

**Item No.:** 5

**References:**

**Application A:** B/10/00101/FHA

**Application B:** B/10/00106/FUL

**Application C:** B/10/00105/FUL

**Application D:** B/09/00951/FUL

---

**Parish:** COCKFIELD

**Location:** Cures, Parsonage Green, Cockfield

**Proposal:** Erection of changing room extension. Retention of clear oak stain to joinery of dwelling. Installation of satellite dish and aerial. Erection of external staircase to cartlodge. Removal of barn doors to front gable (mid-strey) Insertion of rooflights to rear elevation. Erection of boundary wall to northern elevation.

**Applicant:** Mr Bird

**Case Officer:** Chris Tivey

**Date for Determination:** 20/04/2

---

A panel of Members inspected the site to assess the four retrospective proposals that are the subject of this report on 28<sup>th</sup> October 2009. Members will note that three of the applications were submitted in 2010 following the withdrawal of B/09/00945/FUL and B/09/00954/FHA. The earlier site visits were undertaken to assess whether the proposals are appropriate and the impact of the development on the surrounding area.

The 2009 applications were withdrawn at the request of Officers for procedural reasons and in their totality the four current applications cover all of the elements that were the subject of the Member site visit.

## THE SITE

1. Cures is a timber framed and weatherboarded detached dwelling built circa 2002/3. Planning permission B/02/02074/FUL permitted the erection of this building in the first instance to be used as part dwelling/part barn (see relevant planning history below). This followed the grant of an earlier planning permission B/01/00907/FUL for a similar proposal. Planning permission B/07/00046/FUL permitted the variation of Condition 11 attached to B/02/02704/FUL allowing a wholly residential use of the building in question.
2. Whilst the curtilage to this building has been defined by the red line application site for the original planning permission, the complete Cures land holding amounts to 6.2 hectares which runs downhill in a north/north westerly direction. All of the land belonging to the applicant falls within the open countryside with no Built-up Area Boundary within the vicinity of the application site.
3. The dwelling itself is set back over 30 metres from the road and loosely falls within a ribbon of development along the northern side of Parsonage Green, it is situated between two Grade II listed buildings: Elmers to the south west and The Long House to the north east.
4. The site is accessed via a gateway that runs adjacent to the boundary shared with The Long House which itself is demarcated by semi/mature indigenous hedging which runs along the entire length of the north east, north west and south western boundaries of the agricultural land (which incidentally is classified as Grade II).

## THE PROPOSALS

### Application A:

5. This application seeks retrospective planning permission for the:
- Erection of a changing room extension to the south western elevation of the dwelling measuring 7.9m wide, 2.8m deep and 3.85m high. This element has a clay pantile roof to match the existing building not slate roof as denoted on the submitted drawing 944/10/02;
  - Retention of clear oak stain to the joinery (windows and doors);
  - Erection of a satellite dish and aerial to the south western gable elevation;
  - Erection of an external staircase to the northern elevation of the double detached cartlodge (situated to the front of the dwelling);
  - Removal of barn doors to the front gable (midstrey);
  - Insertion of rooflights to the main roof on the rear elevation; and
  - Erection of a 1.7m high brick wall which in part encloses the north western side of the patio area the subject of planning application B/10/00106/FUL (see following report). In total this comprises of 11 brick piers with metal railings inserted between that sit upon a continuous 0.8m high band of brickwork for the entire length.

However this application relates solely to the first 6.9m section of wall (within the extent of the lawful residential curtilage) beginning at the closest point to the dwelling as permitted development rights have been removed. The remaining length of wall and railings that runs up to the swimming pool pump shed (also originally part of B/10/00106/FUL) constitutes permitted development. Consequently this remaining length of wall does not require planning permission and accordingly cannot be considered by the Council.

### Application B:

6. This application relates to:
- The change of use of 0.13 hectares of agricultural land to domestic garden;
  - The construction of a 11.3m long by 5.8m wide swimming pool;
  - The laying out of a patio area;
  - The erection of a low level brick wall along the north west/western perimeter of the patio; and
  - The erection of a swimming pool pump shed measuring approximately 2.3m by 2.55m with a maximum height of 2.7m which has brickwork and weatherboarding to the elevations and slates with clay ridge tiles to the roof.

### Application C:

7. Planning permission is sought for the erection of a shed, greenhouse and dog kennel (all retention of). A further flat roof/shelter is also highlighted within the application documentation and is described as a relocated shed. This, together with the newly built shed which is located immediately to the north west of the greenhouse are all situated close to the south western boundary of the application site.
8. The newly built shed has a footprint of 2.3m x 2.9m with a ground to ridge height of approximately 2.4m. The greenhouse, also already built, has a footprint of approximately 2.5m x 4.3m with a ground to ridge height of 2.45m. They are situated adjacent to a vegetable patch with the aforementioned flat roof structure providing cover for larger mowing and grounds maintenance machinery.

9. The application site forms open pasture positioned between the rear boundary of the land the subject of the (unlawfully) redefined residential pursuant to planning application B/10/00106/FUL; and the properties situated due south west along Howe Lane.
10. The dog kennel, also the subject of this application has been built in a manner that is sympathetic to the adjacent stable building and has a footprint of 3.5m by 1.75m with a ground to ridge height of 2.05m. An outdoor dog play area is situated immediately to the north west of the dog kennel and forms an enclosure that is contiguous with the yard area situated to the front of the aforementioned stables and the fenced paddocks that have been created on the land that slopes down to the fishing lake at the rear (northern end) of the Cures holding.

#### **Application D:**

11. Planning permission is sought for the erection of a fishing hut to provide storage and shelter in association with the existing fishing lake at the northern end of the Cures Holding. From inspection of the Council's records it appears that the lake has been in situ since circa 1993 and therefore can be considered to be lawful.
12. The fishing hut has a footprint of 4.15m x 5.05m with a ground to ridge height of 4m. As with other structures within the control of the applicant, it is constructed with a red brick plinth, weatherboarding to the elevations and a slate roof. The rear elevation and north western flank of the building are marginally visible through the established field hedge that runs along the north eastern field boundary from a Public Footpath that runs in a north east to south west direction immediately to the north of the application site.
13. The access track that connects the hut to the stable block has a shingle dressing and is of a similar appearance to the remainder of the track that connects the stable block with the dwelling. Again this is screened from public view by the mature hedging that runs along the north eastern boundary.

#### **RELEVANT HISTORY**

14. B/01/00907/FUL - Granted - Erection of 2 storey building (to be used as part dwelling/part barn).
15. B//02/02074/FUL – Granted - Erection of 2 storey building (to be used as part dwelling/part barn).
16. B/07/00046/FUL – Granted - Variation of condition 11 attached to P. P. B/02/02074/FUL - to allow extended residential use of the building; external alterations and extension to the existing dwelling.
17. B/07/00947/FUL - Granted - Erection of stable block.
18. B/07/01784/FHA – Granted - Erection of single-storey rear extension with balcony over; erection of single-storey side extension; erection of detached double cartlodge; erection of entrance gates and alteration of existing vehicular access.
19. B/08/00545/FHA - Granted - Erection of single-storey rear extension with first-floor balcony and insertion of 4 No. rooflights.
20. B/09/00945/FUL - Withdrawn - Change of use from agricultural land to domestic garden.

21. B/09/00954/FHA – Withdrawn - Erection of shed, green house, swimming pool, changing rooms, external stair case to existing cartlodge/store, pump room, dog kennel, boundary brick wall and lower level brick wall (all retention of). Insertion of roof lights to existing dwelling. Installation of satellite dish and aerial, use of clear stain to windows and doors, and removal of barn doors to gable end (all retention of). Erection of post and rail fencing. Construction of vehicular access to stable building.

## **NATIONAL GUIDANCE**

22. **PPS1** (Delivering Sustainable Development)
23. **PPS7** (Sustainable Development in Rural Areas)
24. **PPS5** (Planning for the Historic Environment)

## **PLANNING POLICIES**

25. The Development Plan comprises the East of England Plan, adopted 2008, saved policies in the Suffolk Structure Plan, adopted 2001, and the Babergh Local Plan (Alteration No. 2) adopted 2006. The following policies are relevant to this proposal:

### **East of England Plan 2008**

- **ENV4** (Agriculture, Land and Soils)
- **ENV6** (The Historic Environment)
- **ENV7** (Quality and the Built Environment)

### **Babergh Local Plan (Alteration No. 2) 2006**

- **HS33** (Extensions to Existing Dwellings)
- **CR01** (Landscaping Quality)
- **CR10** (Change of Use from Agricultural Land)
- **CN01** (Design Standards)
- **CN06** (Listed Buildings)

**The relevant documents can be viewed via the internet. Please see Page 4 for details.**

## **CONSULTATIONS**

### **Application A:**

26. Cockfield Parish Council – No response at time of writing the report, their views will be reported to Members at the meeting.

### **Application B:**

27. Cockfield Parish Council – No response at time of writing the report, their views will be reported to Members at the meeting.

### **Application C:**

28. Cockfield Parish Council – No response at time of writing the report, their views will be reported to Members at the meeting.
29. Environmental Health – No objection to the proposed development.

#### **Application D:**

30. Cockfield Parish Council – No response at time of writing the report, their views will be reported to Members at the meeting.

#### **REPRESENTATIONS (All Applications)**

31. One letter of objection has been received from the occupants of The Long House to the north east of the application site. They state that they objected to the original dwelling being built and have grave concerns about the way in which the property has been allowed to developed despite its sensitive location. Furthermore they state that they pointed out during the determination of the original two planning applications that with a very restricted rear garden depth how long would it be before the owners wished to extend the domestic curtilage further into the open countryside. The scheme that was eventually built pursuant to planning permission B/02/02074/FUL and was subject to conditions controlling future changes. Since the erection of the building there have been a succession of changes and unauthorised developments which have made a mockery of the above controls and intentions resulting in a development that has scarred this sensitive rural location.

#### **PLANNING CONSIDERATIONS**

##### **Application A:**

32. As set out in within the proposal section above, this planning application covers a wide range of unauthorised works that have already been carried out to the property. Whilst many of these elements would normally have been permitted development (PD), PD Rights were removed following the grant of planning permission B/02/02074/FUL (Condition 10 refers).
33. Condition 10 stated “Notwithstanding the provision of Article 3, Schedule 2 Part 1 Classes A – E and H and Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no enlargement, improvement or other alteration of the dwellinghouse shall be carried out, no satellite antenna shall be installed nor shall any garage, carport, fence, wall or any other means of enclosure, building or structure be erected except in accordance with details which shall previously have been submitted to and approved in writing by the local planning authority”.
34. The assessment that follows focuses on the individual elements as follows:

##### Changing room extension

35. The changing room extension is modest in form and has been built in a manner that is sympathetic to the character of the host property with: a red brick plinth and black stained weatherboarding to the elevations, a clay pantile roof and doors of a simple boarded type, albeit treated in a clear oak stain.
36. The location of this changing room extension situated behind and largely concealed by the double cartlodge building reads as a subservient addition to the main building, therefore, Officers raise no objection to this element of the proposal.

##### Use of clear oak stain

37. Concerning the retention of the clear oak stain to the doors and windows, it has become apparent to Officers through researching the history of the site that this form of timber treatment was applied in the first instance on completion of the building.

38. Whilst it could be argued that this stained treatment appears out of step the external finishes of the remainder of the dwelling and is obviously in street scene terms, it must be acknowledged that the building is not an historic structure and has an appearance more akin to a modern residential building albeit being relatively traditional in scale and form.
39. In view of the above and the fact that no file records can be found to indicate any approved door and window treatment, it is considered that it would not be expedient to take Enforcement action in this case.

#### Satellite dish and aerial

40. The installation of the satellite dish and aerial on the south western gable elevation are relatively inconspicuous. Therefore, Officers are minded to recommend that no Enforcement action be taken in respect to this element of the application and also that planning be granted.

#### Removal of barn door

41. The removal of the barn door to the front gable (midstrey) is to some degree unfortunate.
42. However, it is quite clear and as discussed above, when viewed in conjunction with the wholly residential use of this building (incorporating all its features); and the fact that itself is not an historic structure, leads Officers to the conclusion that it would be difficult to substantiate reasons for refusal on this basis and the taking of enforcement action, which would be supported on appeal.

43. It is acknowledged that this building is situated between two listed buildings: However the building is not easily read with either of them in visual terms due not only to its set back from the road but also due to established vegetation and the spacing between them. On this basis it is considered that this element is acceptable.

#### Insertion of rooflights

44. Concerning the insertion of rooflights to the rear elevation, six in total have been inserted with three symmetrically placed on either side of the rear gable (midstrey). B/08/00545/FHA did permit the insertion of 4no. rooflights in the rear roof slope, but these were of equal proportions, although different to those the subject of this application.
45. Each grouping of rooflights now comprises a large one being approximately 0.8m wide and 1.6m high with a smaller rooflight (approximately 0.35m wide by 0.55m high) to each side. These are most apparent when viewing the site from the public byway which runs roughly in an east to west direction along the northern boundary of the field that abuts the north eastern boundary of the Cures. The large rooflights are the most visually obtrusive within the countryside setting.
46. However, it must be considered whether it is expedient to take enforcement action to remedy such a breach of planning control and on balance, taking into account the overall domestic appearance of the building, Officers consider that it would not be expedient to take enforcement action on the rooflights alone.

#### Boundary wall

47. Finally, with respect to the boundary wall that has been erected from the northern corner of the north western elevation of the dwelling, Members will note that the application drawings only refer to the first 6.9m as opposed to the whole length that runs up to the swimming pool pump room.

48. The reason for this being, as explained above, that this first 6.9m is the section of wall that runs within and to the rear extent of the lawfully defined residential curtilage and has therefore been erected contrary to Condition 10 of planning permission B/02/02074/FUL.
49. However the remainder of the wall that runs up to the pump house and has been erected on land outside the residential curtilage of Cures is permitted development and thereby falls outside of planning control.
50. Whilst Officers are of the view that the brick piers and intervening railed sections cause visual harm to the amenities of the area, having taken advice from the Council's Solicitor, it is recommended that Enforcement Action is not taken against the unlawful section of the wall that falls within the defined residential curtilage due to the fact that the majority of the wall is permitted development and therefore it would be unreasonable for the local planning Authority to take enforcement action to secure removal of a 6.9m section of a much larger wall.

**Application B:**

51. The application relates to a relatively modest area of land that immediately abuts the north western boundary of the defined residential curtilage of Cures.
52. As highlighted within the letter of representation from the neighbour, the depth of the rear aspect of the curtilage to the building as it lawfully stands is limited to no more than 9 metres. When inspecting the respective rear garden areas of many of the surrounding residential properties including The Long House the additional 0.13 hectares (0.32 acres) is not considered out of character or unreasonable.
53. It is acknowledged that historically this was agricultural land classified Grade II in accordance with the Agricultural Land Classification; the omission of this parcel of land simply squares off the adjoining field to the north west.
54. As referred to above, the longer section of incongruous wall and railings that run along the extent of the north eastern boundary of the site in question, are permitted development and therefore should not influence the determination of this planning application.
55. The pump shed that forms a visual end stop to this wall is modest in form and would comply with Policy CN01 of the Babergh District Local Plan Alteration Number 2 (2006). The expanse of natural flag stones that form the patio area that surrounds the swimming pool, are not necessarily what one would associate with such a rural location, but in its favour the patio is completely obscured from public view and therefore very limited harm would result from the proposal in this respect. Furthermore such works are normally permitted development in any case. The same could be said for the low patio wall that provides a defined edge to the extended residential curtilage should Members be so minded to approve the application.
56. In summary, Officers are of the view that all of the elements that are within the control of the Local Planning Authority are acceptable and do not give rise to demonstrable harm to either the character of the countryside or the setting of the adjacent listed buildings.

**Application C:**

57. It is apparent that the use of the aforementioned sheds and greenhouse form not only an ancillary function to the wider holding, including the housing of mowing machinery etc, but also serve the adjoining vegetable patch/allotment.

58. This latter use is considered to be agricultural and therefore by virtue of Section 55 (2) (e) of the Town and Country Planning Act 1990 the use of land for the purposes of agriculture does not constitute development and as such does not require planning permission. Whilst quite clearly any use of the land for any purposes that does not fall within Section 336 of the Act could give rise to a material change of use (which therefore requires an application for planning permission) from inspecting the site on a number of occasions Officers are currently of the view that no such material change of use has occurred and therefore the sheds and greenhouse are considered acceptable in principle.
59. Concerning the dog kennel, whilst it could be argued that it has been over engineered, nonetheless it does relate closely to the permitted stables; and such kennels are not an uncommon feature particularly within the rural areas (e.g. for housing gun dogs etc).
60. In view of the fact that the kennel and its associated enclosure have been constructed in a manner that is sympathetic to its countryside location no demonstrable harm would result with them essentially screened from public view.

#### **Application D:**

61. It is considered that the fishing hut and the access driveway which are largely obscured from public view would not cause demonstrable harm to the character of the countryside within which they are situated.
62. The fishing hut, is constructed of traditional materials and it does not appear as an incongruous feature and is relatively modest in scale providing shelter for the applicant whilst fishing.
63. Whilst again it is acknowledged these elements are retrospective no demonstrable harm is caused by their existence and therefore they comply with Policies CN01 and CR01 of the Babergh Local Plan Alteration Number 2 (2006). The loss of agricultural land to these purposes is de minimus and therefore no conflict with Policy CR10 of the Local Plan would result.

#### **REASON FOR DECISION**

##### **Application A:**

64. The proposal would have a limited visual impact upon the setting of adjacent listed buildings and the character of the wider countryside and therefore it is considered to comply with Policies ENV6 and ENV7 of the East of England Plan 2008 and Policies CR01, CN01 and CN06 of the Babergh Local Plan Alteration Number 2 (2006). Furthermore the proposal would not conflict with the general spirit of Policy CR10 of the Local Plan in that the scale of the proposal would not have an adverse impact on the landscape characteristics and biodiversity of the locality; would not intrude into the open countryside; and would not threaten the viability of a farm holding due to the fact that it does not involve breaking up of agricultural land. Despite the visual impact of the 6.9 metre section of wall, it is not considered reasonable by the Council to take enforcement action for the removal of this small section of wall given that it forms part of a much larger section of wall. Whilst this larger section occupies a dominant feature in the countryside and has a detrimental impact in visual terms, it is permitted development and falls outside the scope of planning control.

### **Applications B, C and D:**

65. The proposal would have a limited visual impact upon the setting of adjacent listed buildings and the character of the wider countryside and therefore it is considered to comply with Policies ENV6 and ENV7 of the East of England Plan 2008 and Policies CR01, CN01 and CN06 of the Babergh Local Plan Alteration Number 2 (2006). Furthermore the proposal would not conflict with the general spirit of Policy CR10 of the Local Plan in that the scale of the proposal would not have an adverse impact on the landscape characteristics and biodiversity of the locality; would not intrude into the open countryside; and would not threaten the viability of a farm holding due to the fact that it does not involve breaking up of agricultural land.

### **RECOMMENDATION**

#### **Application A:**

That planning permission be granted with no conditions.

#### **Application B:**

That planning permission be granted subject to a condition:-

- Landscape scheme to be submitted to secure indigenous hedge planting to the field boundary.

#### **Application C:**

That planning permission be granted with an informative note to the applicant advising them that the grant of planning permission does not convey any domestic use rights over the application site in question.

#### **Application D:**

That planning permission be granted.