

**Application for Determination**

<b>Parish</b>	Hoveton		
<b>Reference</b>	BA/2011/0311/COND	<b>Target date</b>	16 November 2011
<b>Location</b>	Wings, Brimbelow Road, Hoveton		
<b>Proposal</b>	Variation of condition 5 and 6 of previous PP B1/2006/1508/PF (BA/2006/1266/HISTAP)		
<b>Applicant</b>	Mr and Mrs D Shearing		
<b>Recommendation</b>	Approve subject to conditions		
<b>Reason for referral to Committee</b>	Objections from neighbours		

**1 Description of Site and Proposals**

- 1.1 The application site is a dwelling Wings on Brimbelow Road, Hoveton. The dwelling is single storey and sits adjacent to Brimbelow Road which runs approximately perpendicular to Meadow Drive to the northeast and a private dyke to the southeast. The private dyke terminates where it meets Brimbelow Road, making Wings the westernmost dwelling which borders it. To the immediate north is a dwelling which fronts Meadow Drive and to the west dwellings line Brimbelow Road.
- 1.2 The dwelling sits in a substantial curtilage that extends to the dyke to the south. A detached single storey garage sits within the curtilage to the west of the dwelling adjacent to the access and opens to a tarmac driveway. The western site boundary along Brimbelow Road is formed by a low close board fence which has been overgrown by ivy and other vegetation and there are also a number of trees, including leylandii, on the inside of the fence.
- 1.3 In 2006 planning permission was granted for the erection of a boathouse within the curtilage of the dwelling (BA/2006/1266/HISTAP). The boathouse had a wet dock on the ground floor with accommodation to the rear and at first floor level to provide a three bedroom holiday let. The boathouse was proposed to stand adjacent to the western site boundary over a mooring cut off the dyke. A condition regarding holiday accommodation was subsequently varied on appeal (BA/2006/1838/HISTAP).

- 1.4 The boathouse was granted planning permission subject to conditions, including conditions 5 and 6 as below:

Condition 5

*Prior to the commencement of the development hereby permitted a scheme for soft landscaping shall be submitted to and approved in writing by the Local Planning Authority.*

*The scheme shall indicate the species, number and size of any new trees, hedgerows and shrubs at the time of their planting. The scheme shall also include indications of all existing trees, hedgerows and shrubs on the land, with details of any to be retained (which shall include details of species and canopy spread), together with measures for their protection during the course of development.*

*The scheme as approved shall be carried out no later than the next available planting season following the commencement of the development or such further period as the Local Planning Authority may allow in writing.*

*If within a period of five years from the date of planting, any tree, shrub or hedgerow planted is removed, uprooted or is destroyed or dies, (or becomes in the opinion of the Local Planning Authority, seriously damaged or defective) another tree, shrub or hedgerow of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives it prior written consent to any variation.*

Reason

*To protect and enhance the character of the area and to reduce the visual impact of the development in accordance with Policies C11 and B11 of the adopted Broads Local Plan.*

Condition 6

*Prior to the commencement of the development hereby permitted a scheme for hard landscaping shall be submitted to and approved in writing by the Local Planning Authority.*

*The scheme shall include details of any new hard surfaces within the curtilage of the development hereby permitted and details for the provision and implementation of horizontal slats, incorporated into both the decking and perimeter of the dwelling.*

Reason

*To protect and enhance the character of the area and to prevent blockages to flood flows through debris and storage in order to comply with Policies INF1 and B11 of the adopted Broads Local Plan.*

- 1.5 The application proposes the variation of these two conditions. The development has commenced and is almost complete. It should be noted that these are pre-commencement conditions which have not been discharged.

- 1.6 The proposed revised wording of condition 5 is:

*Prior to completion of the development the existing fencing on the Brimbelow Road boundary to the site shall be removed for the length of the building and replaced with suitable hedgerow planting to be approved in writing by the Planning Authority before work commences.*

- 1.7 This variation is proposed as it is claimed that no indication is given as to the extent of any landscaping requirements and whether it would apply to planting within the site or the perimeter boundary. The agent has also highlighted the guidance in Circular 11/95 'Use of Conditions in Planning Permission' and the requirements that conditions should not be unduly restrictive, not to place an unacceptably onerous burden on applicants and not to be unduly intrusive for either current or future owners or occupants.
- 1.8 A plan has since been submitted which illustrates the proposals, however, rather than removing the fenceline for the length of the building as set out in the proposed new condition, five fence panels have been indicated to be removed and replaced. No replacement planting is proposed and the extent of any existing planting to be removed has not been indicated. A pleached hornbeam hedge is proposed to be planted to create a screen between the dwelling and boathouse.
- 1.9 In respect of condition 6, a drawing has been submitted which shows a gravel drive area, concrete paved set down area, a paved area in front of the entrance and what is assumed to be decking. The proposal is to vary condition 6 to apply to this plan. No details of the exact materials to be used have been submitted. Details of the horizontal slats around the dwelling and decking have been submitted in respect of the flood proofing measures required by condition 10.

## **2 Site History**

BA/2006/1266/HISTAP Erection of boathouse / holiday accommodation unit – Approved subject to conditions

BA/2006/1838/HISTAP Variation of condition 3 of 20061058 in respect of holiday limitations – Refused and allowed on appeal

## **3 Consultation**

*Broads Society* – Although we lodged an objection to the original application, and to a subsequent application for all year round occupancy, this application relates only to a variation of landscaping conditions on the approved scheme and we have no objections. No objections to submitted plans.

*Parish Council* - We consider the application should be approved. The proposals are acceptable. In response to submitted plan: No objection to this development.

*District Member* – No response.

## **Representations**

Two letters of objection received. Object to loss of hedge on grounds of impact on wildlife, amenity and visual impact.

## **4 Policies**

### **4.1 Development Management Policies DPD adopted November 2011-12-05**

#### **DP2 – Landscape and Trees**

Development will be permitted where it would not have a detrimental effect on, or result in the loss of, significant landscape heritage or a feature of landscape or ecological importance, including trees, woodlands or hedgerows.

The landscaping of new development should:

- (a) reflect the local landscape character, having regard to the findings of the Authority's Landscape Character Assessment;
- (b) ensure that biodiversity is taken into account in the planning stage to create an environment of high amenity and nature conservation value and contribute to the Broads Biodiversity Action Plan;
- (c) where appropriate, maintain, and enhance, restore or add to geodiversity;
- (d) wherever possible, support adaptation to climate change, for instance by incorporating Sustainable Drainage Systems (SUDs) and providing shade and shelter;
- (e) have regard to its impact on navigation.

Development proposals should normally be accompanied by:

- (f) an ecological survey as required by the nature and scale of the proposal;
- (g) a landscaping scheme that details new planting and including, when appropriate, replacement trees of a value commensurate or greater to that which is lost, boundary treatments and proposals for ecological enhancement;
- (h) an arboricultural assessment detailing the measures to be put in place to protect trees and hedgerows during construction works and providing justification for the removal of any trees or hedgerow;
- (i) details of landscaping maintenance arrangements; and
- (j) a method statement for any land raising and/or dispersal of excavated or dredged materials.

In exceptional circumstances, where the landscape, biodiversity, navigation, social or economic benefits of a proposal are considered to outweigh the loss of a feature, impact on landscape character, or existing habitat, development may be permitted subject to adequate compensatory measures being

implemented. However, wherever possible the design and layout of the development should be configured to make provision for the retention, enhancement or restoration of these features.

#### DP4 – Design

All development will be expected to be of a high design quality. Development should integrate effectively with its surroundings, reinforce local distinctiveness and landscape character and preserve or enhance cultural heritage. Innovative designs will be encouraged where appropriate.

Proposals will be assessed to ensure they effectively address the following matters:

- (a) **Siting and layout:** The siting and layout of a development must reflect the characteristics of the site in terms of its appearance and function.
- (b) **Relationship to surroundings and to other development:** Development proposals must complement the character of the local area and reinforce the distinctiveness of the wider Broads setting. In particular, development should respond to surrounding buildings and the distinctive features or qualities that contribute to the landscape, streetscape and waterscape quality of the local area. Design should also promote permeability and accessibility by making places connect with each other and ensure ease of movement between homes, jobs and services.
- (c) **Mix of uses:** To create vitality and interest, proposals should incorporate a mix of uses where possible and appropriate.
- (d) **Density, scale, form and massing:** The density, scale, form, massing and height of a development must be appropriate to the local context of the site and to the surrounding landscape/streetscape/waterscape character.
- (e) **Appropriate facilities:** Development should incorporate appropriate waste management and storage facilities, provision for the storage of bicycles, connection to virtual communication networks and, if feasible, off-site provision for a bus shelter and/or a bus service serving the development.
- (f) **Detailed design and materials:** The detailing and materials of a building must be of high quality and appropriate to its context. New development should employ sustainable materials, building techniques and technology where appropriate.
- (g) **Crime prevention:** The design and layout of development should be safe and secure, with natural surveillance. Measures to reduce the risk of crime and anti-social behaviour must however not be at the expense of overall design quality.
- (h) **Adaptability:** Developments should be capable of adapting to changing circumstances, in terms of occupiers, use and climate change (including change in water level). In particular, dwelling houses should be able to adapt to changing family circumstances or ageing of the occupier and commercial premises should be able to respond to changes in industry or the economic base.

- (i) **Flood Risk and Resilience:** Development should be designed to reduce flood risk but still be of a scale and design appropriate to its Broads setting. Traditional or innovative approaches may be employed to reduce the risks and effects of flooding.
- (j) **Biodiversity:** The design and layout of development should aim to maintain, and enhance, restore or add to biodiversity.

#### 4.2 **Broads Core Strategy adopted September 2007**

##### CS1 – Landscape

Development and changes in land use / management must ensure that all aspects of the environmental and cultural assets of the Broads distinctive landscape are protected, enhanced and restored.

Proposals should ensure opportunities for positive impacts on the following core assets have been addressed and adverse impacts avoided:

- (i) the defining and distinctive qualities of the varied landscape character areas formed by the built and natural environment;
- (ii) tranquillity and wildness as part of the Broads experience;
- (iii) the value and integrity of nature conservation interest; and
- (iv) the character, appearance and integrity of the historic and cultural environment.

Opportunities to mitigate the visual impact of currently intrusive features should be sought.

## 5 **Assessment**

- 5.1 The key considerations in the determination of this application are whether the reasons for the original conditions as still apply and the visual, wildlife and amenity impacts of the proposed variations.
- 5.2 In considering the reasons for these conditions it should be noted that the application was considered acceptable and the conditions applied in accordance with the policies of the Broads Local Plan. These policies have since been superseded by the Development Management Policies DPD. Broads Local Plan Policy C11 sought landscaping for new development to enhance the character of the area and minimise the visual impact on its surroundings and Policy B11 required new development to respect the character of the area and minimise its visual intrusion. Policy INF1, which is cited in the reason for condition 6, related to flood risk.
- 5.3 The Development Management Policies DPD maintain the objectives for new development to be appropriate to the local context and enhance the local landscape character. Given that there has been no change in policy direction, it is considered that conditions requiring landscaping of this development continue to be necessary in accordance with the new policies and it must be considered whether the proposed variations would achieve a satisfactory landscaping scheme.

- 5.4 The proposed variations to conditions 5 and 6 would remove the requirement for the soft and hard landscaping schemes to be agreed prior to commencement. Given that work has commenced and proceeded in breach of this condition, this condition cannot now be complied with, however, it is not considered that it would be justified or proportionate to require removal of all the works which have taken place in breach of the condition. In terms of remedying the breach through amending the timescale, it is proposed to vary condition 5 so that the fencing is removed and replaced prior to the 'completion' of the development. Such a timescale is not considered to be sufficiently precise to comply with the advice of Circular 11/95 and it is considered that 'prior to the first use or occupation' would be a precise, reasonable and enforceable timescale for the works to be completed within.
- 5.5 Whilst the original conditions did not specify what landscaping works might be acceptable to the Local Planning Authority, advice has been given as to what would be the most appropriate long term landscaping solution for the development. This comprised the replacement of the existing dilapidated and overgrown fence on the western boundary with a mixed native hedge. Agreement could not be reached on this and the application proposes a smaller scale, shorter term solution to replace five fence panels on the road boundary and plant a hornbeam screen within the site. Whilst disappointed, in principle it is considered that this proposal would offer an acceptable level of screening to the development and would not adversely affect its setting.
- 5.6 In terms of impact on local amenity, including visual amenity, concerns were raised to the initial proposal which would have involved the removal of the fence for the length of the building and limited infilling. The amended plan proposes a reduced length of the fence to be removed and the objections to the application have not been formally withdrawn. It is not considered that the removal and replacement of five fence panels and addition of the hornbeam screen would result in any unacceptable impacts on the amenities of adjoining occupiers. There will be a short-term visual impact when the established fenceline is removed and replaced, however it is considered that the benefits of securing an appropriate longer term solution outweigh this impact and, subject to the details of the fencing, this is considered to be an acceptable boundary treatment. It is noted that concerns have been raised about the impacts on wildlife from the removal of the fenceline. The smaller scale amended proposal reduces this impact and, although the existing planting to be removed has not been identified, it is considered that the new planting will mitigate any loss of habitat.
- 5.7 It is considered that insufficient details of the replacement fence panels and planting have been submitted, however these could be agreed by condition. Given the time that has elapsed to date in agreeing a landscaping scheme, it is considered reasonable and necessary for any scheme to be implemented prior to the first use or occupation of the boathouse and it is considered that the details of the scheme should be

agreed within three months of the date any new permission, no later than the first occupation of the accommodation.

- 5.8 The proposed amended wording of condition 5 omits any reference to the existing planting within the site and measures for its protection during the course of the development. Given that the external construction of the development is now largely complete, it is regrettable that appropriate protection for the existing planting was not agreed or implemented. However, this cannot be remedied retrospectively and it is accepted that this part of the condition is no longer necessary.
- 5.9 The application also proposed to remove that part of the condition which requires maintenance and replacement of new planting. However, this is considered to be a necessary and reasonable requirement and should be retained in any amended condition.
- 5.10 It is therefore considered that an appropriate amendment to condition 5 would be:

*Within three months of the date of the development hereby permitted or prior to the first use or occupation of the boathouse and accommodation, whichever is earlier, details of the scale, material and finish of the new fence panels and a plan identifying all existing trees and shrubs to be removed shall be submitted to and agreed in writing with the Local Planning Authority.*

*The fence panels shall then be replaced in accordance with the details as shall be agreed prior to the first use or occupation of the boathouse and accommodation.*

*The hornbeam screen shall be planted in accordance with the approved plan (drawing number 5346-5D received by the Local Planning Authority on 11 November 2011) no later than the next available planting season and prior to the first use or occupation of the boathouse and accommodation.*

*If within a period of five years from the date of planting, any tree, shrub or hedgerow planted is removed, uprooted or is destroyed or dies, (or becomes in the opinion of the Local Planning Authority, seriously damaged or defective) another tree, shrub or hedgerow of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives it prior written consent to any variation.*

- 5.11 In respect of the proposed variation of condition 6, no revised wording has been proposed, only that the condition is amended to accord with the submitted plan. As the details of the provision and implementation of horizontal slats to the decking and perimeter of the dwelling have been submitted in respect of condition 10, it is accepted that this aspect of condition 6 is no longer necessary.
- 5.12 The proposed hard landscaping shown on the submitted plan is not considered to be unacceptable. Precise details of the materials to be used



have not been submitted and it is noted that it is not proposed to submit any further details. Whilst in principle gravel, paving and decking are not considered inappropriate materials, it is not considered unreasonable to require more details as to their finish to ensure this is appropriate to the development given that the intention of the condition is to enhance the character of its setting and minimise its visual impact.

5.13 It is considered that an appropriate amendment to condition 6 would be:

*Within three months of the date of the development hereby permitted or prior to the first use or occupation of the boathouse and accommodation, whichever is earlier, details of the material and finish of the proposed hard surfaces shown on the approved plan (drawing number 5346-5D received by the Local Planning Authority on 11 November 2011) shall be submitted to and approved in writing with the Local Planning Authority.*

*The hard landscaping scheme shall then be completed in accordance with the approved plan (drawing number 5346-5D received by the Local Planning Authority on 11 November 2011) prior to the first use or occupation of the boathouse and accommodation.*

5.14 Should permission be granted for the variations to conditions 5 and 6, it would also be necessary for the other conditions of the original permission to be repeated, including conditions 7, 10, 11 and 12 which require works to be completed or details agreed prior to commencement and/or occupation and have not yet been discharged.

5.15 To ensure that the above conditions are capable of being adequately monitored and enforced, it is also considered necessary to add a condition requiring notification of the date of first use or occupation.

## **6 Conclusion**

The proposal is to vary the landscaping conditions on an extant permission. These conditions are still considered to be necessary and whilst the proposed amendments to the wording of the conditions are not considered to be acceptable or to meet the legal tests for conditions, the landscaping proposals shown on the submitted plan are not considered to be unacceptable. It is considered that the objectives of the original conditions can largely be met with the conditions amended as at paragraphs 5.10 and 5.13 above.

## **7 Recommendation**

Approve subject to conditions:

- (i) Standard time limit.
- (ii) In accordance with submitted plans.
- (iii) Holiday use only.
- (iv) Permitted development rights removed.
- (v) Soft landscaping details as at paragraph 5.10.
- (vi) Hard landscaping details as at paragraph 5.13.

- (vii) Parking and turning area.
- (viii) Maximum ridge height.
- (ix) Minimum finished floor levels.
- (x) Flood proofing measures.
- (xi) Flood evacuation plan.
- (xii) Scheme for flood warning notices.
- (xiii) Notification of the date of first use or occupation.

## 8 Reason for Recommendation

The proposal is considered to be acceptable in accordance with Policies DP2 and DP4 of the adopted Development Management Policies DPD (2011) and Policy CS1 of the adopted Core Strategy (2007).

List of Appendices:	Appendix 1 Location Plan
Background papers:	Application File BA/2011/0311/COND
Author:	Maria Hammond
Date of Report:	15 December 2011

BA/2011/0311/COND – Wings, Brimbelow Road, Hoveton  
 Variation of condition 5 and 6 of previous PP B1/2006/1508/PF (BA/2006/1266/HISTAP)

