provided in relation to any works the applicant has taken in the meantime to comply with the requirements of DC/17/1652/FUL in relation to the acoustic measures and

soft landscaping. Depending on the situation this may have consequential implications for the conditions listed below.

39. Members should have regard to the attached Working Paper 1 in reaching their decision.

Recommendation:

40. It is recommended that planning permission be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents:

Reference No:	Plan Type	Date Received
EP727-17-01 Rev A	Location Plan	18.05.2023
EP727-17-02 REV C	Proposed Site Plan	15.11.2023
EP727-23-03 REV B	Proposed Elevations & Floor Plans	15.11.2023
EP727-17-04 REV A	Proposed Elevations & Floor Plans	15.11.2023
HA/AE338/V2	Noise Impact Assessment	18.05.2023

Reason: To define the scope and extent of this permission.

2. All planting comprised in the approved details of landscaping (Drawing Number EP727-17-02 Rev C) shall be carried out in the first planting season (March 2024) with evidence submitted to and acknowledged in writing by the Local Planning Authority. Any planting removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season thereafter with planting of similar size and species unless the Local Planning Authority gives written consent for any variation.

Reason: To enhance the appearance of the development.

3. All of the noise protection and mitigation works associated with the development as detailed in the Healthy Abode (HA) Acoustics Report '*Noise Impact Assessment of Breeding Kennels Incorporating a 2.1 Metre Acoustic Barrier & Details on Sound Insulation to Support Discharge of Planning Consent Ref DC/17/1652/FUL, Condition 4*' (Reference HA/AE338/V2, Date 17 March 2023) shall be completed and retained in their entirety in accordance with the approved details. There shall be no dogs on site unless all acoustic measures have been completed and retained in accordance with the agreed details.

Reason: To protect the amenity of occupiers of adjacent properties from noise and disturbance, in accordance with policies DM2 and DM14 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

4. Notwithstanding the provisions of the Use Classes Order and the General Permitted Development Order 2015, the site shall be used for the purpose hereby approved, and for no other use.

Reason: In the interests of limiting the scope of this permission, in the interests of sustainable development.

5. No more than a total of 20 breeding bitches shall be kept or kennelled on the site at any one time.

Reason: In the interests of limiting the scope of this permission, in the interests of sustainable development and residential amenity.

6. The use hereby permitted shall only be undertaken by the owner and resident of the dwelling known as 'Doctor's Hall' as shown on the land edged in blue on drawing number EP727-17-01 Rev A.

Reason: Reason: In the interest of residential amenity in accordance with Policy DM2 of the Joint Development Management Policies Local Plan

7. Within 6 months of the date of this approval, the completion of the works shall be verified on site by a specialist noise consultant and the Local Planning Authority shall be notified in writing of the completion and verification of the works. Thereafter the approved works shall be retained.

Reason: To protect the amenity of occupiers of adjacent properties from noise and disturbance, in accordance with policies DM2 and DM14 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

8. Within 4 months of the date of this approval, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall identify management practices to mitigate noise emanating from the development, and such practices shall be implemented in accordance with the approved plan at all times.

Reason: To protect the amenities of occupiers of properties in the locality, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/23/0783/VAR](https://www.suffolk.gov.uk/DC/23/0783/VAR)

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**Development Control Committee
6 December 2023**

WORKING PAPER 1

**Planning Application DC/23/0783/VAR – Doctors
Hall, Bury Lane, Stanton**

Date registered:	27 July 2023	Expiry date:	22 September 2023 EOT 13 December 2023
Case officer:	Connor Vince	Recommendation:	Approve application
Parish:	Stanton	Ward:	Stanton
Proposal:	Planning application - application to vary conditions 2 (approved plans), 4 (insulation details) and 6 (breeding bitch numbers) of DC/17/1652/FUL for the material change in the use of the land from paddock to the breeding and keeping of dogs comprising the following: (a) 2.1 metre high close boarded timber fence and concrete post; (b) car parking area; (c) 2no. dog kennels and (d) 1no. stable block as amended by plans received 15 November 2023.		
Site:	Doctors Hall, Bury Lane, Stanton		
Applicant:	Ms Wayne Chrzanowski		

Synopsis:

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and associated matters.

Recommendation:

It is recommended that the committee determine the attached application and associated matters.

CONTACT CASE OFFICER:

Connor Vince

Email: connor.vince@westsuffolk.gov.uk

Telephone: 01284 757373

Background:

This application has been referred to the Development Control Committee following consideration by the Delegation Panel. Stanton Parish Council object to the application, contrary to the officer recommendation for APPROVAL.

The application was originally validated as a 'FULL' planning application and made available for public viewing. Given the proposed changes are to an existing permission, the application was subsequently changed to a variation of condition 'VAR' application. Whilst this was occurring in discussion with the planning agent, the application remained accessible on the West Suffolk Public Access Website, with an Officer Update document to allow members of the public the opportunity to comment. Once the application type and relevant plans were uploaded and changed, a full 21-day consultation was undertaken.

Planning permission was granted on 29 November 2017 for the change of use of the land from paddock to the breeding and keeping of dogs comprising a 2.1 metre high close boarded timber fence and concrete post, car parking area, two dog kennels and a stable block. This application seeks variations to condition 2, 4 and 6 of the 2017 permission. The application is partially retrospective.

A Committee site visit took place on Monday 30 October 2023.

Proposal:

1. The application seeks the variation of conditions 2 (approved plans), 4 (insulation details) and 6 (breeding bitch numbers) of DC/17/1652/FUL. The application proposes to raise the number of breeding bitches from ten to twenty, alongside incorporating improved sound attenuation measures, which have been exhibited via the accompanying Noise Impact Assessment and amended plans.
2. The changes to the approved plans include alterations to the approved stable block, which is proposed to function as a whelping kennel, as well as upgrading the fencing at the site to acoustic fencing, landscaping changes and insulation details for the kennel blocks.
3. The application is partially retrospective. The whelping block, breeding bitch numbers and insulation details have been implemented, but not in accordance with the approved plans and relevant conditions. These elements are therefore being considered as part of this application to reflect what has been built on site currently, alongside proposed changes as a result of the landscaping and the acoustic fencing, which have not been implemented in association with the increase in breeding bitch numbers.

Application supporting material:

4. Application Form
Planning Statement
Covering Letter
Noise Impact Assessment

Location Plan
 Block Plan
 Floor Plans and Elevations
 Stable Block Floor Plans and Elevations

Site details:

- The application site is situated within designated countryside, to the south of one of the defined settlement boundaries of Stanton. The prevailing land use in the immediate vicinity is predominantly agricultural with two relatively isolated dwellings, one of which being the applicant's, to the immediate south west of the application site.

Planning history:

6.	Reference	Proposal	Status	Decision date
	DC/21/0688/HH	Householder planning application - first floor side extension with balcony.	Application Granted	20 May 2021
	DC/22/1476/VAR	Application to vary condition 6 of DC/17/1652/FUL to change from 10 breeding bitches on the site to 20 to allow for the material change in the use of the land from paddock to the breeding and keeping of dogs comprising the following: (a) 2.1 metre high close boarded timber fence and concrete post; (b) car parking area; (c) 2no. dog kennels and (d) 1no. stable block	Application Withdrawn	18 October 2022
	DC/17/1652/FUL	Planning Application - Material Change in the use of the land from paddock to the breeding and keeping of dogs comprising the following: (i) 2.1 metre high close boarded timber fence and concrete post; (ii) car parking area; (iii) 2no. dog kennels and (iv) 1no. stable block (Part Retrospective)	Application Granted	29 November 2017

Consultations:

- Stanton Parish Council: Objection - Stanton Parish Council unanimously objected to this application on the basis of noise from barking dogs, and the applicant currently not adhering to the permitted conditions of 10 breeding dogs.

8. Suffolk County Council – Highways: Notice is hereby given that the County Council as Highway Authority does not wish to restrict the grant of permission due to the application not having a detrimental effect upon the adopted highway.

9. Waste Management: Please provide bin locations and capacities

10. Private Sector Housing and Environmental Health: No objections subject to the conditions identified below.

Representations:

11. Letter of objection from occupier of 'Stanton Manor', who objects for the following reasons:

- Noise Impacts
- Failure to adhere to planning conditions and enforcement notices

Policy:

13. On 1 April 2019 Forest Heath District Council and St Edmundsbury Borough Council were replaced by a single authority, West Suffolk Council. The development plans for the previous local planning authorities were carried forward to the new Council by regulation. The development plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies Document (which had been adopted by both councils), set out policies for defined geographical areas within the new authority. It is therefore necessary to determine this application with reference to policies set out in the plans produced by the now dissolved St Edmundsbury Borough Council.

14. The following policies of the Joint Development Management Policies Document and the St Edmundsbury Core Strategy 2010 & Vision 2031 have been taken into account in the consideration of this application:

15. Rural Vision 2031

- RV1 Presumption in Favour of Sustainable Development

16. St. Edmundsbury Core Strategy:

- Core Strategy Policy CS3 - Design and Local Distinctiveness

17. Joint Development Management Policies Document (adopted February 2015):

- Policy DM1 Presumption in Favour of Sustainable Development
- Policy DM2 Creating Places Development Principles and Local Distinctiveness
- Policy DM5 Development in the Countryside
- Policy DM13 Landscape Features
- Policy DM14 Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards

Other planning policy:

18. The NPPF was revised in September 2023 and is a material consideration in decision making from the day of its publication. Paragraph 219 is clear however, that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the

Framework; the closer the policies in the plan to the policies in the Framework; the greater weight that may be given. The policies set out within the Joint Development Management Policies have been assessed in detail and are considered sufficiently aligned with the provision of the 2023 NPPF that full weight can be attached to them in the decision making process.

Officer comment:

19. The issues to be considered in the determination of the application are:

- Principle of Development
- Amenity Impacts
- Design and Impact on Character of the Local Area
- Other Matters

Principle of Development

20. Having regard to Section 73A of the Town and Country Planning Act 1990 (TCPA), this planning application seeks permission to vary conditions 2, 4 and 6 of DC/17/1652/FUL which refer to the approved plans, sound insulation and the maximum number of breeding bitch numbers respectively. Section 73A of the Town and Country Planning Act 1990 allows for retrospective planning applications to be made in respect of development which has been carried out without permission or complying with conditions.

21. As this application seeks to vary specific conditions via the submission of further details, with minor internal and external changes to the buildings approved as part of the previous permission, and alongside a change in the wording, there is no need to reconsider the principle and detail of the application again, unless there have been significant changes in circumstances on site, and/or significant changes to the development plan or national policy. This is not the case here.

22. For context, planning permission was granted via reference DC/17/1652/FUL for the change of use of the site from paddock land to a dog breeding use, including a 2.1 metre high close boarded timber fence with concrete posts, car parking area, two dog kennels and a stable block. This included a suite of conditions, which will be discussed in more detail below. However, the 2.1 metre fence has been installed, as well as the dog kennel buildings but the stable block has not been constructed according to the approved plans and is being used currently as a whelping kennel.

23. Conditions were imposed as part of the previous permission restricting the number of breeding bitches to 10 on site, as well as requiring the submission of sound insulation details for the kennel buildings and for the landscaping, as proposed on the plan, to be installed by the end of the first planting season. These conditions, as detailed above and discussed below, have not been adhered to. This application proposes that they be varied. The considerations here therefore concern whether the supplementary information relating to noise and sound attenuation are sufficient to justify an increase in the number of breeding bitches from 10 to 20, alongside the re-use of the stable block and alterations to the landscaping, is acceptable.

24. Policy RV1 states "when considering development proposals the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework." Moreover,

Core Strategy Policy 3 states “proposals for new development must create and contribute to a high quality, safe and sustainable environment.”

Amenity Impacts (Conditions 2, 4 and 6)

24. Planning Policy DM1 provides, in line with the spirit of the 2023 National Planning Policy Framework, that planning permission should be granted unless material considerations indicate otherwise. Commensurate with DM1, policy DM2 states that proposals should not negatively impact residential amenity and should, where possible, ensure appropriate mitigation measures are employed to effectively minimise any potential harm which may arise from the development.

25. Policy DM14 states development will not be permitted where, individually or cumulatively, there are likely to be unacceptable impacts arising from the development on... the natural environment, general amenity and the tranquillity of the wider rural area.

25. The development is on land adjoining the applicant’s home, to the north-east. Stanton Manor is the closest residential dwelling to the application site, approximately 85 metres south-west of the host dwelling Doctors Hall. The nature of the business is not one which might ordinarily be capable of taking place within an urban area due to land constraints and amenity implications. These factors add further weight in support of the proposal.

26. Condition 2 refers to the approved list of plans of the previous approval, DC/17/1652/FUL. As amended plans have been received, this condition is proposed to be varied as part of the current submission.

27. Condition 4 of planning permission DC/17/1652/FUL states:

“Before the use hereby permitted is first commenced, sound insulation shall be provided to the internal kennel walls in accordance with details which first shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the insulation shall be retained in its approved form.”

28. These details were not discharged via discharge of condition application and there has therefore been a breach in condition as the use has otherwise been implemented. These details have been submitted and are being considered as part of this variation of condition application and are discussed alongside condition 6, which states:

“No more than a total of 10 breeding bitches shall be kept or kennelled on the site at any one time.”

29. As per paragraph 1.3 on Page 7 of the Noise Impact Assessment (NIA), an earlier NIA was undertaken by HA Acoustics in 2017 for this site where noise monitoring was undertaken prior to dogs residing on-site. The assessment relating to such accounted for 20 dogs being present at the site. Planning permission was granted for up to ten breeding bitches (But no total limit on the number of dogs since it is impossible to predict the size of any individual litter) at the kennels in 2017 as this was the number confirmed by the applicant at the time of that proposal.

30. However, the applicant has stated that they had always wished to have 20 breeding bitches at the site, and which would therefore in all likelihood include

more total dogs than the previous noise report had already accounted for. The noise report submitted with the current application has therefore been updated to take 20 breeding bitches into account.

31. The proposed physical changes primarily concern upgrading the mass of the existing 2.1 metre boundary fencing so as to comprise an acoustic barrier, with reference to the increase in the number of breeding bitches and their location within the stable block in the southern part of the site. Stanton Manor is the closest residential dwelling to the site and has been specifically considered in relation to the re-use of the stable block as a whelping kennel, which would be approximately 85 metres north-east of the main Stanton Manor dwelling.

32. All kennels have a tin roof covering, beneath which is a soft roll thick insulation of 250mm and then 18mm plywood which is painted. The walls are ecoclad shiplap panels, with a vapour membrane. This is affixed to 10mm plywood, which in turn is affixed to a timber stud frame infilled with a mixture of mineral roll insulation and to the whelping unit, insulation batts, similar to elotex insulation sheeting. Then to the inner framework is 10mm plywood to all kennels; then either painted or a plastic PVC hygiene cladding, which is suitable for disinfectant spray down.

33. The submitted acoustic information has been assessed by the Council's Private Sector Housing and Environmental Health (PSHEH) Officer, who has visited the site as part of their consideration of this proposal. The Noise Impact Assessment confirms that the kennels will be sufficiently insulated to mitigate against any adverse noise impacts. A condition has been agreed requiring these works to be completed within four months from the date of this decision.

34. The PSHEH Officer has reviewed the aforementioned Noise Impact Assessment and states they are satisfied that the updated Noise Impact Assessment builds on the previous report, with specific reference to the insulation of the kennel buildings which are *"of a suitable mass and composition, so as to significantly reduce down any internal kennel noise."*

35. The report also confirms that *"instantaneous noise levels have the potential to cause local residents disturbance and therefore it is recommended that the clients business produces a noise management plan which details the controls in place, to help address dogs barking occurrences"*, and goes on to include recommended paragraphs to assist the applicant and provides guidance on typical methods for controlling noise arising from kennel activities. This Noise Management Plan is also recommended to be imposed via condition by Officers below.

36. Previous comments made by the PSHEH Officer referred to the Environmental Health Team having received several complaints alleging noise from barking dogs at the kennels causing a nuisance. Officers understand these complaints relate to the sound of dogs barking outside i.e. not when housed in the kennels at night time, and with the PSHEH Officer having visited the premises, they are satisfied it is the 'instantaneous noise' of dogs barking that is causing a disturbance rather than prolonged and excessive / uncontrolled barking.

37. The Noise Impact Assessment establishes that prolonged periods of barking are not readily experienced, more that instantaneous barking appears to be the observed issue. The report goes onto state at paragraph 7.4 that, *"acoustic mitigation is required"* and is adequately proposed. *Mitigation is given in the form of a 2.1m acoustic barrier, to be installed on the outside edge of the existing*

concrete post and contractors timber fencing" which is proposed as part of this application as an upgrade to the previously approved fencing, as well as the sound insulation installed on the kennel buildings and whelping kennel building. The PSHEH Officer is satisfied that the existing contractor timber fencing panels can be upgraded to meet the criteria to be considered an acoustic barrier as described in paragraph 7.15 of the V2 Report.

38. Comments have also been received regarding the insulation measures of all kennels, including the whelping kennel to the south of the site. The sound insulation materials of the kennel walls are of a suitable mass and composition, so as to significantly reduce down any internal kennel noise as per paragraph 34 of this report. Acoustic predictions are that internal kennel noise would not be observable at the nearest noise sensitive receptor.

39. To conclude, the PSHEH Officer is content that the measures identified, which are the upgrading of the fencing to acoustic fencing and sound insulation measures to the kennel buildings are acceptable in terms of noise impacts, sufficient to mitigate for any additional noise arising as a result in the increase in the number of breeding bitches at the site.

Design and Impact on Character of the Local Area (condition 2)

40. There are four kennels on-site. This includes the breeding/mating kennel, the general kennel and the resting dogs kennel. The buildings, in terms of their design, form and scale are entirely commensurate with typical rural buildings and they do not represent additions to the landscape which give rise to an unacceptable degree of harm which cannot be mitigated against. In any event they have previously been considered and approved as being acceptable, and so consideration of such matters is not necessary in relation to a variation of condition application. The modest scale and complete enclosure of the site serves to prevent the buildings from being unduly dominant; as does the physical orientation of the compound.

41. Policy DM13 states Development will be permitted where it will not have an unacceptable adverse impact on the character of the landscape, landscape features, wildlife, or amenity value

42. With respect to the visual amenity of the area and the potential impact of the proposal on the aesthetic profile of the site a landscaping plan was previously approved as part of the original planning permission. The landscaping has not been implemented as there is therefore a breach in condition 3 of DC/17/1652/FUL. However, the landscaping has been amended and is therefore considered with this proposal to reflect the current arrangement of the site. The landscaping plan includes a traditional, double staggered East Anglia mixed species hedgerow and eight trees which are to be planted within the site. What will now be condition 2 of this proposal has therefore been amended to ensure that evidence is submitted to the LPA that the planting will be implemented by the end of the next planting season, being the end of March 2024, and which has been agreed by the applicant. Given the upgrades to the noise attenuation of the site and the general rural landscape surrounding the site, the changes to the landscaping proposed are considered acceptable.

42. Reference has been made to the outline planning application DC/19/2481/OUT by the Private Sector Housing and Environmental Health Officer directly to the north of the site, which proposes the provision of up to 220

residential dwellings and is currently undetermined. That application has been considered as being relevant to this variation of condition application, as noted by the Private Sector Housing and Environmental Health Officer. The noise mitigation measures are considered to be acceptable accounting for the potential residential development to the north, noting that the application has not been determined and, in the event that it is determined positively, a reserved matters application would then be required.

43. Amended plans have been received from the agent which reflect the stable block building currently on the site, which differs to that approved as part of the previous application. The building shown on the plans now matches that previously approved in terms of scale, but differs in terms of external appearance and materials. Officers do not consider this alters the assessment of the application, with particular reference to noise impacts associated with its use. No further changes are to be made to the buildings on the site, other than those mentioned above and, overall, the effects upon character with reference to Policy DM2 and DM5 can be considered satisfactory.

Other Matters

44. Concerns have been raised regarding the operation of a dog grooming service at the site. Officers have liaised with the agent regarding this and have been informed that the grooming use has ceased whilst the current application is being determined. The extent to which that use even requires planning permission is dependent on the extent of the use, and whether it would be ancillary to the existing dog breeding business. Given the current application is for a variation of condition to the previous approval, the LPA would not be able to add this to the current application for consideration. If the grooming use recommences then the LPA would investigate this matter separately to the current application in terms of whether or not planning permission is required.

Conclusion:

45. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions be made in accordance with development plans unless there are material considerations that indicate otherwise.

46. At the time the original application was determined (DC/17/1652/FUL) officers considered that the restriction on the number of breeding bitches to ten was acceptable, given the information provided at that time and the lack of sound attenuation details provided, and which were then secured via condition 4. The proposed variation of condition application has been accompanied by an updated Noise Impact Assessment alongside sound attenuation measures to be incorporated into the use of the site, which are considered acceptable by the Private Sector Housing and Environmental Health Officer. Subject to the imposition of the conditions identified below in relation to securing these measures, the proposal is considered to be in accordance with the relevant Joint Development Management Policies, in particular DM2 in relation to amenity impacts.

47. In conclusion, the detail of this variation to the approved development is considered to be acceptable and in compliance with relevant development plan policies and the National Planning Policy Framework.

Recommendation:

- 48. It is recommended that planning permission be **APPROVED** subject to the following conditions:
 - 1. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents:

Reason: To define the scope and extent of this permission.

Reference No:	Plan Type	Date Received
EP727-17-01 Rev A	Location Plan	18.05.2023
EP727-17-02 REV C	Proposed Site Plan	15.11.2023
EP727-23-03 REV B	Proposed Elevations & Floor Plans	15.11.2023
EP727-17-04 REV A	Proposed Elevations & Floor Plans	15.11.2023
HA/AE338/V2	Noise Impact Assessment	18.05.2023

- 2. All planting comprised in the approved details of landscaping (Drawing Number EP727-17-02 Rev C) shall be carried out in the first planting season (March 2024) with evidence submitted to and acknowledged in writing by the Local Planning Authority. Any planting removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season thereafter with planting of similar size and species unless the Local Planning Authority gives written consent for any variation.

Reason: To enhance the appearance of the development.

- 3. Within four months of the date of this approval, all of the noise protection and mitigation works associated with the development as detailed in the Healthy Abode (HA) Acoustics Report *'Noise Impact Assessment of Breeding Kennels Incorporating a 2.1 Metre Acoustic Barrier & Details on Sound Insulation to Support Discharge of Planning Consent Ref DC/17/1652/FUL, Condition 4'* (Reference HA/AE338/V2, Date 17 March 2023) shall be completed in their entirety in accordance with the approved details. Beyond this four month period, there shall be no dogs on site unless and until all acoustic measures have been completed in accordance with the submitted details.

Reason: To protect the amenity of occupiers of adjacent properties from noise and disturbance, in accordance with policies DM2 and DM14 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 4. Notwithstanding the provisions of the Use Classes Order and the General Permitted Development Order 2015, the site shall be used for the purpose hereby approved, and for no other use.

Reason: In the interests of limiting the scope of this permission, in the interests of sustainable development.

5. No more than a total of 20 breeding bitches shall be kept or kennelled on the site at any one time.

Reason: In the interests of limiting the scope of this permission, in the interests of sustainable development and residential amenity.

6. The use hereby permitted shall only be undertaken by the owner and resident of the dwelling known as 'Doctor's Hall' as shown on the land edged in blue on drawing number EP727-17-01 Rev A.

Reason: Reason: In the interest of residential amenity in accordance with Policy DM2 of the Joint Development Management Policies Local Plan

7. Within 6 months of the date of this approval, the completion of the works shall be verified on site by a specialist noise consultant and the Local Planning Authority shall be notified in writing of the completion and verification of the works. Thereafter the approved works shall be retained.

Reason: To protect the amenity of occupiers of adjacent properties from noise and disturbance, in accordance with policies DM2 and DM14 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

8. Within 4 months of the date of this approval, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall identify management practices to mitigate noise emanating from the development, and such practices shall be implemented in accordance with the approved plan at all times.

Reason: To protect the amenities of occupiers of properties in the locality, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

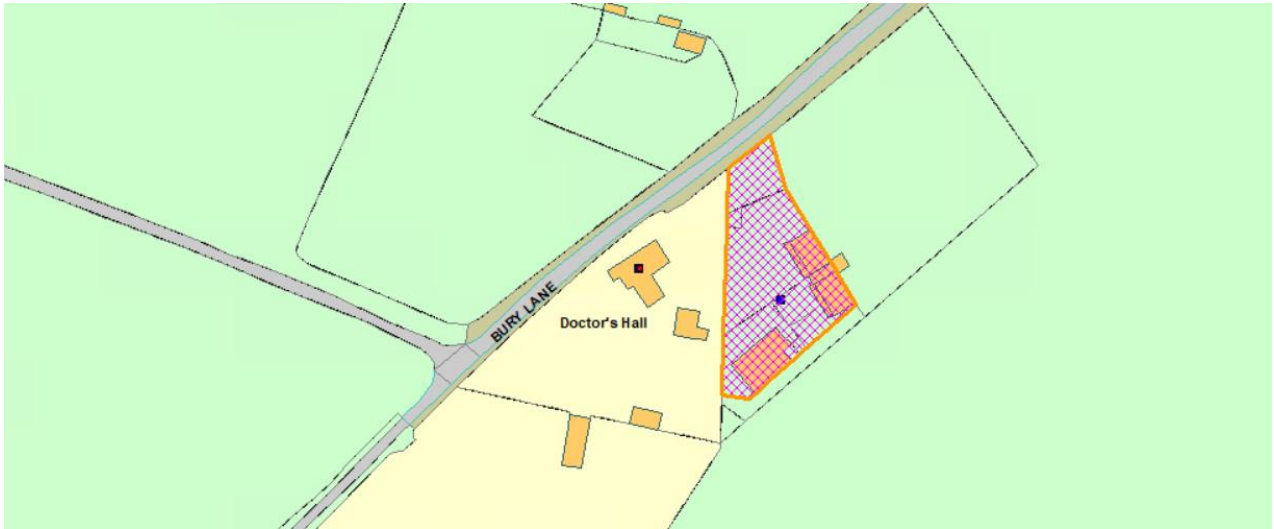
Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/23/0783/VAR](#)

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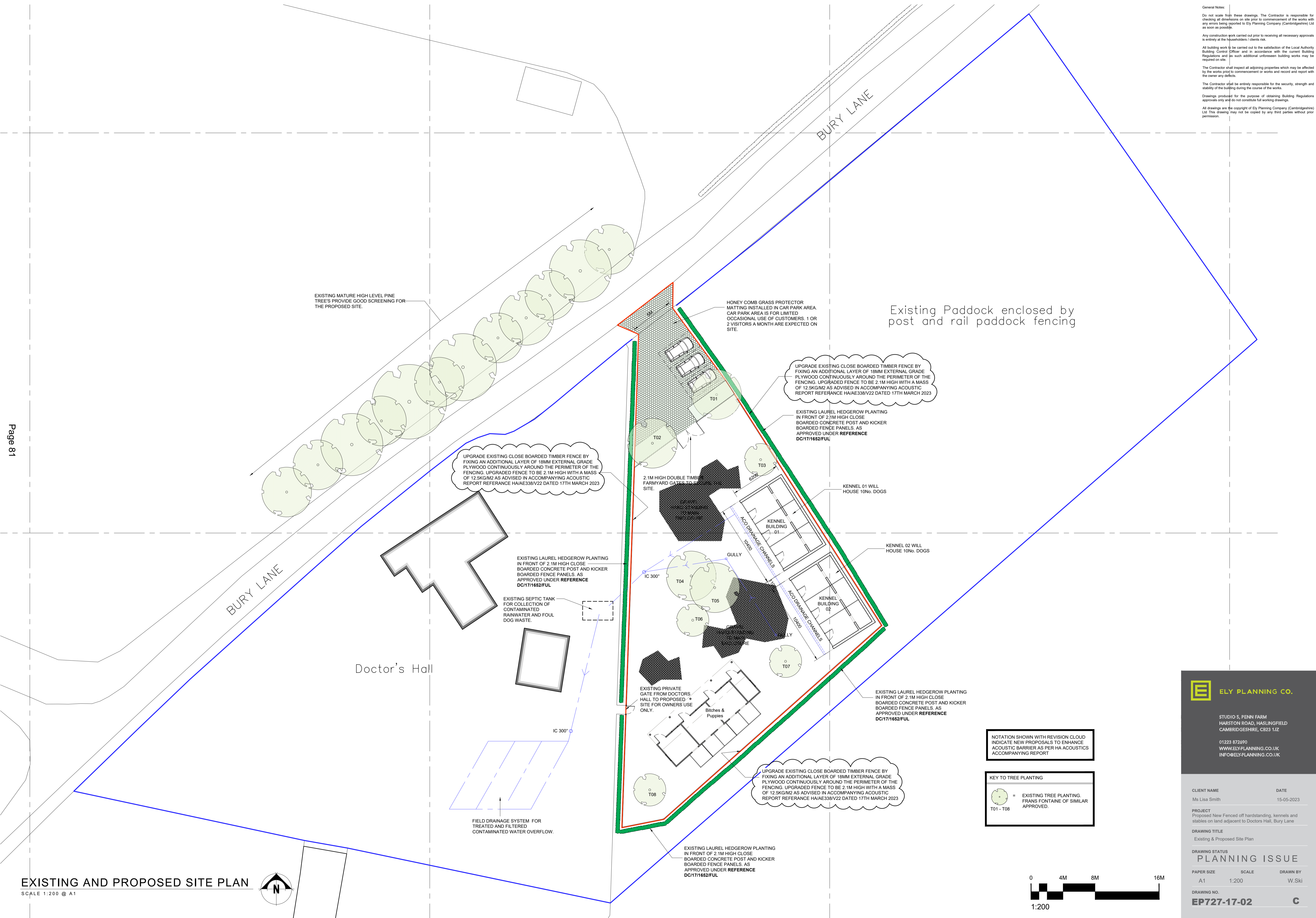


DC/23/0783/VAR - Doctors Hall, Bury Lane, Stanton, IP31 2DF



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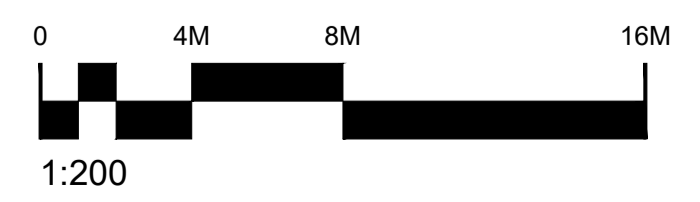
General Notes:
 Do not scale from these drawings. The Contractor is responsible for checking all dimensions on site prior to commencement of the works with any errors being reported to Ely Planning Company (Cambridgeshire) Ltd as soon as possible.
 Any construction work carried out prior to receiving all necessary approvals is entirely at the householders / clients risk.
 All building work to be carried out to the satisfaction of the Local Authority Building Control Officer and in accordance with the current Building Regulations and in such additional unreserved building works may be required on site.
 The Contractor shall inspect all adjoining properties which may be affected by the works prior to commencement or works and record and report with the owner any defects.
 The Contractor shall be entirely responsible for the security, strength and stability of the building during the course of the works.
 Drawings produced for the purpose of obtaining Building Regulations approvals only and do not constitute full working drawings.
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EXISTING AND PROPOSED SITE PLAN
 SCALE 1:200 @ A1

NOTATION SHOWN WITH REVISION CLOUD INDICATE NEW PROPOSALS TO ENHANCE ACOUSTIC BARRIER AS PER HA ACOUSTICS ACCOMPANYING REPORT

KEY TO TREE PLANTING
 T01 - T08 = EXISTING TREE PLANTING. FRANS FONTAINE OF SIMILAR APPROVED.



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 HARSTON ROAD, HASLINGFIELD
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CLIENT NAME	DATE	
Ms Lisa Smith	15-05-2023	
PROJECT	Proposed New Fenced off hardstanding, kennels and stables on land adjacent to Doctors Hall, Bury Lane	
DRAWING TITLE	Existing & Proposed Site Plan	
DRAWING STATUS	PLANNING ISSUE	
PAPER SIZE	SCALE	DRAWN BY
A1	1:200	W.Ski
DRAWING NO.	EP727-17-02	
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Development Control Committee

7 February 2024

Planning Application DC/23/0812/FUL – 9 Risbygate Street, Bury St Edmunds

Date registered:	12 June 2023	Expiry date:	7 August 2023, Extension of Time agreed until 9 February 2024
Case officer:	Connor Vince	Recommendation:	Refuse application
Parish:	Bury St Edmunds Town Council	Ward:	Abbeygate
Proposal:	Planning application - first floor flat above existing restaurant as amended by plans received 08 September 2023		
Site:	9 Risbygate Street, Bury St Edmunds		
Applicant:	Mr Abdullah Gokteke		

Synopsis:

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and associated matters.

Recommendation:

It is recommended that the committee determine the attached application and associated matters.

CONTACT CASE OFFICER:

Connor Vince

Email: connor.vince@westsuffolk.gov.uk

Telephone: 01284 757373

Background:

This application was referred to the Development Control Committee following consideration by the Delegation Panel. It was referred to the Delegation Panel at the request of Councillor Julia Wakelam as Ward Member.

Bury Town Council recommend refusal in line with the views of the West Suffolk Conservation Officer, and the Officer recommendation is one of REFUSAL.

A site visit is scheduled to take place on Monday 5 February.

Proposal:

1. This application for planning permission seeks to install a first floor rear extension to the existing restaurant with internal and external alterations to create a self-contained residential unit of accommodation at first floor level.
2. The proposal does not incorporate any physical changes nor any residential accommodation to the ground floor as this level is used by the restaurant. However, the existing rear roof of the building's ground floor is of a flat design and this proposal therefore seeks to build on top of this.
3. As originally submitted the proposal was for a taller extension, with some works at second floor level. Amended plans have been received that show a first floor rear extension only.
4. This extension is proposed adjacent to a previously approved, but not yet completed, first floor rear extension to the same property, that received permission for a one bedroom flat, with a pitched roof. This proposal, adjacent to that, seeks to repurpose that already approved space to create two bedrooms, with the development for which permission is hereby sought forming a living room for what will then be a two bedroom flat.
5. The building the subject of this application is a Grade II listed building, and the works proposed will require Listed Building Consent. At the time of writing this report no application for such consent has been submitted.

Site details:

6. No. 9 Risbygate Street comprises an early C19 brick painted grade II listed building within the Bury St Edmunds Town Centre Conservation Area and the defined settlement of Bury St Edmunds. The ground floor of the building currently operates as a restaurant with residential uses above ground floor level.

Planning history:

7.

Reference	Proposal	Status	Decision date
SE/12/1682/FULBC A	Planning Application - (i) Erection of ground floor rear flat roofed extension (following demolition of	Application Granted	20 September 2013

	existing store) (ii) proposed terrace (iii) proposed rear extension at first and second floor & (v) installation of flue as amended by letter and plans received 28 August 2013 which remove the proposed 1st and 2nd floor extensions.		
SE/13/0543/LBCA	Listed Building Application - (i) Erection of ground floor rear flat roofed extension (following demolition of existing store) (ii) internal alterations to accommodate new restaurant on ground floor including removal of staircase (iii) proposed terrace; (vi) proposed rear extension at first and second floor (v) installation of flue and (vi) internal alterations to create residential accommodation on the first and second floors	Application Granted	20 September 2013
DC/15/0174/FUL	Planning Application - (i) first and second storey rear extension (ii) internal and external alterations to create residential accommodation on first and second floors	Application Refused	11 May 2015
DC/15/0175/LB	Application for Listed Building Consent - (i) first and second storey rear extension (ii) internal and external alterations to create residential accommodation on first and second floors	Application Refused	11 May 2015
DC/16/0884/FUL	Planning Application - Provision of 1 no. apartment within existing building; first-floor and second-floor rear extension to provide 1 no. dwelling.	Application Refused	22 February 2017
DC/16/0885/LB	Application for Listed Building Consent - Demolition of existing rear	Application Refused	22 February 2017

	lean-to; internal alterations to provide 1 no. apartment within existing building; first-floor and second-floor rear extension to provide 1 no. dwelling; replacement of windows; replacement of roof tiles.		
DCON(B)/12/1682	Application to Discharge Conditions 2 (archaeological investigation), 4 (ventilation/extraction system) and 6 (facing and roofing materials) of SE/12/1682/FULBCA.	Condition(s) Part Discharged	16 November 2016
DCON(A)/SE/13/0543	Application to Discharge Condition 3 (Door details) of Listed Building Consent SE/13/0543/LBCA.	Application Refused	8 September 2016
DCON(B)/SE/13/0543	Application to Discharge Condition 3 (Door details) of Listed Building Consent SE/13/0543/LBCA.	Application Refused	8 December 2016
DC/18/2223/FUL	Planning Application - (i) first and second storey rear extension (ii) internal and external alterations to create residential accommodation on first and second floors	Application Refused	25 March 2019
DC/18/2224/LB	Application for Listed Building Consent - (i) first and second storey rear extension (ii) internal and external alterations to create residential accommodation on first and second floors	Application Refused	25 March 2019
DC/19/2103/FUL	Planning Application - 1no. first floor flat above existing restaurant (Previous Application DC/18/2223/FUL)	Application Granted	5 May 2020
DC/19/2104/LB	Application for Listed Building Consent - 1no. first floor flat above existing restaurant (Previous Application DC/18/2224/LB)	Application Granted	5 May 2020
DC/20/1442/FUL	Planning application -Two storey rear extension to	Application Refused	20 November 2020

	provide flat for accommodation		
DC/20/1443/LB	Listed building application - Two storey rear extension to provide flat for accommodation	Application Refused	20 November 2020
SE/11/0597	Listed Building Application - (i) Internal alterations in association with the conversion of first and second floors to 3 no. residential flats (ii) erection of single storey rear extension to restaurant following demolition of existing store and (iii) provision of flue on rear elevation as amended by e-mail dated 19th August 2011 and accompanying revised plans deleting alterations to shopfront and three storey rear extension and revising internal layout to flats	Application Granted	30 September 2011
SE/11/0596	Planning Application - (i) Conversion of first and second floors to 3 no. residential flats (ii) erection of single storey rear extension to restaurant (following demolition of existing store) and (iii) provision of new flue on rear elevation as amended by e-mail dated 19th August 2011 and accompanying revised plans deleting alterations to shopfront and three storey rear extension and revising internal layout to flats	Application Granted	30 September 2011
SE/08/0995	Listed Building Application - (i) alterations to shopfront (ii) erection of 4 storey rear extension including basement following demolition of rear additions and store to facilitate the enlargement of restaurant and creation	Application Refused	27 October 2008

SE/08/0994	<p>of 3 flats (iii) removal of 2no. softwood windows on front elevation (2nd floor) and replacement with sash windows (iv) internal alterations including alterations to partitions, blocking of doors and formation of new openings, replacement of ceilings, removal of ground floor walls and excavation of floor, breaking out base of existing staircase and formation of 4 new steps down to shop level as amended by letter and accompanying revised plans received 3rd September 2008 indicating (1) revised site area (2) substituting alterations to detailing of existing shopfront for insertion of new shopfront and (3) revisions to internal layout</p>	<p>Application Refused</p>	<p>27 October 2008</p>
SE/08/0939	<p>Planning Application - (i) alterations to shopfront (ii) erection of 4 storey rear extension including basement (following demolition of rear additions and store) to facilitate the enlargement of restaurant and creation of 3 flats (iii) removal of 2no. softwood windows on front elevation (2nd floor) and replacement with sash windows as amended by letter and accompanying revised plans received 3rd September 2008 indicating (1) revised site area (2) substituting alterations to detailing of existing shopfront for insertion of new shopfront and (3) revisions to internal layout</p>	<p>Application Granted</p>	<p>27 October 2008</p>

replacement of ceilings (iii) installation of sash windows on front and rear elevations as amended by A. letter received 3rd September 2008 and accompanying revised plans indicating (1) revised site area (2) alteration to shopfront detailing (3) revisions to first floor layout and (4) provision of horns to sash windows B. letter dated 18th September 2009 and accompanying revised plan Drawing No. 3815/11C indicating revisions to proposed door to first floor and providing additional specifications and C. letter dated 20th October 2008 and accompanying plan 3815/11D and sash window details on plan 3815.14A

SE/08/0938

Planning Application - Alterations to existing shopfront including entrance door to give access to flat on upper floors as amended by A. letter received 3rd September 2008 and accompanying revised plans indicating (1) revised site area (2) alteration to shopfront detailing (3) revisions to first floor layout and (4) provision of horns to sash windows B. letter dated 18th September 2008 and accompanying revised plan 3815/11C indicating revisions to door to first floor and additional specifications and C. letter dated 20th October 2008 and accompanying plan 3815/11D and sash window details on plan 3815/14A

Application
Granted

27 October
2008

Consultations:

8. Officer Note – plans originally supplied by the applicant included the provision of a two storey rear extension. Where comments were received in relation to these originally submitted plans, this is noted below with the use of italics.

Revised plans were received on 8 September, reducing the scale of the proposal to being a first floor rear extension above an existing ground floor flat roofed element.

9. Bury Town Council –
Comments dated 13 July 2023 - *Based on information received Bury St Edmunds Town Council recommends REFUSAL following concerns similar to those of the Victorian Society about a lack of a heritage statement and non-compliance with paragraph 194 of the NPPF.*

Comments dated 21 August 2023 - *That based on information received and subject to any Conservation Area and Article 4 issues Bury St Edmunds Town Council recommends REFUSAL; on grounds of insufficient information.*

Comments dated 30 November 2023 - *That based on information received Bury St Edmunds Town Council recommends REFUSAL in accordance with Conservation Officers comments.*

10. Bury St. Edmunds Society –
Comments dated 17 July 2023. *The Bury Society would like to comment on this application but feel unable at this stage. The drawings and description appear to be at odds with each other. The original description suggested the conversion of the ground floor to a flat, whereas the drawings suggest a new build extension at 1st and 2nd floor level and we seek clarification on the proposals. Insufficient information has been provided to properly assess this application.*

No further comments were received.

11. The Victorian Society –
Comments dated 6 July 2023 – *Objected on the basis of the lack of a heritage assessment.*

Comments dated 2 August 2023 - *The Victorian Society is grateful for the Heritage Statement which has now been provided for this application. However, we continue to have concerns.*

9 Risbygate Street is a significant Grade II listed building within the Bury St Edmunds Town Centre Conservation Area, with a high number of listed buildings nearby. While we accept that the proposed development would not be constructed on top of any historic part of the building, we share the Conservation Officer's concerns regarding the scale of the new development. At 3.5 storeys it would be taller than the listed 9 Risbygate Street and the smaller historic buildings to the east of the site. This would harm the significance of the Conservation Area and the setting of nearby historic buildings. As such it would contravene policy DM15 of the local plan.

NPPF paragraph 206 states: 'Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance.' This proposal would not enhance the significance of the listed building, Conservation Area or other nearby heritage assets. We recommend that the application is refused.

Comments dated 15 September 2023 - The Victorian Society is grateful for the reduction in scale of the proposals, I can confirm that this has addressed any concerns we have with the scale of the proposed development and we wish to make no further comments on the application.

12. The Georgian Group –

Comments dated 4 September 2023 - *Thank you for informing the Georgian Group of an application to extend the above grade II listed early nineteenth century building which is located within a conservation area.*

The Group has significant concerns about these proposals for the following reasons. No.9 Risbygate Street is an early nineteenth century structure with later nineteenth century alterations which forms part of a significant group of historic buildings including the adjoining grade II listed No.10, of which it once appears to have formed part. At the rear of the building is an earlier lower wing of eighteenth-century appearance which is also visible from the street. It is proposed to construct an addition to the building's rear to form an apartment which will rise from an existing rear addition.

Whilst the Group has no objection in principle to discreetly extending the building, the proposed addition is a relatively large structure in comparison to the host building and other adjacent heritage assets. Through its scale and massing it will dominate these historic structures causing harm to their setting and to the surrounding conservation area.

The NPPF (2021), paragraph 200 makes clear that 'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification'. In this case a clear and convincing justification for the construction of a structure of this harmful scale and massing has not been provided.

When making a decision on all listed building consent applications or any decision on a planning application for development that affects a listed building or its setting, a local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Preservation in this context means not harming the special interest of the building or other designated asset, as opposed to keeping it utterly unchanged. This obligation, found in sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1), applies to all decisions concerning listed buildings. Under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 they also have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

NPPF 199 also states that 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'

The Group would strongly recommend that the applicant withdraws their proposals until a less harmful scheme can be formulated. If the applicant is unwilling to do so, then consent should be firmly refused for this development.

13. Historic England – Suggest that you seek the views of your specialist conservation and archaeological advisers.

14. Conservation Officer –

Comments dated 31 July 2023 – This application is the resubmission of a 2020 application for a 3 storey extension on top of an existing ground floor extension to the rear of a 2 ½ storey listed building. The proposed extension will tower above the ridge line of the main roof and the subservient extensions to the rear failing to respect the existing building and its setting proving contrary to policy DM15 due to its inappropriate scale, form, height and massing causing harm to significance.

The application is recommended for refusal.

Comments dated 12 September 2023 - The provision of what will effectively amount to a two storey flat roof extension within the curtilage of the LB does not address concerns previously raised instead raises further concerns due to its inappropriate design failing to relate to the dual pitched roofs of the host building.

The recommendation continues to be one for refusal.

15. Private Sector Housing And Environmental Health – No objections subject to the imposition of conditions.

Representations:

16. No letters of representation have been received.

Policy:

17. On 1 April 2019 Forest Heath District Council and St Edmundsbury Borough Council were replaced by a single authority, West Suffolk Council. The development plans for the previous local planning authorities were carried forward to the new Council by regulation. The development plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies Document (which had been adopted by both councils), set out policies for defined geographical areas within the new authority. It is therefore necessary to determine this application with reference to policies set out in the plans produced by the now dissolved St Edmundsbury Borough Council.

18. The following policies of the Joint Development Management Policies Document and the St Edmundsbury Core Strategy 2010 and Vision 2031 have been taken into account in the consideration of this application:

Vision Policy BV1 - Presumption in Favour of Sustainable Development

Vision Policy BV2 - Housing Development within Bury St Edmunds

Core Strategy Policy CS1 - St Edmundsbury Spatial Strategy

Core Strategy Policy CS2 - Sustainable Development

Core Strategy Policy CS3 - Design and Local Distinctiveness

Core Strategy Policy CS4 - Settlement Hierarchy and Identity

Policy DM1 Presumption in Favour of Sustainable Development

Policy DM2 Creating Places Development Principles and Local Distinctiveness

Policy DM11 Protected Species

Policy DM12 Mitigation, Enhancement and Monitoring of Biodiversity

Policy DM14 Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from hazards

Policy DM15 Listed Buildings

Policy DM17 Conservation Areas

Policy DM22 Residential Design

Other planning policy:

19. National Planning Policy Framework (NPPF)

20. The NPPF was revised in December 2023 and is a material consideration in decision making from the day of its publication. Paragraph 225 is clear however, that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework; the greater weight that may be given. The policies set out within the Joint Development Management Policies have been assessed in detail and are considered sufficiently aligned with the provision of the 2023 NPPF that full weight can be attached to them in the decision making process.

Officer comment:

21. The matter is before the Development Control Committee following consideration by the Delegation Panel. It was referred to the Delegation Panel following a request from Councillor Julia Wakelam. The Town Council

object to the proposal, as does the Council's Conservation Officer. Both object based on the inappropriate design of the proposal and the consequential adverse impacts on the Listed Building. There have been no letters of representation received from third parties.

22. The issues to be considered in the determination of the application are:

- Principle of Development
- Design, form, scale and resultant impact on heritage assets
- Impact on Residential Amenity
- Highways Implications
- Other Matters

The principle of development

23. Policy BV2 of the Bury St Edmunds Vision Document provides that within the defined Housing Settlement Boundaries, planning permission for new residential development will typically be supported where it is not contrary to other planning policies.

24. In this instance, the application site is located within the Housing Settlement Boundary of Bury St Edmunds and as such the broad principle of an additional residential unit is acceptable given that policies CS1 and CS4 both direct residential development towards the town; having regard to the identified settlement hierarchy. This supports the general support offered by both Policy BV1 and Policy DM1.

25. Notwithstanding this, it must be noted that the application site lies within the Bury Conservation Area and is also a Grade II listed building. Whilst the broad principle of residential development may be considered as generally acceptable, any proposal must, if it is to garner policy support, be able to demonstrate that it meets the requirements of policies DM15 (Listed Buildings) and DM17 (Conservation Areas).

Design, form, scale and resultant impact on heritage assets

26. As set out in the NPPF, heritage assets should be conserved in a way that is appropriate to their significance. Heritage assets include an extensive range of features that include archaeological remains, Scheduled Ancient Monuments, Listed Buildings and Conservation Areas.

27. The Planning (Listed Buildings and Conservation Areas) Act 1990 (under Section 66) requires the decision maker to have special regard to the desirability of preserving or enhancing a listed building or its setting or any features of special architectural or historic interest which it possesses. Furthermore section 72 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

28. DM17 states that proposals within Conservation Areas should preserve or enhance the character or appearance of the conservation area, or its setting, views into, through and out of the area and be of an appropriate scale, form, massing and design. DM15 states that development affecting the setting of a listed building will be permitted where it is not detrimental

to the buildings character, architectural or historic features that contribute to its special interest.

29. In addition to this legislative context, the 2023 National Planning Policy Framework identifies the protection and enhancement of the historic environment as an important element of sustainable development and also establishes a presumption in favour of sustainable development in the planning system. This includes the need to conserve heritage assets in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life for this and future generations, as set out in Chapter 16.
30. Paragraph 203 dictates that account should be taken of 'the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation' and, 'the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality'. The NPPF at paragraph 205 requires planning authorities to place 'great weight' on the conservation of designated heritage assets, and states that the more important the asset the greater the weight should be - 'this is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'. Paragraph 206 also recognises that the significance of an asset can be harmed from development within the setting of an asset, and that 'any harm or loss should require clear and convincing justification'.
31. It is also recognised in the NPPF (paragraph 208) that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. With respect to the above material considerations, it should be noted that an appeal was dismissed by the Planning Inspectorate in October 2017 (APP/E3525/W17/3172762) following the appellant's appeal against the refusal of both DC/16/0884/FUL and DC/16/0885/LB. Although the proposal (as refused) was larger, and taller, than the current, the Inspector provided a thorough commentary which addressed the perceived harm upon the listed building, the Conservation Area and the lack of overriding public benefit to justify the identified (less than substantial) harm.
32. No.9 Risbygate Street is an early nineteenth century structure with later nineteenth century alterations which forms part of a significant group of historic buildings including the adjoining grade II listed No.10, of which it once appears to have formed part. At the rear of the building is an earlier lower wing of eighteenth-century appearance which is also visible from the street. It is proposed to construct an addition to the building's rear wing to form an apartment which will rise from an existing rear addition.
33. Through its scale and massing, and for reasons of unsympathetic approach, in particular its flat roofed design being in conflict with the steeply pitched roofs of the host building to include historic extensions, it will dominate the historic structures causing harm to their setting and to the surrounding Conservation Area.
34. The NPPF makes clear that 'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from

development within its setting), should require clear and convincing justification'. In this case a clear and convincing justification for the construction of a structure of this harmful scale and massing has not been provided and the proposal is therefore contrary to the provisions of DM15, and also DM17.

35. Permission has previously been granted for a first floor unit of residential accommodation. The applicant advises that this is in the process of being implemented thereby providing staff / manager accommodation at the premises.
36. As supported by National Planning Policy, Policy DM15 of the JDMP states that alterations and extensions to listed buildings should not give rise to a detrimental impact upon the special architectural or historic interest of the building or its surroundings. Policy CS3, as supported by Policy DM2, further provides that development should incorporate designs of a scale, density, massing, height and materials compatible with the locality and where located in a Conservation Area it should preserve or enhance the Conservation Area's character.
37. For the reasons articulated above the development as proposed is not considered to be in accordance with policies DM1, DM2, DM15, DM17 or with policy CS3.

Impact on residential amenity

38. Both policies DM2 and DM22 seek to secure development proposals which do not have an adverse impact on existing or indeed proposed residential amenity. This requirement is particularly relevant to the proposal under consideration as the application site is in an area of tightly knitted urban grain with residential developments in relatively close proximity to each other; as would be expected in an overtly urban location.
39. The extension is subservient in terms of its scale, relative to the host building and the surrounding property, albeit the potential for adverse impact must be considered carefully noting the proximity to off site dwellings and noting the first floor rear window proposed. The elevated position of the extension and the proximity of dwellings to the rear, plus the generally tightly grained development in the vicinity suggest there will be some, albeit not extensive, adverse impact arising. However, the impact from the overbearing relationship and from the position of the rear facing window in relation to offsite property can be considered not of sufficient concern to justify a reason for refusal, noting the town centre context of this proposal.
40. Permission has previously been granted for a first floor unit of accommodation and the applicant has advised that this is in the process of being implemented. That permission is not tied to or otherwise linked with the restaurant on the ground floor, notwithstanding that access to the first floor flat was only available, via an external door and access across the flat roof, through the existing restaurant accommodation at the front of the site. Neither was an assessment of the effects of the operation of the restaurant on the amenities of that dwelling made. The current proposal has been submitted as a 'manager's flat'.

41. Policy DM14 requires that all applications where the existence of pollution is suspected (for example, in this case, noise and odour from the existing ground floor restaurant, and the effects of such on the reasonable living conditions of occupiers of the proposed accommodation) to contain sufficient information to enable the Authority to make a full assessment of potential hazards. In this case no information has been submitted. However, it is noted that the proposal has been justified on the basis that it is to be occupied in conjunction with the operation of the restaurant, as a manager's dwelling. The imposition of a condition restricting the accommodation to such a form of occupation would address any concerns in relation to the amenity effects arising from the proximity of the dwelling to the restaurant, and in relation to the access otherwise being obtained through the existing accommodation associated with 9 Risbygate Street.
42. Officers within the Private Sector Housing and Environmental Health team have confirmed there is no objection, although based on the location of the site, and the nearby existing uses, have recommended the imposition of a condition relating to the acoustic glazing of the property. If the recommendation was otherwise for approval, the imposition of such a condition would be considered reasonable.
43. Policy DM14, plus the provisions of Policies DM2 and DM22 in relation to amenity, and similar provisions within the NPPF, can therefore be considered satisfied.

Highways implications

44. Although the proposal is not judged to have an adverse impact upon the safe operation of the existing highway network in terms of traffic generation, the proposal includes no detail pertaining to vehicular parking or secure cycle storage.
45. In such a sustainable, central location it is accepted that not all residential proposals will include allocated parking spaces. However, where this is the case, it is usually reasonable to expect the provision of secure cycle storage to be clearly illustrated on a plan. In this instance, no such information has been provided but given the first floor nature of the proposal and the lack of a rear 'garden' or amenity space, providing such an area would be difficult in any event. It is also noted that the extant permission for a single bedroom first floor flat in this location did not include any cycle storage details.
46. In lieu of such being provided, the LPA cannot reliably conclude that the proposal encourages the use of sustainable forms of transport; as specifically required by policy DM2(k). This is a matter that weighs against the proposal in the balance of considerations, albeit noting the circumstances of this site, and the previous decision to allow a first floor flat without the provision of any car parking or cycle storage facilities, it is not considered sufficiently harmful to justify a refusal of planning permission.

Other Matters

47. As required by the National Planning Policy the LPA have a duty to consider the conservation of biodiversity and to ensure that valued

landscapes or sites of biodiversity are protected when determining planning applications. At a local level, this is exhibited through policies CS2, DM11 and DM12.

48. The National Planning Policy Framework indicates that when determining planning applications, local planning authorities must aim to conserve and enhance biodiversity and that opportunities to incorporate biodiversity in and around developments should be encouraged.

49. In this instance, given that the proposal is within an area which is above an existing restaurant and within a busy, developed and urban location, a formal ecology report has not been submitted and the LPA are content that the application does not give rise to significant ecological harm.

Conclusion

50. Policy DM15 provides that alterations and extensions to listed buildings should not be detrimental to the special architectural or historic interest of the building or its surroundings whilst DM17 requires proposals within the locality's Conservation Areas to preserve or enhance their character and appearance. Policy CS3, as supported by Policy DM2, further provides that development should incorporate designs of a scale, density, massing, height and materials compatible with the locality. The development proposed is not able to demonstrate adequate compliance with these requirements and is therefore considered to represent a material conflict with policies DM2, DM15 and DM17, and with policy CS3 and the advice contained within the 2023 National Planning Policy Framework.

51. In light of the harm identified and the conflict with the national framework, the proposals cannot be considered as sustainable development for which the Framework, and JDMP Policy DM1 presumes in favour. There are no other reasons to withhold the grant of planning permission. However, the impacts on the Listed Building and Conservation Area are considered significant, and sufficient to justify a refusal of planning permission.

Recommendation:

52. It is recommended that planning permission be **REFUSED** for the following reason:

1. As set out in the NPPF, heritage assets should be conserved in a way that is appropriate to their significance. Heritage assets include an extensive range of features that include archaeological remains, Scheduled Ancient Monuments, Listed Buildings and Conservation Areas.

DM17 states that proposals within Conservation Areas should preserve or enhance the character or appearance of the conservation area, or its setting, views into, through and out of the area and be of an appropriate scale, form, massing and design. DM15 states that development affecting the setting of a listed building will be permitted where it is not detrimental to the buildings character, architectural or historic features that contribute to its special interest.

No.9 Risbygate Street is an early nineteenth century structure with later nineteenth century alterations which forms part of a significant group of

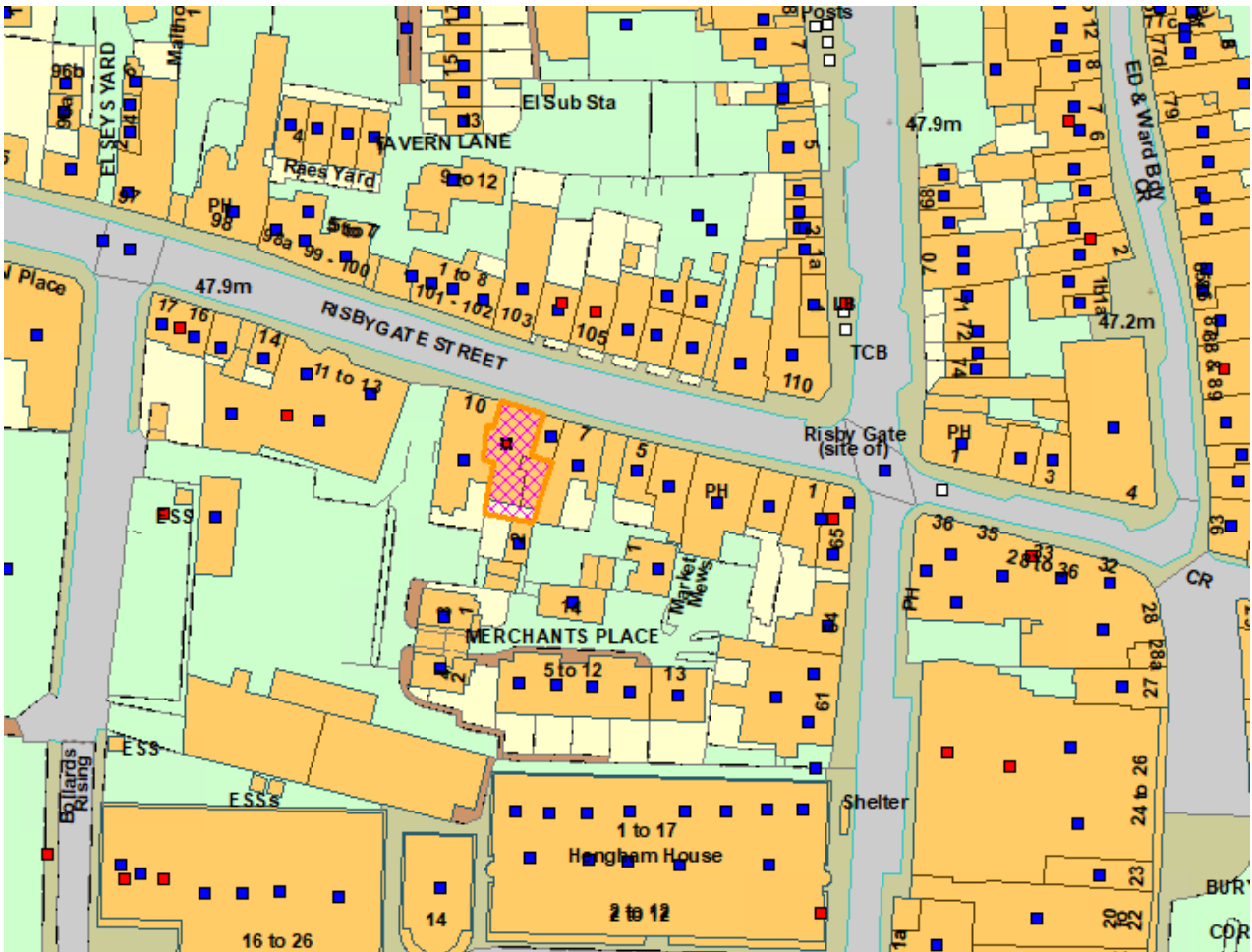
historic buildings including the adjoining grade II listed No.10, of which it once appears to have formed part. At the rear of the building is an earlier lower wing of eighteenth-century appearance which is also visible from the street. Through its scale and massing, and for reasons of unsympathetic approach, in particular its flat roofed design being in conflict with the steeply pitched roofs of the host building to include historic extensions, the proposed extension will dominate the historic structures causing harm to their setting and to the surrounding Conservation Area.

The proposed therefore development fails to respect the host building and its historic context, proving contrary to policies DM2, DM15, DM17 of the Joint Development Management Policies Document 2015 and policy CS3 of the St Edmundsbury Core Strategy 2010. The development fails to preserve or enhance the character of the Conservation Area, and would adversely impact on the listed building itself, causing less than substantial harm. There is insufficient public benefit to outweigh this harm which results in a material conflict with paragraph 208 of the 2023 National Planning Policy Framework.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/23/0812/FUL](#)

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