

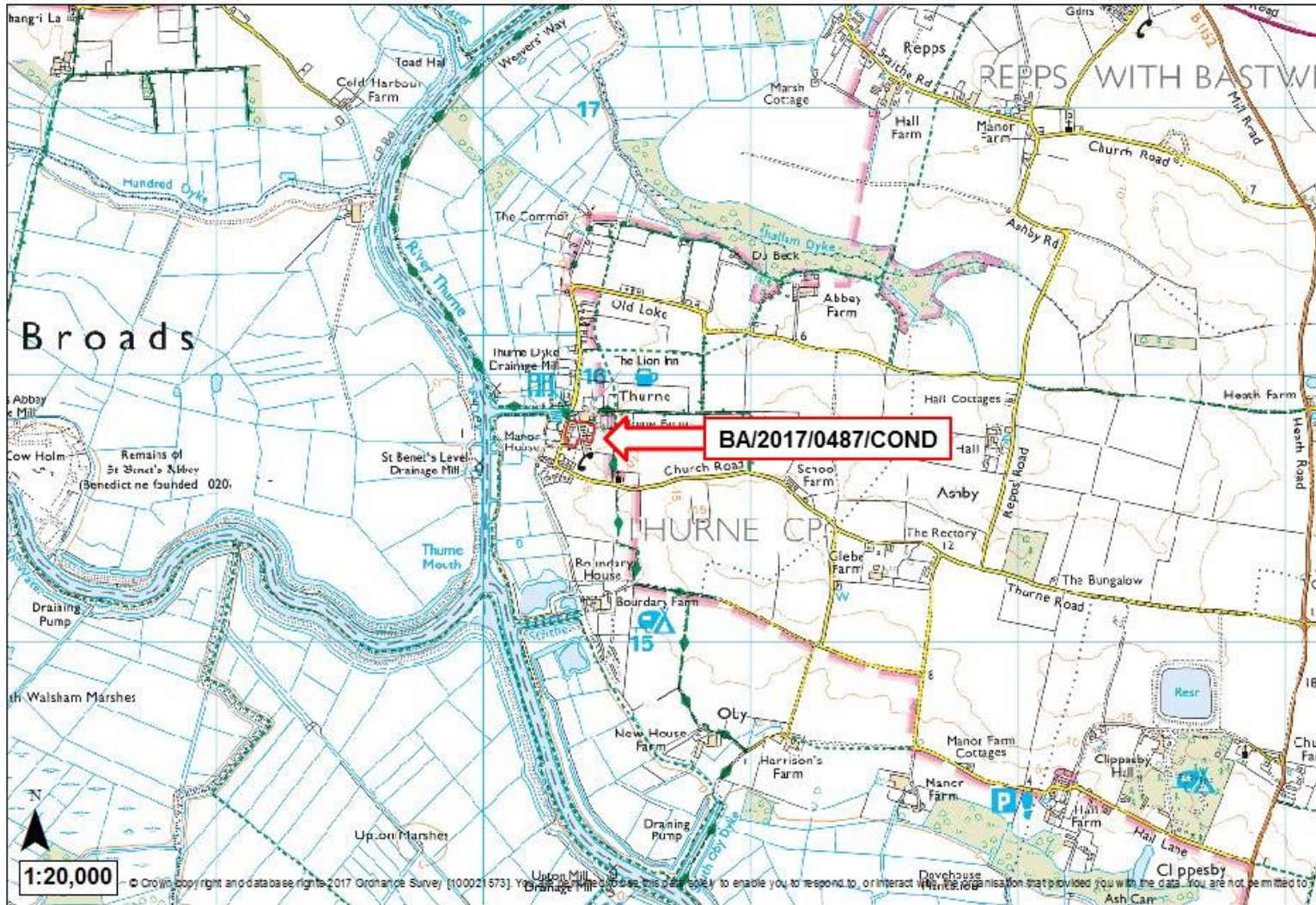
Reference:

BA/2017/0487/COND

Location

Hedera House, The Street, Thurne

BA/2017/0487/COND - Hedera House



Application for Determination
Report by Planning Officer

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| Parish | Thurne |
| Reference | BA/2017/0487/COND Target date 22 March 2018 |
| Location | Hedera House, The Street, Thurne, NR29 3AP |
| Proposal | Variation of conditions 3: materials, 5: occupational restrictions and 6: holiday use restrictions. Removal of conditions 4: construction/completion timescales, 7: disabled friendly accommodation, 10: obscure glazing, 12: driveway details, 13: visibility splay, 17: amenity grassland, 22: flood resilient construction, 23: flood evacuation plan, 24: EA flood warnings, and 25: restriction of permitted development rights of BA/2017/0103/OUT. |
| Applicant | Mr Delf |
| Recommendation | Approve in respect of Conditions 10 and 17, with all other conditions being restated as originally imposed. |
| Reason for referral to Committee | Objections which raise material considerations of significant weight received |

1 Background

- 1.1 The application site comprises an area of 0.8 hectares known as Hedera House located on the east side of The Street in Thurne, close to the centre of the village. The site currently comprises a large 2-storey dwelling located roughly in the centre of the site which offers holiday accommodation for up to 12 people, 10 holiday chalet bungalows comprising 7 units adjacent to the northern boundary, 1 adjacent to the western boundary and 2 within the small rectangular protrusion at the south of the site, and an open air enclosed swimming pool which is located in the south-eastern corner of the site.
- 1.2 An outline planning application was considered in 2017 for the redevelopment of the site to remove all existing structures and construct 6 residential dwellings as enabling development and 10 new holiday cottages. Following a Planning Committee site visit carried out in 4th August 2017, the application was considered at the Planning Committee meeting on 18th August 2017 and the outline application approved. The planning permission was issued in September 2017 subject to detailed conditions.

- 1.3 This application pursuant to section 73 Town and Country Planning Act 1990, as amended, seeks to vary three and remove six of the twenty five conditions as below. On an application under section 73 Town and Country Planning Act 1990, as amended, a local planning authority shall consider only the question of the conditions subject to which planning permission should be granted (i.e. it cannot revisit the principle of the development which has been granted). If (a) the LPA decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and (b) if the LPA decides that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application. If the LPA concludes that some of the proposed changes are acceptable and some are not, it is required to approve the application and apply the new conditions as they relate to the changes proposed which are acceptable and restate the previous conditions where the changes proposed were not considered acceptable.
- 1.4 The agent for the application states in the submitted application form that he considers these conditions to be contrary to paragraph 206 of the National Planning Policy Framework which sets out the six 'tests' all planning conditions must meet. Paragraph 206 states: "Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects". Guidance is given on the 'tests' in the Planning Practice Guidance.
- 1.5 The justification for the variation or removal of the various conditions is as set out below:

| Conditions proposed to be varied | |
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| Condition | Reason given by agent for proposed variation |
| <p>3: Prior to the commencement of the development the reserved matters application shall be submitted to include the precise details of the materials to be used in the construction of the external walls, roofs and openings of the buildings hereby permitted, and on the hard surfaced areas of the site. The scheme such as shall be submitted shall be approved prior to commencement of development and retained in perpetuity.</p> <p>Reason: In order for the Local Planning Authority to be satisfied</p> | <p>The requirement for the materials/hard surfaces to be applied for in the RMs to be "retained in perpetuity" restricts the future use of permitted development (PD) rights. It fails NPPF (para. 206) Condition tests: 1. "Necessary"; 4. "Enforceable"; and 6. "Reasonable in all other respects". It is neither necessary nor reasonable to expect materials/hard surfaces to be retained in perpetuity; furthermore, it cannot be enforced. Materials/hard surfaces will wear/fail and/or better performing materials may become available. Normally, the replacement of</p> |

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| <p>that the materials to be used will be visually appropriate for the approved development and its surroundings, in accordance with policy DP4 of the Development Management Policies - Development Plan Document.</p> | <p>materials/surfaces can be carried out under PD rights.</p> <p>Suggested variation: delete the words "...and retained in perpetuity."</p> |
| <p>5. The holiday accommodation hereby approved, shown on drawing no.2326/15/1 Rev.C as 1H to 10H, shall be for holiday use only and shall not be used as a second home or for the sole or main residence of any occupiers. The residential accommodation hereby approved, shown on drawing no.2326/15/2 Rev.C as 1R to 6R shall be for the sole or main residence of any occupiers.</p> <p>Reason: To ensure the use is restricted to short let holiday use and residential housing as enabling development in accordance with Policy THU1 of the Site Specifics Policy Local Plan.</p> | <p>The condition requirement for residential accommodation to be sole/main residence fails NPPF tests: 1. "Necessary"; 4. "Enforceable"; and 5. "Reasonable in all other respects". Policy THU1 does not require restriction of the occupancy of the general market housing.</p> <p>Suggested variation: delete the words "...The residential accommodation hereby approved, shown on drawing no.2326/15/2 Rev.C as 1R to 6R shall be for the sole or main residence of any occupiers."</p> |
| <p>6. In relation to the holiday accommodation hereby approved, shown on drawing no.2326/15/1 Rev.C as 1H to 10H, no person shall occupy any part of the buildings hereby permitted for a period exceeding six weeks. Furthermore, no person shall occupy any part of the buildings hereby permitted within a period of three weeks following the end of a previous period of occupation by that same person of any part of the buildings hereby permitted. A register of bookings of the buildings hereby permitted shall be maintained at all times and shall be made available for inspection to an officer of the local planning authority upon reasonable notification by that officer to inspect the register and shall be available</p> | <p>The condition seeks to restrict the occupancy period of the holiday accommodation to 6 weeks. It fails NPPF tests: 1."Necessary"; 2. Relevant to planning"; 4. "Enforceable"; and 6."Reasonable in all other respects". A condition should not seek to restrict holiday length.</p> <p>Suggested variation: reword "In holiday accommodation hereby approved, shown on drawing no 2326/15/1Rev.C as 1H to 10H shall be used to provide holiday accommodation only and shall not be used as a primary place of residence".</p> |

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| <p>for a period of twelve months following the first occupation of the buildings hereby permitted.</p> <p>Reason: To ensure the use is restricted to short let holiday use only and not use as permanent residential accommodation in accordance with Policies DP21 and DP22 of the Development Management Policies - Development Plan Document.</p> | |
| <p>Conditions proposed to be removed</p> | |
| <p>Condition</p> | <p>Reason given by agent for proposed removal</p> |
| <p>4. Within 12 months of the commencement of works at the site, works to construct the holiday cottages shall commence, with construction of all holiday cottages to be completed within a further 12 months and available to rent.</p> <p>Reasons: To ensure a satisfactory and timely redevelopment of the site, and to ensure that the enabling development enables the development of new replacement holiday accommodation in accordance with Policy THU1 of the Site Specifics Policy Local Plan.</p> | <p>The condition requires completion of elements of the scheme within 12 months. It fails NPPF tests: 1 "Necessity"; and 4. "Enforceable" due to the range of external factors that influence decisions to complete a development.</p> <p>Remove condition.</p> |
| <p>7. The disabled friendly holiday bungalow, shown on drawing no.2326/15/1 Rev.C as 10H, shall be built in strict accordance with Lifetime Homes Standards, to be demonstrated to the satisfaction of the Local Planning Authority.</p> <p>Reason: To ensure the stipulated disabled friendly unit conforms to acceptable minimum standards for its specified use.</p> | <p>The condition seeks to apply a standard that is relevant to permanent residential accommodation to a holiday let. There is no Development Plan policy requiring such a standard. It fails NPPF tests: 1 "Necessary"; and 6 "Reasonable in all other respects".</p> <p>Remove condition.</p> |
| <p>10. The glazing to be installed in the</p> | <p>The requirement for the obscure</p> |

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| <p>ground floor rear of the holiday cottages shown on drawing no.2326/15/1 Rev.C as 1H, 2H, 3H, and 4H shall be obscure glazed and retained as such in perpetuity.</p> <p>Reason: To protect the privacy of neighbouring residents in accordance with policy DP28 of the Development Management Policies - Development Plan Document.</p> | <p>glazing to be "retained in perpetuity" effectively seeks to restrict future use of PD rights. It fails NPPF tests: 1. "Necessary"; 4. "Enforceable"; and 6. "Reasonable in all other respects".</p> <p>Remove condition.</p> |
| <p>12. Notwithstanding the submitted details unless otherwise agreed in writing by the Local Planning Authority the proposed private drive shall be maintained in perpetuity at a minimum width of 5.0 metres for a minimum length of 10 metres as measured from the near edge of the highway carriageway and shall be constructed perpendicular to the highway carriageway for the said distance.</p> <p>Reason: In the interest of highway safety and traffic movement.</p> | <p>Unnecessary and fails NPPF test 1 "Necessary".</p> <p>Remove condition.</p> |
| <p>13. Prior to commencement of development plans shall be submitted to the Local Planning Authority demonstrating an absolute minimum 2.0m wide parallel visibility splay (as measured back from the near edge of the adjacent highway carriageway) to be provided across the whole of the site's roadside frontage. The plan shall indicate the location of all hedgerow and trees adjacent to the frontage and show clearly the elements which shall be retained and which shall be 'faced up'. The submitted details shall be approved in consultation with NCC Highways.</p> <p>Reason: In the interests of highway safety.</p> | <p>Conditions 13: The condition requires additional access details to be approved which should have been dealt with at the outline stage as approval for access was sought and obtained. It fails NPPF tests: 4. "Enforceable" and 6. "Reasonable in all other respects".</p> <p>Remove condition.</p> |

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| <p>17. Amenity grassland at the site should be kept short to deter reptiles from using the site before development works begin.</p> <p>Reason: To minimise any potential impact on reptiles.</p> | <p>The condition requires grassland at the site to be kept short. It fails NPPF tests: 2. "Relevant to planning"; and 4. "Enforceable".</p> <p>Delete the condition in its entirety and move to the "advisory/informative notes" section.</p> |
| <p>22. Prior to commencement of development, details shall be submitted to the Local Planning Authority demonstrating how the holiday cottages are to be constructed in accordance with the stipulations within section 6 of the Flood Risk Assessment (FRA) dated April 2017, Report Ref: 1358/RE/01-15/01 REVISION A, namely 'Fluvial Flood Risk Mitigation and Evacuation'. These details shall include flood resilient construction, a water exclusion strategy, and finished floor levels.</p> <p>Reason: To reduce the risk of flooding to the proposed development and contribute to the safety of future occupants during extreme weather events.</p> | <p>The condition relates to construction methods and should be dealt with through Building Regs. It fails NPPF test: 2. "Relevant to planning".</p> <p>Remove condition.</p> |
| <p>23. Prior to the first occupation of the development hereby permitted, a flood evacuation plan shall be submitted to and agreed in writing with the Local Planning Authority, along with a scheme for the erection of flood warning notices to include details of numbers, positions and wording. The notices shall be erected prior to the first occupation of the development hereby permitted and thereafter kept legible and clear of obstruction.</p> <p>Reason: To contribute to the safety of future occupants during extreme weather events.</p> | <p>The condition requires a flood evacuation plan to be submitted and approved. It fails NPPF test: 2. "relevant to planning".</p> <p>Delete the condition in its entirety and move to the "advisory/informative notes" section.</p> |

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| <p>24. Prior to the first occupation of the holiday units hereby permitted the owners/managers of all the holiday units shall sign up for flood warnings from the Environment Agency (or subsequent organisation) and shall be continued for the lifetime of all the holiday units.</p> <p>Reason: To contribute to the safety of future occupants during extreme weather events.</p> | <p>The condition requires owners/managers to sign up for EA Flood warnings. It fails NPPF test: 2. "relevant to planning".</p> <p>Delete the condition in its entirety and move to the "advisory/informative notes" section.</p> |
| <p>25. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) no building, structure, or enclosure permitted by Classes A, B, C, D, E, and F of Schedule 2 Part 1, or Class A of Schedule 2 Part 2 shall be erected unless planning permission has first been granted by the Local Planning Authority.</p> <p>Reason: In the interests of the satisfactory appearance of the development and to safeguard the character and appearance of the area in accordance with Policy DP4 of the Development Management Policies - Development Plan Document and Policy THU1 of the Site Specifics Policy Local Plan.</p> | <p>The condition restricts PD rights. Policy THU1 does not require such restriction. It fails NPPF tests: 1. "Necessary"; 4. "Enforceable"; and 6. "Reasonable in all other respects."</p> <p>Remove condition.</p> |

1.6 No additional or amended development is proposed in this application.

2 Site history

2.1 BA/1990/3082/HISTAP - Single storey extension to chalets. Approved with conditions, March 1990.

BA/1991/0055/HISTAP - Alterations to chalets to form new bedrooms with en suite facilities. Refused, September 1991.

BA/1991/0083/HISTAP - Alterations to chalets to form new bedrooms with en-suite facilities. Approved with conditions, January 1992.

BA/2016/0009/OUT - Redevelop Hedera House to form 6 residential dwellings and 10 new holiday cottages. Withdrawn

BA/2017/0103/OUT - Outline application to redevelop Hedera House to form 6 residential dwellings and 10 new holiday cottages. Approved with conditions, September 2017.

3 Consultation

Parish Council - The view of the Parish Council is that to relax or remove any of the conditions would make a bad decision even worse.

- Condition 3. This is a normal condition under most planning grants and must be adhered to.
- Condition 4. The time allowed to commence the contract must stay. The contract time may be for various reasons difficult to fix, so could be relaxed.
- Conditions 5 & 6. If removed would render the original argument for "Market Housing" pointless; would change the whole concept of the site as holiday lets into a commercial housing development and would, in effect, change the local "Site Specific" designation and make the "Market Housing" argument redundant. Under 2015 legislation this would surely have to be referred to the Secretary of State as a change to the agreed Local Plan.
- It also brings into focus a claim by the Parish Council for a contribution from the developers in the future.
- Conditions 11, 12 & 13. Must be retained as the access road has a 60 mile per hour speed limit and therefore safety must be a top priority.

In view of the fact that this matter may have to be referred back to the Secretary of State, if the terms of the Structure Plan are altered in due course, it would seem better to ask the Minister at this stage to "call in" the whole application for an independent decision.

If the Broads Authority thought the conditions necessary in the first place, why would they want to change them now.

NCC Highways

Conditions 5 and 6: no objection to the rewording of the conditions as proposed.

Condition 12: to remove this condition would mean that safe and suitable access would not be achievable to all.

Condition 13: to remove this condition would mean that safe and suitable access would not be achievable to all.

BA Ecologist

Condition 17: This should stay in as a condition to protect reptiles from injury and death (as protected under the Wildlife & Countryside Act).

BA Tree Officer

No objection, none of the proposed conditions have implications on the arboricultural element of the application.

BA Landscape Officer

Condition 3: If this condition was to have this wording deleted, there would need to be another form of wording to ensure that the materials would be retained for the foreseeable future.

Condition 12: This condition is intended to maintain safety and traffic movement by ensuring that there is enough space for a vehicle turning into the site from the highway to pass a vehicle waiting to exit the site. This seems reasonable and I would expect Highways to want to retain the condition.

Condition 13: I would not support the deletion of this condition. The applicant should be encouraged to provide a drawing to show how the visibility splay can be achieved with minimal impact on existing trees and hedges.

Condition 17: The condition requires grass to be kept short to deter reptiles from using it prior to construction. This would not be a particularly onerous task and depending on the timing of construction in relation to the grass growing season, could amount to just a few cuts.

4 Representations

Six responses to the public consultation were received from Thurne residents which raised a number of points which are summarised as follows:

- Condition 4: The new application seeks to further weaken the requirement to build holiday units by removing any time constraint over their construction. I submit that it is an essential part of the Consent that a Developer should be required to complete the 10 holiday units. If the time limit for the start of building the holiday accommodation is removed, this will no doubt result in none of the properties being built.
- Conditions 5 and 6: By lifting conditions 5 & 6, the whole basis of the application will be changed and the site will be nothing more than another commercial housing project. This will be a change to the local "Site Specific" structural plan.
- Condition 6: The Broads Authority have for many years been advocating that holidays in the Broads area should have more land based holiday accommodation, which if approved the changes to conditions will result in there being less holiday accommodation in the heart of the Broads.
- Condition 13: The new application tries to remove this condition, claiming it should have been dealt with at the time of the original application. I suggest that if this claim is correct then the original Consent should be withdrawn until the required details are submitted and accepted.

- I expect this application to be refused. Why would the Broads Authority apply them in the first place if they were not deemed necessary, and in line with area policy?

In addition one letter was received in support of the redevelopment of the site but not making remarks pertinent to this application.

5 Policies

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

[Site Specific Policies Local Plan \(adopted 2014\)](#)

- 5.2 THU1 - Tourism Development at Hedera House, Thurne

Neighbourhood Plans

- 5.3 There is no Neighbourhood Plan in force in this area.

Material consideration

- 5.4 The NPPF is a material consideration in the determination of this application

6 Assessment

- 6.1 In terms of assessment, for clarity it is considered appropriate to address each of the conditions which are proposed to be varied or removed from the permission in turn. It should be noted that since the granting of the permission there has been no change in the circumstances of the site, other than the granting of permission for a restaurant extension (commenced) and administration centre, and there has been no change in planning policy or guidance.

- 6.2 Members will be aware that para 206 of the NPPF set out the six tests that all planning conditions should meet, namely that they should be:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects.

Further guidance on this is provided in the Planning Practice Guidance, an extract of which is appended to this report.

Condition 3 - Details of materials

- 6.3 The approved scheme being an outline permission required the inclusion of a precisely worded condition requiring the submission of matters which were reserved, in this case the precise details of the materials to be used in the construction of the external walls, roofs and openings of the buildings hereby permitted, and on the hard surfaced areas of the site. The applicant does not raise issue with the need to supply these details, the suggested variation to this condition is to remove the requirement to retain the approved materials in perpetuity. The requirement to retain materials in perpetuity does not mean that works within the definition of maintenance could not be carried out, and these would fall outside the definition of development and therefore would not require planning permission anyway. In making an argument for the removal of the words 'and retained in perpetuity', the applicant has drawn attention to one of the reasons for requiring the condition wording, namely that better performing materials may become available. Whilst the need to replace elements of a dwellinghouse can lead to people considering alternative materials, or perhaps they may see it as a way of improving the dwellinghouse, such materials can have an appearance that would be detrimental to the overall character and appearance of a building.
- 6.4 In the case of the Hedera House redevelopment, the layout and design of the buildings has been done in a way to provide a cohesive appearance across the collection of properties, with three distinct pockets of design and appearance within the overall site. There has been considerable effort put into ensuring a suitable standard of design and appearance which was ongoing through the previous withdrawn application, culminating in the scheme as approved. To allow for the possibility that materials and as such appearance and character would be altered at one property without a mechanism to ensure this is given due consideration would have the potential to cause a detrimental impact to the group of properties, the subject site, and the surrounding area. Taking into account consultation responses, particularly in terms of landscape impacts, the consistent appearance and resulting rhythm of development was considered an essential part of the application being considered acceptable, hence the need to word Condition 3 in reasonably precise terms. It is considered that a change in materials which would result in a difference of appearance, say from timber cladding to plastic cladding, would be considered development and would not be permitted development, however whilst the argument in terms of the wording in question being 'necessary' and 'reasonable', it is considered that, given the importance of maintaining the fundamentals of character and appearance, a meticulous approach to the wording of planning conditions is reasonable.
- 6.5 In addition to arguing that the condition is not 'necessary' or 'reasonable', the applicant also contends that the condition is not 'enforceable'. This is incorrect, because were the materials to be changed and were this to take place without the required permission (i.e. if it were not considered permitted development) and were the changes to be unacceptable the LPA has a range of statutory mechanisms available to it to address the matter and require compliance with the condition. These measures might include a breach of condition notice, against which there is no right of appeal and which could

require full compliance with the condition. This is a considerable and effective enforcement power and would result in the maintenance of character and appearance which is the purpose of the condition in question. It is also noted that the LPA has a proactive programme of condition monitoring and ensuring that the development is constructed and retained in accordance with the specified conditions is not onerous.

- 6.6 It is therefore considered Condition 3 as applied passes the six tests as stipulated in paragraph 206 of the NPPF and should be retained. Removing the condition would potentially undermine the character and appearance of the development which would be detrimental to the site and surroundings.

Condition 4 - Timetable for construction of holiday lets

- 6.7 The application proposes the removal of this condition. This particular condition goes to the heart of the acceptability of this scheme as it ensures that the enabling development is delivered in order to provide the funds necessary to construct the replacement holiday accommodation, and that these holiday units are duly constructed. The question of viability is a thorny one and responses from members of the public have consistently questioned how the provision of replacement holiday lets would not be viable given that the resulting development would be an ongoing business. In planning terms it is accepted that the initial capital investment in realising a development of this nature and scale, taking into account the existing form of holiday accommodation at the site and the aspiration to see a form of development which is more appropriate to a sensitive landscape within a National Park, would be expensive and this will limit the attractiveness of the site and potentially frustrate a scheme coming forward. Such a recognition, combined with the need for some redevelopment here, resulted in the site specific policy for Thurne, namely Policy THU1. This policy is under the heading 'Tourism Development at Hedera House', the wording of the policy and the supporting text puts tourism use at the forefront of the requirement for redeveloping the site, with any market housing being accepted only as required as enabling development. It is accepted that in order to raise the necessary capital some of the enabling development would need to be provided first, to generate the funds for the tourism use element of the scheme. To remove Condition 4 as proposed, however, would allow for the enabling development to be delivered with no requirement for the profit from the sale of houses on the open market to be put back into the site to fund the holiday accommodation, and the provision of this accommodation would be unconditioned. The removal of this condition would fundamentally undermine the purpose of Policy THU1 as it provides no safeguard for the delivery of the entire scheme as approved and would in effect have allowed a housing development on a site which otherwise would not be considered appropriate for such a development, as it is only in the delivery of the tourism element that the scheme is considered acceptable. Whilst there is a requirement for development to commence within 3 years of the date of decision, there is no requirement for a development to be completed unless stipulated within planning conditions, and this is the very reason for the wording of Condition 4.

- 6.8 When considering whether the condition is 'enforceable', it is the case that the triggers are clear, as is what needs to be done. The Agent cites the range of external factors that influence decisions to complete a development, using this to argue unenforceability. In this case the development, subject to these very conditions, would only be viewed as a single development, and whilst timing may be an issue that is not something which reasonably justifies the removal of any form of safeguard for the delivery of a scheme – put simply, the developer in deciding when to commence works will need to look at the viability of the scheme overall and not simply cherry-pick on the basis of the viability of one element what will be constructed. Taking into account the average time for a house to be constructed, the reasonably straightforward demolition of existing structures, and the resilience of the housing market, a period of 12 months between commencement on the enabling development and commencement of the development being enabled is considered realistic.
- 6.9 With regard to the enforceability of this condition, it is noted that if the condition were removed as proposed there would be no mechanism at all to ensure the provision of the holiday accommodation, which would undermine the whole scheme.
- 6.10 It is therefore considered Condition 4 as applied passes the six tests as stipulated in paragraph 206 of the NPPF and should be retained. Removing the condition would fundamentally undermine the purpose and thrust of the site specific policy THU1 upon which this scheme was deemed acceptable.

Condition 5 - Use restriction

- 6.11 The application proposes the variation of this condition to allow the general market housing to be used as second or holiday homes. The approved application included 6 general market housing units, the site is not within or adjacent to a development boundary and as such would be contrary to Policy DP22 of the Development Management Policies DPD. The acceptability of this scheme is on the basis of Policy THU1 alone and through the demonstration of the need for housing to make the scheme viable. Taking into account the rural location of the village of Thurne, additional housing in this location has the capacity to meet local needs and make a telling contribution to viability and vitality of the village. In allowing a portion of residential development, which will have some bearing on the village, it would not be sound planning to not require that the housing be utilised as primary residences, this would ensure that the development integrates with the village and brings the inherent benefits that come from reinforcing the population of the village. To allow for the use of the properties as second homes, for example, would potentially reduce the benefit to the village and would have the effect of reinforcing the seasonality of the site, particularly in winter months when demand for holiday accommodation is at its lowest. To provide a development which engages with the village of which it is a part is considered to be essential to the acceptability of the scheme, and the only way to ensure that the village benefits from development within its area.

- 6.12 Policy THU1 makes the stipulation that the general market provision shall be provided to deliver satisfactory development. The Local Planning Authority considers that satisfactory development would be a provision of housing which has demonstrable benefit to the village in which it is located, and the advantage of a primary dwelling over a second home are demonstrable. The policy also requires that a form which strengthens the rural character of the village be provided, form which encompasses usage is directly applicable here, and the overriding character of the village is of a rural community. Therefore to reinforce the village it is necessary to require that the general market housing is occupied in a form that clearly has importance to the village.
- 6.13 It is therefore considered Condition 5 as applied passes the six tests as stipulated in paragraph 206 of the NPPF and should be retained. Removing the requirement for the general market housing units to be the primary residence would not provide development for the benefit of the village and would not contribute to the vitality and viability of the village.

Condition 6 - Occupation of holiday lets

- 6.14 The application proposes the variation of this condition to ensure the use of the holiday units is restricted to short let holiday use only and not use as permanent residential accommodation. Policy THU1 under section (i) states that holiday accommodation should be available as short-stay lets. The applicant contends that 'a condition should not seek to restrict holiday length', however the adopted policy specifically states that the holiday use must be short-stay, this is imprecise in terms of wording an appropriate condition which allows for the Local Planning Authority to, in accordance with policy, define what length a short-stay holiday could plausibly be. It is the view of the LPA that, in considering what is constitutes a short-stay, it has taken a very generous approach in stipulating a maximum of 6 weeks. This figure does not reflect the available statistics in terms of the average length of a domestic holiday in the United Kingdom which demonstrate that less than 2 weeks is the average. This could arguably be a reasonable basis for establishing what a short-stay holiday is. However, in making the limit too restrictive it does not take into account the range of holiday periods which are likely to influence the average, as such the figure of 6 weeks is considered a reasonable maximum. The stipulation of a maximum stay is considered 'necessary' as it is the only way to be assured the proposal accords with section (i) of Policy THU1, in the same way it is 'relevant to planning'. This is crucial as without a restriction there is no mechanism to ensure that the holiday accommodation functions as required, it would in effect allow the potential for the properties to be used as second homes or even as a primary residence, this would undermine the purpose of the Policy and the protection the current use of the site is afforded. It is 'enforceable' as the wording of the condition requires the keeping of a register of bookings which be made available for inspection. It is 'reasonable in all other respects' as the condition simply and effectively conveys the very clear purpose of the site specific policy.

- 6.15 It is therefore considered Condition 6 as applied passes the six tests as stipulated in paragraph 206 of the NPPF and should be retained. Rewording the condition without a maximum stay limit would not restrict holiday length in any way and certainly not to short-stay holidays, therefore it would cause the application to be contrary to site specific policy THU1 upon which this scheme was deemed acceptable.

Condition 7 - Disabled friendly holiday bungalow - Lifetime Homes Standards

- 6.16 The application proposes the removal of this condition. The proposed holiday units included one bungalow which was stipulated on the submitted plans as 'Disabled friendly holiday bungalow'. There is nothing in the supporting documents to demonstrate how this would be delivered, and the concern of the LPA is that a less meticulous developer would consider the single storey layout with a ramp to the front door would be sufficient in delivering disabled friendly accommodation. Therefore, in order to provide certainty that the unit in question would be suitable for the clearly stated intention for its purpose, it is 'necessary' and reasonable to include a condition requiring conformity with minimum acceptable standards for disabled friendly accommodation. Without this condition there is no mechanism to ensure delivery of the unit as stated on the approved plans.
- 6.17 It is therefore considered Condition 7 as applied passes the six tests as stipulated in paragraph 206 of the NPPF and should be retained. Removing the condition would allow for development which does not accord with minimum standards regarding the stated purpose of the unit of holiday accommodation.

Condition 10 - Obscured glazing

- 6.18 The application proposes the removal of this condition. The holiday units numbered 1H, 2H, 3H, and 4H are sited close to the southern boundary of the site. A short distance to the south of the southern boundary is a residential property which features a bedroom at first floor level. It is noted that ground level is higher on the adjacent site. The separation between the neighbouring property and the proposed units was considered sufficient to ensure no undue impact on residential amenity. When considering privacy it was noted that there were no windows in the proposed units at first floor level facing the neighbouring property, this would ensure no direct views into the first floor bedroom window of that property. At ground floor the windows, however, served a WC and as such it is reasonable to require the windows to be obscure glazed and for this to be maintained for the lifetime of the development. However it is accepted that there are existing holiday units in the same location and these do feature ground floor windows facing the neighbouring property, as such it could be argued that the proposed scheme would not result in any additional loss of privacy for neighbouring residents above the existing situation, and with this in mind it is considered that removal of this condition is not unreasonable.

- 6.19 It is therefore considered Condition 10 as applied is not 'necessary' to make the proposed scheme acceptable in planning terms and the removal of this condition is supported.

Condition 12 - Private driveway dimensions

- 6.20 The application proposes the removal of this condition. In response to a consultation request Norfolk County Council as Highways Authority considered the proposed scheme and considered it acceptable subject to a number of Conditions and Informatives. Having now considered this application, specifically the request for the removal of Condition 12, the Highways Authority provided the following analysis.
- 6.21 "As you will be aware the Outline application sought for access to be determined at outline stage and this Condition refers to access issues and the safety thereof. This Condition was recommended in the LHA's initial response to the outline application dated 1 June 2017. The condition relative to the interests of highway safety in order to ensure vehicles can safely wait in the access whilst ensuring there is sufficient space for another vehicle to enter the development safely without causing undue obstruction or manoeuvring on the public highway. Given the restricted nature of the local highway network I consider without such a condition, conditions detrimental to highway safety would occur.
- 6.22 I would also draw your attention to Paragraph 32 of the NPPF. Paragraph 32 states that development should only be prevented where the residual cumulative impacts are severe. It also points that all development should take account of whether safe and suitable access can be achieved for all people, and I would refer to The High Court judgment in the Mayowa-Emmanuel Case. That judgement ruled that that part of paragraph 32 addresses matters of highway capacity and congestion and that the test does not apply to highway safety and because of the risks to highway safety resulting from the proposed access arrangements, and the absence of a safe pedestrian route to the appeal proposal would fail to provide safe and suitable access for all. It does, therefore, conflict with paragraph 32 and would result in considerable harm to highway safety".
- 6.23 Given Condition 12 relates to highway and public safety in the determination and operational acceptance of the access requirements for the development, to remove this condition would mean that safe and suitable access would not be achievable to all. Furthermore I cannot perceive how this could not meet the appropriate criteria of "Necessary". Accordingly the LHA do not recommend removal of this condition."
- 6.24 Highways are a statutory consultee and our technical experts on highways related issues, they are not satisfied that the condition can be dispensed with without having an adverse impact on highway safety. We have no evidence to counter their professional view, and the applicants have made no argument to justify removal. The proposed condition relates to safe site access by allowing sufficient distance for cars to enter and leave the site without having

to queue on the highway or have to perform potentially unsafe manoeuvres adjacent to pedestrian areas. Condition 12 is therefore considered necessary and the Highways Authority are of the view that the condition is justified.

- 6.25 Taking into account the above analysis, it is therefore considered that Condition 12 as applied passes the six tests as stipulated in paragraph 206 of the NPPF and should be retained.

Condition 13 - Visibility splay

- 6.26 The application proposes the removal of this condition. Having considered this application, specifically the removal of Condition 13, the Highways Authority provided the following analysis:
- 6.27 “The LHA accept that matters pertaining to access were to be determined as part of the outline application, and indeed in the LHA's initial response to the outline application dated 1 June 2017 recommend an appropriate condition to be applied to any grant of permission in respect of visibility splays at the access. However, you will be aware that following the LPA Member site visit issues were raised regarding the loss of the hedge to achieve visibility and whether there was a need to remove the hedge in its entirety. The LHA duly responded to this in an email dated 16 August 2017 in which various options were put forward for further consideration with a request for further plans to be submitted in order that the LHA could give appropriate consideration, nor are the LHA aware of whether further information was requested or the whether the LPA just attached condition 13 in this respect.

It is therefore for the LPA to determine whether this condition is appropriate in terms of addressing determination of access. However, I would point out that in highway terms, visibility is most probably one of the most important factors in terms of road safety and therefore I do not consider unreasonable for the LPA to attach this condition to ensure appropriate visibility is provided at the access.

I would again draw your attention to paragraph 32 in relation to safe and suitable access for all and as this matter relates to highway and public safety in the determination and operational acceptance of the access requirements for the development I again cannot perceive how this could not meet the appropriate NPPF test criteria and would, if removed conflict with the requirement of paragraph 32 of the NPPF. Accordingly the Highway Authority do not recommend removal of this condition.”

- 6.28 The above analysis gives a clear conclusion on the purpose of Condition 13. As originally proposed (under ref BA/2016/0009/OUT) the scheme did not include a visibility splay, the LHA consultation response suggested a 2.4m visibility splay and the subsequent proposal (as approved under ref BA/2017/0103/OUT) incorporated this suggestion. As noted above, during the Members site visit the potential retention of part of the western boundary treatment was raised, this was in turn discussed the LHA who responded that it may be possible to retain some of the boundary, but a plan demonstrating

visibility would be required. Time constraints did not allow for this to be done in time for the Planning Committee meeting, therefore it was agreed to deal with this aspect by way of Condition.

- 6.29 A Condition was necessary to ensure the required visibility splay was provided and maintained. The wording of the Condition sought to ensure retention of any existing boundary planting adjacent to the highway where possible. This itself was in response to Members observations, and itself reflected the aspirations of the applicants as stated in a letter dated 28 June 2017 and included with the application documents under 'Response to Consultee observations'. Taking this into account it is considered that the proposed Condition is a reasonable approach to obtaining the required information and would contribute to the most effective solution for this boundary which would allow the proposal to accord with section (iv) of Policy THU1. It is therefore considered Condition 13 as applied passes the six tests as stipulated in paragraph 206 of the NPPF and should be retained.

Condition 17 - Cutting of amenity grassland prior to construction

- 6.30 The application proposes the removal of this condition. The protection of reptiles from injury and death is provided under the Wildlife & Countryside Act. It is accepted that this is sufficient in stipulating that protection is obligatory, however the actual process of carrying out sufficient preparation for a development to ensure that the requirements of the aforementioned Act are met is not specified, therefore it is considered that such information is relevant to provide for the care of protected species. As this is an essential undertaking which should be a continued practice at the site and therefore relevant to the acceptability of redevelopment of this site it is considered appropriate to include this information within the permission. However it is accepted that the Wildlife & Countryside Act provides protection for protected species and only the act of harm is actionable.
- 6.31 It is therefore considered that the protection afforded under Condition 17 is covered by separate a regulatory requirement and that the Condition could reasonably be restated as an Informative.

Condition 22 - Flood resilient construction

- 6.32 The application proposes the removal of this condition. There are considerations of flood risk in Building Regulations Approved Document C, however this information is not sufficient when considered against the requirements outlined in the Flood Risk Assessment submitted with the planning application. Approved Document C refers the reader to a Government guidance document entitled 'Improving the flood performance of new buildings - Flood resilient construction'. Taking into account the lack of regulation specific to the planning application and the statements within the submitted Flood Risk Assessment, as required by paragraph 103 of the NPPF, it is considered that the only way to be certain that sufficient consideration has been given to flood resilient construction, a water exclusion strategy, and finished floor levels is through the imposition of Condition 22. It

is therefore considered that this Condition is relevant to planning, and the wording of the requirements is specific to the extent that enforcement action on the basis of the wording would be feasible.

- 6.33 It is therefore considered Condition 22 as applied passes the six tests as stipulated in paragraph 206 of the NPPF and should be retained. Removing the condition would allow for development which does not sufficiently considered and address issues of flood risk.

Conditions 23 and 24 - Flood evacuation plan and EA Flood Warnings

- 6.34 The application proposes the removal of this condition. Requirement of a Flood Risk Assessment (FRA) is stipulated by the NPPF, the submitted FRA concludes that a Family Flood Plan, Business Flood Plan, and registration with EA Flood Warnings Direct are required to ensure safety during times of flooding. Residing in a flood risk area would reasonably require a person or persons to make themselves aware of how to respond to flooding. However, the majority of persons at the subject site would be visitors utilising the holiday accommodation, it is therefore the responsibility of the business managing the accommodation to ensure the safety of all visitors, as such a Business Flood Plan is a basic requirement which would not be assured except through the imposition of a Condition specifying this.
- 6.35 Registration with EA Flood Warnings Direct is again a conclusion within the submitted FRA but not one which can be imposed upon owners and operators of the holiday accommodation except through the imposition of a Condition.
- 6.36 Conditions 23 and 24 are relevant to planning as without being assured of the safety of all visitors to the subject site and the provision of safe access and escape routes the decision would not be in accordance with National and Local planning policy and would not satisfy the measures proposed by the FRA submitted on behalf of the applicants.
- 6.37 It is therefore considered Conditions 23 and 24 as applied pass the six tests as stipulated in paragraph 206 of the NPPF and should be retained. Removing the condition would allow for development which does not sufficiently considered and address issues of flood risk.

Condition 25 - Removal of Permitted Development rights

- 6.38 The application proposes the removal of this condition As noted at paragraph 6.4 above, the layout and design of the approved buildings has been done in a way to provide a cohesive appearance across the collection of properties, with three distinct pockets of design and appearance within the overall site. There has been considerable effort put into ensuring a suitable standard of design and appearance which was ongoing through the previous withdrawn application, culminating in the scheme as approved.
- 6.39 Permitted Development rights under Classes A, B, C, D, E, and F of Schedule 2 Part 1, or Class A of Schedule 2 Part 2 are contained within a document

that applies to all dwellinghouses in England and Wales, as such their application is generic and without specific consideration. Taking into account the sensitivity of the subject site and the importance of achieving identifiable and measured pockets of development, the restriction of Permitted Development (PD) rights is considered essential to ensure no avoidable impact on the appearance and setting of the properties, and their appearance within the wider landscape. A certain level of well-considered uniformity allows for a development to meld within its setting, and this has been a driving principle in negotiations for an acceptable scheme. The inclusion of extensions such as box dormers, sizable conservatories, would undermine the appearance of the site and have implications for wider landscape setting, particularly taking into account the open aspect to the south and east of the site. Such additions if included in the submitted scheme would not have resulted in a development which would be acceptable, therefore the restricting the potential for such unacceptable development is an essential part of ensuring that the development is satisfactory for the lifetime of development.

- 6.40 The restriction of the specified PD rights does not restrict the potential to develop the approved properties, it simply allows for a sensible and realistic mechanism to control future development of the approved properties. This would be achieved by requirement of appropriate design and use of materials, of form and scale fitting for the approved development, which must be controlled by the appropriate planning process.
- 6.41 It is therefore considered Condition 25 as applied passes the six tests as stipulated in paragraph 206 of the NPPF and should be retained. Removing the condition would potentially undermine the character and appearance of the development which would be detrimental to the site and surroundings.

7 Conclusion

- 7.1 The application proposes varying three conditions and removing ten conditions. The majority of this proposal would have the effect of undermining the acceptability of the scheme and its compatibility with the Site Specific Policy THU1.
- 7.2 It is considered that conditions 3: materials, 4: construction/completion timescales, 5: occupational restrictions, 6: holiday use restrictions, 7: disabled friendly accommodation, 12: driveway details, 13: visibility splay, 22: flood resilient construction, 23: flood evacuation plan, 24: EA flood warnings, and 25: restriction of permitted development rights satisfy the six tests at paragraph 206 of the National Planning Policy Framework and the removal or suggested variance of these conditions would be contrary to Site Specific Policy THU1.
- 7.3 It is considered that conditions 10: obscured glazing could reasonably be removed as it would not worsen the existing situation regarding neighbouring residential amenity, and that condition 17: amenity grassland could reasonably be moved to the Informative section as the underlying protection of reptiles is achieved through a separated regulatory requirement.

8 Recommendation

- 8.1 Approve in respect of the removal of Condition 10 and to move Condition 17 to Informatives, with all other conditions being restated as originally imposed which amounts, in effect to refusing the application to vary or remove them.

9 Reason for recommendation

- 9.1 The proposed variation of conditions 3: materials, 5: occupational restrictions and 6: holiday use restrictions, and removal of conditions 4: construction/completion timescales, 7: disabled friendly accommodation, 12: driveway details, 13: visibility splay, 22: flood resilient construction, 23: flood evacuation plan, 24: EA flood warnings, and 25: restriction of permitted development rights of BA/2017/0103/OUT is considered contrary to Policy THU1 of the Site Specific Policies Local Plan, Policies CS1, CS4, CS9, CS20 and CS24 of the Core Strategy (2007), Policies DP1, DP2, DP4, DP11, and DP29 of the Development Plan Document (2011), and the National Planning Policy Framework (2012) which is a material consideration in the determination of this application, along with National Planning Practice Guidance.

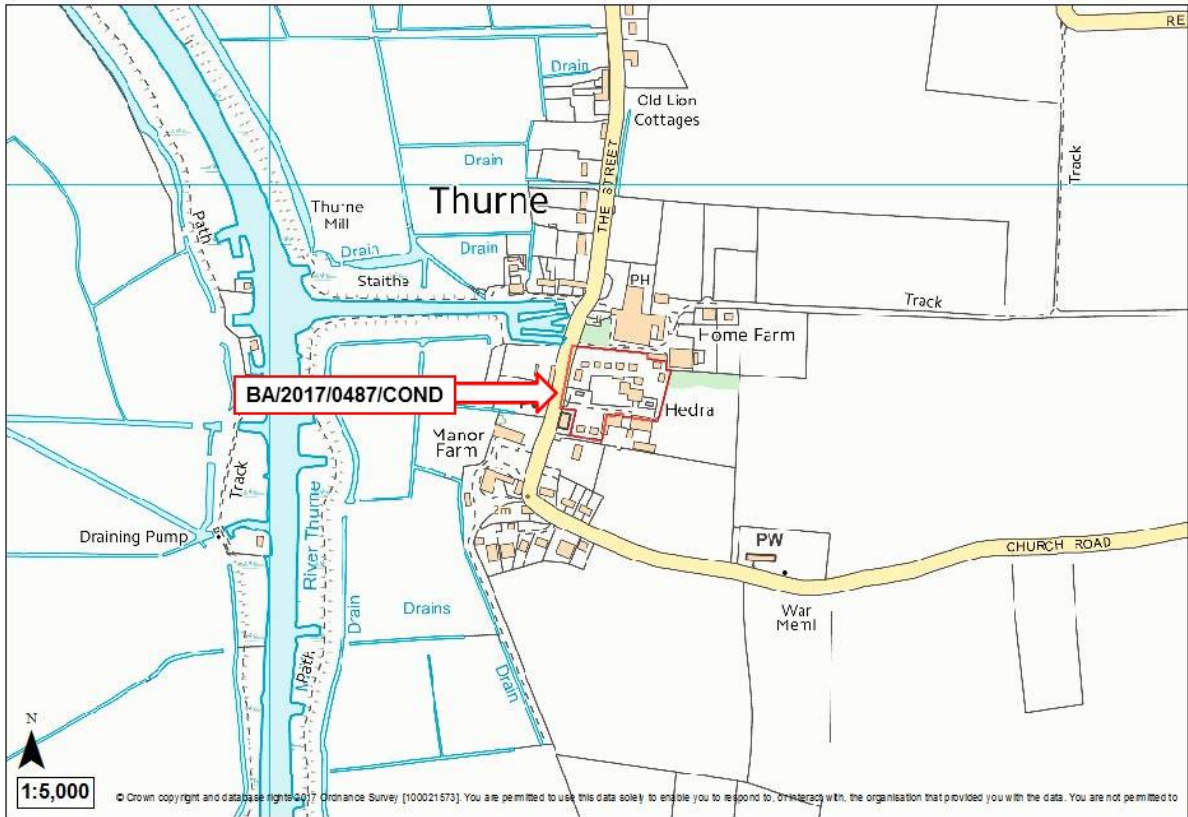
List of Appendices: Appendix A - Location Plan
 Appendix B - Extract from National Planning Practice Guidance
 Appendix C – The 6 Tests

Background papers: Application File BA/2017/0487/COND and BA/2017/0103/OUT

Author: Nigel Catherall
Date of Report: 15 February 2018

APPENDIX A

BA/2017/0487/COND - Hedera House



The following is an extract from National Planning Practice Guidance - Use of planning conditions.

Why are conditions imposed on a planning permission?

When used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls.

What is the government's policy on the use of conditions in planning permissions?

[Paragraph 203](#) of the National Planning Policy Framework states "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions"

[Paragraph 206](#) of the National Planning Policy Framework states "Planning conditions should only be imposed where they are:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects."

The policy requirement above is referred to in this guidance as the 6 tests.

How does the Local Planning Authority ensure that the 6 tests in paragraph 206 of the National Planning Policy Framework have been met?

Whether it is appropriate for the Local Planning Authority to impose a condition on a grant of planning permission will depend on the specifics of the case. Conditions should help to deliver development plan policy and accord with the requirements of the National Planning Policy Framework, including satisfying the 6 tests for conditions.

The 6 tests must all be satisfied each time a decision to grant planning permission subject to conditions is made. The tests are set out in the following table, alongside key considerations:

Are there any circumstances where planning conditions should not be used?

Any proposed condition that fails to meet any of the [6 tests](#) should not be used. This applies even if the applicant suggests it or agrees on its terms or it is suggested by the members of a planning committee or a third party. Every condition must always be justified by the local planning authority on its own planning merits on a case by case basis. Specific circumstances where conditions should not be used include:

- **Conditions which unreasonably impact on the deliverability of a development:**

Conditions which place unjustifiable and disproportionate financial burdens on an applicant will fail the test of reasonableness. In considering issues around viability, local planning authorities should consider policies in the National Planning Policy Framework and supporting guidance on [viability](#).

- **Conditions reserving outline application details:**

Where details have been submitted as part of an outline application, they must be treated by the local planning authority as forming part of the development for which the application is being made. Conditions cannot be used to reserve these details for subsequent approval. The exception is where the applicant has made it clear that the details have been submitted for illustration purposes only.

- **Conditions requiring the development to be carried out in its entirety:**

Conditions requiring a development to be carried out in its entirety will fail the test of necessity by requiring more than is needed to deal with the problem they are designed to solve. Such a condition is also likely to be difficult to enforce due to the range of external factors that can influence a decision whether or not to carry out and complete a development.

- **Conditions requiring compliance with other regulatory requirements (eg Building Regulations, Environmental Protection Act):**

Conditions requiring compliance with other regulatory regimes will not meet the test of necessity and may not be relevant to planning,

Can conditions be used to require the applicant to submit further details after permission has been granted?

For non outline applications, other than where it will clearly assist with the efficient and effective delivery of development, it is important that the local planning authority limits the use of conditions requiring their approval of further matters after permission has been granted. Where it is justified, the ability to impose conditions requiring submission and approval of further details extends to aspects of the development that are not fully described in the application (eg provision of car parking spaces).

Where it is practicable to do so, such conditions should be discussed with the applicant before permission is granted to ensure that unreasonable burdens are not being imposed. The local planning authority should ensure that the timing of submission of any further details meets with the planned sequence for developing

the site. Conditions that unnecessarily affect an applicant's ability to bring a development into use, allow a development to be occupied or otherwise impact on the proper implementation of the planning permission should not be used. A condition requiring the re-submission and approval of details that have already been submitted as part of the planning application is unlikely to pass the test of necessity.

Can conditions be used to modify plans and other details submitted with an application?

If a detail in a proposed development, or the lack of it, is unacceptable in planning terms the best course of action will often be for the applicant to be invited to revise the application. Where this involves significant changes this may result in the need for a fresh planning application.

Depending on the case, it may be possible for the local planning authority to impose a condition making a minor modification to the development permitted. A condition that modifies the development in such a way as to make it substantially different from that set out in the application should not be used.

What about conditions that are requested by third parties?

Third parties such as statutory consultees can suggest conditions to mitigate potential impacts and make a development acceptable in planning terms. The decision as to whether it is appropriate to impose such conditions rests with the local planning authority. As with any condition, the local planning authority should consider whether the [6 tests](#) will be met. Where third parties suggest conditions it is essential for them to first consider whether the [6 tests](#) will be met on a case by case basis with reference to the facts of the proposal under consideration. Blanket standard conditions should not be used without proper consideration of whether they are necessary, and if so, how they would apply to the case in question.

It is not appropriate to require in a condition that a development/requirement should be carried out to the satisfaction of a third party as this decision rests with the local planning authority.

Is it appropriate to use conditions to restrict the future use of permitted development rights or changes of use?

Conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#), so that it is clear exactly which rights have been limited or withdrawn. Area wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. The local planning authority also has powers under [article 4 of the Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#) to enable them to withdraw permitted development rights across a defined area.

What status do informative notes appended to decision notices have?

Informative notes allow the local planning authority to draw an applicant's attention to other relevant matters – for example the requirement to seek additional consents under other regimes. Informative notes do not carry any legal weight and cannot be used in lieu of planning conditions or a legal obligation to try and ensure adequate means of control for planning purposes.

The full guidance can be read through the following link:

<https://www.gov.uk/guidance/use-of-planning-conditions>

APPENDIX C

The 6 tests must all be satisfied each time a decision to grant planning permission subject to conditions is made. The tests are set out in the following table.

| TEST | KEY QUESTIONS |
|---|--|
| Necessary | <p>Will it be appropriate to refuse planning permission without the requirements imposed by the condition?</p> <ul style="list-style-type: none"> • A condition must not be imposed unless there is a definite planning reason for it, ie it is needed to make the development acceptable in planning terms. • If a condition is wider in scope than is necessary to achieve the desired objective it will fail the test of necessity. |
| Relevant to planning | <p>Does the condition relate to planning objectives and is it within the scope of the permission to which it is to be attached?</p> <ul style="list-style-type: none"> • A condition must not be used to control matters that are subject to specific control elsewhere in planning legislation (for example, advertisement control, listed building consents, or tree preservation). • Specific controls outside planning legislation may provide an alternative means of managing certain matters (for example, works on public highways often require highways' consent). |
| Relevant to the development to be permitted | <p>Does the condition fairly and reasonably relate to the development to be permitted?</p> <ul style="list-style-type: none"> • It is not sufficient that a condition is related to planning objectives: it must also be justified by the nature or impact of the development permitted. • A condition cannot be imposed in order to remedy a pre-existing problem or issue not created by the proposed development. |
| Enforceable | <p>Would it be practicably possible to enforce the condition?</p> <ul style="list-style-type: none"> • Unenforceable conditions include those for which it would, in practice, be impossible to detect a contravention or remedy any breach of the condition, or those concerned with matters over which the applicant has no control. |
| Precise | <p>Is the condition written in a way that makes it clear to the applicant and others what must be done to comply with it?</p> <ul style="list-style-type: none"> • Poorly worded conditions are those that do not clearly state what is required and when must not be used. |
| Reasonable in all other respects | <p>Is the condition reasonable?</p> <ul style="list-style-type: none"> • Conditions which place unjustifiable and disproportionate burdens on an applicant will fail the test of reasonableness. • Unreasonable conditions cannot be used to make development that is unacceptable in planning terms acceptable. |