

Reference: 06/15/0371/O

Parish: Bradwell

Officer: Mr G Clarke

Expiry Date: 24-07-2015

Applicant: Ms L Roll

Proposal: Construction of two detached bungalows, double garage and associated works with access from Harpers Lane

Site: 11 Fell Way
Bradwell

REPORT

1. Background / History :-

- 1.1 The application site is part of the garden of 11 Fell Way which is a two-storey dwelling, the vehicular access to the property is from a private drive which leads off the turning circle at the end of Fell Way. There are two houses on the east side of the private drive and two bungalows on the west side. There is residential development to the north, east and south boundaries of the site and a private road, Harpers Lane, running along the western boundary.
- 1.2 Permission was granted in 1987 for the nine dwellings around the turning head and private drive at the end of Fell Way (06/87/1134/F), a separate consent was granted in the same year for the individual dwelling at no. 11 Fell Way (06/87/1252/F).
- 1.3 The current proposal is to build two detached bungalows on the garden area to the west of the site with vehicular access off Harpers Lane. A planning application for a similar proposal (06/14/0422/O) was refused in November 2014 on the grounds that the increased use of Harpers Lane, which is also a bridleway, would result in conflict between users which would be detrimental to the safe use of the bridleway.

2 Consultations :-

- 2.1 Highways – No objections subject to conditions (full copy of Highways response is attached)

- 2.2 Parish – A very similar application was made on 1/7/14, ref: 06/14/0422/O, which was refused on the basis that the proposed access onto the bridleway would encourage increased vehicular movements and conflict between users to the detriment of the safe use of the bridleway and that the proposal therefore represents an unsustainable form of development that is conflict with the aims of the National Planning Policy Framework which seeks to create safe and accessible developments and is also contrary to Policy HOU15 and criterion (C) of Policy HOU7 which seek to ensure suitable and safe access and service provision for new developments.

This Council would submit that the above objections are equally applicable to the current application which should accordingly be refused and would further submit that no such additional use of the bridleway should be allowed until the landowners of the marshes at the end of the bridleway have given their consent.

- 2.3 Building Control – Can confirm that the proposal would appear to satisfy the requirements of Approved Document B (B5).
- 2.4 Norfolk Constabulary – Makes comments and suggestions regarding the security of the development.
- 2.5 Norfolk Fire & Rescue Service – I do not propose to raise any objections providing the proposal meets the necessary requirements of the current Building Regulations 2000 – Approved Document B (volume 1, 2006 edition, amended 2007) as administered by the Building Control Authority.
- 2.6 Neighbours – letters of objection have been received from the occupiers of two dwellings which have vehicular access from Harpers Lane, copies of which are attached. The main reason for objection is the use of Harpers Lane for vehicular access.

3 Policy :-

3.1 POLICY HOU7

NEW RESIDENTIAL DEVELOPMENT MAY BE PERMITTED WITHIN THE SETTLEMENT BOUNDARIES IDENTIFIED ON THE PROPOSALS MAP IN THE PARISHES OF BRADWELL, CAISTER, HEMSBY, ORMESBY ST MARGARET, AND MARTHAM AS WELL AS IN THE URBAN AREAS OF GREAT YARMOUTH AND GORLESTON. NEW SMALLER SCALE RESIDENTIAL DEVELOPMENTS* MAY ALSO BE PERMITTED WITHIN THE SETTLEMENT BOUNDARIES IDENTIFIED ON THE PROPOSALS MAP IN THE VILLAGES OF BELTON, FILBY, FLEGGBURGH, HOPTON-ON-SEA, AND WINTERTON. IN ALL CASES THE FOLLOWING CRITERIA SHOULD BE MET:

- (A) THE PROPOSAL WOULD NOT BE SIGNIFICANTLY DETRIMENTAL TO THE FORM, CHARACTER AND SETTING OF THE SETTLEMENT;

- (B) ALL PUBLIC UTILITIES ARE AVAILABLE INCLUDING FOUL OR SURFACE WATER DISPOSAL AND THERE ARE NO EXISTING CAPACITY CONSTRAINTS WHICH COULD PRECLUDE DEVELOPMENT OR IN THE CASE OF SURFACE WATER DRAINAGE, DISPOSAL CAN BE ACCEPTABLY ACHIEVED TO A WATERCOURSE OR BY MEANS OF SOAKAWAYS;
- (C) SUITABLE ACCESS ARRANGEMENTS CAN BE MADE;
- (D) AN ADEQUATE RANGE OF PUBLIC TRANSPORT, COMMUNITY, EDUCATION, OPEN SPACE/PLAY SPACE AND SOCIAL FACILITIES ARE AVAILABLE IN THE SETTLEMENT, OR WHERE SUCH FACILITIES ARE LACKING OR INADEQUATE, BUT ARE NECESSARILY REQUIRED TO BE PROVIDED OR IMPROVED AS A DIRECT CONSEQUENCE OF THE DEVELOPMENT, PROVISION OR IMPROVEMENT WILL BE AT A LEVEL DIRECTLY RELATED TO THE PROPOSAL AT THE DEVELOPER'S EXPENSE; AND,
- (E) THE PROPOSAL WOULD NOT BE SIGNIFICANTLY DETRIMENTAL TO THE RESIDENTIAL AMENITIES OF ADJOINING OCCUPIERS OR USERS OF LAND.

(Objective: To ensure an adequate supply of appropriately located housing land whilst safeguarding the character and form of settlements.)

* ie. developments generally comprising not more than 10 dwellings.

3.2 POLICY HOU15

ALL HOUSING DEVELOPMENT PROPOSALS INCLUDING REPLACEMENT DWELLINGS AND CHANGES OF USE WILL BE ASSESSED ACCORDING TO THEIR EFFECT ON RESIDENTIAL AMENITY, THE CHARACTER OF THE ENVIRONMENT, TRAFFIC GENERATION AND SERVICES. THEY WILL ALSO BE ASSESSED ACCORDING TO THE QUALITY OF THE ENVIRONMENT TO BE CREATED, INCLUDING APPROPRIATE CAR PARKING AND SERVICING PROVISION.

(Objective: To provide for a higher quality housing environment.)

3.3 POLICY HOU17

IN ASSESSING PROPOSALS FOR DEVELOPMENT THE BOROUGH COUNCIL WILL HAVE REGARD TO THE DENSITY OF THE SURROUNDING AREA. SUB-DIVISION OF PLOTS WILL BE RESISTED WHERE IT WOULD BE LIKELY TO LEAD TO DEVELOPMENT OUT OF CHARACTER AND SCALE WITH THE SURROUNDINGS.

(Objective: To safeguard the character of existing settlements.)

4 Assessment :-

- 4.1 The submitted proposal is in outline form with access, layout and scale included as part of the application, the drawing shows two detached bungalows with hipped roofs sited to the west of the existing dwelling. A pair of garages will be built between the two bungalows with vehicular access from Harpers Lane.
- 4.2 The two bungalows will be on similar size plots to the surrounding development and will not have any adverse effects on neighbouring properties. The only controversial aspect of the development is the proposed vehicular access onto Harpers Lane.
- 4.3 Harpers Lane is a single track road which has the status of also being a bridleway, it is surfaced up to and beyond the application site although the surface is not in good condition. The lane serves three dwellings, Highway Lodge and Breydon House which are near to the junction with Market Road and New House which is approximately 60 metres beyond the application site. The lane is also used by farm vehicles.
- 4.4 The objections from the neighbours and the Parish Council are on the basis that Harpers Lane is unsuitable to serve further dwellings and that vehicular access should be from Fell Way. Queries have also been raised as to whether the applicant has a right to form an access on to Harpers Lane and the potential obstruction of the bridleway by delivery vehicles and construction traffic.
- 4.5 The County Council's Highways Officer does not object to the proposal subject to the imposition of extensive conditions as listed on the attached letter. These conditions include the requirement to carry out a pre and post construction survey of the surface condition of the right of way and to rectify any damage, the submission of a construction traffic management plan and the provision of on-site parking for construction workers.
- 4.6 The Highways Officer also explains that "the outline application is for the development of two houses which do not abut a public vehicular road, but seeks to achieve vehicular and pedestrian access from a Bridleway (BR4) which appears to have some private rights of vehicle access over it. The bridleway status exists over land in private ownership and it is for the landowner to grant any private rights of vehicular access along it or access off of a bridleway. Norfolk County Council cannot grant such rights. It is the responsibility of the applicant to take all appropriate measures to secure a legal right of access and you may wish to bear this in mind in your consideration of the application."
- 4.7 The submitted site plan shows a section of Harpers Lane from the site boundary to Market Road/Burgh Road within the red line boundary, which demonstrates that access to the site can be obtained from the public highway. Whether the applicant has a legal right of access to Harpers Lane is not a planning matter, it is the applicant's responsibility to try to ascertain the

ownership of the lane and to take the necessary steps to ensure that access will not be denied. The development itself will not cause any obstruction to the right of way but during the course of construction there may be temporary blockages while deliveries are taking place. The Highways Officer has requested a condition requiring the submission of a construction traffic management plan and the provision of on-site parking for construction workers in order to minimise any potential obstruction of the bridleway.

- 4.8 It also has to be taken into account that the owners of 11 Fell Way could form a vehicular access from Harpers Lane to their existing dwelling as permitted development without the need for planning permission.
- 4.9 There will be space within the site for the parking of two cars for each dwelling and as the garages have been sited further back from Harpers Lane than on the previous application there will be some space for turning within the site. However as Harpers Lane is not a busy road the Highways Officer does not consider that it is essential that turning is provided within the site.
- 4.10 The development could be served by the access off Fell Way but this is narrow and the additional traffic would have to pass close to the front elevations of the dwellings which face the private drive. Whilst this may be acceptable in highway terms an access off Harpers Lane would have less impact on the occupiers of existing dwellings.
- 4.11 The proposed bungalows themselves will not have any significant effect on neighbours or the street scene, Highways have no objection to the use of Harpers Lane for vehicular access to the development and therefore it would be difficult to justify refusal of the application on highways grounds alone.

5 RECOMMENDATION :-

- 5.1 Approve – the proposal complies with Policies HOU7, HOU15 and HOU17 of the Great Yarmouth Borough-Wide Local Plan.

Approval should be subject to the conditions requested by Highways and removal of permitted development rights for extensions and windows in the roof space.

Graham Clarke
Great Yarmouth Borough Council
Town Hall
Hall Plain
Great Yarmouth
Norfolk
NR30 2QF

Your Ref: 06/15/0371/O
Date: 31 July 2015

My Ref: 9/6/15/0371
Tel No.: 01603 638070
Email: stuart.french@norfolk.gov.uk

Dear Graham

**Bradwell: Construction of 2 detached bungalows, double garage and associated works with access from harpers lane
11 Fell Way Bradwell Great Yarmouth Norfolk NR31 9UF**

Thank you for your recent consultation with respect to the above.

It is noted that the application is an amended submission to an earlier application (ref:06/14/0422/O) to which the Highway Authority raised no objections to subject to conditions being appended to any grant of permission.

It is noted that amendments have been made to demonstrate that there is space provided to allow a small delivery vehicle to turn and manoeuvre, which remains in the ownership of the applicant and is therefore considered as a means to facilitate manoeuvring and turning as opposed to formal turning provision. However, as with the previous application the turning provision is not considered as requisite to the Highway Authority. The turning head for the northern property is also noted.

Given this is a new application I will reiterate comments raised on the earlier application which are still relevant to this application.

The outline application is for the development of two houses which do not abut a public vehicular road, but seeks to achieve vehicular and pedestrian access from a Bridleway (BR4) which appears to have some private rights of vehicle access over it. The bridleway status exists over land in private ownership and it is for the landowner to grant any private rights of vehicular access along it or access off of a bridleway. Norfolk County Council can not grant such rights. It is the responsibility of the applicant to take all appropriate measures to secure a legal right of access and you may wish to bear this in mind in your consideration of the application.

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It is the responsibility of Norfolk County Council as Highway Authority to assert and protect public rights of way in Norfolk and usually a right of way is maintained at public expense with its surface being vested in the highway authority and the underlying land probably owned by the adjoining landowner. Rights of way are generally maintained to a standard appropriate to their location and public use.

There is concern, especially due to construction traffic that damage to the surface or obstruction of the right of way could occur. Any damage would need to be reinstated in agreement with the PROW Officer and any obstruction to the right of passage should not be permitted. The applicant may need to consider whether it would be appropriate to have a temporary closure order, with diversion route, in place.

I am satisfied that the application includes sufficient parking within the development boundary in accordance with current parking standards, and that in terms of the direct access with the public highway appropriate visibility is achieved. Whilst accepting that traffic movements will be generated as a result of this proposal, I do not consider that this will have a material effect on the highway network.

I am aware that the junction of Harper's Lane is on a bend on Market Road/Burgh Road and that there is a lack of road markings to define this junction and the edge of the actual carriageway. I consider it appropriate that the development should provide appropriate edge line markings to define both the junction and edge of carriageway, in a scheme to be agreed with the Highway Authority, which can be carried out under a Small Highway Works Agreement (SHWA).

However, in light of the above comments I do not consider that I could sustain an objection to the proposal as outlined, however, I would recommend that the following conditions be appended to any grant of permission your Authority is minded to make.

SHC 14 Notwithstanding the provision of Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking, amending or re-enacting that Order) no gates, bollard, chain or other means of obstruction shall be erected across the approved access unless details have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

SHC 24 Prior to the first occupation of the development hereby permitted the proposed access and on-site car parking shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.

Reason: To ensure the permanent availability of the parking / manoeuvring area, in the interests of highway safety.

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- SHC 28 Development not to commence until a scheme detailing provision for on-site parking for construction workers for the duration of the construction period has been submitted to and approved in writing by the Local Planning Authority, including having a temporary closure order in place if required. The scheme shall be implemented throughout the construction period.

Reason: To ensure adequate off-street parking during construction in the interests of highway safety and so as not to cause obstruction to a Public Right of Way

- SHC 29A Prior to the commencement of any works a Construction Traffic Management Plan and Access Route which shall incorporate adequate provision for addressing any abnormal wear and tear to the highway (including the Public Right of Way, Bridleway BR4), maintaining rights of access, and the nature and timing of deliveries and for maintaining rights of access and/or for any temporary closure order, shall be submitted to and approved in writing with the Local Planning Authority in consultation with Norfolk County Council Highway Authority together with proposals to control and manage construction traffic using the 'Construction Traffic Access Route' and to ensure no other local roads are used by construction traffic

Reason: In the interests of maintaining highway efficiency and safety

- SHC 29B For the duration of the construction period all traffic associated with the construction of the development will comply with the Construction Traffic Management Plan and use only the 'Construction Traffic Access Route' and no other local roads unless approved in writing with the Local Planning Authority in consultation with the Highway Authority.

Reason: In the interests of maintaining highway efficiency and safety.

- SHC 39A Notwithstanding the details indicated on the submitted drawings no works shall commence on site unless otherwise agreed in writing until a detailed scheme for the off-site highway improvement works, namely edge of carriageway/centre line markings, have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason: To ensure that the highway improvement works are designed to an appropriate standard in the interest of highway safety and to protect the environment of the local highway corridor.

- SHC 39B Prior to the first occupation of the development hereby permitted the off-site highway improvement works referred to in Part A of this condition shall be completed to the written satisfaction of the Local Planning Authority in consultation with the Highway Authority.

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Reason: To ensure that the highway network is adequate to cater for the development proposed.

SHC 50 A pre and post construction survey of the surface condition of the right of way (Bridleway BR4) shall be undertaken in conjunction with the Public Rights of Way Officer and any damage that occurs shall be duly rectified commensurate to the use of the bridleway in agreement with the PROW Officer

Reason: To ensure and maintain the surface condition of the Bridleway commensurate with its use in the interest of highway safety

Inf.1 It is an OFFENCE to carry out any works within the Public Highway, which includes a Public Right of Way, without the permission of the Highway Authority. This development involves work to the public highway that can only be undertaken within the scope of a Legal Agreement between the Applicant and the County Council. Please note that it is the Applicant's responsibility to ensure that, in addition to planning permission, any necessary Agreements under the Highways Act 1980 are also obtained for SHWA only and typically this can take between 3 and 4 months). Advice on this matter can be obtained from the County Council's Highways Development Management Group based at County Hall in Norwich. Please contact Stuart French on 0344 800 8020.

Public Utility apparatus may be affected by this proposal. Contact the appropriate utility service to reach agreement on any necessary alterations, which have to be carried out at the expense of the developer.

If required, street furniture will need to be repositioned at the Applicant's own expense.

Yours sincerely

Stuart French

Highways Development Management & Licensing Officer
for Executive Director for Community and Environmental Services

ACK 10/8/15

S

Breydon House
Harpers Lane
Bradwell
Great Yarmouth
NR31 9EL

8 August 2015

Development Control
Planning Services
Great Yarmouth Borough Council
Town Hall
Hall Plain
Great Yarmouth
NR30 2QF



Dear Sirs

Re: Planning Application 06/15/0371/0 – 11 Fell Way Bradwell

The applicant is seeking to secure approval for vehicular and pedestrian access to a Bridleway which there currently is no evidence that she has a legal right to do so.

This matter was considered by Councillors at the Development Control Committee in November 2014 under planning ref: 06/14/0422/0 and refused. The reasons for that refusal were:

In determining this application The Local Planning Authority has taken the effect of the proposed development on a public Bridleway into consideration and considers that the proposed access onto the Bridleway would encourage increased vehicular movements and conflict between users to the detriment of the safe use of the Bridleway. The proposal therefore represents an unsustainable form of development that is in conflict with the aims of the National Planning Policy Framework which seeks to create safe and accessible developments. In addition the proposal is contrary to Policy HOU15 and criterion (C) of Policy HOU7 of the Great Yarmouth Borough-Wide Local Plan 2001 which seek to ensure suitable and safe access and service provision for new developments.

Neither the current applicant Ms Roll, nor her husband Mr P Gaskin the previous applicant submitted any appeal against that decision and nothing appears to have changed in the eight months since that time. We therefore urge refusal once again.

The legal definition as to what a Bridleway is reads as follows:

“Bridleway” means a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway;

An inspection of the Land Registry records for 11 Fell Way shows no material changes and Land Registry confirm that Harpers Lane remains unregistered. This situation is not unusual it is estimated by Government that some 40,000 lanes and paths are unregistered and covering a distance of 4,000 miles. It should be further understood that there is little benefit to be secured by any owner. Existing rights are enshrined in law with little or no financial benefit and once ownership is established the Highway Authority are able to claim back the costs from the owner for any work they carry out. Any owner will also have to consider the public liability implications resulting from registration for which he (or she) will be liable.

In the submissions made by the applicants no legal proof of right of access to the Harpers Lane Bridleway has been provided either by map or deed. It is a concern at the precedent that may be created if outline permission is granted without this being tested.

Parliament has recognised that on occasion more information is required.

Authorities have powers to require further particulars or evidence under section 62(3) of the **Town and Country Planning Act 1990**. Under regulation 4 of the **Town and Country Planning (Applications) Regulations 1988** they can direct applicants to:

(b) provide one of their officers with any evidence in respect of the application as is reasonable for them to call for to verify any particulars of information given to them.

The issue was further clarified recently when planners were provided with the authority to request further details in relation to reserved matters under **article 5(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015**.

If a local planning authority considers that an outline application ought to include details of the reserved matters it must notify the applicant no more than one month after the application is received, specifying which further details are required.

Given the refusal by Councillors to the original application on the grounds of "access" this seems to be an entirely reasonable way to proceed.

Permission if not as a result of historic right is to be found on the deed or covenant relating to the property in question. The deed at this time does not show any grant of permission.

The placing of adverts in order to trace ownership will appear to indicate that currently no such legal authority currently exists.

Compulsory land registration came into being in 1997. Land owned before that time may be registered voluntarily if the owner wishes, but there is no compulsion.

It is a significant thing for officers of GYBC to assume that vehicular rights may be granted over the Bridleway by the owner of Harpers Lane.

It is an even larger and further step to assume that permission will be granted for Construction Traffic.

There is absolutely no reason for any owner to come forward should they choose not to. Unless he (or she) does, the assumption has to be that no vehicular rights are in place. Should the owner sell the land then there is a requirement to register it.

The NERC 2006 was specifically passed by Parliament to extinguish most vehicular rights not in operation except for "Boats" (Byways open to all traffic). Regulations were put in place to ensure that properties (of which there are many across the UK) adjacent to Bridleways and the Paths network cannot gain an access just because it is "convenient"

Government further advises:

The grant of planning permission does not entitle developers to obstruct a public right of way. It cannot be assumed that because planning permission has been granted that an order under section 247 or 257 of the 1990 Act, for the diversion or extinguishment of the right of way, will invariably be made or confirmed. Development, in so far as it affects a right of way, should not be started and the right of way should be kept open for public use, unless or until the necessary order has come into effect.

The requirement to keep a public right of way open for public use will preclude the developer from using the existing footpath, Bridleway or restricted byway as a vehicular access to the site unless there are existing additional private rights.

Planning authorities must ensure that applicants whose proposals may affect public rights of way are made aware of the limitations to their entitlement to start work at the time planning permission is granted.

Having granted planning permission for a development affecting a right of way however, an authority must have good reasons to justify a decision either not to make or not to confirm an order. The disadvantages or loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order.

Councils who value their paths and Bridleway network apply this policy. A considerable number also publish the above statement "online" as a guide for applicants.

It also requires once again the owner of the lane to consent to a stopping up order or diversion. Once again there is no compulsion for him (or her) to do so.

In the interests of transparency and the protection of the wider public that the Council serves, these rights of access should be "tested" at this outline stage.

If any outline permission is granted without clarifying the issue and legality of access the Council places a significant burden on themselves or any purchaser of the site and in addition those at the Council who deal with property searches. It will be unfortunate for any applicant to have to resolve this matter at the "full" planning stage and be unable to prove "lawful authority".

There is a perception by the public that Planning permission ensures that important legal issues such as access have been "rubber stamped." In a case such as this it clearly is not.

Any deed for the new properties will need to provide a covenant from the landowner providing a Harpers Lane access clause.

To provide further insight into how a lack of "clarification" can cause problems I detail the following:

On the 10th of October 2014 the applicants placed a crane and associated vehicles on the Bridleway to lift a residential caravan from their property. The effect of this was to block the Bridleway completely for a period of three and a half hours and prevent the existing users from exercising their rights to the use and enjoyment of the Bridleway including any roadside waste (the verges) which forms part of it. This is contrary to Section 130 of the Highways Act 1980. Visitors to and the occupants of New House were unable to enter or leave their property as a result.

In the absence of a legal right of vehicular access the Contractors concerned could have faced significant charges resulting from this. Parliament over the years has gone the "extra mile" to protect the paths network and rights of way. Following the passing of the Natural Environment and Rural Communities Act 2006 further changes came into place.

Amongst these were amendments to Section 34 of the Road Traffic Act 1988 which reads as follows:

Section 34 RTA 1988

Prohibition of driving mechanically propelled vehicles elsewhere than on roads.

(1) Subject to the provisions of this section, if without lawful authority a person drives a mechanically propelled vehicle—

(a) on to or upon any common land, moorland or land of any other description, not being land forming part of a road, or

(b) on any road being a footpath, Bridleway or restricted byway, he is guilty of an offence.

(2) For the purposes of subsection (1)(b) above, a way shown in a definitive map and statement as a footpath, Bridleway or restricted byway is, without prejudice to section 56(1) of the Wildlife and Countryside Act 1981, to be taken to be a way of the kind shown, unless the contrary is proved.

The principle now is that any vehicle found on a Bridleway is there illegally and it is for the driver to prove that he(or she) has "legal authority" to be there. It is not for the prosecution to prove otherwise.

In addition Section 137 of the Highways Act 1980 provides that:

137 Penalty for wilful obstruction.

(1) If a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway he is guilty of an offence and liable to a fine not exceeding (£1000)

If on the day that the Caravan was lifted and a member of the Public had attempted to "squeeze" past these vehicles and injured themselves a further charge under Section 22 of the Road Traffic Act 1988 could have applied:

22) Leaving vehicles in dangerous positions.

If a person in charge of a vehicle causes or permits the vehicle or a trailer drawn by it to remain at rest on a road in such a position or in such condition or in such circumstances as to (involve a danger of injury) to other persons using the road, he is guilty of an offence.

In these cases prosecution would normally be a matter for the local authority or the police.

Appendix A attach lists a "raft" of legislation that Parliament has placed in statute to ensure that the public is protected. It may not be exhaustive but is provided as a guide. The legal team available to GYBC will no doubt correct any errors contained within it.

Following the loading of the Caravan our own drive was "blocked" for some 40 minutes whilst the driver attempted to secure the Caravan to his trailer. Due to the narrowness of the lane at the loading point it was impossible for him to do it there.

It is surely reasonable that drivers delivering along a Bridleway should be confident that they do so legally and not face prosecution for unwittingly delivering to a site which has no vehicle rights.

The applicant's site does not require the Bridleway for access. It is accessible from Fell Way and numbers 13 & 15 have already been reserved by GYBC. In terms of revenue generation in the form of community charge neither GYBC nor NCC will suffer detriment if the bungalows are built and accessed via Fell Way. The idea that a fully designed estate road, properly constructed and drained, with the ability for vehicles to turn is less suitable than a poor unmade up, not drained, unlit and with no ability to segregate vehicles from pedestrian and animals, lane provides a better access is somewhat surprising.

Much has been made of the Fell Way access. Officers referred to a development proposed for New House where there is capacity for receiving and handling vehicles off the Bridleway and with legal authority.

What is interesting in respect of Fell Way is the development at number 9 Fell Way covered by planning Ref. 06/05/0238/F.

This was achieved with vehicles being handled using the existing access. In the case of 11 Fell Way vehicles would be able to fully access the site in order not to inconvenience any of the neighbours. It is surprising that no application has been sought for access via Fell Way and one can only speculate as to the reasons why.

Norfolk County Council in their development guidance say:

G2.11 Vehicular access to new development should not unacceptably interfere with the use of Bridleways, public footpaths, on-road cycle routes, cycleways, and restricted byways or bus priority measures. It is considered that the conflict between pedestrians, cyclists, horse riders and motor vehicles would produce unacceptable highway dangers, and would work against other policies that seek to give priority.

G3.3 Development with vehicular access onto a public highway with the characteristic of a "Road" (see G2.3) shall provide a turning space within the curtilage of the site of sufficient size to enable vehicles to leave and re-enter the public highway in a forward gear after no more than two gear changes.

It is important that vehicles enter the highway in a safe manner. Reversing onto busy roads is not considered safe. Sites must be laid out so as to provide adequate space to easily turn round a vehicle.

It should be noted that a turning area must be separate to the dedicated parking provision. It should be designed such that emerging vehicles meet the highway at right angles to the flow of traffic to optimise the driver's visibility and ease of manoeuvring.

There are some issues contained within Highways guidance which are of concern however senior officers and politicians at Norfolk County Council continually tell us that they are consultees only and any decisions are the responsibility of Great Yarmouth Borough Council.

Within the advice provided under Sections SHC 28, SHC 29A, SHC 29B Norfolk refer to parking provision for construction workers and also the route for construction traffic. Officers clearly have significant options in determining outcomes in this regard.

An option is for all construction traffic be it for workers or vehicles carrying materials to enter and access on Fell Way which has the benefit of having adopted roads built to a standard and without impacting on the existing users of the Bridleway with all its attendant safety issues particularly in Autumn and Winter months. The development at 9 Fell Way clearly shows this is achievable.

We attach to this letter pictures illustrating the "Blind Spots" of large vehicles in proximity to people, animals etc. (Appendix B) The Metropolitan Police are so concerned with this problem of HGVs that they have set up a special team and have special events in prominent locations such as the V & A, the American Embassy, the BBC and John Lewis in order to educate the public of the dangers.

The choice of this route will also provide "good reason" for GYBC not seeking implementation of Sections 247 and 257 of the 1990 Planning Act mentioned above and will demonstrate concerns for the safety of the wider public.

It is reasonable to assume that the three elected Councillors for Bradwell North will take a keen interest in how officers arrive at a determination of this issue. It will be they after all who will be contacted should there be any injury or accident to existing users as a result of a decision to put construction vehicles on the Bridleway without proper safeguards.

Should it be determined that the Bridleway is the "best option" it will appear to fly in the face of all reason and is contrary to Norfolk Guidance G2.11
Stated above and repeated here:

G2.11 Vehicular access to new development should not unacceptably interfere with the use of Bridleways, public footpaths, on-road cycle routes, cycleways, and restricted byways or bus priority measures. It is considered that the conflict between pedestrians, cyclists, horse riders and motor vehicles would produce unacceptable highway dangers, and would work against other policies that seek to give priority.

This effectively accords with the views of Councillors who refused the original application in November 2014.

Should officers determine that this application should be approved we will be grateful for the specifics issues making Harpers Lane the pre-eminent Construction route be specified along with the appropriate policy. In the absence of the "specific and definitive" agreement of the landowner will officers further advise how they intend to ensure that drivers have "lawful authority" to drive vehicles on Harpers Lane without committing offences under the Highway Act 1980 and the Road Traffic Act (Section 34.) 1988 and the powers Parliament have provided for this purpose. Norfolk Highways have confirmed they have no powers to grant access and it is for the applicant to secure rights from the landowner.

In the further interests of Road Safety and to protect existing users will they further advise the measures they will propose to ensure all vehicles entering or leaving the Bridleway and development site will do so in a forward gear.

In view of the speculative nature of this application and without additional proof of a legal authority to access the Bridleway this application should be refused with Harpers Lane being specified as the access entry point. We are also further concerned that a grant of permission will create a precedent for the other residents of Fell Way to apply for vehicular access to the Bridleway which GYBC will find difficult in refusing if this application without establishing "lawful authority" succeeds.

The Bridleway should remain as Parliament intended and not developed because it is convenient.

Yours faithfully



A J Carter

J D Carter

encs

Response to Statement prepared by MDPC. Planning Consultant

We wish to make the following observations in respect of the Statement supporting the application.

- 1.3(1) In 1986 the creation of Gapton and the Housing Estate on which Fell Way sits was in its planning stage. As a result of no development there just being fields, traffic on Harpers Lane was minimal. However its Bridleway Status was protected by the Highways Act 1980 and the Countryside Act of 1981.
- 1.3(2) The appearance of the site could equally have been achieved by Fencing around the site or developing with an access via Fell Way.
- 1.4 It does not require permission to access Harpers Lane to deal with this issue. Tubbys as part of their arrangements with the applicants husband would have dealt with this at the time of construction of 11, Fell Way if requested..
- 1.6 Officers have no objection if "Private Rights" exist for the site and the permissions are legally in place. Other than that they have no powers to vary or change Acts of Parliament. Acknowledgment of this was secured from Ms Price the PROW officer when it appeared she had exceeded her powers.
- 1.7 When the planners were contacted in respect of this they advised that it had no significance other than to put the location into context.
- 1.8 Norfolk Fire and Rescue have no problem if it complies with Building Regulations. It will appear that the carriageway width and turning circle required does not comply. Blocking the Lane at this point and preventing access or entry from points beyond is not desirable.
- 1.10 Planning permission for Breydon House was not secured improperly. The Alwyn House site on which Breydon House was built had an existing long standing vehicle access to Harpers Lane and is clearly shown on plans prepared by Olley and Haward in 1991 and submitted to GYBC. Other than the existing provision Section 34 of the Road Traffic Act 1988 provides for access should it have been required as Alwyn House fronted Burgh Road and could access the Lane within 15 yards of the Highway.

An Issue of the New House development was raised by the case officer Mr Clarke in respect that it had not been objected to. It is quite simple as to why there were no objections from us. New House has established vehicle rights. The site is large and can easily accommodate a substantial number of vehicles if required. In addition it has turning provision for vehicles to enter and leave in a forward gear. Indeed GYB Services use this facility to enable its refuse vehicle to service the properties in a forward gear.

It is somewhat disappointing for the owners of New House that their freehold property only accessed from Harpers Lane and built in the midst of fields well before the development of the Industrial Estate has been designated within a "buffer" zone.

This prevented what most people would regard as a reasonable and non controversial application to provide housing for a member of their family but nevertheless the application to build was refused planning permission.

1.11 From the documentation we hold there is no evidence of the Nursery Site on which Fell Way sits having a vehicle access to the lane. The property deeds for Alwyn House and New House clearly show the vehicle access as being between Weismain and Alwyn House onto Burgh Road. The deed for the sale of the Nursery to Mrs Matthews the Aunt of the applicants husband did not show or provide a vehicle access to the lane.

Neither Mrs Matthews or Mr Hall the previous owners claimed this access when seeking planning permission from Suffolk County Council. Any applications for Harpers Lane were refused as it was considered "unsuitable". The only permission granted was for "New House" which occupies the site of a derelict bungalow demolished to make way for it.

1.12 The procedures for the application in Jews Lane are not for us to question.

3.1 We find the statements contained within this to be surprising. It might be suitable for a LGV type vehicle but not a bulk tipper or Ready Mix Concrete vehicle. If the applicant had provided a "swept path analysis" to support his contention then it might be more meaningful.

We attach to this statement a schematic of vehicles. (Appendix C) Perhaps officers will wish to task Norfolk Highways to produce swept paths for them. We know their technicians have the software. Our belief is that most HGVs used for removing spoil and delivering aggregate, ready mixed concrete will be wider than the carriageway at the development point. Most of these vehicles discharge from the rear and will need therefore to reverse onto the site as there is insufficient space even with the "new" layout to enter turn, discharge and then return in a forward gear. We refer to the Construction and Use Regulations 1986 that apply for all vehicles but particularly HGVs of all types which states under Section 106. *No person shall drive, or cause or permit to be driven, a motor vehicle backwards on a road further than may be requisite for the safety or reasonable convenience of the occupants of the vehicle or other traffic, unless it is a road roller or is engaged in the construction, maintenance or repair of the road.* Elimination of a turning provision particularly on a narrow Bridleway where ordinarily vehicles are not permitted could well cause the very thing to happen that Parliament has proscribed and place the public at risk. The Council does have powers to pursue a path closure in order to protect the public from interaction with HGVs.

3.3 The Initial Statement from Norfolk Highways to the application was fair and balanced. The amendment removing the turning provision and apparently requested by officers in our view did prejudice Highway Safety. Reversing HGVs for over 40 yards along the bridleway is dangerous for the public who use the bridleway and unreasonable for the driver. We draw attention to Sections 200 – 203 of the Highway Code. The HSE have clear guidance to Managers to eliminate reversing where possible. GYB services we are sure as part of their risk assessments will not permit any of their vehicles to reverse this distance and in such a confined space. The refusal of planning by Councillors prevented this "nightmare" occurring. C & U Regulation specified above applies.

4.1 Councillor Graham Plant in his submission to the development committee confirmed that the access in Fell Way had been reduced but still provided a better alternative than Harpers Lane.

The deeds for 11, Fell Way show that the driveway extends beyond the gateway and indeed only ends midway down the widths of 9 & 17 Fell Way. (Appendix B) From the existing entrance it is a distance of some 12 metres from the turning head and even today the width would no doubt be regarded as suitable by planners.

We draw officers and Councillors attention to planning application 06/05/0238/F which relates to 9, Fell Way, Bradwell

This was for a 2 storey side extension immediately adjacent to number 11, Fell Way. It is to be assumed that all the spoil and rubble removal, sand ballast and concrete deliveries were achieved from the same access point as considered "unsuitable" by the applicant. In addition Bricks, Blocks, Timber, Roof Trusses and Roof Tiles plus all first and second fix material also arrived outside the entrance to 11, Fell Way.

For a development via Fell Way all vehicles will only "pass" the properties on Fell Way and not remain stationary as was the case for number 9 before being handled on site. (Appendix B)

5.0 The contention that HGVs will be able to arrive and depart the site in a forward gear is we believe unrealistic. It should be recognised that the "verges" of the Bridleway are protected under the Highways Act and are not part of the development site. The carriageway width is barely 2.4 metres at the development site. Approaching the site from Burgh Road the verge on the left hand side abuts a 2 metre high concrete wall which separates Highway Lodge from the Lane. Any attempt to reverse and put the vehicles wheels in a turning mode on this verge will no doubt either damage the wall, vehicle or both.

A swept path analysis will clearly clarify these matters. (Appendix C) Once footings are created the problem will only get worse as the site "shrinks" and construction workers vehicles are also required to be parked on site and not on the Bridleway.

The significant issue still remains securing approval from the owner of the lane for a vehicle access, getting the lane registered to enable works to be carried out and the appropriate permissions incorporated into the deeds for the new properties to avoid "legal" challenges and prosecution of drivers for driving unlawfully on the bridleway.

A J & J D Carter
Breydon House
Harpers Lane
Bradwell
NR31 9EL

Appendix A: without prejudice.

Legislation laid down by Parliament as applying to Harpers Lane to the best of our knowledge and belief.

1)Highways Act 1980

1980 c. 66Part IX Protection of public rights. Section 130

130 Protection of public rights.

(1)It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority, including any roadside waste which forms part of it.

(2)Any council may assert and protect the rights of the public to the use and enjoyment of any highway in their area for which they are not the highway authority, including any roadside waste which forms part of it.

(3)Without prejudice to subsections (1) and (2) above, it is the duty of a council who are a highway authority to prevent, as far as possible, the stopping up or obstruction of—

(a)the highways for which they are the highway authority, and

(b)any highway for which they are not the highway authority, if, in their opinion, the stopping up or obstruction of that highway would be prejudicial to the interests of their area.

(4)Without prejudice to the foregoing provisions of this section, it is the duty of a local highway authority to prevent any unlawful encroachment on any roadside waste comprised in a highway for which they are the highway authority.

2)Highways Act 1980

1980 c. 66Part XIV InterpretationSection 329

“bridleway” means a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway;

3)Wildlife and Countryside Act 1981

1981 c. 69 Part III Miscellaneous and supplemental
Section 66

66 Interpretation of Part III.

(1)In this Part—

“bridleway” means a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway.

4) Road Traffic Act 1988

1988 c. 52 Part I Use of motor vehicles away from roads Section 34

34 Prohibition of driving motor vehicles elsewhere than on roads

(1) Subject to the provisions of this section, if without lawful authority a person drives a motor vehicle—

(a) on to or upon any common land, moorland or land of any other description, not being land forming part of a road, or

(b) on any road being a footpath or bridleway,

he is guilty of an offence.

(2) It is not an offence under this section to drive a motor vehicle on any land within fifteen yards of a road, being a road on which a motor vehicle may lawfully be driven, for the purpose only of parking the vehicle on that land.

(3) A person shall not be convicted of an offence under this section with respect to a vehicle if he proves to the satisfaction of the court that it was driven in contravention of this section for the purpose of saving life or extinguishing fire or meeting any other like emergency.

5) Countryside and Rights of Way Act 2000

2000 c. 37 Part II Public rights of way and definitive maps and statements Section 55

55 Bridleway rights over ways shown as bridleways.

(1) Subject to subsections (2) and (3), the public shall, as from the day after the cut-off date, have a right of way on horseback or leading a horse over any way which—

(a) was immediately before 1st January 1949 either a footpath or a bridleway, and

(b) is, throughout the period beginning with the commencement of this section and ending with the cut-off date,

a footpath which is shown in a definitive map and statement as a bridleway.

NB: Harpers Lane is shown on the definitive map as a bridleway and is signposted accordingly.

The Act also enshrined parts from the Road Traffic Act 1988 as

6)Police Reform Act 2002

2002 c. 30 Part 4 Chapter 2 Seizure of motor vehicles.

59 Vehicles used in manner causing alarm, distress or annoyance

(1)Where a constable in uniform has reasonable grounds for believing that a motor vehicle is being used on any occasion in a manner which—

(a)contravenes section 3 or 34 of the Road Traffic Act 1988 (c. 52) (careless and inconsiderate driving and prohibition of off-road driving), and

(b)is causing, or is likely to cause, alarm, distress or annoyance to members of the public,

he shall have the powers set out in subsection (3).

(2)A constable in uniform shall also have the powers set out in subsection (3) where he has reasonable grounds for believing that a motor vehicle has been used on any occasion in a manner falling within subsection (1).

(3)Those powers are—

(a)power, if the motor vehicle is moving, to order the person driving it to stop the vehicle;

(b)power to seize and remove the motor vehicle;

(6)A person who fails to comply with an order under subsection (3)(a) is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.(max £1000)

7)Natural Environment and Rural Communities Act 2006

70Supplementary

(2)Amend section 34 of the Road Traffic Act 1988 (c. 52) (prohibition of driving mechanically propelled vehicles elsewhere than on roads) as follows.(3)In subsection (2), omit “(subject to section 34A of this Act)”.

(4)After subsection (2) insert—

“(2A)It is not an offence under this section for a person with an interest in land, or a visitor to any land, to drive a mechanically propelled vehicle on a road if, immediately before the commencement of section 47(2) of the Countryside and Rights of Way Act 2000, the road was—(a)shown in a definitive map and statement as a road used as a public path, and

(b)in use for obtaining access to the land by the driving of mechanically propelled vehicles by a person with an interest in the land or by visitors to the land.”

In the case of 11 Fell Way vehicular access is via Fell Way and not Harpers Lane and has been since 1987.

No evidence of a vehicle access to this site from Harpers Lane can be established.

SCHEDULE 7 Driving of mechanically propelled vehicles elsewhere than on roads.

5For section 34 of that Act there is substituted—

“34Prohibition of driving mechanically propelled vehicles elsewhere than on roads

(1)Subject to the provisions of this section, if without lawful authority a person drives a mechanically propelled vehicle—

(a)on to or upon any common land, moorland or land of any other description, not being land forming part of a road, or

(b)on any road being a footpath, bridleway or restricted byway, he is guilty of an offence.

(2)For the purposes of subsection (1)(b) above, a way shown in a definitive map and statement as a footpath, bridleway or restricted byway is, without prejudice to section 56(1) of the [1981 c. 69.] Wildlife and Countryside Act 1981, to be taken to be a way of the kind shown, unless (subject to section 34A of this Act) the contrary is proved.

(3)It is not an offence under this section to drive a mechanically propelled vehicle on any land within fifteen yards of a road, being a road on which a motor vehicle may lawfully be driven, for the purpose only of parking the vehicle on that land.

(4)A person shall not be convicted of an offence under this section with respect to a vehicle if he proves to the satisfaction of the court that it was driven in contravention of this section for the purpose of saving life or extinguishing fire or meeting any other like emergency.

(7)In this section—

“definitive map and statement” has the same meaning as in Part III of the [1981 c. 69.] Wildlife and Countryside Act 1981;

On 2 May 2006 the Countryside and Rights of Way Act 2000 reclassified all remaining Roads Used as Public Paths as restricted byways. The public's rights along a restricted byway are to travel:

- on foot
- on horseback or leading a horse
- by vehicle other than mechanically propelled vehicles (thus permitting e.g. bicycles, horse-drawn carriages, to travel along restricted byways), except in certain circumstances.

A number of legal challenges to aspects of the CROW Act were clarified and resolved by Parliament and are contained in the The Natural Environment and Rural Communities Act 2006 and the Police Reform Act 2002.

8)Highways Act 1980

1980 c. 66Part IX MiscellaneousSection 184

7)(3)Where any land is being, or is to be, developed in accordance with a planning permission granted, or deemed to have been granted, under [F1the Town and Country Planning Act 1990], and it appears to the highway authority for a highway maintainable at the public expense that the development makes it necessary—

(a) to construct a crossing over a kerbed footway or a verge in the highway so as to provide an access for mechanically propelled vehicles to or from the carriageway of the highway from or to premises adjoining or having access to the highway.

To obtain access over the verge requires the consent of the “owner” of the land on whose land the bridleway and verge pass over. At this date Harpers Lane continues to be unregistered although its “Bridleway” status is enshrined in law with all the protections that Parliament has put in place.

It is not in the “gift” of Norfolk County Council or Great Yarmouth Borough Council as we understand to grant vehicle access to Harpers Lane from the Fell Way site. Great Yarmouth Borough Council may grant planning permission to the Boundary of the development site and no further. Advertising to establish who the owner is and not obtaining any reply cannot be regarded as “consent.”

Following the Natural Environment and Rural Communities Act 2006 The only minor route on which the public may drive using a motor vehicle is a “BOAT” which is a byway open to all traffic.

Harpers Lane with its “Bridleway” status is not a “BOAT”.

9)The Road Vehicles (Construction and Use) Regulations 1986

1986 No. 1078 PART IV F Regulation 106

Reversing

106. No person shall drive, or cause or permit to be driven, a motor vehicle backwards on a road further than may be requisite for the safety or reasonable convenience of the occupants of the vehicle or other traffic, unless it is a road roller or is engaged in the construction, maintenance or repair of the road.

Town and Country Planning Act 1990

1990 c. 8Part X Orders by other authorities Section 257 & 259

257 Footpaths and bridleways affected by development: orders by other authorities.

(1)Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable development to be carried out—

(a)in accordance with planning permission granted under Part III [Flor section 293A] , or

(b)by a government department.

(2)An order under this section may, if the competent authority are satisfied that it should do so, provide—

(a)for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;

(b)for authorising or requiring works to be carried out in relation to any footpath or bridleway for whose stopping up or diversion, creation or improvement provision is made by the order;

(c)for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath or bridleway;

(d)for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.

(3)An order may be made under this section authorising the stopping up or diversion of a footpath or bridleway which is temporarily stopped up or diverted under any other enactment.

(4) In this section "competent authority" means—

(a) in the case of development authorised by a planning permission, the local planning authority who granted the permission or, in the case of a permission granted by the Secretary of State, who would have had power to grant it; and

(b) in the case of development carried out by a government department, the local planning authority who would have had power to grant planning permission on an application in respect of the development in question if such an application had fallen to be made.

259 Confirmation of orders made by other authorities.

(1) An order made under section 257 or 258 shall not take effect unless confirmed by the Secretary of State or unless confirmed, as an unopposed order, by the authority who made it.

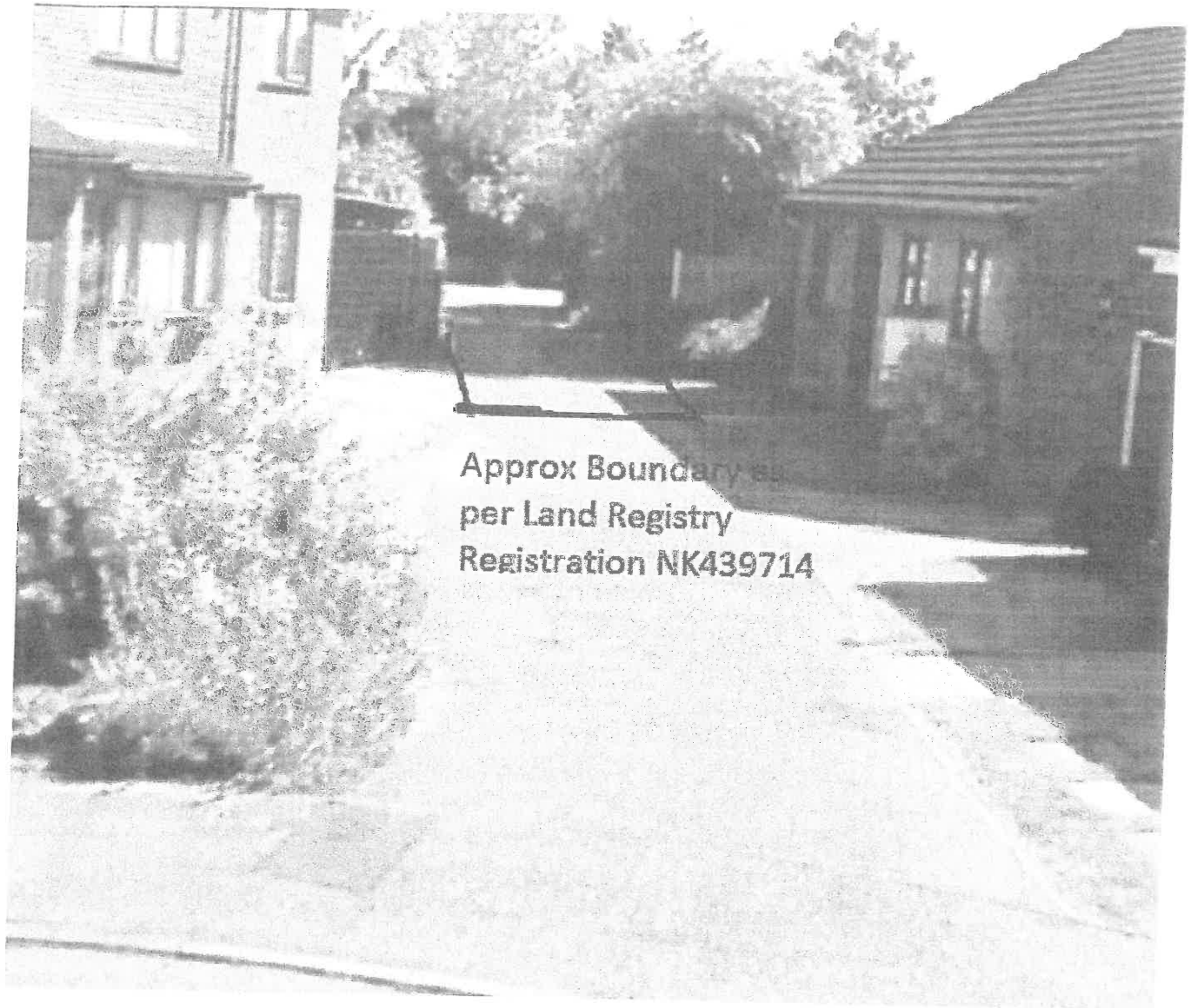
(2) The Secretary of State shall not confirm any such order unless satisfied as to every matter as to which the authority making the order are required under section 257 or, as the case may be, section 258 to be satisfied.

(3) The time specified—

(a) in an order under section 257 as the time from which a footpath or bridleway is to be stopped up or diverted; or

(b) in an order under section 258 as the time from which a right of way is to be extinguished, shall not be earlier than confirmation of the order.

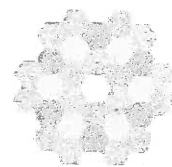
(4) Schedule 14 shall have effect with respect to the confirmation of orders under section 257 or 258 and the publicity for such orders after they are confirmed.



Two Storey development for 9 Fell Way is adjacent to the driveway into 11 Fell Way.

Land Registry Current title plan

Title number NK439714
Ordnance Survey map reference TG5005SE
Scale 1:1250 enlarged from 1:2500
Administrative area Norfolk : Great Yarmouth



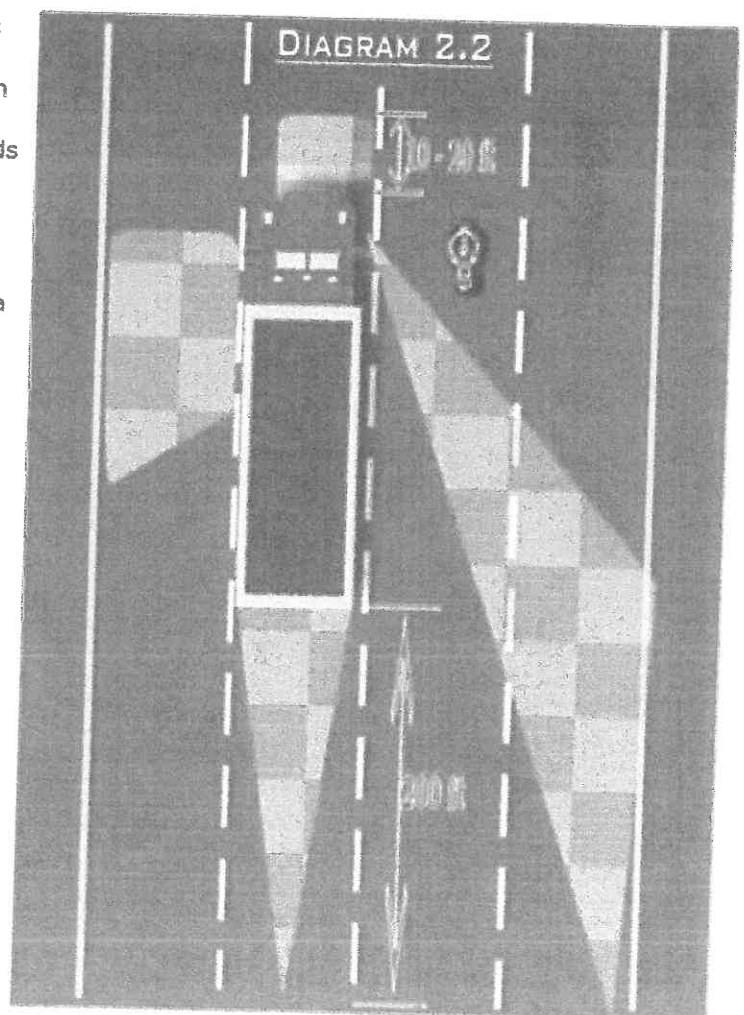
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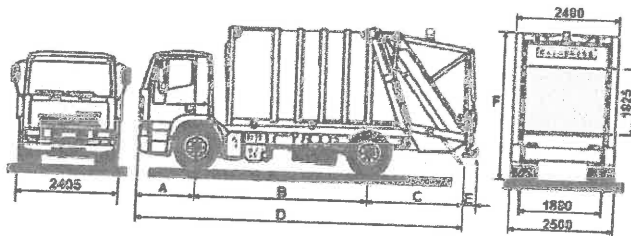
Pedestrians located in any of the yellow zones cannot be seen by the driver from his cab or in his mirrors.

Diagram 2.2 shows where the blind spots are located on a large truck. Note that the blind spots on a truck are much larger than that of a car, especially the spot located directly behind the trailer. This area extends approximately 200 feet. You can imagine how easy it would be for something as small as a motorcycle to get lost back there. The best thing for a rider to do is to keep his/ her distance when riding behind a truck. Also if a rider is following too closely behind a truck, how far ahead in traffic can he/ she see? The answer is obviously not very far!



Without pedestrian segregation the risks to the public and animals on this Bridleway should vehicles be permitted to reverse along its length is considerable. In the absence of street lighting the problems worsen in Autumn and Winter.

Appendix C



TECHNICAL DATA SHEET

IVECO ML 150E21H EURO CARGO (4X2) Wheelbase 3690 mm.

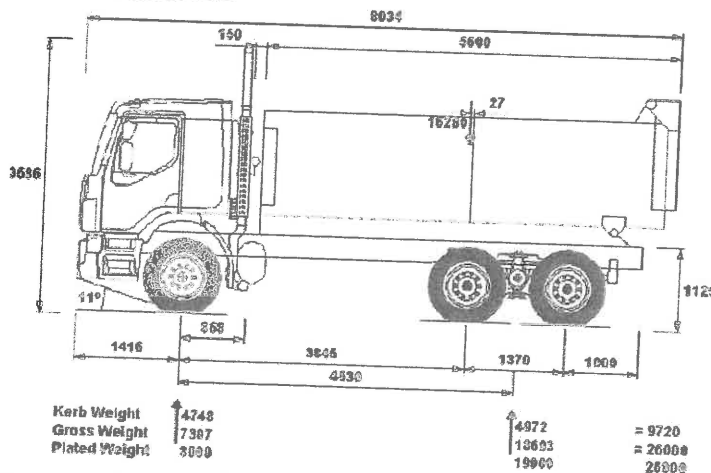
CAPACITY & DIMENSIONS

Net Container's capacity (loading hopper excluded).....	15 Cu. m.
Loading hopper capacity.....	1.8 Cu. m.
Equipped vehicle's overall dimensions.....	
D Length	7,575 mm. (approx.)
Width	2,560 mm. (approx.)
H Height	3,660 mm. (approx.)
B	3,660 mm.
A Front	1,315 mm.
C+E Rear	2,570 mm. (approx.)

WEIGHTS

Chassis cab weight (with fuel and driver).....	4,945 Kg. (approx.)
Equipment weight.....	4,150 Kg. (approx.)
Additional weight of 240/1100 lt. bin lifting device.....	450 Kg. (approx.)
Weight of the empty equipped vehicle ready for use.....	9,545 Kg. (approx.)
Payload, legally permitted according to the chassis cab features.....	5,455 Kg. (approx.)
Gross vehicle's weight.....	15,000 Kg.

WEIGHTS & DIMENSIONS



Vehicle specification inc:

- Medium comfort cab
- Wheelbase 3850mm
- 8.0tonne front axle
- Fuel 315 litres
- Aluminium wheels
- 40 litre AdBlue tank

Total 7690kg

Body Equipment

- Insulated alloy body
- Tipper gear 1350kg
- Sheet system 430kg
- Sheet system 250kg

Total 2030kg

Complete Vehicle

- Vehicle weight 9720kg
- Actual payload without driver 16280kg

These two vehicles being relatively small in HGV terms still occupy the full width and more of the carriageway of Harpers Lane.

The front overhang of the cab and the front wheels will cause the vehicle to access the verge adjacent to Highway Lodge (the property on the left hand side of Harpers Lane) when viewed from the Burgh Road junction.) on which is a 2 metre high block wall separating Highway Lodge from Harpers Lane when reversing onto the development site for loading or discharge.

Any swept path analysis will clearly illustrate the problem.

Obstructing the lane and causing damage to the verge are both offences under the Highways Act 1980.

Great Yarmouth Borough Council
Development Control
Town Hall
Hall Plain
Great Yarmouth
NR30 2QF

New House
Harpers Lane
Bradwell
Great Yarmouth
NR31 9E1

7th August 2015



Dear Sir/Madam

Planning application

Application: 06/15/0371

Proposal: Construction of 2 detached bungalows and associated works with access
from Harpers Lane

Location: 11 Fell Way Bradwell Great Yarmouth NR31 9UF

We are writing to you to lodge our objection to the above planning primarily in respect of the proposed access from Harpers Lane. This application does not significantly differ from the last application which was refused last year.

Harpers lane is a bridleway unmade track used not only by ourselves but by pedestrians, cyclists, horses, tractors and general farm vehicles.

The bridleway is only wide enough for one vehicle at a time and in fact there is barely room for pedestrians to pass vehicles in the lane.

Any illegal parking outside the proposed site entrance would entirely block the bridleway and our access to and from New House. Indeed last October the applicant allowed a large crane to park in the lane to remove a caravan from their property and whilst they advised us it would only be an hour it blocked the lane for over 3 hours to all traffic including the many pedestrians from the industrial estate who use the lane at lunchtimes to go to the Coop store for their lunches.

Had we had an emergency in this time no one could have got to us.

There is already a more suitable paved roadway to the development from Fell Way. This access roadway is actually wider than Harpers Lane, is adopted and provides a turning area and a smaller distance to the development.

It does not seem likely that that the turning sweep for vehicles to turn into the property from Harpers lane is achievable as the track is only 2.4 metres wide with an embankment opposite the proposed entrance. Large vehicles would find this almost impossible to enter and leave the site and in any case they would have to blind reverse either in or out of the site. New House for example has the main gateway set 3 metres away from the lane in order that large vehicles such as the council refuse truck can achieve a turning sweep from the lane to property, there is also a turning area located within the site so that vehicles can enter and leave in a forward gear thus alleviating the need to back out onto a public bridleway with the obvious dangers to persons and animals using it. The current application does not allow for this.

In fact on the 1986 site plan of this development Fell way is shown as the only access to the site and the two outlined properties are actually numbered as being on Fell Way. It also shows room for a proper turning circle enabling vehicles to enter and leave the site in a forward gear.

There has never been an access for vehicles in respect of this particular site into Harpers lane.

We have contacted the Fire Service for their advice they directed us to the 2000 Building regulations and a set of tables in respect of fire engine access, the tables indicate a minimum width of 3.7 metres access is required as Harpers lane is only 2.4 metres it appears that the proposed development does not meet this requirement. The verges on either side are not part of the carriageway and HGVs using Harpers Lane would have to reverse in or out along the length of the bridleway to the development as there is no turning point for heavy vehicles.

The Highways Department have advised us the access cannot be granted by them on to Harpers lane without the applicant first obtaining permission from the owner of the Lane. As the owner is not known and the lane unregistered the applicant cannot obtain this permission and therefore is not able legally to create an access over the verge to the site or put vehicles onto the bridleway.



The above picture shows the single track towards the main road from the applicants proposed access to the development. The lane is 2.4 metres wide at this point and of similar width for the whole length, clearly two vehicles cannot pass except at the junction of the lane and the main road.



The verge on the left fronts the proposed development. In order for the crane to lift the Caravan from their premises the fencing was removed as the width of the crane exceeded the width of the bridleway. This has revealed old sheds on the site referred to in the application. Replacement fence panels will obscure them.

This Verge running from New House to the Junction of Harpers Lane with the main Road also carries the electricity and water services to New House in addition there is another high voltage electricity cable all of which would be the responsibility of the applicant to create protection in the event of a crossing being made.



The above picture shows the track width looking down the bridleway from the applicants proposed access to the development.

Note: the verge to the left is in fact an embankment and immediately behind is a 2 metre high concrete block wall which screens Highway Lodge from the bridleway. It is clear that any vehicle stopping or parking on the bridleway completely blocks it.

On the basis of the forgoing we would ask that planning be refused because this is a bridleway and the applicant currently has no private rights. We will have no objection to a development which is accessed via Fell Way.

R & J Bradley

[Redacted signature]



Supporting Statement
Second Outline Planning Application for
Construction of 2 Detached Bungalows, A Double Garage and
Associated Works inc. Access from Harpers Lane
At 11 Fell Way Bradwell
On behalf of
L. Roll



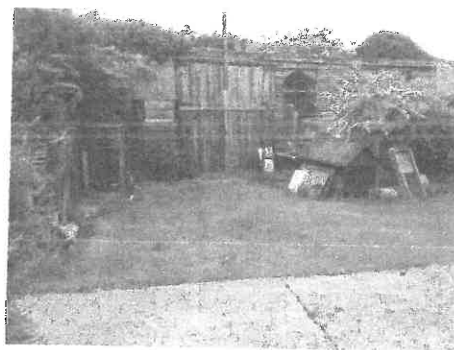
Prepared by Malcolm Dixon May 2015

Supporting Statement

Construction of two dwellings with Access from Harpers Way, Part of garden at 11 Fell Way, Bradwell

1.0 BACKGROUND

- 1.1 In 1986 a planning appeal was dismissed for the construction of a detached two storey dwelling in the vicinity of the present appeal site (DoE ref: T/APP/U2615/A/86044253/P4).
- 1.2 The appeal was dismissed because at that time the site was considered to be in open countryside. This situation has changed significantly in the intervening years and the site is no longer considered to be in open countryside.
- 1.3 Notwithstanding the appeal decision itself, in considering the matter, the Inspector made two telling remarks:-
 - (1) *"(Harpers Lane)(HL) carries very little traffic and serves one house to the north of the site and found that it is just wide enough for two cars to pass. It appears to be well consolidated and in better condition than many comparable access ways ... (therefore) I would not have regarded the condition of HL as being sufficient reason to refuse planning permission for a house"*
 - (2) *"(the appellant) urges that the development of this land would enhance the appearance of the immediate vicinity ... this contention would carry more weight if (it was intended) to remove the unsightly sheds and outbuildings which were part of a former nursery"*



Existing sheds at 11 Fell Way

- 1.4 Both assertions provide context to the present position. Firstly acknowledging the capacity of the access road (and bridleway) to absorb development, and secondly the fact that the development will indeed result in the removal of the "unsightly" buildings referred to in (2) above.
- 1.5 Planning permission was refused last November (11th Nov) when the Planning Committee overturned the officer's recommendation to approve the development.
- 1.6 The Report and minutes also make it clear that neither Norfolk County Council Highways Service, nor its Rights of Way Team (with reference to the PROW/Bridleway position) raised any objections.
- 1.7 In response to the Highway comments referred to concerning the bridleway the last application was amended to include within the red line the total extent of Harpers Lane between the original curtilage and the public highway (Burgh and Market Rds.) to the south.
- 1.8 When consulted about that application, the response from the Council's Building Control Service also makes it clear that the Fire Service raised no objections to the development from an access point of view.
- 1.9 When the last application was presented to the Committee, Ms Roll exercised her right to speak on behalf and in support of the project.
- 1.10 In researching the background to the case she made the following points:
- Breydon House to the immediate south, a large two storey 3 bed detached house with direct vehicular access from HL was granted permission in July 2007 (LPA ref: 06/07/0441).
 - The policies given in the report offer support for the proposal.
 - The owners of "New House" on HL to the north were refused planning permission (LPA ref: 06/07/0287) on 30th April 2007 for a new bungalow within the curtilage. However, this was refused on the basis of being in the "Zone of Separation" between identified residential and industrial areas and not because of any impact on Harpers Lane.
- 1.11 Ms Roll's presentation to Committee revealed several facts pertinent to the proposal:
- In 1979 Harpers Lane provided access for 6 dwellings-- New house, Highway Lodge and 4 terraced houses (now demolished)
 - In addition a former Nursery (including the application site) had the benefit of vehicular access over Harpers Lane.
 - Presently there are only 3 properties with vehicular access onto HL (New House, Highway Lodge and Breydon House)

- 1.12 In addition to the above, the minutes to the meeting offer another useful insight:
- The planning committee were reminded that a planning application at Jews Lane (LPA ref: 06/06.0609 or 06/07/0504) in similar circumstances to this proposal, was granted permission.
 - The minute does not specify any reasons for refusal other than reference to the two policies (HOU7 (c) & HOU15), which were used to support the Officers recommendation to approve the scheme in the first place.

2.0 Relevant Planning Policy

2.1 NPPF

- | | |
|-----------------|--|
| Paragraph 7 | - Economic, Social and Environmental Role – Sustainability |
| Paragraph 9 | - Widening Choice of Housing |
| Paragraph 11/14 | - Development Plan unless Material Considerations Indicate otherwise |
| Paragraph 17 | - (Principles) – not simply about scrutiny |
| Paragraph 32 | - Safe and suitable access |

2.2 Local Planning Policy

- | | |
|------------|---|
| HOU 7 (c) | - Suitable Access arrangements can be made |
| HOU 15 | - All housing assessed according to effect on (inter alia): Residential Amenity, Character of area, Traffic generation, appropriate car parking and service provision |

3.0 Present Scheme

- 3.1 The layout has been amended to maximise use of the proposed site and to overcome any perceived concerns. The submitted plans demonstrate the fact that there is sufficient room on site to allow a 6 m. delivery vehicle to access the site and to manoeuvre and turn to ensure that egress from Harpers Lane can be carried out in a forward gear. In addition a turning head for the northern unit has also been included.
- 3.2 Unlike the properties nearer to the junction The scheme has been modified to provide sufficient room for a refuse truck to pull up leaving the lane unobstructed, in the highly unlikely event that this would actually be required. A refuse vehicle could then carry on along Harpers Lane to New House, as at

present. To further reinforce the adequacy and veracity of the existing highway, the afore mentioned correspondence from GYBC Building Control Service in liaising with NC Fire Service has indicated that the latter does not have any objections to the proposal.



*View looking south along
Harpers Lane*

- 3.3 In addition there were no highway based objections to the previous scheme and nor were there any highway based grounds for refusal, as reinforced by the views expressed by NC Highway Service. It can therefore be concluded that highway safety is not an issue, further reinforced by the fact that the Highway Service has not advised that any turning head arrangement within the proposed curtilages is necessary. Furthermore, the fact that Harpers Lane is a bridleway has not given rise to any concerns from Norfolk County Council Rights of Way Officer.
- 3.4 It is also the case that a vehicular access onto Harpers Lane could be carried out without requiring planning permission as confirmed within the previous Planning Committee report at Para 4. 8 where it states:
- " It also has to be taken into account that the owners of 11 Fell Way could form a vehicular access from Harpers Lane to their existing dwelling as permitted development without the need for planning permission".*
- 3.5 Furthermore, the publicity given to the previous scheme revealed no ownership issues over the Lane which would prevent Ms Roll from using it for vehicular access; and in any event this was not a material planning consideration, as confirmed in the approved Minute of the previous Planning Committee where it was stated by the Committee Chairman:
- " -----legal access was not a planning consideration -----"*
- 3.6 The site is in a sustainable location and fully accords with both planning policy and the NPPF aims and objectives as referred to above.

4.0 OTHER CONSIDERATIONS

- 4.1 The occupiers of Breydon House objected to the last scheme and suggested that access be gained from Fell Way. However, access is actually more restricted in many ways by the proximity of the existing 4 dwellings alongside the private drive at the head of the cul de sac; and therefore additional traffic movement in this location is likely to have much greater impact on residential amenities than the use of Harpers Lane.



*View from driveway
towards Fell Way*



*View towards No. 11
from Fell Way*

- 4.2 Indeed it is reasonable to assume that the proposed layout offers a much better solution particularly for manoeuvrability of delivery vehicles etc. than Fell Way which is a very restricted and long cul de sac serving a significant number of existing dwellings.
- 4.3 Previously, the occupiers of New House also raised concerns regarding additional traffic and this issue has been addressed above.
- 4.4 In addition to the above the Councils Emerging Core Strategy (Policy CS2 Sustainable Growth) identifies Bradwell as a Key Service Centre where additional housing is encouraged to assist in achieving the Councils 5 year housing land supply requirements. Albeit this is a small development in the greater scheme of things, nonetheless, it can contribute in its own small way in helping to achieve this target.

5.0 CONCLUSION

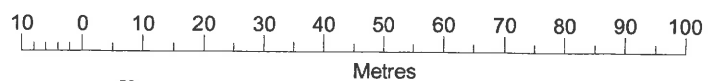
- Given all the above it is considered that the limited scale of development, the support of the Highway Service and the fact that H.G.V s will be able to park off road or within the curtilage and turn to exit onto the main road in a forward gear then the scheme fully complies with policies HOU 7 and HOU 15, as previously endorsed by the Councils officers in the recommendation to the Councils Planning Committee last November. Furthermore the proposed development conforms to the overall relevant aims and objectives contained in the NPPF (as referred to above) and therefore provide a sustainable form of development in accordance with the Councils emerging Core Strategy Policy CS2 Sustainable Growth.
- On this basis the support of the LPA is requested.

06/15/0371/O

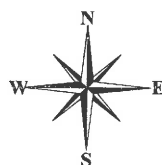


GREAT YARMOUTH
BOROUGH COUNCIL

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Scale = 1:1250 @ A4



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