

Reference: 06/17/0340/F

Parish: Belton with Browston

Officer: Mr G Clarke

Expiry Date: 11-08-2017

Applicant: Mr R Smith

Proposal: Removal of condition 5 of planning permission 06/15/0043/F and condition 3 of planning permission 06/14/0099/F to allow annexe to be used as a separate dwelling.

Site: The Manor Barn
Browston Lane
Browston

REPORT

1 Background / History :-

- 1.1 The Manor Barn is detached building to the south of The Manor House, which is a grade II listed building standing in large grounds to the west of Browston Lane, the building is a former cart shed that was granted approval for conversion to an annexe in 2014 (06/14/0099/F). There is another house approximately 50m to the south of the annexe, Manor Farm Cottage, other than this there are no other dwellings in the immediate area.
- 1.2 The building that is now the annexe was originally a cart shed for the Manor House, planning permission was originally granted for its use as an annexe in 2007 (06/07/0702/F), this permission was not implemented and a further application for an annexe was submitted and approved in 2014 (06/14/0099/F). Prior to this planning permission had been refused for its conversion to three, one-bedroom letting apartments in 2005 (06/05/0609/CU) and another application for the conversion of the cart shed to a one bedroom letting apartment was withdrawn before a decision was made in 2006 (06/06/0512/F). The reasons for refusal of the first application were that the access onto Browston Lane was not suitable to serve further development and the site was not an appropriate location for new holiday development.
- 1.3 In 2015 planning permission was granted for an extension to create an additional room to the annexe to provide space for a live in carer (06/15/0043/F). In 2016 a planning application was submitted for the removal of the occupancy condition which limits the use of the annexe to the occupiers of The Manor House or their dependents (06/16/0227/F). This application

was refused on the grounds that the removal of the condition would result in the formation of a new dwelling in the countryside outside any area where residential development would normally be permitted and that sufficient evidence to support a need for a dwelling contrary to policy had not been provided. The applicant appealed against the refusal but the appeal was dismissed on 24th February 2017, the main reasons for the decision were the lack of accessible local services and the increase in travel by private car.

2 Consultations :-

- 2.1 Highways – no objection.
- 2.2 Parish Council – objects, an annexe is usually attached to the main building therefore this dwelling must be retained within the curtilage of the main property and not sold as a separate dwelling.
- 2.3 Local residents – two letters of objection have been received, copies of which are attached, the main reasons for objection are that the building has previously been refused permission to be used as a separate dwelling.
- 2.4 Strategic Planning Officer – supports the application.

3 Policy :-

3.1 POLICY HOU10

Permission for new dwellings in the countryside will only be given if required in connection with agriculture, forestry, organised recreation, or the expansion of existing institutions.

The council will need to be satisfied in relation to each of the following criteria:

- (i) the dwelling must be required for the purpose stated
- (ii) It will need to be demonstrated that it is essential in the interests of good agriculture or management that an employee should live on the holding or site rather than in a town or village nearby
- (iii) there is no appropriate alternative accommodation existing or with planning permission available either on the holding or site or in the near vicinity
- (iv) the need for the dwelling has received the unequivocal support of a suitably qualified independent appraiser
- (v) The holding or operation is reasonably likely to materialise and is capable of being sustained for a reasonable period of time. (in appropriate cases evidence may be required that the undertaking has a sound financial basis)

- (vi) the dwelling should normally be no larger than 120 square metres in size and sited in close proximity to existing groups of buildings on the holding or site
- (vii) a condition will be imposed on all dwellings permitted on the basis of a justified need to ensure that the occupation of the dwellings shall be limited to persons solely or mainly working or last employed in agriculture, forestry, organised recreation or an existing institution in the locality including any dependants of such a person residing with them, or a widow or widower or such a person
- (viii) where there are existing dwellings on the holding or site that are not subject to an occupancy condition and the independent appraiser has indicated that a further dwelling is essential, an occupancy condition will be imposed on the existing dwelling on the holding or site
- (ix) applicants seeking the removal of any occupancy condition will be required to provide evidence that the dwelling has been actively and widely advertised for a period of not less than twelve months at a price which reflects the occupancy conditions*

In assessing the merits of agricultural or forestry related applications, the following additional safeguard may be applied:-

- (x) where the need for a dwelling relates to a newly established or proposed agricultural enterprise, permission is likely to be granted initially only for temporary accommodation for two or three years in order to enable the applicant to fully establish the sustainability of and his commitment to the agricultural enterprise
- (xi) where the agricultural need for a new dwelling arises from an intensive type of agriculture on a small acreage of land, or where farm land and a farm dwelling (which formerly served the land) have recently been sold off separately from each other, a section 106 agreement will be sought to tie the new dwelling and the land on which the agricultural need arises to each other.

Note: - this would normally be at least 30% below the open market value of the property.

3.2 POLICY HOU11

Outside the urban areas of Great Yarmouth, Gorleston and Bradwell and the village development limits shown on the proposals map for other settlements, proposals for the change of use of existing buildings to residential use will be permitted where:

- (A) the applicant can demonstrate that every reasonable attempt has been made to secure suitable commercial re-use; or

- (B) residential conversion is a subordinate part of a scheme for commercial re-use; and,
- (C) the building is suitable for conversion enabling residential use to be achieved without extensive alteration, rebuilding and/or extension;
- (D) the form, bulk and general design of the building is in keeping with its surroundings;
- (E) suitable access can be provided which does not significantly harm the appearance of the building, or its setting, or the surrounding countryside;
- (F) the proposal complies with other relevant policies of the plan.

(Objective: to allow development in the countryside only where there is a proven long-term need.)

4 Assessment :-

- 4.1 The annexe was originally created for the applicant's grandmother and was occupied by her until she passed away in February 2016, the building is currently unoccupied. The proposal is to remove condition 5 of planning permission 06/15/0043/F and condition 3 of planning permission 06/14/0099/F which was the original approval for the annexe. The wording of the condition is as follows:-

"The additional accommodation hereby permitted shall only be used by the occupiers of The Manor House, or their dependents, and shall not be used as a separate dwelling or let separately for holiday purposes".

- 4.2 A similar application was refused earlier this year and subsequently dismissed on appeal, in the decision letter the Inspector did not consider that the use of the annexe as a separate dwelling would detract from the setting of the listed building or cause any harm to the character and appearance of the countryside. The reasons for dismissing the appeal were that there are no services in Browston, that travel by private motor vehicle is the only realistic option on a day to day basis and the proposal was contrary to the aims of Policy HOU10 and paragraph 55 of the National Planning Policy Framework which aim to restrict the spread of new housing in the countryside. The Inspector considered whether there is a shortfall in housing land supply within the Borough but decided that the adverse impacts of granting permission would significantly outweigh the benefits and the proposal would not be sustainable development.
- 4.3 Since the appeal was dismissed the applicant's personal circumstances have changed and there is a need for his parents to live in the annexe to help to look after family members who are suffering from ill health. They could do this with the existing conditions being in place but are reluctant to do so with the conditions attached as they would like to move there full time and they would have to move out if The Manor House was sold in the future. There would be

little difference in traffic movements if the parents occupied the annexe with the conditions in place or as a separate dwelling so it may be considered that on further consideration the reasons for dismissing the appeal can be overcome.

- 4.4 The Planning Statement that accompanies the application refers to two recent approvals for conversion of buildings to dwellings in the nearby area at Hobland House and High House. These applications were different in that they were empty, unused buildings that could be considered as acceptable for conversion under saved Policy HOU11 which allows for the conversion of rural building to dwellings.
- 4.5 As the previous application was dismissed on appeal earlier this year the recommendation is to refuse, however Members may consider that, taking into account the exceptional circumstances in this case, the use of the annexe as a separate dwelling without complying with the conditions will not cause any harm to the character of the area or result in any significant increase in traffic movements and an exception to Policy made be made in this instance.

5 RECOMMENDATION :-

- 5.1 Refuse – the proposal is contrary to saved Policy HOU10 and the aims of Paragraph 55 of the NPPF.

ACK 29/6/17

MR & MRS J. R. TUTTLE
OAK LODGE
CHERRY LANE
BROWSTON
GREAT YARMOUTH
NR31 9DN

June 27th 2017

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



Dear Mrs Helsdon,

Re: Application 06/17/0340/F

Thank you for informing us of the above.

The original building which was a cart shed, has had numerous applications applied for:-

1. It was refused in the first instance for a holiday let.
2. The second application for an annexe was passed on condition that it was only to be used by the occupiers of the Manor House or their dependents and not to be sold off separately.
3. The third application was for a large extension on the annexe to accommodate a live in carer. This was granted under exceptional circumstances for a form of development not normally permitted but the same conditions still applied, meaning that it could not be sold off separately from the Manor House.
4. The applicant then inquired in March 2016, regarding his parents wanting to purchase the annexe but only if the annexe was separate from the Manor House.
5. The fourth application was for the removal of condition 5 re: PP 06/15/0043/F to allow the annexe to be used as a separate dwelling. This was refused, as the original conditions still applied.
6. Then the applicant went to Appeal to get the condition removed but this was dismissed.
7. This new application 06/17/0340/F for the removal again of condition 5 of planning permission 06/15/0043/F is wanting the annexe to be used as a separate dwelling.

We would assume that the conditions and reasons for refusals before, still stands. The Planning Office and the Appeal are both in agreement that the conditions should not be removed and the (cart shed) annexe should remain with the Manor House.

Yours sincerely

J R & V A Tuttle

A blacked-out rectangular area redacting the signature of J R & V A Tuttle.

Great Yarmouth Borough Council

22 JUN 2017

Customer Services

Planning
Town Hall

*Browston Lane / Lound Road
Browston*

16th June

Dear Sir number 06/17/0340/F

I am writing this on behalf of myself and some other residents who cannot believe that since the last application for a change of use of the cart shed (annexe) was refused by you for a separate dwelling and then the appeal also refused permission that the owner has put in for it again.

Does the word no not mean anything?

Mind you if you pass it, it makes a mockery of your stipulations and then does it mean that all the residents and myself who have an annexe could then apply for the same thing?

Name and address withheld so need for a reply. I will hear soon enough.

With thanks



nps/group
06/17/0340/F



Browston; The Manor Barn Annexe

Planning Statement

Statement in support of a planning application
to remove the occupancy condition to allow
permanent occupation

May 2017 (v1)

Report Prepared by:
Andy Scales BA (Hons) MRTPI

Contents

Page

1.0	Introduction / Background	3
2.0	Planning History	4
3.0	Planning Policy	5
4.0	Personal Circumstances	7
5.0	Assessment against planning policy / other material considerations	7
	Conclusion	10

APPENDICES

APPENDIX ONE – Letter from Mr and Mrs Smith outlining personal circumstances

APPENDIX TWO – Copy of permission 06/14/0099/F

APPENDIX THREE – Copy of permission 06/15/0043/F

APPENDIX FOUR – Copy of appeal decision

APPENDIX FIVE – Plan showing location of sites granted relevant planning permissions (and decision notices)

1.0 Introduction / Background

- 1.1 The application site is located some 1300 metres south of Bradwell and a similar distance east of Belton on the west side of Browston Lane.
- 1.2 Browston Lane itself extends from Bradwell in a southerly is characterised by individual dwellings alongside larger small groups / clusters of housing separated by more open areas. Immediately opposite the site (on the east side of Browston Lane) is such a cluster. The application site itself is well screened from Browston Lane.
- 1.3 The application site consists of an existing building in residential use. The building is located some 30 metres to the south of The Manor House. The Manor House is a Grade II listed building standing in large grounds to the west of Browston Lane. There is another house approximately 50m to the south of the annexe, Manor Farm Cottage.
- 1.4 The applicants, Richard and Isabel Smith, bought the Listed Building in 2015. They have spent over £190,000 on the site in the repair, upkeep and maintenance of the house, its barn / outbuildings (including the annexe) and grounds to return this Grade II Listed Building and site from a poor state of repair to a very good condition.
- 1.5 As outlined in the planning history (see section 2.0), the application site building (with annex use consent) consists of two bedrooms, living room/kitchen and bathroom. It has a separate access to the building and space for two vehicles to park. The 2014 planning permission was for the change of use (effectively conversion) of the former cart shed to an annexe. This initial consent was to meet a particular family need. This was to accommodate the applicant's elderly relative. Subsequent to this, a further planning permission was granted to extend this building for a 'live in carer'. Unfortunately, last year the elderly relative passed away and the building now remained unoccupied.
- 1.6 The application site was subject to a recent appeal. Following this decision, the applicant has discussed both the reasons advanced for refusal and their personal circumstances with Planning Officers. They have been invited to resubmit a planning application which address the reason advanced by the Inspector for refusal (which were not advanced by Members in the original refusal and their personal circumstances, which were not raised in the original application refused (or appeal), to allow reconsideration of this matter.
- 1.7 This Planning Statement has been prepared to support the planning application and it outlines the planning history relevant to the application, planning policy considerations, personal circumstances (also see Appendix 1) and then makes an objective assessment of the application in relation to development plan policy and other material considerations.

2.0 Planning History

2.1 Planning applications / appeal on application site

- 2.1.1 The initial consent granted to the former cart shed under application 06/14/0099/F, allowed the conversion to residential accommodation in the form of a 'granny annexe'. This imposed condition 3 to limit occupation as an annexe. Decision attached as Appendix 2.
- 2.1.2 Application 06/15/0043/F granted planning permission for an additional room to an existing building used as an annex. No reference was made in this application to the previous consent on this building. It imposed condition 5, which sought to re-impose the occupancy restriction of the 2014 permission. Decision attached as Appendix 3.
- 2.1.3 A planning application 06/16/0227/F was submitted on 1 April 2016 to remove condition 5 of planning permission 06/15/0043/F to allow use of an existing annexe as a separate dwelling. The application effectively sought permission for unrestricted residential use of an existing outbuilding. This application was refused, under delegated powers, in 8 June 2016 on the following grounds. Decision also attached as Appendix 4.

The removal of the condition limiting the occupancy of the annexe would result, in effect, in the formation of a new dwelling in the countryside outside any area where the Local Planning Authority would normally permit residential development and therefore has to be considered against saved Policy HOU10 of the Great Yarmouth Borough-Wide Local Plan. Policy HOU10 states that permission for new dwellings in the countryside will only be given if required in connection with agriculture, forestry, organised recreation, or the expansion of existing institutions. The proposal is contrary to this policy in that no need for the dwelling has been demonstrated to satisfy the criteria of the above policy and there is, therefore, insufficient justification to warrant a departure from national and local policies designed to protect the countryside.

- 2.1.4 An appeal was lodge in 10 October 2016. The Inspector dismissed the appeal. However, the Inspector is clear in his view that the use and impact on the countryside and amenity of nearby residents is acceptable. Paragraph 12 states

'The existing annexe is situated within the grounds of the Grade II listed The Manor House as a comparatively small and subservient building to the main house. From an internal inspection, it is laid out for residential use. It has a simple and pleasant appearance and does not detract from the setting of the listed building given the design and siting. The annexe is not highly visible from Browston Lane to the east due to the buffer provided by paddocks and vegetation. Browston Lane is characterised by intermittent development amongst fields and paddocks. Thus, in terms of the character and appearance of the countryside, the use of the annexe as a separate dwelling would be acceptable and it would not be isolated in a physical sense'

- 2.1.5 The Inspector however has identified that 'Browston has few services' (para 13) and the use of the annexe as a separate dwelling would have a negative impact in

terms of 'lack of accessible local services' and 'increased travel by private car' (para 15).

2.2 Other relevant planning approvals

- 2.2.1 Whilst the appeal was dismissed, this decision is at odds with local decision-making, undertaken under the same NPPF planning policy context on sites located in similar proximity to settlements. These include decisions at Hobland House (Ref 06/16/0488/F) and High House (Ref 06/15/0573/F) – with the Hobland House decision being made by the Council after the date of the refusal of the application that was subject of the appeal decision. A copy of each decision notice is attached as Appendix 5.
- 2.2.2 The appeal site is located a little over one kilometre to the south and east of the nearest settlement boundary. Hobland House where permission (recently granted) adjacent to a Grade II listed Building for residential conversion under (Ref 06/16/0488/F) is also located a kilometre south of its nearest settlement boundary. In addition, in locational terms, the recent consent for conversion at High House is located in a very similar position in relation to services / facilities and road network to this application site. The three locations are marked on the plan attached as Appendix 5.

3.0 Planning Policy

- 3.0.1 The Planning and Compulsory Purchase Act 2004 carried forward the provisions of the Town and Country Planning Act 1990, giving statutory force to a planning led system of development control. Under Section 38 of the 2004 Act, the determination of planning applications must be in accordance with the approved Development Plan for the area, unless material considerations indicate otherwise.
- 3.1 a) Development Plan
- 3.1.1 Development plan policy is provided by the following
- Great Yarmouth Borough Council Core Strategy (adopted 2015);
 - Great Yarmouth Borough Local Plan 'saved' policies (adopted in 2003).
- 3.1.2 The Council is at the early stage of preparing Development Policies and Site Allocations DPD's. The work undertaken to date is limited so should carry no weight.
- 3.1.3 In terms of development plan policy, it is considered that the following saved Local plan policies are relevant
- Policy HOU10 – New Dwellings in the Countryside
 - Policy HOU11 - Change of use of existing buildings outside development limits to residential use

3.2 b) NPPF

- 3.2.1 The Local Plan policies are somewhat out of date, other than those contained in the Core Strategy that accord with the provisions of Central Government advice, notably the National Planning Policy Framework (NPPF). Planning decisions (including applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF provisions should be taken into account and is a material consideration in planning decisions.
- 3.2.2 The NPPF advice contains a number of important provisions relevant to five year land supply (underlining shows my emphasis).

Para 49 - Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

Para 14 - At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking..... For decision-taking this means:

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - specific policies in this Framework indicate development should be restricted.*

- 3.2.3 In relation to housing in rural areas, it is a matter for each Local Planning Authority to interpret the advice contained in paragraph 55. This states

To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as;

- *where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*

3.3 c) Five year land supply considerations

- 3.3.1 The Council also have prepared in 2016 a Five Year Housing Land Supply Position Statement. This identified a five-year housing land supply of 5.17 years. However, this includes land which neither has the benefit of allocation nor with a planning. Without this, there is no five-year land supply and there has been some slippage in delivery of planning consents on some sites (in the last 12 months since the 2016 figure was published) that would bring into question the robustness of the figure. This is a material consideration.

4.0 Personal Circumstances

- 4.1 In seeking initial approval and the appeal decision, no personal circumstances were advanced. However, in this case, the family circumstances represent a material planning consideration.
- 4.2 The full details of personal circumstances are outlined in Appendix 1. In summary, during the processing of the recent appeal, the applicant's son, Otto, was suffering from deteriorating health. Both Otto and Mrs Smith have a heart condition, Otto has had a heart transplant but has over the past 18 months had mental health issues which is a result of him losing his brother who sadly died waiting for a second heart transplant. While waiting for the decision on our appeal, Otto has deteriorated so badly that he needs 24 hour supervision and has a range of complex medical needs. This has put an immense pressure on us as a family to meet these needs.
- 4.3 The family consider that this permission would make significant difference to the family with support for Otto and Mrs Smith (who is struggling with her health as well as coping with Otto). The security of a consent would finance firstly the special care required by the family whilst secondly still allow funds and borrowing to be secured to continue the investment in repair, upkeep and maintenance of the Listed Building and its grounds.

5.0 Assessment against planning policy / material planning considerations

- 5.0.1 The key starting point to determine the planning applications is the requirement to determine in accordance with development plan policy unless material considerations otherwise dictate. The recent application site planning history / appeal decision, other relevant planning decision / NPPF advice and personal circumstances all represent material considerations.
- 5.1 Application Site History / Appeal Decision (The Manor House Barn)
 - 5.1.1 The application site is detached and to the south of the Manor House (which is Grade II Listed) and is one of two outbuildings located to the south, the smaller a garage and the larger the former cart shed building granted consents for a residential (annexe) use. The permissions accepted that the residential character, layout and appearance met the design policy tests and preserved the character, appearance and setting of The Manor House.
 - 5.1.2 In respect of planning history and planning policy, from the decision notice which refused consent to remove the condition in 2016, it is clear that the Local Planning Authority raise no amenity, traffic generation / highway safety, landscape or heritage objection to the proposed scheme. The single reason for refusal was conflict with policy HOU 10 which relates to new dwellings in the countryside and policy HOU 10 relates to new build rather than change of use or conversion. (This is notwithstanding proposals for conversion of change of use need to be judged

against a separate saved policy HOU 11 – an approach taken on other sites close by).

- 5.1.3 However in considering the appeal, the Inspector clearly considered the case as a conversion (under policy HOU11) and concluded 'in terms of the character and appearance of the countryside, the use of the annexe as a separate dwelling would be acceptable and it would not be isolated in a physical sense'. Therefore, the Inspector in coming to this decision effectively rejected the reason advanced by the Local Planning Authority.
- 5.1.4 As outlined to, and accepted by, the Inspector, policy HOU11 is relevant as the 2014 should have been judged in relation to this policy as a change of use of existing buildings outside development limits to residential use (and the policy context remains unchanged). Clearly, in granting consent in 2014, the principle of residential use was established. Policy HOU11 states
- 5.1.5 Following the grant of the 2014 permission and its use by the applicants late relative, the site has a residential character and appearance and would only be suitable for such continuing residential type use. It would not be suitable for a commercial re-use (as encouraged by criterion (a) of policy HOU11) as such a use would prove difficult to accommodate without detrimental to the character and appearance of the site or setting of the heritage (listed) asset. In relation to the other policy HOU11 criteria, the residential use (either temporary or permanent) complies in full with (c) – (f). Whilst the permanent use is not subordinate to any commercial re-use, in view of the heritage considerations outlined (which would be likely to preclude commercial use) and as the site is already in residential use, it would be inappropriate to give criteria (b) any significant weight in considering permanent residential use in this case.
- 5.2 Other Relevant Planning Decisions / NPPF advice
 - 5.2.1 The appeal Inspector in making his decision focussed the rejection based on the *'lack of accessible local services'* and *'increased travel by private car'*.
 - 5.2.2 In considered the application site, the Planning Authority has recently approved a proposal, based on policy HOU11, in locations with similar accessibility considerations to the application site (including associated with Listed Buildings). This represents an important material consideration.
 - 5.2.3 Planning permission has recently been granted (on 7 October 2016) in the locality (at Hobland House) for the change of use, conversion and alteration of an existing outbuilding (in the grounds of a Grade II Listed Building) to form a single dwelling house with amenity space (LPA ref 16/0488). In addition, in locational terms, the recent consent for conversion at High House is located in a very similar position in relation to services / facilities and road network.
 - 5.2.4 The key site characteristic and site specific considerations which apply to this application site and the nearby recently approved applications are similar and

comparable in that sites are located in the countryside; (in the case of Hobland House in the grounds of, but detached from, Grade II Listed Buildings); and seek to use an existing building for permanent residential use. Furthermore, the planning policy context has not changed in the period between the decisions.

5.2.5 In considering NPPF advice, it is a matter for the Local Planning Authority to consider how sustainability considerations are to be interpreted in relation to their local circumstances. Based on the decisions outline above (and also the original refusal of permission to remove the planning condition which was silent on this issue), limited weight is given in the Borough to accessibility to local services and increase travel by private car considerations when sites are located within less than a mile of such larger settlements (such as Bradwell). Therefore as the Inspector was supportive of permanent use of the building and even without the other material considerations outlined below, consistency in local decision-making should mean the application should be approved.

5.2.6 The Councils' five-year housing land supply is also relevant. As at April 2016, this was claimed at 5.17 years. This figure relies on sites that are neither allocated or with the benefit of planning permission. Furthermore, this information is over a year out of date. It is unrealistic to anticipate that all non-allocated sites or those with no planning permission will come forward at a speed envisaged to ensure the supply is met. Whilst this application would only effectively create a single new dwelling unit (which would make only a very modest contribution to the required five year housing land supply), this consideration should be weighed in relation to the other matters.

5.3 Personal Circumstances

5.3.1 In addition to the robust arguments outlined above, there are strong personal circumstances that also represent material considerations that should support the grant of planning permission.

5.3.2 As outlined in section 4 and detailed further in Appendix 1, physical / mental health issues affect the applicant's son and health issues affect Mrs Smith. The extent of support required is significant. The family consider that this permission would make significant difference to the family with support for their surviving son and Mrs Smith. The security of a consent would allow for the special care and support required by the family to be financed by the family whilst also allow funds and borrowing to be secured to continue the investment in repair, upkeep and maintenance of the Listed Building and its grounds.

6.0 **Conclusion**

6.1 In view of the above, it is considered that in view of the policy context, coupled with other material considerations, there is clear justification to approve the application to remove the occupancy condition on the building.

APPENDIX 1

Dear Dean Minns

Further to our telephone conversation on the 11th May for the removal of condition 5. The reasons for asking for this removal was our parents wanted to buy the annex and sell their home to move in, yes they could move in without permission but they wanted the security if we ever moved out of The Manor House for any unforeseen reason they didn't have to move, so splitting the deeds was the answer. Unfortunately the planning permission was refused on the 8th June 2016.

We decided to appeal but while this decision was being looked at our son Otto deteriorated in his health. Otto and my wife have a heart condition, Otto has had a heart transplant but has over the past 18 months had mental health issues which is a result of him losing his brother who sadly died waiting for a second heart transplant. While waiting for the decision on our appeal Otto has deteriorated so badly that he needs 24hr supervision and has a range of complex medical needs. This has put an immense pressure on us as a family and our need for extra support to help meet these complex needs.

On the 24th February we were informed our planning appeal was dismissed on different reasons to the Council's refusal, as you can appreciate this has been a big blow to us. As a result we decided to meet Graham Clarke on Thursday 30th March to explain our circumstances and how this permission would make such a difference to us as a family with support for Otto and my wife who is struggling with her health as well as coping with Otto.

Graham suggested us to resubmit our planning application as given our circumstances have changed, the Council may grant this on special circumstances. He also suggested to seek support from our local councillors. Cllr Carl Annison kindly acknowledged our email and the severity of our situation and has brought this to your attention.

Your sincerely

Richard & Isabel Smith

APPENDIX 2

THE BOROUGH OF GREAT YARMOUTH

Town and Country Planning Act 1990

PLANNING PERMISSION

Part 1 - Particulars of Application

Reference No :- **06/14/0099/F**

Submitted :- 17th February 2014

Development at :-

The Manor House
Browston Lane
Browston Great Yarmouth
NR31 9DP

For :-

Change of use from cart shed to granny annexe

Agent :-

Mr R Smith
The Manor House
Browston Lane
Browston Great Yarmouth
NR31 9DP

Applicant :-

Mr R Smith
The Manor House
Browston Lane
Browston Great Yarmouth
NR31 9DP

Part 2 - Particulars of Decision

The Great Yarmouth Borough Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act, 1990 that permission has been granted for the development referred to in Part 1 hereof in accordance with the application and plans submitted subject to the following conditions:-

1. The development must be begun not later than three years beginning with the date of this permission.

The reason for the condition is :-

The time limit condition is imposed in order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out in accordance with the details contained in the planning application forms and drawings received by the Local Planning Authority on 18th February 2014.

The reason for the condition is :-

For the avoidance of doubt.

3. The additional accommodation hereby permitted shall only be used by the occupiers of The Manor House, or their dependents, and shall not be used as a separate dwelling or let separately for holiday purposes.

The reason for the condition is :-

This permission is granted under exceptional circumstances for a form of development not normally permitted by the Local Planning Authority and to enable the Authority to retain control over the use of the site.

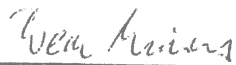
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting the order) no extensions shall be built or windows inserted into the walls or roof of the building.

The reason for the condition is:-

To enable the Local Planning Authority to retain control over the appearance and size of the building.

5. REASON FOR APPROVAL OF THE APPLICATION :-

The proposal meets the criteria of Policy HOU11 of the Great Yarmouth Borough-Wide Local Plan.

A handwritten signature in dark ink, appearing to read 'Vera Moring', written over a horizontal line.

Date: 22nd April 2014

Group Manager (Planning)
Town Hall, Hall Plain, Great Yarmouth

APPENDIX 3

THE BOROUGH OF GREAT YARMOUTH

Town and Country Planning Act 1990

PLANNING PERMISSION

Part 1 - Particulars of Application

Reference No :- **06/15/0043/F**

Submitted :- 4th February 2015

Development at :-

The Manor House
Browston Lane Browston
GREAT YARMOUTH
NR31 9DP

For :-

Proposed additional room to annexe to provide live in care

Agent :-

Mr R Smith
The Manor House
Browston Lane Browston
GREAT YARMOUTH
NR31 9DP

Applicant :-

Mr R Smith
The Manor House
Browston Lane Browston
GREAT YARMOUTH
NR31 9DP

Part 2 - Particulars of Decision

The Great Yarmouth Borough Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act, 1990 that permission has been granted for the development referred to in Part 1 hereof in accordance with the application and plans submitted subject to the following conditions:-

1. The development must be begun not later than three years beginning with the date of this permission.

The reason for the condition is :-

The time limit condition is imposed in order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out in accordance with the details contained in the planning application forms and drawings received by the Local Planning Authority on 5th February 2015.

The reason for the condition is :-

For the avoidance of doubt.

5. The additional accommodation hereby permitted shall only be used by the occupiers of The Manor House, or their dependents, and shall not be used as a separate dwelling or let separately for holiday purposes.

The reason for the condition is :-

In order to enable the Local Planning Authority to retain control over the use of the site as the building is not in an area where a separate dwelling would normally be permitted.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting the order) no extensions shall be built or windows inserted into the walls or roof of the building.

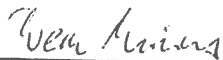
The reason for the condition is:-

To enable the Local Planning Authority to retain control over the appearance and size of the building.

7. REASON FOR APPROVAL OF THE APPLICATION :-

The proposal meets the criteria for domestic additions set out in Policy HOU18 of the adopted Great Yarmouth Borough-wide Local Plan.

8. STATEMENT OF POSITIVE ENGAGEMENT: In dealing with this application Great Yarmouth Borough Council has actively sought to work with the applicant in a positive and proactive manner, in accordance with paragraphs 186 and 187 of the NPPF.

A handwritten signature in dark ink, appearing to read 'Ven. M. M. M.', written over a horizontal line.

Date: 1st April 2015

Group Manager (Planning)
Town Hall, Hall Plain, Great Yarmouth

APPENDIX 4



Appeal Decision

Site visit made on 24 January 2017

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 February 2017

Appeal Ref: APP/U2615/W/16/3160561

The Manor Barn, Browston Lane, Browston, Great Yarmouth NR31 9DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Richard Smith against the decision of Great Yarmouth Borough Council.
- The application Ref 06/16/0227/F, dated 24 March 2016, was refused by notice dated 8 June 2016.
- The application sought planning permission for additional room to annexe to provide live in care without complying with a condition attached to planning permission Ref 06/15/0043/F, dated 1 April 2015.
- The condition in dispute is No 5 which states that: "The additional accommodation hereby permitted shall only be used by the occupiers of The Manor House, or their dependents, and shall not be used as a separate dwelling or let separately for holiday purposes".
- The reason given for the condition is: "In order to enable the Local Planning Authority to retain control over the use of the site as the building is not in an area where a separate dwelling would normally be permitted".

Decision

1. The appeal is dismissed.

Procedural Matters

2. The disputed condition is attached to two planning permissions¹ from 2014 and 2015, but the application form and decision notice refer to the 2015 planning permission only. Nevertheless, under Section 73 of the Town and Country Planning Act 1990, I can either allow the appeal and create a new planning permission without the disputed condition or dismiss the appeal. In either scenario, the existing two planning permissions would remain extant. For the avoidance of doubt, I have taken into account both planning permissions when determining this appeal.
3. The site address on the original application form was incomplete, so the address shown above is based on the decision notice and appeal form.

Background and Main Issue

4. The 2014 planning permission related to the change of use from a cart shed to 'granny annexe' at The Manor House. This was approved in accordance with Policy HOU11 of the Great Yarmouth Borough-Wide Local Plan 2001 ('the Local

¹ 06/14/0099/F granted permission on 22 April 2014 and 06/15/0043/F granted permission on 1 April 2015

- Plan") which provides for the change of use of existing buildings to residential use where certain criteria are met. A condition was attached restricting the use of the additional accommodation to occupiers of The Manor House or their dependents.
5. The 2015 planning permission related to a proposed additional room to the annexe to provide live in care. This was approved in accordance with Policy HOU18 of the Local Plan, and the same condition was attached.
 6. The appellant is seeking to avoid having to comply with the disputed condition on the 2015 planning permission to allow his parents to purchase the current annexe and continue to live there should he come to sell the main house. The Council has stated that this would be contrary to Policy HOU10 of the Local Plan which restricts new dwellings in the countryside to specific types of dwelling, none of which have been put forward by the appellant in this appeal
 7. The main issue therefore is whether the disputed condition is necessary to prevent the use of the appeal building as a separate dwelling, having regard to the character and appearance of the countryside and the proximity of services.

Reasons

8. There is some disagreement between the appellant and the Council as to whether Policy HOU10 and/or Policy HOU11 are relevant to this appeal. I accept that Policy HOU11 has some relevance given the above planning history, but the principle of a residential use has already been established. From the evidence before me, there would be no conflict with Policy HOU11 should a new planning permission be created without the disputed condition.
9. However, the conditions on both planning permissions clearly seek to avoid the use of the appeal building as a separate dwelling, which brings into play Policy HOU10. There is nothing in Policy HOU10 that indicates a new dwelling has to be an entirely new building, and so I consider this policy to be of relevance to this appeal.
10. The cited planning permission at Hobland House (ref 06/16/0488/F) appeared to involve the conversion of an existing outbuilding to a single dwelling under Policy HOU11, rather than the conversion of a residential annexe, and so is not identical to this appeal. I have determined this appeal on its own merits based on the evidence before me.
11. The Council contends that Policy HOU10 is in general conformity with the National Planning Policy Framework (NPPF) and I have no reason to disagree. The Council emphasise the relevance of paragraph 55 of the NPPF which seeks to locate rural housing where it will enhance or maintain the vitality of rural communities and avoid new isolated homes in the countryside unless special circumstances apply.
12. The existing annexe is situated within the grounds of the Grade II listed The Manor House as a comparatively small and subservient building to the main house. From an internal inspection, it is laid out for residential use. It has a simple and pleasant appearance and does not detract from the setting of the listed building given the design and siting. The annexe is not highly visible from Browston Lane to the east due to the buffer provided by paddocks and vegetation. Browston Lane is characterised by intermittent development amongst fields and paddocks. Thus, in terms of the character and appearance

of the countryside, the use of the annexe as a separate dwelling would be acceptable and it would not be isolated in a physical sense.

13. However, the village of Browston has few services and is accessed via narrow country lanes lacking in lighting and pavements. This means that travel by private motor vehicle is the only realistic option on a day to day basis. While there are already vehicle movements to and from The Manor House, the creation of a separate dwelling in the annexe would result in two separate properties occupied by two separate households. There would likely be more travel requirements and so the new dwelling would be functionally isolated from services and facilities.
14. No special circumstances have been put forward by the appellant in support of a new isolated dwelling, including those examples listed in paragraph 55 of the NPPF. I acknowledge the appellant's personal circumstances, but these can carry only limited weight in favour of the allowing the appeal. I note that the provision of a new dwelling would help in a very modest way to increase local housing supply, but there is little evidence that it would enhance or maintain the vitality of rural communities in terms of supporting local services.
15. The use of the annexe as a separate dwelling would lead to negative social and environmental effects in terms of the lack of accessible local services and the inefficient use of natural resources through increased travel by private car. It would conflict with Policy HOU10 in terms of the creation of a new dwelling in the countryside outside of specified exceptions and would not follow the approach of paragraph 55 of the NPPF. The adverse impacts of the change of use would thus be significant, compared to the very modest benefits of a new dwelling.
16. The appellant casts doubt on whether the Council can demonstrate a five year housing land supply, something which the Council has not responded to in its appeal statement. The evidence before me is limited. However, even if I were to accept that there is a shortfall in housing land supply and that relevant policies for the supply of housing should not be considered up to date, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits and the proposal would not be sustainable development.

Conclusion

17. The annexe would not be suitable for use as a separate dwelling having regard to the proximity of services, and would conflict with Policy HOU10 of the Local Plan and paragraph 55 of the NPPF. The disputed condition is therefore necessary to prevent the use as a separate dwelling from occurring. The condition also meets the other tests for conditions set out in paragraph 206 of the NPPF in that it is relevant to planning and the approved development, enforceable in terms of the ability to detect a change in use, precisely worded and reasonable in all other respects.
18. For the above reasons, and having had regard to all matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR

APPENDIX 5



THE BOROUGH OF GREAT YARMOUTH
Town and Country Planning Act 1990

PLANNING PERMISSION

Part 1 - Particulars of Application

Reference No :- 06/16/0488/F	Submitted :- 25th July 2016
Development at :- Hobland House Hobland Road Bradwell GREAT YARMOUTH	For :- Change of use, conversion and alterations of existing outbuilding to form single three bedroom dwelling house with amenity space
Agent :- Paul Robinson Partnership (UK) LLP The Old Vicarage Church Plain GREAT YARMOUTH NR30 1NE	Applicant :- Mr & Mrs Sturzaker Hobland House Hobland Road Bradwell GREAT YARMOUTH NR31 9AR

Part 2 - Particulars of Decision

The Great Yarmouth Borough Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act, 1990 that permission has been granted for the development referred to in Part 1 hereof in accordance with the application and plans submitted subject to the following conditions:-

1. The development must be begun not later than three years beginning with the date of this permission.

The reason for the condition is :-

The time limit condition is imposed in order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the details contained in the planning application forms and drawing no's. 7630 04 Rev. A, 7630 05 and 7630 06 received on 28th July 2016 and drawing no. 7630 07 received on 21st September.

The reason for the condition is :-

For the avoidance of doubt.

3. Prior to the commencement of the development a detailed schedule of all materials and finishes to be used in the development shall be submitted for agreement in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

The reason for the condition is :-

To enable the Local Planning Authority to retain control over the development to ensure that such items are in keeping with and appropriate to a residential barn conversion.

4. No development shall take place until details of the siting of bat boxes and barn owl nesting boxes have been agreed in writing with the Local Planning Authority. The boxes, as agreed, shall be installed prior to the commencement of any development.

The reason for the condition is :-

To provide alternative nesting sites for bats/owls.

5. Prior to the commencement of the development hereby approved, a Phase 1 Desk Survey and Site Walkover investigation to assess whether the land is contaminated shall be carried out and a report shall be submitted to and approved by the Local Planning Authority in consultation with the Environmental Services Group Manager. The investigation shall include details of known previous uses and possible contamination arising from those uses.

If contamination is found or suspected to exist, a Phase 2 Site Investigation report is to be submitted to and approved by the Local Planning Authority in consultation with the Environmental Services Group Manager. If the Phase 2 Site Investigation determines that the ground contains contaminants at levels that could cause harm to human health the applicant shall submit a strategy detailing how the site is to be remediated to a standard suitable for its proposed end use to the Environmental Services Group Manager.

If remediation work is considered necessary the dwelling hereby permitted shall not be occupied until the remediation works agreed within the remediation strategy have been carried out to the satisfaction of the Local Planning Authority.

The reason for the condition is :-

To ensure that risks from land contamination to future occupiers and neighbouring land are minimised together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

6. Prior to the first occupation of the dwelling hereby permitted, a visibility splay shall be provided in full accordance with the details indicated on the approved drawing 7630 07. The splay shall thereafter be maintained free from any obstruction exceeding 1.05 metres above the level of the adjacent highway carriageway.

The reason for the condition is :-

In the interests of highway safety.

7. Prior to the first occupation of the dwelling hereby permitted, the proposed access, on-site car parking and turning area shall be laid out in accordance with the approved plan and retained thereafter available for that specific use.

The reason for the condition is :-

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

8. Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting the order) no extensions or alterations to the roof shall be constructed and no doors, windows or other openings (other than those expressly authorised by this permission) shall be inserted into the walls or roof of the dwelling without the prior consent of the Local Planning Authority.

The reason for the condition is:-

In the interests of the residential amenities of the occupiers of the adjacent property and the visual amenity of the area.

9. No painting of the external surfaces of the dwelling hereby permitted shall take place without the prior consent in writing of the Local Planning Authority. Proposals shall be submitted to and approved by the Local Planning Authority before the work is begun and the work shall be carried out in accordance with the approved details.

The reason for the condition is :-

To ensure that such work does not detract from the appearance and character of the buildings.

10. Notwithstanding the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no buildings or enclosures, swimming or other pools required for a purpose incidental to the enjoyment of the dwellings hereby permitted shall be provided without the prior consent in writing of the Local Planning Authority.

The reason for the condition is :-

To enable the Local Planning Authority to retain control over the development in the interests of the visual amenities of the locality.

11. Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no gates walls or other means of enclosure (other than those expressly authorised by this permission) shall be erected without the prior consent in writing of the Local Planning Authority.

The reason for the condition is:-

To enable the Local Planning Authority to retain control over the development in order to ensure such items do not detract from the appearance of the countryside.

12. REASON FOR APPROVAL OF THE APPLICATION :-

The proposal meets the requirements of saved Policies HOU11 and BNV21 of the Great Yarmouth Borough-Wide Local Plan.

13. STATEMENT OF POSITIVE ENGAGEMENT: In dealing with this application Great Yarmouth Borough Council has actively sought to work with the applicant in a positive and proactive manner, in accordance with paragraphs 186 and 187 of the NPPF.

Wen Harris

Date: 7th October 2016

Group Manager (Planning)
Town Hall, Hall Plain, Great Yarmouth

