

## **Development Control Committee 2 August 2023**

### **Planning Application DC/23/0542/VAR – Land North of Green Acre, Thetford Road, Ixworth Thorpe**

<b>Date registered:</b>	31 March 2023	<b>Expiry date:</b>	31 May 2023 EOT till 03.08.2023
<b>Case officer:</b>	Jo-Anne Rasmussen	<b>Recommendation:</b>	Approve application
<b>Parish:</b>	Ixworth & Ixworth Thorpe	<b>Ward:</b>	Ixworth
<b>Proposal:</b>	Planning application - variation of condition 10 of DC/21/1198/FUL, to enable commencement of the development prior to obtaining bat licence		
<b>Site:</b>	Land North of Green Acre, Thetford Road, Ixworth Thorpe		
<b>Applicant:</b>	Frederick Hiam Ltd		

**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:**

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## Background:

**Planning permission was originally granted under DC/21/1198/FUL for three dwellings (following demolition of existing dwellings) on this site.**

**The current application comes before the Committee as the original permission was approved as a departure from the Development Plan.**

**This current application which seeks to vary one of the conditions of the original permission, must also be treated as a departure and in accordance with the scheme of delegation must therefore be determined by the Development Control Committee.**

**The application is recommended for APPROVAL.**

## Proposal:

1. This application seeks to vary condition 10 of DC/21/1198/FUL to allow works to commence on the new dwellings prior to a bat licence being obtained. It should be noted that works have already commenced in relation to the construction of the new dwellings, but the demolition of the existing dwellings has not started.

## Site details:

2. The site is located to the west of the A1088 in the village of Ixworth Thorpe, which for planning purposes does not have a settlement boundary and is therefore considered to be countryside. The site consists of a terrace of three, two-storey dwellings and three new dwellings which are currently under construction. On the northern boundary of the site, running along east to west, is a public footpath.

## Planning history:

3. Below is a list of the most relevant applications, details of which can be found on the Council's website.

<b>Reference</b>	<b>Proposal</b>	<b>Status</b>	<b>Decision date</b>
DC/18/0544/HYB	Hybrid Planning Application - (i) Full Planning permission - Demolition of 3no. existing dwellings and (ii) Outline Planning Application (Means of Access to be considered) - for up to 5no. Dwellings as amended by the drawings received 30.11.2018	Application Refused	4 December 2019
DC/21/1198/FUL	Planning application - Three dwellings (following demolition of existing dwellings)-Amended plans received 24 August 2021	Application Granted	13 October 2021

DCON(A)/21/1198	Application to discharge conditions 6 (bin storage); 8 (cycle storage); 11 (materials) and 14 (boundary treatment) of DC/21/1198/FUL	Application Granted	18 July 2022
DC/22/0612/VAR	Planning application - variation of condition 10 to enable commencement of development prior to the bat licence being issued which relates to the demolition of the existing cottages and condition 15 of DC/21/1198/FUL to enable current occupants to remain in existing dwellings until new dwellings are available for occupation	Application Refused	27 February 2023
DC/23/0151/FUL	Planning application - installation of bat lodge	Pending Decision	
DC/23/0770/VAR	Planning application - variation of condition 15 (demolition of existing cottages) of DC/21/1198/FUL to allow for prior occupancy	Pending Decision	

#### Consultations:

4. **West Suffolk Environment Team (sustainability)** – no comments to make
5. **West Suffolk Environment Team** – No comment
6. **West Suffolk Public Health and Housing** – no comments to make
7. **West Suffolk Strategic Housing** - no comment or objection to the proposed variation
8. **West Suffolk Waste Management** – no comment
9. **SCC Highways** – no comments to make
10. **Place Services Ecology** – ‘We support the proposal to remove the words “The development hereby permitted” and replaced this with “Demolition of the existing cottages’

#### Representations:

11. **Parish Council** – no comment

## **Policy:**

12. 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.

13. 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 DM10 Impact of Development on Sites of Biodiversity and Geodiversity Importance

Policy DM11 Protected Species

Policy DM12 Mitigation, Enhancement, Management and Monitoring of Biodiversity

Policy DM13 Landscape Features

Policy DM22 Residential Design

Policy DM27 Housing in the Countryside

Policy DM46 Parking Standards

Core Strategy Policy CS2 - Sustainable Development

Core Strategy Policy CS3 - Design and Local Distinctiveness

Core Strategy Policy CS4 - Settlement Hierarchy and Identity

Core Strategy Policy CS13 - Rural Areas

Vision Policy RV1 - Presumption in favour of Sustainable Development

Vision Policy RV3 - Housing settlement boundaries

## **Other planning policy:**

### 14. National Planning Policy Framework (NPPF)

The NPPF was revised in July 2021 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 2021 NPPF that full weight can be attached to them in the decision making process.

## **Officer comment:**

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

- Principle of Development
- Ecology considerations

#### **Principle of Development**

16. Having regard to Section 73 of the Town and Country Planning Act 1990 (TCPA), this planning application seeks permission to vary condition 10 of DC/21/1198/FUL relating to the demolition of the existing dwellings and the need to obtain a bat license.

17. Paragraph (2) of Section 73 of the TCPA 1990 states that;

'...the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted'

As this application only seeks to vary a specific condition and change the wording, there is no need to reconsider the principle and detail of the application again, unless there has been significant changes in circumstances on site, and/or significant changes to the development plan or national policy, which is not the case here. The details of what will be built and demolished remain exactly as approved. The only consideration therefore is whether the change to the wording of condition 10 is acceptable.

#### **Ecology considerations**

18. Bats are protected under the Conservation of Habitats and Species Regulations 2017 (as amended) and Wildlife & Countryside Act 1981 (as amended). The Conservation of Habitats and Species Regulations (2017, as amended) requires that competent Authorities (of which the Local Authority is one) have regard to biodiversity in carrying out its statutory duties, for example through the determination of planning applications. The Local Planning Authority also has to have regard to conserving biodiversity as part of policy or decision making under Section 40 of the

Natural Environment and Rural Communities Act 2006 (NERC). Section 41 of the Natural Environment and Rural Communities (NERC) Act (2006) sets out a list of habitats and species that are of principal importance for the conservation of biodiversity in England.

19. Policy DM10 requires that when considering development proposals which may have an adverse impact on nature conservation sites or interests, the local planning authority will have regard to the expert nature conservation advice provided by Natural England, Suffolk Wildlife Trust and other specialist sources.
20. Under application DC/21/1198/FUL, the applicant submitted a nocturnal bat survey which found that;
- Evidence of bats was recorded during the initial inspection and further surveys recommended.
  - The nocturnal surveys recorded maximum counts of four Brown Long Eared and two Common Pipistrelle bats roosting in the cottages.
  - The demolition will result in the loss of the roosts and a Natural England licence will therefore be required.
  - The licence will need to be supported by appropriate mitigation.
21. Condition 10 was imposed due to the demolition of the cottages which will result in the loss of bat roosts; this needs to be appropriately mitigated. Condition 10 reads as follows:

**The development hereby permitted;** shall not in any circumstances commence unless the Local Planning Authority has been provided with either:

- a. A licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorising the specified activity/development to go ahead; or
- b. A statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

The applicant has requested the condition be reworded to read;

**"Demolition of the existing cottages** shall not in any circumstances commence unless the Local Planning Authority has been provided with either:

- a. A licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 authorising the specified activity/development to go ahead; or
- b. A statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence."

22. The condition needs to be reworded as the applicant has been unable to obtain a bat licence as they claim to do so would require the construction of a bat lodge (to mitigate the loss of the bat roosts). Planning application DC/23/0151/FUL has been submitted to allow construction of a bat lodge and is under consideration, but has not yet been determined.
23. Place Services Ecology have stated that they do not object to the proposal for the retention of the cottages until after a bat licence has been granted.

The change in wording of the condition would effectively allow the construction of the new dwellings to continue without being in breach of condition 10.

24. Condition 15 (now condition 14 in the recommendation below) shall remain which ensures the existing cottages are removed from site prior to the occupation of the new dwellings. As the bat licence is required prior to the demolition of the cottages, this condition will ensure the cottages are removed from site and a bat licence is achieved in a timely manner.

25. Given the comments from Place Services Ecology it is considered that the proposal to begin construction prior to obtaining a bat licence and retention of the cottages until a bat licence is obtained would not have an adverse impact upon protected species. As such it is considered that the proposal would comply with aims of policies DM10, DM11 and DM12.

### **Conclusion:**

26. 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.

27. At the time the original application was determined (DC/21/1198/FUL) officers considered that the proposed dwellings resulted in a significant increase in floorspace and the design and scale would not respect or be in-keeping with the modest terrace of properties that exist on the site at present. As such the proposal was considered to be contrary to policy DM5 and was recommended for refusal. This view was not shared by members, with the committee concluding that the proposal would be a proportionate replacement for the existing dwellings and that it did accord with policy. On that basis the application was approved, but as a departure. See working paper 1 – minutes of the 6 October 2021 committee for this agenda item.

28. The original permission is a material consideration and remains extant. Given this variation only relates to allowing works to commence on the new dwellings prior to a bat licence being obtained, the application can therefore be supported in this instance, without the need to reconsider the principle of development.

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

### **Recommendation:**

30. 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, unless otherwise stated below:

Reference number	Plan type	Date received
5850 100C	Site plan and block plan	24 August 2021

5850 102B	Proposed elevations & floor plans	24 August 2021
5850 103D	Proposed elevations & floor plans	24 August 2021
5850 110	Existing floor plans	24 August 2021
5859 110A	Existing elevations	22 September 2021

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

- Demolition or construction works shall not take place outside 8am hours to 6pm hours Mondays to Fridays and 8am hours to 1pm hours on Saturdays and at no time on Sundays, public holidays or bank holidays.

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.

- Prior to first occupation, all dwellings with off street parking shall be provided with an operational electric vehicle charge point at reasonably and practicably accessible locations, with an electric supply to the charge point capable of providing a 7kW charge.

Reason: To promote and facilitate the uptake of electric vehicles on the site in order to minimise emissions and ensure no deterioration to the local air quality, in accordance with Policy DM14 of the Joint Development Management Policies Document, paragraphs 105 and 110 of the National Planning Policy Framework and the Suffolk Parking Standards.

- Prior to the dwellings hereby permitted being first occupied, the existing vehicular access onto the highway shall be properly surfaced with a bound material for a minimum distance of 10 metres from the edge of the metalled carriageway, in accordance with details previously submitted to and approved in writing by the local planning authority.

Reason: To secure appropriate improvements to the vehicular access in the interests of highway safety and to prevent loose material from being brought onto the carriageway.

- The areas to be provided for storage and presentation for collection of Refuse/Recycling bins shall be provided in their entirety, in accordance with details agreed under DCON(A)/21/1198, before the development is brought into use and shall be retained thereafter for no other purpose.

Reason: To ensure that refuse recycling bins are not stored on the highway causing obstruction and dangers for other users.

- The use shall not commence until the areas within the site shown on Drawing No. 100 REV B for the purposes of manoeuvring and parking of vehicles has been provided and thereafter that those areas shall be retained and used for no other purposes.

Reason: To ensure that sufficient space for the on site parking of vehicles is provided and maintained in order to ensure the provision of adequate



on-site space for the parking and manoeuvring of vehicles where on-street parking and manoeuvring would be detrimental to highway safety to users of the highway.

- 7 The areas to be provided for secure cycle storage shall be provided in their entirety in accordance with details agreed under DCON(A)/21/1198, before the development is brought into use and shall be retained thereafter and used for no other purpose.

Reason: To ensure the provision and long term maintenance of secure cycle storage in accordance with Suffolk Guidance for Parking (2019).

- 8 The development hereby permitted should be completed in accordance with the mitigation and enhancement measures detailed within the submitted ecological survey report by Hillier Ecology dated October 2019.

Reason: To ensure the works comply with Policies DM10, DM11 and DM12 of the Joint Development Management Policies as well as with the provisions of the NPPF in relation to biodiversity.

- 9 Demolition of the existing cottages; shall not in any circumstances commence unless the Local Planning Authority has been provided with either:

a. A licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 authorizing the specified activity/development to go ahead; or

b. A statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To ensure that the land is used in such a manner as to improve its ecological and nature conservation value, 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.

- 10 The development shall be completed in accordance with the materials details approved under DCON(A)/21/1198.

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.

- 11 The dwelling(s) hereby approved shall not be occupied until the requirement for water consumption (110 litres use per person per day) in part G of the Building Regulations has been complied with and evidence of compliance has been obtained.

Reason: To ensure that the proposal meets with the requirements of sustainability, in accordance with policy DM7 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 14 of the National Planning Policy Framework and all relevant Core Strategy Policies. The higher standards for implementation of water efficiency measures set

out in the Building Regulations are only activated if they are also a requirement of a planning condition attached to a planning permission.

- 12 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 scheme shall include accurate indications of the position, species, girth, canopy spread and height of all existing trees and hedgerows on and adjacent to the site and details of any to be retained, together with measures for their protection during the course of development. Any retained trees removed, dying or becoming seriously damaged or diseased within five years of commencement 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. The works shall be completed in accordance with the approved plans and in accordance with a timetable to be agreed with the Local Planning Authority.

Reason: To enhance the appearance of the development and to ensure that the most vulnerable trees are adequately protected during the periods of construction, 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.

- 13 The treatment of the boundaries of the site shall be provided in their entirety in accordance with the details approved under DCON(A)/21/1198. Any planting removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by soft landscaping of similar size and species to those originally required to be planted. The works shall be completed prior to first use/occupation in accordance with the approved details.

Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with policy DM2 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.

- 14 Prior to the occupation of the dwellings hereby approved, the existing cottages on site shall be demolished in their entirety. The site of the demolished dwellings shall be cleared and finished in accordance with a scheme first submitted to and approved by the Local Planning Authority.

Reason: To ensure the appropriate development of the site and to comply with policy DM5 which aims to protect the countryside from unsustainable development.

### **Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/23/0542/VAR](#)

- Working Paper 1 – Extract from the minutes of the 6 October 2021 Development Control Committee