

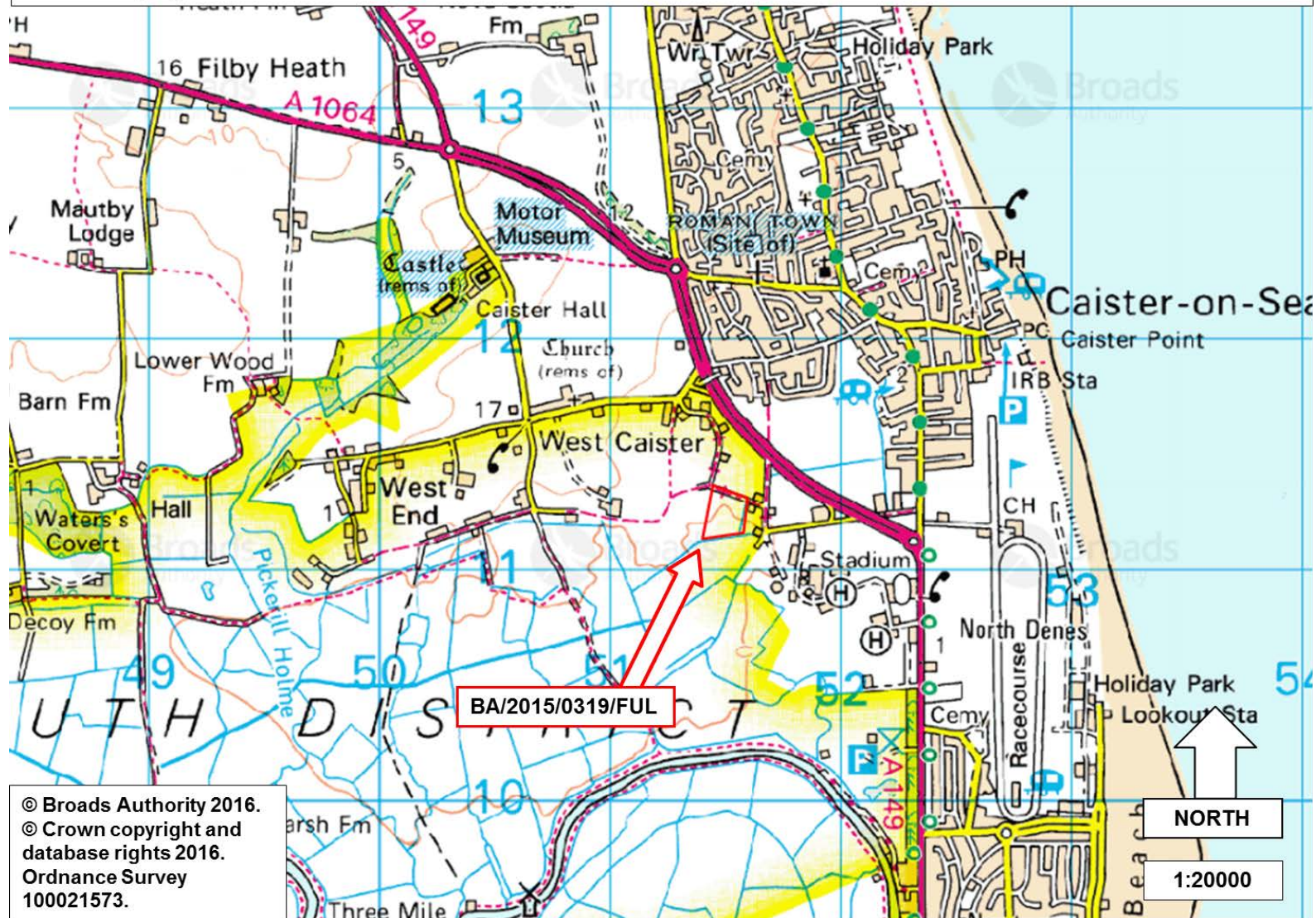
**Reference**

BA/2015/0319/FUL

**Location**

Land at Pump Lane, West Caister

BA/2015/0319/FUL - New home meeting paragraph 55. standards, and associated additional buildings to support current and developing wood business.



## **Application for Determination**

<b>Parish</b>	West Caister		
<b>Reference</b>	BA/2015/0319/FUL	<b>Target date</b>	11 February 2016
<b>Location</b>	Land at Pump Lane, West Caister		
<b>Proposal</b>	New home meeting paragraph 55 standards, and associated additional buildings to support current and developing wood business.		
<b>Applicant</b>	Mr Darren Woolsey		
<b>Recommendation</b>	Refuse		
<b>Reason for referral to Committee</b>	Major application		

### **1 Description of Site and Proposals**

- 1.1 The application site is located off Pump Lane in the parish of West Caister, to the west of the A149 Caister By-Pass and southeast of the settlement of West Caister. Land uses in and around Pump Lane to the southeast of the application site include a large County Council recycling centre and highways depot, coal yard and aggregate sales. Immediately to the south of the Council site is North Denes airfield and Yarmouth Stadium.
- 1.2 The application site is accessed by a private unmade track off Pump Lane and measures 3.4 hectares in area. It is separated from the above-mentioned light industrial uses by agricultural land which extends out to the grazing marshes and Halvergate Marshes Conservation Area to the west. The site is therefore in this fringe between the marshes to the west and more urban environment to the east. West Caister is a small settlement scattered along West Road that lies on higher land approximately 400 metres to the north; there are no shops or services here. Although the private track off Pump Lane extends northwards to West Road, the site is isolated from the settlement by land predominantly used for 'horsiculture'. The site is outside any development boundary and in flood risk zone 3a.
- 1.3 Historically the application site formed part of the grazing marshes. Since the early 2000s development has taken place on site to enlarge a small pond into a large lake and the excavated material has been used to create large planted bunds around the north, west and east of the lake. This area of the site is

used recreationally by the applicant and his family, including for fishing in the lake. None of this development has had the benefit of planning permission.

- 1.4 In 2011 a Certificate of Lawful Use was granted for the use of an area of approximately 1500 square metres in the northwest corner of the site for the storage of horticultural machinery and equipment. The applicant stores this machinery and equipment and also seasons and stores wood for fuel on the site in connection with his agricultural/horticultural services business. Several small scale storage buildings and structures have been erected in this area without the benefit of planning permission but are said to be temporary.
- 1.5 The application proposes the erection of a dwelling on the site and buildings to support the wood business.
- 1.6 The dwelling would sit at the northwestern corner of the lake between a re-profiled bank edge and the bund around the lake. It would be two storey with storage and office space on the ground floor and living accommodation with two bedrooms above, both storeys would be split across two levels. Various low mono-pitched roofs at different angles would cover the dwelling and these would be predominantly covered in solar PV panels and have a maximum height of approximately 6 metres above ground level. Large areas of glazing would open onto decking projecting over the water and the remaining walls would be concrete at first floor level over large timber doors giving access to the ground floor.
- 1.7 A small 'energy hub' building would sit to the immediate west of the dwelling, at the edge of the existing bund, and would have solar thermal panels on the roof. It is proposed that the dwelling would use components of the now defunct Code for Sustainable Homes Level 6, and Passivhaus standards. The application presents the proposal as being in accordance with paragraph 55 of the National Planning Policy Framework and this is discussed further below.
- 1.8 Four new buildings are proposed for the wood business. These would be concentrated in, but extend southwards of, the existing lawful business area of the site. A 'U' shaped building would sit at the entrance into the site from the north. This would measure approximately 8.2 metres to the ridge of the dual-pitched roof that would run across the width (approximately 22 metres) of the existing business area and have large sliding timber doors on each side giving access through into the site. Two lower bays would sit either side of this opening. South of this, two open sided buildings measuring approximately 6 metres by 10 metres and 5 metres high would sit perpendicular to and against the western site boundary. Further south of these, the final building would be similar in scale to the northernmost building and also have sliding timber doors allowing access through it. These four buildings would have larch lap boarding to the walls with visible steel beams and tension wires, steel framed log panels and the roofs would have pantiles or slates on the northern roof slopes and solar PV panels on the southern roof slopes. These buildings would be used for machinery storage and the processing and storage of wood.

- 1.9 A landscaping scheme is proposed which includes meadow and woodland planting in the area south of the lake.

## 2 Site History

In October 2011, a Certificate of Lawful Use was granted for the use of a small area in the northwestern corner of the site for the storage of horticultural machinery/equipment (BA/2011/0259/CLUEDL).

## 3 Consultation

Broads Society – No comment.

District Member – No response.

Highways Authority – The site is accessed off a private track off Pump Lane and in terms of access to the highway there are no issues of concern and I have no objection.

Environment Agency – No objection. The site lies in flood risk zone 3a and the proposal is considered to be a more vulnerable development. The Sequential and Exception Tests need to be passed.

## 4 Representations

Mr Brandon Lewis MP - Mr Woolsey has sought support for his planning application from his MP which I can confirm.

## 5 Policies

- 5.1 The following Policies have been assessed for consistency with the National Planning Policy Framework (NPPF) and have been found to be consistent and can therefore be afforded full weight in the consideration and determination of this application. [NPPF](#)

[Core Strategy Adopted September 2007 pdf](#)

CS1 – Landscape Protection and Enhancement

CS4 – Creation of New Resources

CS8 – Response to Climate Change

CS24 – Residential Development and the Local Community

[DEVELOPMENTPLANDOCUMENT](#)

DP1 – Natural Environment

DP2 – Landscape and Trees

DP3 – Water Quality and Resources

DP4 – Design

DP8 – Renewable Energy

DP11 – Access on Land  
DP29 – Development on Sites with a High Probability of Flooding

- 5.2 The following Policies have been assessed for consistency with the NPPF and have found to lack full consistency with the NPPF and therefore those aspects of the NPPF may need to be given some weight in the consideration and determination of this application.

CS18 – Rural Sustainability  
CS20 - Rural Sustainability

DP7 – Energy Generation and Efficiency  
DP22 – Residential Development within Defined Development Boundaries  
DP26 – Permanent and Temporary Dwellings for Agricultural, Forestry and Other Workers

## 6 Assessment

- 6.1 In assessing this proposal it is first necessary to consider the principle of what is proposed.

### Principle

- 6.2 There are two aspects to this proposal: the buildings to support the wood business and the dwelling. As there is an established lawful use for the storage of horticultural machinery and equipment on the site, the provision of buildings to support this is considered acceptable in principle. However it should be noted that if there were not an established use here, it would not be considered an appropriate or sustainable location for a new business.

- 6.3 As the site is not within a development boundary, the proposal for a new dwelling here is contrary to Development Management Policy DP22. There are exceptional circumstances when new dwellings might be permitted in such locations and these are covered by Policies DP21 (conversion), DP23 (affordable housing), DP24 (replacement dwellings) and DP26 (rural workers dwellings). DP26 is the only policy which could potentially allow for the dwelling proposed here and this would require criteria (a) to (f) to be satisfied:

- (a) *There is a demonstrable existing need for full time worker(s) to be available at all times for the enterprise to function properly;*
- (b) *The need is arising from a worker employed full-time or one employed primarily in the Broads in agriculture, forestry or a rural business;*
- (c) *Evidence is submitted that demonstrates that the business has been established for at least three years, has been profitable for at least one of them, is currently financially sound and has a clear prospect of remaining so;*
- (d) *The functional need cannot be met by an existing dwelling on the site or in the locality and there has been no sale on the open market of another*

*dwelling on the site that could have met the needs of the worker in the past three years;*

*(e) The dwelling would be commensurate in size and scale with the needs of the enterprise; and*

*(f) It would not adversely affect protected species or habitats.*

- 6.4 It should, however, be noted that the application states “the main criteria for consideration is not to create a dwelling for an agricultural worker” and no significant information has been submitted in respect of the criteria above.
- 6.5 The application states there is increasing agricultural crime in the region and that, in addition to the existing CCTV on site, it is necessary to live on site to provide security for the machinery. It is also stated that the business is expanding and this will increase income. There is, however, insufficient information to assess whether there is a demonstrable need to live on site, whether the business is profitable and has a prospect of remaining so (particularly in light of the significant investment the proposed development represents) and whether the need (if demonstrated) can be met by an existing dwelling locally. The proposal cannot therefore be considered acceptable in accordance with Policy DP26 which only allows for such dwellings in exceptional circumstances where all criteria are satisfied. It should, however, be noted that due to the layout of the site with access to the dwelling provided through the proposed storage buildings and the close relationship between the two, if the dwelling is found to be acceptable, it would be necessary to require it to only be occupied by someone employed in the commercial operations on site, even though this need has not been satisfactorily demonstrated.
- 6.6 Given that the site is outside a development boundary and the proposed dwelling cannot be considered to be in an acceptable location in accordance with any of the development plan policies which allow for dwellings in such locations in exceptional circumstances, the principle of the proposal is not in accordance with the development plan and could only be recommended for approval if there were other material considerations which weighed in its favour. The National Planning Policy Framework is one such consideration and the application is presented as being in accordance with paragraph 55 of this Framework.
- 6.7 Paragraph 55 identifies that new housing should be located where it will enhance or maintain the vitality of rural communities hence Policy DP22 seeks to locate new dwellings in development boundaries to achieve this. The paragraph goes on to say that isolated new homes in the countryside should be avoided unless there are special circumstances, including where there is an essential need for a rural worker to live at or near their place of work. Policy DP26 is consistent with this provision and provides objective assessment criteria to establish whether there is an essential need and insufficient information has been submitted to demonstrate the stated need here in accordance with DP26 and therefore also paragraph 55.

6.8 One other special circumstance identified in paragraph 55 is the exceptional quality or innovative nature of the design. Paragraph 55 states that such a design should:

- be truly outstanding or innovative, helping to raise standards of design more generally in rural areas
- reflect the highest standards in architecture
- significantly enhance its immediate setting; and
- be sensitive to the defining characteristics of the local area

All four of these points must be satisfied for the design of a dwelling to provide justification to outweigh the presumption against new isolated dwellings in the countryside. Only a small number of dwellings have been approved in accordance with this provision nationally and none have in the Broads, reflecting the requirement for such a design to be *exceptional* in the true meaning of the word.

6.9 Taking each point above in turn it must first be considered whether the proposed design is truly outstanding or innovative and whether it would help to raise standards of design in the area. The dwelling is contemporary architecturally and has been designed to relate to the lake and bunds. Its mass is well broken and with a largely horizontal emphasis this aspect of the design reflects the surrounding flat landscape. Overall, the design is considered to be of a high standard but paragraph 55 requires the design quality to be exceptional and reflect the highest standards of architecture. Whilst the dwelling is well designed, it is not considered to be outstandingly so and it may be innovative, but not truly so in the meaning of the paragraph. The objective of paragraph 55 is not to require isolated new dwellings in the countryside to be well designed, but for the design to be so exceptional it provides special justification for a dwelling in an area where it would not normally be permitted. It is not considered this is the case here.

6.10 The unauthorised development to excavate the lake and create planted bunds has significantly altered the character of the site, most likely resulting in the loss of grazing marsh (BAP habitat) and adding to the incremental erosion of the grazing marsh characteristics in this area. The proposals would retain these unsympathetic alterations and work with them, rather than the wider grazing marsh landscape. The bunds and planting give the site a sense of enclosure when upon it and immediately around it, however the southern aspect is more open to the grazing marshes and Bure valley and there are views down to the site from the higher ground to the north along West Road.

6.11 Despite the existing alterations, the site retains strong physical and perceptual links to the marshland environment. The siting and orientation of the dwelling mean that it would screen itself which is sensitive to the setting in one respect, but, regrettably, it does not take full advantage of, nor respond to, the qualities of the site, such as they are. The development would be visible in long views of the valley side development and there is some potential to significantly enhance this setting and respond to the



defining characteristics of the local area, most significantly the characteristic Broads grazing marsh. However, it is not considered this has been achieved with this design and it is not apparent how the dwelling responds to the Broads landscape or conserves this protected landscape. It is considered the development would suburbanise the area and, as the design is not sufficiently sensitive to the defining characteristics of the area, it would not contribute in any significant way to enhancing the immediate setting and relationship with the Broads. The site might be at the edge of the Broads, but it is within the designated area and benefits from the same degree of protection as any other part of the area. In this respect, paragraph 55 of the Framework in relation to exceptional design justifying new isolated dwellings in the countryside must be read in conjunction with paragraph 115 which gives the Broads the highest status of protection in relation to landscape and scenic beauty.

- 6.12 Again, the objective of paragraph 55 is not to require isolated new dwellings in the countryside to be screened or minimise their landscape impact, it is to ensure that significant enhancement to the setting is achieved through locally sensitive design which provides special justification for a dwelling in an area where it would not normally be permitted. It is not considered the proposed design achieves this enhancement or reflects such sensitivity; it does not adequately relate to, or integrate successfully with, the Broads landscape.
- 6.13 Development plan policies seek to locate new development in appropriate, sustainable locations and all new development, where the location is acceptable in principle, should protect the Broads landscape and be of a high quality design which integrates effectively with its surroundings and reinforces local distinctiveness and landscape character. Paragraph 55 creates a provision for new dwellings in the countryside, which development plans would not normally allow, where the design alone is so significant it outweighs development plan policies against such development. These should be exceptional circumstances and accordingly the expected standard is extremely high so as not to set an undesirable precedent or undermine policies of rural restraint. In this case, it is not a matter of assessing that the design is high quality and there would be no significant adverse landscape impact, as this should be achieved on all new development. The question is whether the four points in paragraph 55 are satisfied and it can be concluded the design is of such exceptional quality or innovation that it provides the special circumstances required to outweigh the presumption against isolated new dwellings in the countryside and the provisions of the development plan. Whilst it is appreciated the proposed design is of high quality, it is not considered exceptional to satisfy paragraph 55 of the Framework.
- 6.14 As the principle of a dwelling here is contrary to development plan policies and the Framework, the whole proposal must be considered unacceptable in principle. It is, however, considered necessary to assess the other aspects of the development to establish whether there are any other material considerations which may outweigh this.

### Design of the Storage Buildings

- 6.15 As these buildings would, separate from the dwelling, be acceptable in principle, it is necessary to consider whether their design and impacts would be acceptable. Sited in the northwest corner, they would be in the least visible part of the site. However due to the scale of the two larger buildings at over 8 metres high and 22 metres across, they would be significant buildings that would be prominent in long views, including from the higher land to the north. Unlike the dwelling, which has a horizontal emphasis relating to the surrounding grazing marsh landscape, these would be tall, bulky buildings. Whilst the replacement of the existing scattered and 'temporary' buildings on site with a rationalised and more appropriately designed set of buildings would be welcomed, it is not considered the proposed buildings, by virtue of their scale and mass are appropriate to this area and would not integrate effectively or harmoniously with the surrounding Broad landscape, specifically the grazed drainage marsh. Their design is therefore contrary to Policy DP4.

### Ecology

- 6.16 The proposed landscaping scheme includes new planting areas which would provide biodiversity enhancements. Removing the fish from the lake and remodelling this as a wildlife pond would have greater benefits, but, on balance, the proposal is considered acceptable in accordance with Policy DP1.

### Flood Risk

- 6.17 The whole site is in tidal flood risk zone 3a. All living accommodation would be on the first floor above the 1 in 1000 year flood level (including climate change) but the ground floor and business storage buildings would be at risk in the 1 in 200 year (including climate change) event which would flood the site to a depth of 1.59 metres.
- 6.18 The proposed dwelling would only be acceptable in flood risk terms if the Sequential and Exception Tests are passed. To pass the Sequential Test it must be demonstrated that there are no other reasonably available sites at a lower risk of flooding. It is considered that there may be existing or potential new sites in the local area where secure machinery storage could be provided at a lower risk of flooding and these may or may not require an on-site dwelling which is the most vulnerable part of the proposal. Indeed, other than being in the applicant's ownership, it has not been demonstrated that this use requires an isolated, rural location or a location in the Broads. However, given that the Authority has no sites allocated for such developments, that the applicant does not own any other land and there is an established lawful use for the business here, it is considered, on balance, that the Sequential Test in terms of the reasonable availability of other sites can be passed.
- 6.19 To pass the Exception Test, it must be demonstrated that:
- the development provides wider sustainability benefits to the community which outweigh flood risk; and,

- the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.

6.20 Given that this site is outside a development boundary, isolated from the nearest settlement, remote from any significant services and there is not considered to be any demonstrable need or other special justification for the dwelling, it cannot be considered a sustainable location and its development for the proposed uses would be inherently unsustainable. The business may offer some wider economic sustainability benefits, but on balance it is not considered any sustainability benefits to the community would be significant enough to outweigh flood risk. As the Exception Test is a two-part test and both parts must be satisfied for it to be passed, the proposal's failure to meet the first part means it does not pass this Test. It is, however, considered the residual risk could be satisfactorily managed by appropriate conditions if the Exception Test could be passed. As it cannot, the proposal is contrary to paragraph 102 of the Framework and Policies CS20 and DP29.

6.21 Amenity

Given the nature of the neighbouring light industrial uses, it is not considered the amenity of the occupiers of these sites would be affected by the proposal. There are, however, dwellings to the north who may be affected by vehicles using the private track and the operation of machinery on the site. Were the proposal to be approved, it would be necessary to manage the working times of the business and an access and egress route by condition to ensure the proposal were acceptable in accordance with Policy DP28.

Energy Generation and Efficiency

6.22 The application proposes a large volume of roof mounted solar panels, a ground source heat pump, wood burners and the dwelling has been designed to optimise natural light to the accommodation. Whilst the application states components of the defunct Code for Sustainable Homes Level 6 and Passivhaus principles would be used, it has not been demonstrated in any detail how this would be achieved or whether any of the technologies or sustainable design strategies are 'innovative' with regard to paragraph 55. The inclusion of energy efficiency measures and renewable energy are welcomed in accordance with Policies DP7 and DP8 but it is not considered they provide any additional justification for the dwelling in an otherwise unacceptable location.

Other Issues

6.23 The site is accessed by a private track off Pump Lane and the Highway Authority have no objection to the proposal.

6.24 Whilst some aspects of the proposal may accord with the relevant policies, there are not considered to be any material considerations which outweigh the conflict with Policies CS24, DP4, DP22, DP26 and DP29.

## **7 Conclusion**

- 7.1 The National Planning Policy Framework, which should be read as a whole, seeks to avoid isolated new dwellings in the countryside unless there are special circumstances. Such policies of rural restraint are necessary to ensure development is sustainably located and the countryside (especially the Broads, which is a nationally protected landscape) is protected from inappropriate development.
- 7.2 This application proposes a new dwelling and new buildings to support an existing business operating from the site. If the essential need for a worker to live on site had been satisfactorily demonstrated in accordance with Policy DP26, this would be one such special circumstance and the development would be considered acceptable in principle in accordance with the development plan and that part of paragraph 55 regarding the essential need for workers to live at or near their place of work. This need has not been satisfactorily demonstrated and the proposal is presented as meeting the special circumstance of 'the exceptional quality or innovative nature of the design of the dwelling'. All development in the Broads must be of high quality and both respect and reflect local distinctiveness and landscape character. However, to provide special justification for an isolated new dwelling in the countryside, the design must be: truly outstanding or innovative; reflect the highest standards of architecture; significantly enhance its immediate setting; and be sensitive to the defining characteristics of the local area.
- 7.3 It is considered that the proposed dwelling has a quality in terms of its design and appearance but that this is not truly outstanding or innovative or reflect the highest standards in architecture. Nor would it significantly enhance its setting and it is not sensitive to the defining characteristics of the local area or Broads more widely. Had the principle of a dwelling here been acceptable for other reasons, the design may be considered acceptable in accordance with Policy DP4, but the design is not considered to be of such exceptional quality that it justifies approving a dwelling in an otherwise unacceptable location in accordance with paragraph 55. It should also be noted that the alleged need to live on site and quality design are insufficient in combination, as well as in isolation, to provide sufficient justification and satisfy paragraph 55.
- 7.4 Furthermore, the proposed buildings for the wood business are not considered to be acceptable in design terms and as the proposal would not offer sustainability benefits to the community which would outweigh the high flood risk to the site, the proposal cannot pass the Exception Test and is contrary to policies on flood risk.

## **8 Recommendation**

Refuse.

## 9 Reason for Recommendation

- (i) The application proposes a dwelling and storage buildings for a wood business. The application site is outside a development boundary and there are not considered to be exceptional circumstances to justify the siting of a dwelling in this isolated, unsustainable location. The proposal is therefore contrary to Policy CS24 of the adopted Core Strategy (2007), Policy DP22 of the adopted Development Management Policies (2011) and paragraph 55 of the National Planning Policy Framework (2012)
- (ii) There is said to be a security need for a worker from the wood business to live on site, however it has not been satisfactorily demonstrated that there is an existing need for a full time worker to be available at all times for the enterprise to function properly and the proposal is contrary to criterion (a) of Policy DP26 of the adopted Development Management Policies DPD (2011) and paragraph 55 of the National Planning Policy Framework (2012).
- (iii) Insufficient information has been submitted to satisfactorily demonstrate whether or not the existing business operating from the site has been profitable for at least one of the last three years, is currently financially sound and has a clear prospect of remaining so. It would therefore be inappropriate to allow an on-site for a worker and the proposal is contrary to criterion (c) of Policy DP26 of the adopted Development Management Policies DPD (2011) and paragraph 55 of the National Planning Policy Framework (2012).
- (iv) Insufficient information has been submitted to satisfactorily demonstrate whether or not the stated need for a worker to live at or near the site can be met by an existing dwelling in the locality. The proposal is therefore contrary to criterion (d) of Policy DP26 of the adopted Development Management Policies DPD (2011) and paragraph 55 of the National Planning Policy Framework (2012).
- (v) The proposed dwelling is presented as being of "an exceptional design quality which meets paragraph 55 criteria" (page 4, Design and Access Statement). Whilst it is considered that the proposed dwelling has a quality in terms of its design and appearance, it is not considered to be truly outstanding or innovative or reflect the highest standards in architecture. Nor would it significantly enhance its setting and it is not sensitive to the defining characteristics of the local area or Broads more widely. The proposal is not therefore considered to represent any special justification for an isolated new dwelling in the countryside and is contrary to paragraph 55 of the National Planning Policy Framework (2012).
- (vi) The application site is outside a development boundary, isolated from the nearest settlement, remote from any significant services and there is not considered to be any demonstrable need or other special

justification for the dwelling, it cannot be considered a sustainable location and its development for the proposed uses would be inherently unsustainable. The site is in flood risk zone 3a and it is not considered that any sustainability benefits to the community from the proposal are significant enough to outweigh this high flood risk, therefore the Exception Test is not passed and the proposal is contrary to paragraph 102 of the National Planning Policy Framework (2012), Policy CS20 of the adopted Core Strategy (2007) and Policy DP29 of the adopted Development Management Policies DPD (2011).

- (vii) The proposed buildings to support the wood business would not, by virtue of their scale, integrate effectively into their surroundings or be appropriate to the local context of the site and surrounding Broads landscape. The proposal is therefore contrary to Policy DP4 of the adopted Development Management Policies DPD (2011).

Background papers: Application File BA/2015/0319/FUL

Author: Maria Hammond

Date of Report: 22 February 2016

List of Appendices: Location Plan

## APPENDIX 1

BA/2015/0319/FUL - New home meeting paragraph 55. standards, and associated additional buildings to support current and developing wood business.

