

Reference: 06/21/0766/CU

Parish: Bradwell

Officer: Mr G Bolan

Expiry Date: 15/12/2021

Applicant: Mr K Barron

Proposal: Retrospective change of use and enclosure of part of unregistered vacant plot of land 8.5m x 9.45m to domestic curtilage for 'Copperfield'

Site: Land Adjacent to (Copperfield)
Blackbird Close
Bradwell
GREAT YARMOUTH
NR31 8HT

REPORT

1. Background / History: -

- 1.1. The application is for the retrospective change of use of land at the rear and adjacent to Copperfield, Mill Lane, Bradwell and to the west of 73 Blackbird Close. Copperfield is a single storey property which occupies a corner plot between Blackbird Close and Mill Lane. The area of Land concerned by the current application is located to the rear (east) of Copperfield. The site was land formerly used for siting an electricity pylon. Until recently, the site was enclosed only on the west, south and east by the 1.8m brick garden walls of Copperfield and 73 Blackbird Close.
- 1.2. The application is retrospective, and the applicant has already enclosed the area of land with a 1.8m high close boarded fence as an extension to the Copperfield garden. The area of land enclosed measures out to a length of 8.5m and a width of 9.5m (81sqm), but the proposal within this application does not enclose all the open land of the former pylon site, and there is a depth of 4.5m x 9.5m of land remaining open and not included in the inclusion of residential curtilage. This smaller 57sqm area adjoins the pavement of Blackbird Close, on which is a bus stop.
- 1.3. The area of land was originally used by Eastern Power Networks to place and maintain a pylon, the pylon has since been removed from the site, there has not been an exact date supplied or obtained regarding the removal of the pylon

however the records suggest that the pylon was removed between the period of the year 2000 to the year 2004.

1.4. The below table shows the relevant history for the site:

06/81/671/O	Land off Mill Lane	Residential Development	Refused – 27/08/1981 Allowed on appeal – 25/10/1982
06/84/431/F	Land off Mill Lane	Erection of 41 dwellings	Approved with conditions 10/07/1884
06/02/0848/F	Copperfield, Mill Lane	Extension to form “teenage accommodation”	Approved – 24/10/2002
06/03/0187/F	Copperfield, Mill Lane	Extension to garage; conservatory extension; raise boundary walls to 1800 mm in height	Approved – 02/04/2003
06/06/0838/F	Copperfield, Mill Lane	Extend garage roof to form car port	Approved – 07/11/2006

2. Consultations:-

- 2.1. Councillor Carl Smith – Objection
- 2.2. Councillor Graham Plant – Objection
- 2.3. Councillor Daniel Candon – Objection
- 2.4. Norfolk County Council Highways Authority – No Objection
- 2.5. Bradwell Parish Council – Objection
- 2.6. 1 Member of the public – Objection

3. Relevant Policies:

At the time of this DC Committee meeting the local development plan comprises the adopted Local Plan (2001) policies and the Core Strategy (2015). The emerging Local Plan Part 2 (LPP2) has received support from the Planning Inspectorate and is due to be considered for adoption on 09th December 2021, and those policies will replace the Local Plan 2001 and

modify some policies of the Core Strategy. The NPPF states at paragraph 48 that weight should be applied to emerging policies commensurate with the progress made towards adoption. As such it is considered that significant weight should be given to the policies within Local Plan Part 2 in the determination of this application.

Whilst the Council has an up-to-date development plan and 5-year-housing land supply the National Planning Policy Framework remains a material consideration but the development plan retains primacy.

3.1. The principal policies are:

Core Strategy (2015):

3.2. Policy CS9: - Encouraging well-designed, distinctive places –

In particular CS9 (a):- respond to, and draw inspiration from the surrounding area's distinctive natural, built and historic characteristics, such as scale, form, massing and materials, to ensure that the full potential of the development site is realised; making efficient use of land and reinforcing the local identity. And; CS09 (f) - Seek to protect the amenity of existing and future residents, or people working in, or nearby, a proposed development, from factors such as noise, light and air pollution and ensure that new development does not unduly impact upon public safety

3.3. Policy CS15: - Providing and protecting community assets and green infrastructure.

CS15 a) Resist the loss of important community facilities and/or green assets unless appropriate alternative provision of equivalent or better-quality facilities is made in a location accessible to current and potential users or a detailed assessment clearly demonstrates there is no longer a need for the provision of the facility in the area.

3.4. Other material considerations:

The following emerging policies from the Final Draft of the Local Plan Part 2 are also relevant and can be given a significant level of weight in the determination of the application because they are considered to be in accordance with the NPPF and no objections have been raised during the examination of the Local Plan Part 2, and they have not been required to be subject to significant modifications by the Planning Inspectorate in their pre-adoption letter.

Local Plan Part 2 (final draft 2021):

3.5. Policy A1: - Amenity

Planning permission will be granted only where development would not lead to an excessive or unreasonable impact on the amenities of the occupiers of existing and anticipated development in the locality, in terms including:

- a. overlooking and loss of privacy.
- b. loss of light and overshadowing and flickering shadow.
- c. building and structures which are overbearing.
- d. nuisance, disturbance and loss of tranquillity from:
 - waste and clutter
 - intrusive lighting
 - visual movement
 - noise
 - poor air quality (including odours and dust); and
 - vibration.

4. Ward Councillors, Parish Council and Public Comments received:

- 4.1. At the time of writing, there have been 5 objections received to the application 3 of which are from the local ward councillors, 1 objection from Bradwell Parish Council and 1 objection from a member of the public, the issues raised are summarised as below:

Material planning considerations:

- loss of informal public open space.
- loss of public amenity including loss of space needed for a bus stop – the Parish Council states *“[we] recommend rejection until such time as legal ownership of this land is resolved, after which time it is the intention of Bradwell Parish Council to install a bus shelter on a portion of this piece of land.”*
- a precedent being set elsewhere such as in large open-plan post-war housing estates.
- height and appearance of the fence – a neighbour states the fence does not look right and is out of keeping with the property.
- making sure the application form declares they have attempted to notify the landowners.

Non-material reasons:

- To grant retrospective planning permission would reward bad behaviour.
- The Borough Council or its contractors have maintained the site and people think it was council owned land.
- The applicant should be required to move the fence back to his boundary line, making good the area he took, at his own expense.

5. Assessment: -

The Proposal

- 5.1. The application is for the change of use of a portion of land adjacent to Copperfield, Mill Lane, Bradwell to residential curtilage. The application is

retrospective, and a close boarded fence has been erected at height of 1.8m on its north boundary, enclosing the land to become a part of the existing residential curtilage to the rear of the property.

- 5.2. The total depth of the land adjoining Copperfield is 13m with a width of 9.5m, the proposal will allow the change of use of 8.5m of land and will leave 4.5m of land to the front portion of the site.

Ownership

- 5.3. Many of the objections raised to the application refer to the applicant not owning the land which has been enclosed. As a part of the application process the applicant has signed certificate D, and certificate D states that it should be used when: *Certificate A can not be issued for this application – All reasonable steps have been taken to find out the names and addresses of everyone else who, on the day 21 days before the date of this application, was the owner* and/or agricultural tenant** of any part of the land to which the application relates, but I have/the applicant has been unable to do so.*
- 5.4. The applicant published a notice in the Great Yarmouth Mercury on the 29th October this year as required under certificate D, and the Borough Council is not aware of any potential owners coming forward, it is therefore considered that the applicant has satisfied the criteria for validation of the planning application and the application has been considered on Planning merits only. Members will be aware that land ownership and/or property values cannot form a material planning consideration in the determination of planning applications.
- 5.5. However, the ownership situation of the site now appears to have been very recently progressed, because on 29th November the applicant contacted the LPA to say that they have found and contacted the landowner, a Mr Tubby, and completed the purchase of the land from them. According to the applicant their ownership of the land includes both the planning application site enclosed by the fence, and the area between fence and footpath. This has not yet been verified by the Land Registry because on 29/11/21 the sale registration documents had not yet been completed, but the applicant has provided documentation relating to a Bill of Sale concerning land title NK348966. The land sale title plan and updated site plan showing applicant interests are included within the Appendix.
- 5.6. Notwithstanding the above, a change of use permission is still required, and the application is assessed below on its planning merits.

Character of the area

- 5.7 The land the application relates to has remained open since the removal of a pylon tower formally maintained by (Eastern Power Networks), this was approximately removed between 2000 and 2004 according to information held by the Borough Council, since the removal the area of land remained open

and a grassed area until 23rd June 2018 when the applicant enclosed the northern boundary with a 1.8m close board fence.

- 5.8. Throughout the housing estate there are some small pockets of grassed area with the two closest areas being immediately west of the site (the Elamein Way play area) and 150m to the south (on the corner of Elamein Way and Mill Lane). These are both publically-accessible open space, either informal or with facilities. Some open greenspace land is also available to the north on Burgh Road adjacent Morrisons.
- 5.9. However it is not considered there are a substantial amount of open space areas in the area and therefore it is not considered that pockets of open space are a feature of the housing estate, so the partial enclosure of the land in this application is not considered out of character with the area. The proposal does not include the front portion of the land at the back of the pavement, which is the same depth as the adjoining front gardens to the east so if the retrospective application is approved this adjoining area will remain open and grassed giving the visualisation of the existing open space and being consistent with the open frontages found along Blackbird Close at the junction with Mill Lane.
- 5.10. The close boarded fence enclosing the site is consistent with what is expected within a residential estate environment and is consistent throughout this estate and is considered to not harm or impact the character of the area. In any case, the fence is permitted development (PD) being less than 2m tall and set well away from the highway.
- 5.11. It is proposed that a condition should be attached to any permission given that removes PD rights for outbuildings on the area outlined in red on the Block Plan provided, this is necessary to help retain control over the character of the area and in the interests of the visual amenity of the site to allow the site to still have a level of openness above the fence line where other structures are all low and shallow pitch roofs, this will allow the area to retain a visualisation of openness with a remaining area of land to the front remaining open..

Amenity

- 5.12. The amenities of the occupiers, nearby residential properties and members of the public have been considered throughout the process of the application. The applicant has claimed prior to the erection of the fence the rear portion of the land was used for littering, it is therefore considered the application has reduced the impact on the occupier of the property and the adjoining neighbouring properties and allowed the land to be less desirable for such actions to take place.
- 5.13. As stated earlier within the report the restriction upon outbuildings being located on the area applied for will be conditioned as part of any approval, this will ensure the impacts of any new structures or outbuildings on neighbouring amenity can also be considered.

Loss of playing area

- 5.14. There are concerns that this site causes the loss of unofficial but valued play space. That may be the case but the land was never intended to serve a recreation function and there is no policy-based designation protecting it as such. Instead, there are considered to be suitable open space and play facilities elsewhere which are better serve the community and which have less impact on adjoining neighbours (i.e. the El Alamein park).

Other material considerations

- 5.15. Some concerns have been raised around this setting a precedent. Because of the limited number and sporadic nature of the open spaces in the estate it is not considered that a precedent would be set for the loss of open space in this or any other estates. The development does not affect the area at the back of the pavement which remains open, and specific planning permission would be needed to bring that into residential curtilage use in the future. Other open spaces in larger housing estates are usually intentional strategic spaces serving a design or recreation purpose and are often protected by section 106 agreement or condition to remain as open space, and usually planning permissions are needed for their residential use, and assessments would be made at that time against the impact of any losses to character or public recreation. Given the unique former use of this land it is a very unusual circumstance which needn't be the start of any onward trend.
- 5.16. Some concern is raised that the land would better suited to house a bus shelter given there is a bus stop there. Whilst this idea has merit, there still remains adequate space at the back of the pavement to house a bus shelter which would be unaffected by this application.

Conclusion

- 5.17. The small section of land is not formalised play space or open space and does not contribute significantly to play or leisure opportunities for residents. The land is of poor-quality landscaping and does not positively contribute to the character of the area. The change to garden space (subject to conditions retaining control of further development through restricting permitted development rights) would have at worst a neutral effect and positively contribute to the area.

6. RECOMMENDATION :-

- 6.1. It is recommended to **Approve** the application, as it satisfies the criteria of core policies CS09 and CS15 of the adopted Core Strategy and is consistent with the aims set out in emerging policy A1 of the Local Plan Part 2.
- 6.2. Approval is recommended subject to the conditions suggested below.

Proposed Conditions:

- 1) The use hereby permitted shall only be for residential purposes associated with the dwellinghouse at Copperfield, Mill Lane, Bradwell, NR31 8HT and permission shall apply only to the land shown within approved plans drawing references:
 - Site Location Plan – TQRM21239120131464
 - Proposed Block Plan - TQRM21239115302642

received by the Local Planning Authority on the 30th August 2021.

- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order) no outbuildings or other structures shall be erected within the application site hereby approved without the express written permission of the Local Planning Authority.

And any other conditions considered appropriate by the Development Manager.

Appendices.

- 1) Site Location Plan
- 2) Proposed Block Plan
- 3) Photograph
- 4) Aerial Photography
- 5) Sales purchase plan - Title NK348966 (29/11/21)
- 6) Updated application site plan showing adjoining land ownership (29/11/21)

A vertical scale bar labeled "Metres" with markings at 0 and 50.



Plan Produced for: Mr K Barron

Date Produced: 27 Aug 2021

Plan Reference Number: TQRQM21239120131464

Scale: 1:1250 @ A4

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Site Plan Blackbird Close ,Bradwell



Plan Produced for: Mr K Barron

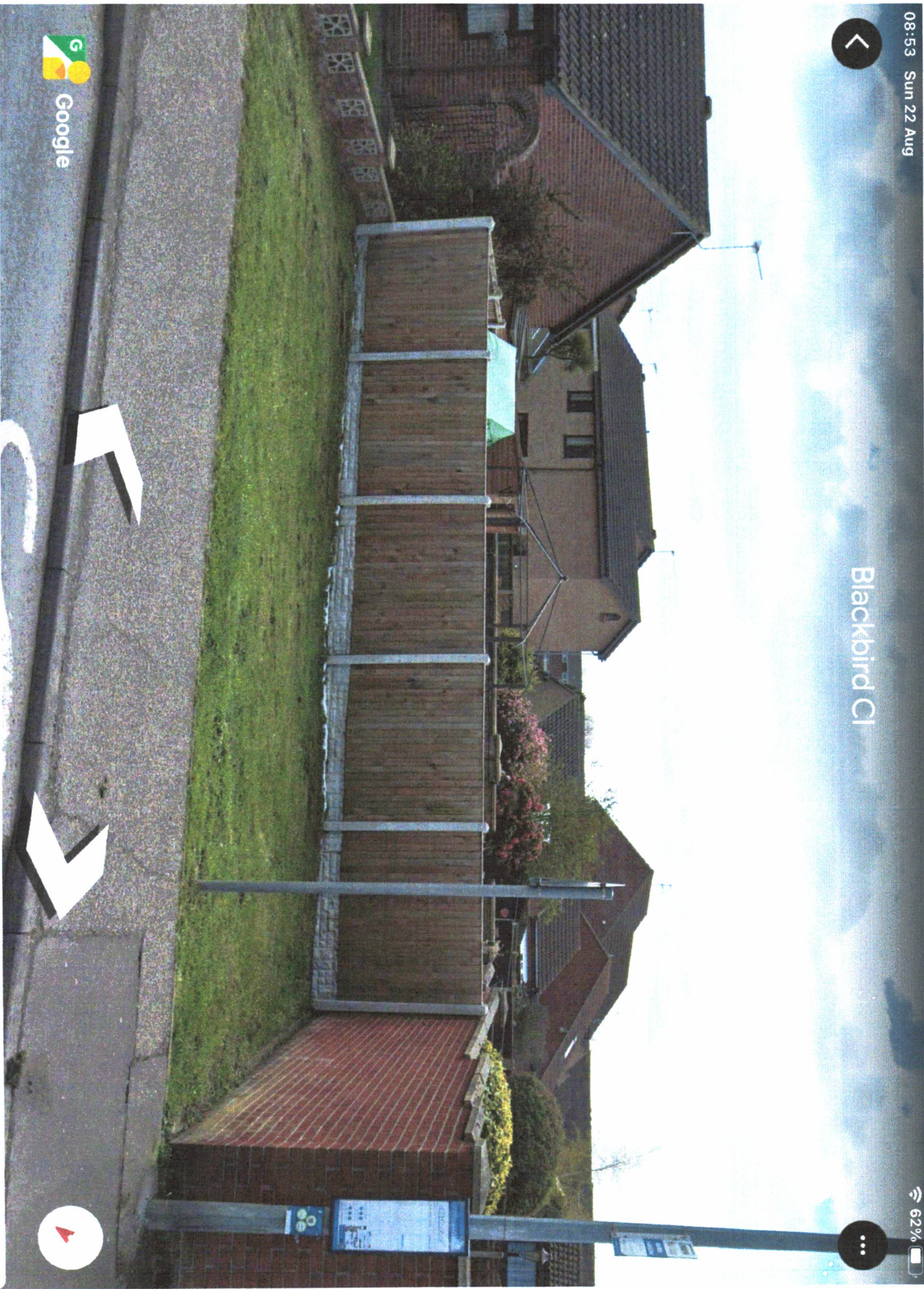
Date Produced: 27 Aug 2021

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Blackbird Cl





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