

SHADOW PLANNING COMMITTEE (NORTH) – 16 April 2019

APPLICATION NO DC/18/4793/ROC REP50(SH)

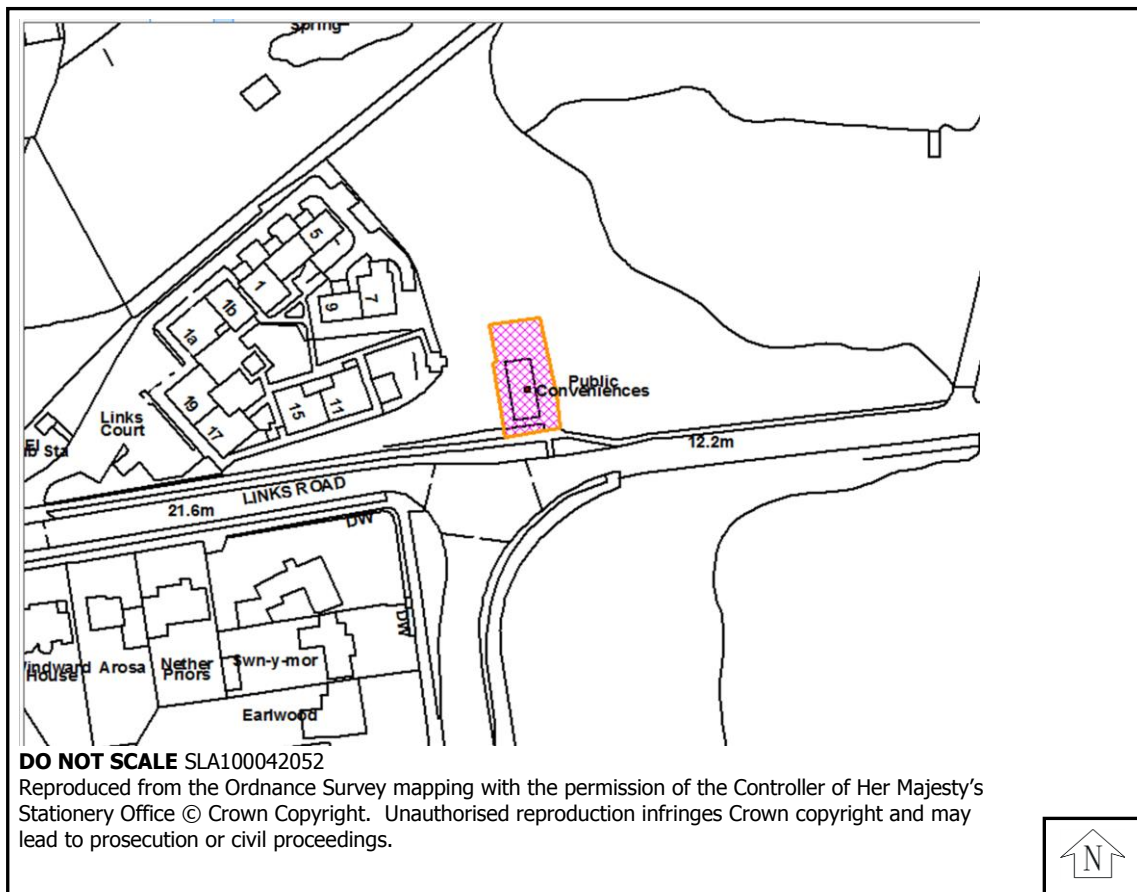
LOCATION

Former RNLI Social Club
Links Road
Lowestoft
Suffolk
NR32 4PQ

EXPIRY DATE 23 January 2019
APPLICATION TYPE Removal of Conditions
APPLICANT Neil's Development Limited

PARISH Lowestoft

PROPOSAL Removal of Condition No. 4 of DC/17/1481/FUL - Demolish existing RNLI Social Club building and erect two No. holiday homes with associated landscaping and alterations to vehicular access - Condition 4 should be removed to allow full-time occupation of the new property



1. SUMMARY

1.1 The submitted application seeks approval for the removal of condition 4 (holiday use only) of DC/17/1481/FUL for demolition of the former RNLI building on Links Road and the

erection of two holiday homes with associated parking, vehicular access and landscaping to allow full time occupation of the properties. The applicant seeks the removal of the condition to allow full-time occupation and states it is not possible to lease these properties within the context of the current condition, however the properties have not yet been built and therefore this assertion cannot be justified and is not supported by evidence as required in policy terms. Therefore officers consider this application to be premature and that it should be refused given the previous planning history of refusals for permanent residential properties.

1.2 The application is to be determined by Committee as the applicant is District Councillor.

2. SITE DESCRIPTION

2.1 The site is located on the northern side of Links Road and in close proximity to the access with Gunton Cliff. Links Road runs west to east from Corton Road and gives access to the north dunes. To the south east is a large public car park, with the north east being characterised by dunes and associated County Wildlife Site which is located immediately adjoining the site.

2.2 To the north-west, west and south west are residential properties that are very mixed in character, style, age and size, although the general grain is that of large domestic properties situated within large and spacious gardens.

2.3 The site is not located within a defined Conservation Area and it is not within the immediate vicinity of listed buildings although there are some listed and locally listed buildings on Gunton Cliff, although Members will note that these are of a sufficient distance to be affected by any proposed development of this site.

2.4 The site is outside the physical development limits for the town with the western boundary forming the boundary of the defined development limits.

2.5 There have been a number of applications on the site previously, two of which have been refused planning permission for permanent residential in 2016. However following an application for the creation of two holiday lets it was considered an acceptable use for the site given its constraints such as lack of amenity space and parking which are considered by the Council to be acceptable for a holiday use but not for any permanent residential use. This consideration remains.

3. PROPOSAL

3.1 Removal of Condition No. 4 of DC/17/1481/FUL - Demolish existing RNLI Social Club building and erect 2 No. holiday homes with associated landscaping and alterations to vehicular access - Condition 4 should be removed to allow full-time occupation of the new property.

3.2 Condition No. 4 of DC/17/1481/FUL states:

This permission relates solely to the use of the premises hereby approved for short-term holiday residential use; the property shall not be occupied as a permanent dwelling and shall not be occupied by any one person for a period exceeding 28 days in any calendar

year. The owner shall maintain, and keep available for inspection at all reasonable times, an up-to-date register of lettings

Reason: To ensure the dwellings are retained for holiday use and because the proposed unit(s) are suitable for holiday accommodation but not suitable for permanent residential use.

4. CONSULTATIONS/COMMENTS

4.1 **Parish/Town Council Comments:** It was agreed to recommend refusal of the application due the loss of potential holiday accommodation. The Committee were also concerned that there was lack of amenity for the proposed dwellings to be permanent residential dwellings in particular outside space and parking.

4.2 **Neighbour consultation/representations:** None received

4.3 **Head of Economic Development:** object to the loss of tourist accommodation

- The aims East Suffolk Tourism Strategy, are to increase the volume and value of tourism, to extend the tourist season, to create compelling destinations and to link visitors more to experiences. Therefore, these aims would not be supported by this proposal which could result in a loss of employment and a reduction in income to the local economy.

PUBLICITY

None

SITE NOTICES

The following site notices have been displayed:

General Site Notice	Reason for site notice: General Site Notice, Date posted 06.12.2018 Expiry date 31.12.2018
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RELATED APPLICATIONS

Reference No	Proposal	Decision	Date
DC/17/1481/FUL	Demolish existing RNLI Social Club building and erect 2 No. holiday homes with associated landscaping and alterations to vehicular access	Application Permitted	14.07.2017
DC/16/3067/FUL	Vacant site ex RNLI Social - Demolish and rebuild new 2 storey 3 bedroom house with car port	Refused	19.10.2016
DC/16/0162/FUL	Conversion and extension of existing vacant social club to form 1 No. house	Refused	01.04.2016

DC/12/1417/FUL	Extensions to existing building and change of use to restaurant	Approved	15.02.2013
DC/89/1296/REG4	Conversion to clubhouse for Lowestoft Lifeboat Crewmen's Assoc. '	Approved	14.06.1989

5. PLANNING POLICY

5.1 Section 38(6) of the Planning and Compensation Act 1990 states that *"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

5.2 The National Planning Policy Framework (2019) and National Planning Policy Guidance (NPPG) forms a material consideration in the determination of this application

5.3 The East Suffolk Council – Waveney Local Plan (March 2019) was adopted in March 2019 and contains the following policies of relevance to the determination of this application:

WLP1.1 - Scale and Location of Growth

WLP1.2 - Settlement Boundaries

WLP8.15 – New Self Catering Tourist Accommodation

WLP8.29 – Design

6. PLANNING CONSIDERATIONS

6.1 The main issues for consideration is whether the permanent residential use of these approved, but unbuilt, holiday dwellings complies with policy, whether the site is suitable for this type of use.

Background

6.2 With regards to Holiday use members are well aware that there are a large number of holiday lets across the district and there are controls in place to ensure they remain as such. Holiday use is a vital component of the economic diversity of the District and tourism plays a significant role in the Council's Business Plan and supporting local services and facilities. During the original application officers considered it unlikely that the properties would be in use 52 weeks of the year and there are natural 'down periods' and times when the lets would not be fully occupied and as such would have a lesser impact than permanent residential properties. Controlling conditions were attached to ensure the properties remained as holiday lets, as is standard practice across the district. Furthermore paragraph 83 of The National Planning Policy Framework is generally supportive of tourism and states that local plans should support sustainable rural tourism which benefits the rural economy whilst respecting the character of the countryside. However this application seeks to remove that condition and to allow for permanent residential use and this is contrary to both national and local planning policies.

6.3 The applicant argues that the condition fails to meet the criteria of circular 11/95 which is now obsolete and was replaced by paragraph 55 of Part 4 of the National Planning Policy Framework and in that it is not sufficiently precise although there has been no argument submitted regarding viability issues. Within the current legislation the NPPF (2018) states that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Furthermore the agent states “The application accords with the relevant policies of the Development Plan and the National Planning Policy Framework. The buildings can provide sufficient amenities for permanent residential occupancy and their residential use would not adversely affect the living conditions of any neighbouring properties or cause harm to the amenities of the local area or natural environment. The retention of the holiday occupancy condition has been shown to fail the test of precision, is unreasonable and not necessary for proper planning purposes. The condition is therefore ultra vires and should be removed and that in granting permission for the buildings for use as holiday accommodation the Council has already accepted their suitability for residential use.”

6.4 The agent has submitted the following comments:

Section 73 of the Town and County Planning Act 1990 provides that an application may be made for planning permission without complying with conditions applied to a previous permission. It is stated that Local Authorities may decide whether to grant permission subject to differing conditions, remove conditions altogether or refuse to alter conditions if they decide the original conditions should continue. Thus is it possible to apply for conditions to be struck out altogether. This section makes it clear that in considering such applications the Local Authority may only consider the question of the conditions and not revisit the principle of development.

In this case, the applicant seeks to delete the holiday occupancy restriction (Condition 4) attached to the planning permission granted in July 2017.

Therefore, it is only whether the retention of this condition is necessary for proper planning purposes that fall to be considered in the determination of this application. However, in terms of the decision making process, a section 73 application should be treated like any other application, and due regard made to the development plan and other material considerations.

6.5 Furthermore the agent has stated that the condition is not sufficiently precise, to prevent the dwellings from being occupied for 12 months of the year (i.e. any differently from any other residential dwelling). It is worded in such away that significant gaps in occupation would not necessarily occur. The properties could simply be let constantly to a series of occupiers, such that full-time occupation of the units would be possible. That would shift the planning status, rendering the condition unnecessary.

6.6 However officers are of the opinion that the condition is in line with other holiday restrictions across the district and it is clear in its aims, which is to allow these properties to be allowed for holiday purposes only as they are not suitable for permanent residential use having been refused previously for a number of reasons which are outlined further below. These refusals were not subject to appeal. Furthermore Economic Development have objected to the loss of tourist accommodation insofar as tourism is a

key driver of economic growth (seen in the East Suffolk Economic Growth Plan) and within the primary aims, as described in the East Suffolk Tourism Strategy, are to increase the volume and value of tourism, to extend the tourist season, to create compelling destinations and to link visitors more to experiences. Therefore, these aims would not be supported by this proposal which could result in a loss of employment and a reduction in income to the local economy.

6.7 Notwithstanding the above it should be noted that two earlier applications have been refused for the following reasons:

6.8 DC/16/3067/FUL:

“The proposal is contrary to the adopted Local Development Plan Core Strategy policy CS01 with regard to the spatial strategy and Core Strategy policy CS11 with regard to sequentially preferable development location and DM01 Development limits where the site falls outside the physical limits envelope of Lowestoft, the proposal offers no compensating public good to justify a departure from policy, and does not represent the conversion of a rural building or the infilling of a small site or the provision of accommodation for rural workers, or of exceptional and innovative architectural quality as envisaged by policy DM22 dwellings in the Countryside. The proposal is not considered of a design quality that would pass the threshold tests in the National Planning Policy Framework paragraph 55”.

“As such this proposal is contrary to aforementioned national and adopted local plan policies and would result in development in the countryside, to the detriment of the character of the adjacent Gunton Denes County Wildlife Site”.

6.9 DC/16/0162/FUL:

“The application site lies outside the "Physical Limits" of Lowestoft identified under Waveney Development Management policy DM01. As such the site is considered to be in open countryside, where Waveney Core Strategy policies CS01 and CS11 and Development Management policy DM22 establish a presumption against new residential development, unless it meets one of the specified exceptions, none of which apply in this case. As such this proposal is contrary to aforementioned adopted local plan policies and would result in development in the countryside, to the detriment of the character of the adjacent Gunton Denes County Wildlife Site”.

“Furthermore, the proposed dwelling would deviate from the character of the buildings in the surrounding area such that it would fail to positively improve the character, appearance and environmental quality of the area. In particular the scale, form, and mass of the proposed dwelling are all out of character with existing forms of development in the area. As such the proposal is contrary to adopted Waveney Core Strategy policy CS02 and Development Management policy DM02 and as well as the National Planning Policy Framework paragraphs 56-57 and 60-61”.

“The proposed dwelling is to sited directly adjacent to Gunton Warren County Wildlife Site and Gunton Warren and Corton Woods Local Nature Reserve (LNR). Insufficient detail has been submitted within the application to show how the proposed dwelling to be located within adjacent woodland is be located and constructed without loss or harm to local

ecology. The adjacent County Wildlife Site/LNR is known to support a number of species of reptiles and therefore an assessment of the likely impact of the proposal on reptiles should be carried out and suitable mitigation measures established. The application therefore fails to provide a full and proper assessment of the potential impacts upon protected ecology and fails to demonstrate that the proposed development would not threaten the quality of the reserve and compromise its long-term value as a habitat for wildlife. The proposals are therefore considered contrary to the requirements of policies CS16 of the Waveney Core Strategy and policy DM29 of the Waveney Development Management DPD (adopted January 2011)”.

Principle of Development

- 6.10 In terms of planning policy the site is located outside of but abutting to the physical limits as defined in the local plan. There are no local facilities within the vicinity of the application site and there is no longer a bus service running along Corton Road which would allow residents access to services and facilities. Therefore it is argued that the site is located in an unsustainable location with reliance of future occupants to use the private vehicle for daily functions and activities.
- 6.11 Policy WLP8.17 – Existing Tourist Accommodation has been formally adopted and this application has been assessed against the most up-to-date policy and this states that tourism accommodation will be protected and that a change of use will only be considered in exceptional circumstances where it can be fully and satisfactorily demonstrated that there is no demand for the tourist accommodation. Marketing evidence must be provided which demonstrates the premises have been marketed for a sustained period of a minimum of 12 months in accordance with the requirements set out in annexe 4 of the replacement local plan. In the absence of the buildings being constructed, and used for tourism purposes, it is clear that this cannot be stated and that they are not suitable for tourism use as there is no evidence to support the applicants in this case. The applicants have not submitted any viability information in respect of this application and have not argued in their submission that the two units of accommodation are not viable for holiday accommodation.
- 6.12 More specifically paragraph 8.83 of East Suffolk Council – Waveney Local Plan (March 2019) states that the criteria set out in Policy WLP8.15 apply to proposals to extend or enhance existing self catering tourist accommodation sites as well as proposals for new development. Where an expansion or enhancement is involved, the resultant number of pitches or units making up the proposed development as a whole will determine which criteria should be applied.
- 6.13 Furthermore paragraph 8.84 states that tourist accommodation, particularly accommodation in the form of permanent buildings can sometimes come under pressure to be occupied for full time residential use. New tourism accommodation should therefore be restricted so that it is retained for the benefit of the tourism economy in the District and not lost to residential use. Furthermore, tourist accommodation comprising permanent buildings will only be permitted within Settlement Boundaries as defined by Policy WLP1.2, through conversions of existing rural buildings or on larger scale schemes where on-site facilities are provided such as a restaurant, shop or club house. This should limit the impact and future pressure for full-time residential use.

- 6.14 Notwithstanding the above paragraph 83 (c) of part 6 of the NPPF states planning policies and decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside and it was considered at the earlier planning application that this development complied as it constituted an acceptable form of development for tourism purposes only. As such, officers are firmly of the opinion that this condition should remain, as to remove it would be non-compliant with existing and future planning policy where the principle of permanent residential use has been refused on two previous occasions. Indeed to deviate from this would in the opinion of officers set a dangerous precedent and could lead to the loss of a number of holiday accommodation units which would have a detrimental economic impact on the economy of the local area and district.
- 6.15 Furthermore policy WLP1.2 Settlement Boundaries relates to the physical limits as identified in the accompanying proposals map and outside these identified locations, development will be treated as being in the open countryside where the objective is to preserve the countryside for its own sake. Exceptions to this overall approach include developments, such as infill development, relocation of coastal properties and barn conversions and where development is an appropriate scale and contributes to the continued viability of the agricultural industry, diversify the local rural economy and meets a local need for affordable housing. Whilst it was considered that the site could be utilised for tourism purposes given its location, it remains the opinion of your officer that it is not suitable for permanent residential accommodation due to the nature of the site, the lack of amenity space and to remain consistent with earlier refusals as noted above. Indeed this approach follows the consistent line of this Authority and Members are referred back to the two recent refusals for unrestricted residential development as outlined in paragraphs 6.8 and 6.9 of this report.

Residential Amenity

- 6.16 Notwithstanding the clear policy implications arising from this application there does remain some question regarding suitable levels of amenity spaces and parking provision for permanent residential use within the site and holiday properties can generally accommodate a higher density of building due to the reduction in required amenity spaces than that required for permanent residential properties. There is a balcony area giving some amenity space and it is in very close proximity to the Denes and the beach which would mitigate for lack of formal space, however in officer's opinion this is not sufficient to support full-time accommodation of the properties where greater levels of amenity space is generally expected. By the nature of holiday lets, it is unlikely that a considerable amount of formal amenity space would be used, and it is not unusual to expect that occupants would not be spending a great deal of time in the properties but would be out touring the district. This is clearly not the case with permanent residential dwellings and the amenity space available to these properties would be substandard and contrary to the principles of good planning and contrary to policies W8.15 and 8.29 of the adopted local plan.

Impact on Wildlife

- 6.17 In addition to the above the proposed holiday dwellings are sited directly adjacent to Gunton Warren County Wildlife Site and Gunton Warren and Corton Woods Local Nature

Reserve (LNR) and full time occupation would have a much greater impact on the wildlife site and the comments received from Suffolk Wildlife Trust received in respect of the approved application (DC/17/1481/FUL) are as follows:

- *This site lies directly adjacent to Gunton Warren County Wildlife Site and Gunton Warren and Corton Woods Local Nature Reserve (LNR), the CWS is managed by Suffolk Wildlife Trust. We therefore request that care is taken to limit any activities to within the boundaries of the development site. This also applies to the movement of vehicles and the County Wildlife Site and LNR should not be used for parking or turning of construction vehicles, nor the temporary storage of building materials.*
- *At present, it appears that access from the site in to the County Wildlife Site/LNR is not possible. We request that, in the event that permission is granted, this remains the case in order to ensure that there is no increased disturbance of this part of the site.*

6.18 Therefore it is considered that these comments remain relevant and support the officer's opinion that the site is not suitable for permanent residential occupancy due to the potential increase in disturbance that these dwellings would generate. The proposals are therefore considered contrary to the requirements of policies The East Suffolk Council – Waveney Local Plan (March 2019) WLP1.1 - Scale and Location of Growth, WLP1.2 - Settlement Boundaries, WLP8.15 – New Self Catering Tourist Accommodation and WLP8.29 – Design.

7. CONCLUSION

7.1 It is clear that the council has consistently maintained the opinion that development on this site should be for holiday purposes only. There is insufficient amenity space available to serve permanent residential dwellings however it was considered sufficient for temporary holiday use where requirements for amenity space are lesser.

7.2 The removal of the condition from proposed holiday use to permanent residential would lessen economic benefits to the town and surrounding area, albeit it on a limited basis and approval was granted as it was stated that the residential units would be for holiday use only and should be maintained as such.

7.3 Furthermore, it remains clear that there are policy objections to the removal of this condition and that permanent residential use in this location is not supportable and it has not been proven, via marketing, that the site is not suitable for holiday/tourism purposes.

8. RECOMMENDATION

REFUSE for the following reasons:

1. The removal of the condition would create a development that is contrary to the provisions of local planning policy insofar as the holiday homes have not been built and have not been marketed contrary to the requirements of policy WLP8.15 – New Self Catering Tourist Accommodation and it has not been fully and satisfactorily demonstrated that there is no demand for the tourist accommodation in this location. As such the application is contrary to the provisions of policy WLP8.15 of the Local Plan.

2. The proposal is contrary to the adopted East Suffolk Council – Waveney Local Plan (March 2019) and in particular policies WLP1.1 - Scale and Location of Growth, WLP1.2 - Settlement Boundaries and WLP8.29 – Design as the properties are outside Development limits, where the site falls outside the physical limits envelope of Lowestoft and the proposal offers no compensating public good to justify a departure from policy

BACKGROUND INFORMATION:

See application ref: DC/18/4793/ROC at
www.eastsuffolk.gov.uk/public-access

CONTACT

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