



Committee Report

Planning Committee North – 11 January 2022

Application no DC/21/3789/FUL

Location

3 White Point
Eversley Road
Southwold
Suffolk
IP18 6AW

Expiry date 14 November 2021

Application type Full Application

Applicant Bull Associates

Parish Southwold

Proposal Application to amend the development comprising the construction of a glazed roof pavilion - amended design to that approved under planning permission ref. DC/18/2428/FUL.

Case Officer Joe Blackmore
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1. Summary

- 1.1 This application seeks planning permission for the development of a glazed roof pavilion at 3 White Point, Eversley Road, Southwold. The site benefits from planning permission for a glazed roof pavilion under application ref. DC/18/2428/FUL (“the approved scheme”), but the structure, as-built, differs from the approved scheme. Therefore, this application has been submitted seeking permission for that amended design.
- 1.2 Officers consider that the constructed roof pavilion, when compared to the approved scheme, causes no additional harm to the Conservation Area, nor the living conditions of residents near to the site.
- 1.3 Officers have referred the application, through the Referral Panel, to the Planning Committee (North) for determination.

2. Site description and Background

- 2.1 3 White Point is one of a number of flats created from a former British Legion building. It is the first floor flat and includes a roof terrace served by an enclosed staircase, which is a 'turret' structure with pyramid roof on the northern corner of the building.
- 2.2 The building is located in a prominent corner plot at the junction between Blackmill Road and Eversley Road, all within the Southwold Conservation Area. Blackmill Road serves the backs of the houses in York Road & Godyll Road and follows the curve they make.
- 2.3 The Southwold Conservation Area Character Appraisal notes that this part of the Conservation Area consists mainly of late 19th Century and early 20th Century residential development, comprising large terraced or semi-detached houses at a high building density and where the streetscape is building dominated. There are no listed buildings immediately adjacent to the site but most of the buildings in the vicinity are identified in the Conservation Area Appraisal as being buildings of local importance.
- 2.4 The application site (3 White Point) benefits from planning permission for a glazed roof pavilion under application ref. DC/18/2428/FUL ("the approved scheme"), allowed on appeal. A copy of that appeal decision is appended to this report and should be read in conjunction with this report.
- 2.5 The approved scheme included a condition (3) that reads:
- "No development shall commence until detailed drawings of the following matters shall have been submitted to the local planning authority and approved in writing: (i) eaves and verges; (ii) glazed rooflight; and (iii) junction details with the existing staircase tower. The developer shall notify the Council in writing when the development commences, and the approved details shall be implemented in their entirety not later 6 months from the date of that notification."*
- 2.6 Construction of the glazed pavilion started in September 2020 without this condition being discharged; this is the subject of an open enforcement investigation.
- 2.7 The applicant sought to discharge those condition details retrospectively under application ref. DC/21/0219/DRC. However, it was clear through enforcement investigation that the form and footprint of the constructed pavilion was different to that shown in the approved drawings on the extant scheme. That DRC application was therefore withdrawn, and this application made to retain the development undertaken (which is now largely complete).
- 2.8 Relevant Planning History
- DC/17/1089/FUL (Refused) - Provision of glazed roof pavilion over existing light well.
 - DC/16/4753/FUL (Refused) - Provision of glazed roof pavilion over existing light well.
 - DC/16/2213/FUL (Refused) - Provision of glazed roof pavilion over existing light well.
 - DC/18/2428/FUL (Approved via appeal) - Construction of glazed pavilion to roof terrace (see appendix 1 for copy of appeal decision).

3. Proposal

3.1 This application seeks planning permission for development described as:

“Application to amend the development comprising the construction of a glazed roof pavilion - amended design to that approved under planning permission ref. DC/18/2428/FUL.”

3.2 This description of development was amended during the application process at the request of officers.

3.3 The pavilion is largely complete and ready for use. It is a constructed of a steel framework with a ‘slimline’ aluminium system. It is glazed on all sides.

3.4 The pavilion has a flat roof form with no eaves overhang (whereas the approved scheme had a significant eaves overhang and a roof lantern atop the structure).

3.5 The pavilion is generally positioned slightly farther in from the external face of the building by comparison to the approved scheme; in the region of 200mm.

3.6 The applicant’s agent has explained how the amended design was in response to discussions with the Building Control Inspector, and a Structural Engineer. The key considerations for the detailed construction being to ensure that the roof of the existing building could take the load of the pavilion; and that the pavilion be fixed down firmly given its exposed position in a windy location.

3.7 The constructed pavilion therefore involves steel columns being bolted into the steel roof structure of the main building.

3.8 The applicant’s agent has reiterated that as the pavilion is not linked to the staircase tower, that it is not a habitable room. However, the plans show a short, glazed link between the two elements (and the agent confirmed on site the intention to complete that). Whether the pavilion is physically linked to the staircase tower/turret is largely irrelevant for planning purposes. The pavilion is an enclosed, watertight structure with power supply and can clearly be used for purposes incidental to the enjoyment of the dwelling. Officers have therefore assessed the scheme on the basis of the as-built structure along with any additional elements – like the glazed link and gutter details – that are shown on the submitted plans.

4. Consultations/comments

4.1 Five representations of objection have been received raising the following key concerns (inter alia):

- The application should be determined by the Committee.
- The development has been undertaken without complying with conditions on the permission granted via appeal.
- The extension is poor design and harmful to the character of the conservation area.
- The development is illegal.
- The extension overlooks neighbouring gardens.
- The extension contains electrical supply and is therefore residential accommodation.

- The building is larger than what was approved.
- The building/extension is contrary to the Southwold Neighbourhood Plan.
- The design is poor and overpowers the existing tower/turret.
- The application fails to acknowledge the extension/building is a different size and position to that approved under 18/2428.
- The scheme is contrary to the conditions of the original permission for the re-development of the British Legion Building.
- The construction is a heavy-duty steel frame rather than a lightweight aluminium structure as approved.

5. Consultees

Consultee	Date consulted	Date reply received
Southwold Town Council	21 September 2021	19 October 2021

DC/21/3789/FUL 3 White Point Eversley Road Southwold Suffolk IP18 6AW

Recommendation: Refusal

This is an application to agree changes in the detail of the design of a night sky viewing room on a roof garden in the Conservation Area. These changes are significant enough to warrant the LPA insisting on a new planning application rather than a non-material or minor material amendment under Sections 96A or Section 73 of the Town and Country Planning Act 1990.

The visual below shows what was consented. Note what appears to be an extended eave, the pyramid shaped skylight and the glazing bars breaking the glass sides into four parts; collectively these features give the structure a lightweight, 'Japanese' effect that bears some relationship to the turret. (The eye will move continuously between the two, comparing them.)



The documents submitted in this application do not provide plans showing what has actually been

built. But judging from Photos 1 & 2 below, taken in this last week, its mass, form, detailing and architectural style appear quite different than the consented scheme. STC, therefore, took the view that it should consider the acceptability of what has been built.

Photo 1 – Street elevation looking up from Eversley Place



Photo 2 From neighbour's rear garden on Blackmill Rd



STC's view is that this is a clunky, heavy structure that relates poorly to the turret and the rest of

the building. It is now the dominant feature of the roof and as such, it detracts from the roof garden whose landscaping is a significant feature of the original consent to redevelop the British Legion building. The applicant says the reason for the changes is to make the building substantial enough to withstand Southwold's weather conditions. Looking at this application de novo, if it has to be ugly in order to be built, then it shouldn't be built.

In reaching its decision, STC has taken into account Paragraph 135 of the July 2021 edition of the NPPF: *'Local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)'*.

In accordance with the NPPF, STC has also given some weight to Policy SWD6 – Design in the Southwold NP. The design policy has been approved by the Inspector and the NP is scheduled to go to Referendum in January 2022. In our view, the structure as built fails to comply with A-C.

POLICY SWD6 - DESIGN

In order to create high quality buildings and places that are beautiful and enduring, development proposals should be informed by the National Design Guide as appropriate to their scale nature and location and respond positively to its principles.

All planning applications should demonstrate, either through the Design and Access Statement where this is required or through sufficiently detailed plans and documents, that they have:

- A. understood and followed the process for creating high quality design set out in the National Design Guide;**
- B. understood and proposed design that is sympathetic to and in keeping with the best of the prevailing local character area;**
- C. maximized the opportunities to improve the quality of design;**
- D. positively addressed the Recurrent Design Issues and area-specific Sensitivities and Susceptibilities identified in the Southwold Character Area Appraisal (SCAA) and reinstated character where the SCAA identifies opportunities for this; and**
- E. where relevant, addressed heritage management issues identified in the Southwold Conservation Area Appraisal.**

Development proposals which do not demonstrate their compliance with the design principles A – E above will not be supported.

The Inspector's consent did not take account of the fact that the structure, as built, has electricity. If this roof top garden room is illuminated at night, it will cause light pollution and harm the amenity of a number of neighbours. If the LPA is minded to consent, we ask for a condition that it

not be illuminated during the dark hours.

Consultee	Date consulted	Date reply received
Southwold And Reydon Society	N/A	19 October 2021

Summary of comments:

The Executive Committee are exceedingly concerned that yet again the applicant has started work without approval from the LPA and ignoring the conditions set in terms of material and design in a conservation area. This, again, is a retrospective application which has gone ahead without permission, presumably hoping to 'beat the system'.

There has been a long history of the applicant ignoring conditions set by the LPA, both to the initial planning application and the subsequent appeals. We have no intention of rehearsing all the details as there is an extensive file on your portal.

We strongly object to this application on the grounds of the loss of privacy to neighbours, deleterious impact on a conservation area and ignoring the planning process. We fully support the objections raised by neighbours and Southwold Town Council.

The Committee recommends that this planning application is rejected.

6. Publicity

The application has been the subject of the following press advertisement:

Category	Published	Expiry	Publication
Conservation Area	1 October 2021	22 October 2021	Beccles and Bungay Journal
Category	Published	Expiry	Publication
Conservation Area	1 October 2021	22 October 2021	Lowestoft Journal

7. Site notices

General Site Notice Reason for site notice: Conservation Area
Date posted: 27 September 2021
Expiry date: 18 October 2021

8. Planning policy

National Planning Policy Framework 2021

WLP8.29 - Design (East Suffolk Council - Waveney Local Plan, Adopted March 2019)

WLP8.37 - Historic Environment (East Suffolk Council - Waveney Local Plan, Adopted March 2019)

WLP8.39 - Conservation Areas (East Suffolk Council - Waveney Local Plan, Adopted March 2019)

SWD6 - Design (Southwold Neighbourhood Plan, Referendum version)

Historic Environment Supplementary Planning Document (East Suffolk Council, Adopted June 2021)

Planning Policy and Legislative Background

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decision taking to be in accordance with the Development Plan unless material considerations indicate otherwise.
- 8.2 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("The Act") requires that special regard be paid to the desirability of preserving and/or enhancing the character and appearance of Conservation Areas.
- 8.3 The heritage considerations of The Act are reflected in the historic environment objectives of the NPPF and Development Plan (specifically, policies WLP8.37 and WLP8.39).
- 8.4 The Southwold Neighbourhood Plan ("SNP") is at a very advanced stage, having passed through independent examination and found sound. The referendum for the SNP will take place on Thursday 3 February 2022. Therefore, the policies in the SNP can now be given significant weight in the decision-taking process.

9. Planning considerations

- 9.1 The key issues with this application are impact on living conditions of nearby residential properties; and impact on the significance of Southwold Conservation Area.
- 9.2 The appeal decision for the approved scheme is appended to this report, but two key paragraphs from that decision are quoted below that should be borne in mind when considering the application:

"7. This pavilion is a simple glazed roof on a lightweight aluminium framework, also glazed. The pavilion's mainly flat roof has a middle section with a shallow pitch. The pavilion is set back from the perimeter of the roof terrace, behind the planters and seats that surround the terrace, which keep people away from the parapet. I consider that it complements the existing design, rather than detracts from it. As to its prominence in the Conservation Area, it would be seen from 2 near viewpoints and some private gardens, but would not be unduly prominent. Regarding longer distance views, from what I saw at my site visit and the photos submitted by the Council, it appears that the roof of White Point can only be seen from a small part of Southwold Common. From this distance, the staircase turret can be made out, but the pavilion would intrude to such a small extent that it would have no appreciable effect in the view."

“8. I have taken account of all other matters raised, including previous schemes that have been refused, and the concerns of neighbours about privacy and overlooking. So far as the latter is concerned, the roof was designed as a terrace, and the effect on overlooking and privacy, such as it is, will be no greater with the pavilion. It is true that the pavilion will allow the terrace to be used in inclement weather, but at such times there will be little use made of gardens and patios, etc. None of the concerns raised amount to a significant matter that would warrant the withholding of permission.”

Residential Amenity

- 9.3 Addressing the key issues, impact on local living conditions from the built structure is a relatively simple consideration and officers concur with the Inspector’s considerations above. The existing roof terrace at White Point does allow for views into residential properties, particularly the rear gardens of properties on York Road and Godyll Road. Officers visited the site and stood on the roof terrace, at the building edge, and noted the degree of overlooking. There is, in most cases, at least 20 metres from the terrace and the rear elevations of dwellings on York Road and Godyll Road, so the overlooking is more of rear garden areas, rather than into rooms within those properties. That overlooking is possible irrespective of the roof pavilion, as the Inspector correctly noted. The pavilion is set away from the edge of the building so overlooking from within it is no worse than when one is standing on the terrace. The Inspector’s point about use of the pavilion in inclement weather is noted, but there is also an argument that in such weather residents at Godyll Road and York Road are less likely to be using their own outdoor spaces.
- 9.4 In amenity terms, the planning position is that the same extent of overlooking of residential properties can occur from the roof terrace, and likewise if the applicant were to revert back to the detail of the approved scheme. Therefore, this application raises no new amenity concerns in that regard.
- 9.5 Some local comments repeat that the extension is ‘illegal’; that is incorrect. It is entirely lawful to apply for planning permission in the manner sought.
- 9.6 In terms of concerns raised about electricity supply to the pavilion, this is not likely to be a significant amenity issue. There is no reasonable planning position to prevent power supply to any outbuilding or extension linked to a residential dwelling. It is accepted that when illuminated internally during dark hours, that will make the pavilion more visible from the local area. However, that would not be harmful to local living conditions. This is a suburban context with a fairly dense pattern of development, and nearly all buildings will have rooms lit to some extent during darker hours. In that context, the pavilion will not appear alien, and this is not a remote, rural landscape context where light spill would be a significant issue. In the approved scheme the Inspector did not prevent electricity supply to the pavilion when granting permission, and there would again be no planning reasons to do so with this application.
- 9.7 The majority of neighbour comments on the scheme relate to the appearance of the development, and that is largely a design and conservation area impact consideration to be addressed later in this report.
- 9.8 For the reasons given, the amenity impact from the development is considered to be acceptable in accordance with the amenity objectives of WLP8.29 (Design).

Design and Conservation Area Impact

- 9.9 Policies WLP8.29, WLP8.37 and WLP8.39 work together to, amongst other things, support development proposals of a high-quality design that preserve or enhance their historic context. Officers have also had regard to the content of the Council Historic Environment Supplementary Planning Document (SPD) in considering this application. Policy SWD6 (Design) of the SNP is also a key material consideration and sets out:

“In order to create high quality buildings and places that are beautiful and enduring, development proposals should be informed by the National Design Guide as appropriate to their scale nature and location and respond positively to its principles.

All planning applications should demonstrate, either through the Design and Access Statement where this is required or through sufficiently detailed plans and documents, that they have:

- A. understood and followed the process for creating high quality design set out in the National Design Guide;*
- B. understood and proposed design that is sympathetic to and in keeping with the best of the prevailing local character area;*
- C. maximized the opportunities to improve the quality of design;*
- D. positively addressed the Recurrent Design Issues and area-specific Sensitivities and Susceptibilities identified in the Southwold Character Area Appraisal (SCAA) and reinstated character where the SCAA identifies opportunities for this; and*
- E. where relevant, addressed heritage management issues identified in the Southwold Conservation Area Appraisal.*

Development proposals which do not demonstrate their compliance with the design principles A – E above will not be supported.”

- 9.10 It is clear from the planning history and the refusal of DC/18/2428/FUL that the Council has always had concerns, in principle, about a pavilion atop the roof of the building in terms of design and conservation area impact. However, the Inspector did not agree with that conclusion and allowed the appeal, granting permission for the approved scheme. That approved scheme represents the fallback position that the applicant could revert to and is thus a key material consideration in the determination of this application.
- 9.11 That the design of the as-built pavilion responds to input from engineers and building control inspector’s, does not mean that the approved scheme is no longer a viable fallback position, in planning terms. There is no evidence to suggest that the approved scheme could not feasibly be constructed in a manner that would meet building regulations; it may just be technically more complex, and costly, to achieve that. In planning terms, though, the approved scheme is the fallback position that should be given significant weight in the planning balance.
- 9.12 In terms of Conservation Area impact, officers visited the site and walked the surrounding context to inform the recommendation. It is accepted that there are some views of the pavilion from Southwold Common, however those views are limited and at times of the year will be filtered through tree canopies. In winter months, there are views through/past properties on Godyll Road and York Road where the pavilion can be seen. However, these

views are quite limited, and officers conclude that one has to actively go to the Common and 'look' for the pavilion; it does not present itself in an obtrusive way, nor is it prominent from the Common. Most views of the pavilion from the Common include significant residential development in the foreground, so it just reads as part of the wider built context. It is really only from the Common where there could be impact on the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) and, for the reasons given, the pavilion does not cause harm to that landscape designation.

- 9.13 From within the gardens and rooms of nearby residential properties, particularly on Godyll Road and York Road, the pavilion is visible. However, those are not public vantage points. Where the pavilion is most publicly visible is from ground level on roads near to the site: Blackmill Road, Eversley Road, and Wymering Road.
- 9.14 There are two particular locations where the pavilion is most prominent: from the junction between Eversley Road and Wymering Road (looking north); and then as one approaches the site from the east along Blackmill Road. The original design feature of the turret in the north-eastern corner of the building was clearly in acknowledgement of those key views.
- 9.15 In all other locations on the ground, views for pedestrians moving through the Conservation Area are much more limited. Because the building at White Point is quite tall, and the pavilion is set away from the edges of the roof terrace, one mostly notices the upper half of the pavilion, and the roof turret still appears the main feature that draws the eye.
- 9.16 Compared to the approved scheme, the constructed pavilion has a flat roof form and more box-like appearance. It is similar though in that it is largely glazed. On the eastern side the elevation is slightly angled, rather than running exactly parallel to the edge of the main building. The constructed pavilion does not have an extended eaves overhang, nor skylight atop. However, the constructed pavilion is much simpler in its overall form. The height of the pavilion relative to the turret is considered acceptable, as it remains subordinate to that key building feature. Even in the most prominent view from Blackmill Road, the pavilion appears subordinate to the turret.
- 9.17 The submitted plans/details show a simple short, glazed link between the pavilion and roof turret. The plans also show a simple flashing and drip gutter detail that, once completed, would be acceptable.
- 9.18 The design of the pavilion as-built is clearly different to the approved scheme, but comparing the two, officers conclude that they would have generally the same impact on the Conservation Area. Officers conclude that the presence of the roof pavilion as-built causes some limited harm to the conservation area in the two key viewpoints referenced in paragraph 9.14. In this sense, the development is in conflict with policies WLP8.29, WLP8.37 and WLP8.39 of the Local Plan, in addition to policy SWD6 of the SNP. However, that same extent of harm would likely arise from the approved scheme.
- 9.19 Where any 'less than substantial' harm to the conservation area would arise, the NPPF test at paragraph 202 is engaged:

"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."

9.20 There are no public benefits from this development that officers can identify. That being said, the planning balance also needs to have regard to all other material considerations, and that planning balance is undertaken in the conclusion of this report.

10. Conclusion

- 10.1 The approved scheme is a key material consideration in the determination of this application. The development subject of this application is assessed on its own merit, but significant weight should be given to the approved scheme under DC/18/2428/FUL. Ultimately, if this application were to be refused, any following enforcement action by the Council would be limited to requiring the applicant revert back to the approved scheme, as shown on the approved plans. There could not be an enforcement position of preventing any pavilion structure on the roof terrace.
- 10.2 The constructed pavilion is visible from the Southwold Conservation Area, however views from Southwold Common are limited. Whilst the constructed pavilion differs from the approved scheme, it is not considered to cause any additional impact on the Conservation Area. Overlooking from the pavilion is no worse than what can be achieved from the existing roof terrace, and again this same overlooking would occur from the approved scheme.
- 10.3 The local concerns have been considered and it is acknowledged that failure to discharge the pre-commencement condition attached to the approved scheme is unfortunate, likewise that the built structure differs from the approved scheme. However, that cannot be considered when determining this application on merit, and retrospective applications must be considered without prejudice.
- 10.4 For the reasons given, the scheme would cause some limited harm to the significance of the Conservation Area, but the key material consideration is the approved scheme – which officers consider would have the same impact in this regard. Accordingly, that limited Conservation Area harm and conflict with policies WLP8.29, WLP8.37, WLP8.39 and SWD6 is outweighed by the fallback position of the approved scheme.
- 10.5 Accordingly, there are material reasons to grant planning permission for the development.

11. Recommendation

11.1 Approve.

12. Conditions:

1. The development shall be carried out in accordance with the following plans/drawings: 'Roof Plan' (1:20), 'Floor Plan' (1:20), 'Eaves Details', 'Roof Details' and 'Fabrication Details'; all received 09 August 2021.

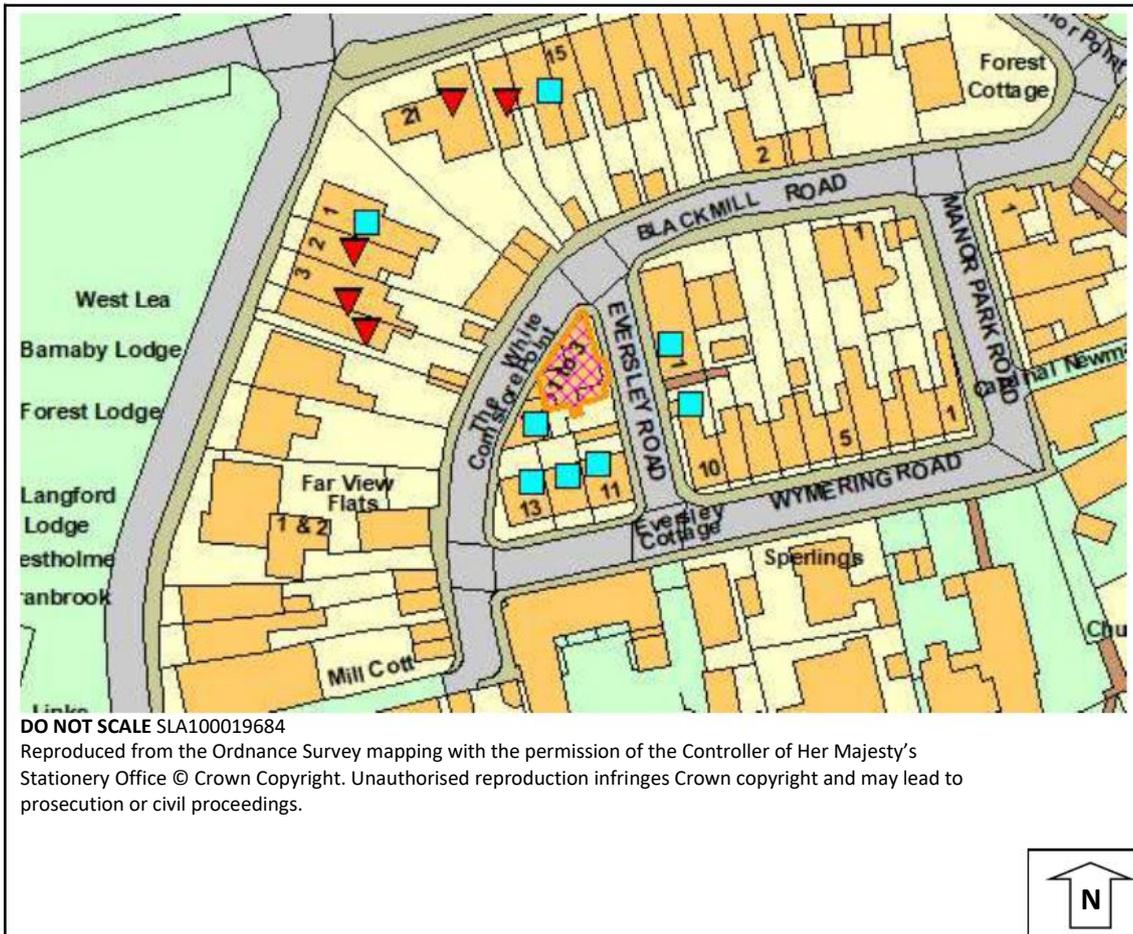
Reason: for the avoidance of doubt as to what has been considered and approved.

13. Background Papers

See application reference DC/21/3789/FUL on [Public Access](#)

Appendix 1: Appeal Decision DC/18/2428/FUL (APP/T3535/W/19/3220766)

14. Map



Key

-  Notified, no comments received
-  Objection
-  Representation
-  Support