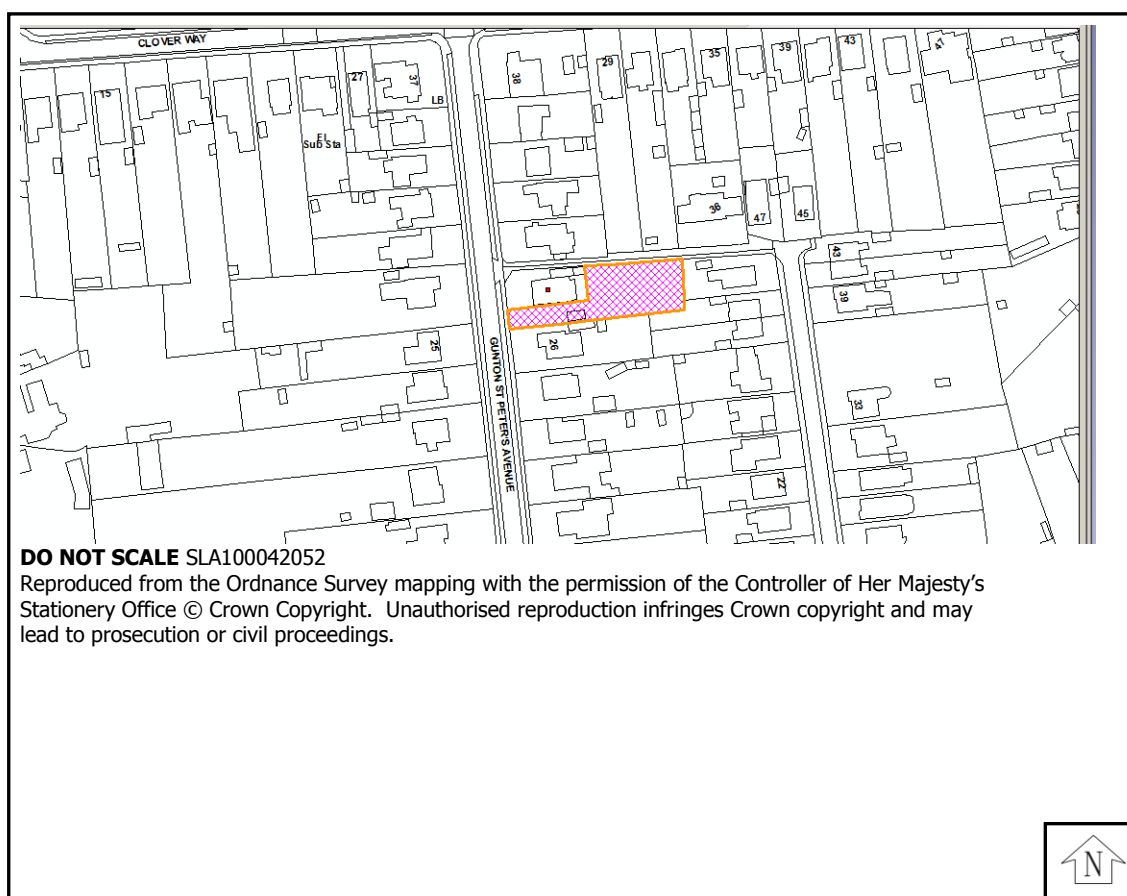


PLANNING COMMITTEE - 13 SEPTEMBER 2016**APPLICATION NO** DC/16/3183/FUL**LOCATION**28 Gunton St Peters Avenue
Lowestoft
Suffolk
NR32 4JP**EXPIRY DATE** 4 October 2016**APPLICATION TYPE** Full Application**APPLICANT** Mr Marcel Gray**PARISH****PROPOSAL** Construction of two bedroom bungalow**SUMMARY**

- 1.1 This application proposes a new bungalow in the rear garden of 28 Gunton St Peters Avenue within the physical limits for Lowestoft.
- 1.2 The submitted application is a revision to two earlier refused schemes: DC/16/1025/FUL which was presented to Committee at the 17 May; and DC/16/2161/FUL which was refused at the meeting held on 12th July.
- 1.3 This revised scheme removes of the first floor elements previously proposed, thereby creating a smaller, single storey dwelling and a larger rear garden to the donor dwelling.

- 1.4 Both of the previous applications attracted a number of objections, although at the time of writing this report a limited number of objections have been received on this latest amendment.
- 1.3 The application comes before the Committee as a result of a member call-in and the two previous committee refusals and resultant history of the site.

2 SITE DESCRIPTION

- 2.1 As members will recall, the site forms part of the rear garden of 28 Gunton St Peters Avenue, which is a relatively modern bungalow, probably dating from the 1960's. It is in a very popular residential area that is characterised by a wide variety of dwellings of differing ages, architectural styles and sizes. There is a public footpath which runs along the northern boundary of the site, and backs on to properties on Bishops Walk. The dwellings are situated within unusually generous gardens that help to make up the overall character and grain of the area.

3 PROPOSAL

- 3.1 The proposal is to construct a single storey bungalow on part of the rear garden of the existing bungalow. The proposed bungalow would have straightforward rectangular footprint, with parking area, following the removal of the separate garage with its main ridge running parallel to the northern boundary of the site.
- 3.2 A new vehicular access is proposed running on the southern side of the existing bungalow (the existing access is on the north side). A new 1.8 metre high close boarded fence would separate the two plots. This remains the same configuration as the earlier applications.

4 CONSULTATIONS/COMMENTS

- 4.1 **Neighbour consultation/representations:** at time of writing report this report 18 objections had been received and comments outlined below.

However, it should be noted that the date for consultation closes on 31/08/2016 with the site notice expiring on 04/09/2016 and it is anticipated that there will be further comments received and that these will not be dissimilar to those noted on the earlier applications. The objections received thus far are:

- This is the third time of objecting against this development
- Comments and concerns are unchanged from the previous applications
- Remains an overdevelopment of the site
- Not in keeping with other plot sizes in the area
- Gardens for both dwellings are very small
- Building in the place and wrong area
- Sets a dangerous precedent for further development
- Inability to protect area if approved
- Previous reasons for refusal are little changed
- Will affect the character and appearance of the area
- Significant landscape impact
- Light pollution
- Loss of open space
- Loss of privacy
- Noise
- Impact on trees and wildlife
- If allowed the dwelling could be extended in the future
- Devaluation of property

- Blatant example of garden grabbing
- Inappropriate scale
- Acoustic additions will be of limited value
- Impact on adjacent neighbours
- Current proposal has seen the lowering of the roof and removal of the garage but does not in any way overcome previous objections
- National Planning Policy Framework gives local communities the right to have a say in how their area is regulated
- Loss of open sky and space
- Covenants on deed stating only one property per plot
- Increased density
- Gardens are classed as greenfield and should only be built on in exceptional circumstances – what possible circumstances could there be to allow this?
- It has already been turned down twice before and we see no changes in the plans to warrant a different decision

4.2 **Suffolk County - Highways Department:** to be reported

4.3 **Essex And Suffolk Water PLC:** Our records show that our existing apparatus does not appear to be affected by the proposed development

We have no objection to this development subject to compliance with our requirements, consent is given to the development on the condition that new water mains are laid within the highway of the site, and a water connection is made onto our Company network for each new dwelling for revenue purposes.

4.4 **Waveney Norse - Property and Facilities:** to be reported

4.5 **Suffolk County - Rights Of Way:** Government guidance considers that the effect of development on a public right of way is a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered (Rights of Way Circular 1/09 – Defra October 2009, para 7.2) and that public rights of way should be protected.

Public Footpath 45 is recorded adjacent to the proposed development area.

Whilst we have no objection in principle, the location of the proposed bungalow along with close boarded fencing may have an imposing effect for users of the footpath and creating a corridor feel to the route.

4.6 **WDC Environmental Health - Contaminated Land:** to be reported

PUBLICITY

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

Category	Published	Expiry	Publication
Public Right of Way Affected,	19.08.2016	08.09.2016	Beccles and Bungay Journal
Public Right of Way Affected,	19.08.2016	08.09.2016	Lowestoft Journal

SITE NOTICES

The following site notices have been displayed:

General Site Notice Reason for site notice: In the Vicinity of Public Right of Way,

RELATED APPLICATIONS

Reference No	Proposal	Decision	Date
DC/16/2161/FUL	Construction of a bungalow	Refused	14/07/2016
DC/16/1025/FUL	Construction of a bungalow	Refused	24/05/2016

5 PLANNING POLICY

5.1 The Waveney Core Strategy was adopted in January 2009. Relevant policies include:

- CS01 Spatial Strategy
- CS02 High Quality and Sustainable Design
- CS11 Housing

5.2 The Development Management policies were adopted in January 2011. Relevant policies include:

- DM01 Physical limits
- DM02 Design Principles

6 PLANNING CONSIDERATIONS

6.1 It should be noted at the outset that this application remains very finely balanced and both of the very recent proposals have met with strong opposition from local residents with them both being refused for the following reasons:

This proposal represents overdevelopment of the site, both with regard to the area of open garden land available within the proposal site to serve the amenity needs of the larger dwelling created and the area of garden retained for the existing dwelling. The proposal will have adverse impact on neighbours by virtue of the scale and massing of the dwelling created. There is also considered to be noise and disturbance to residents of the existing dwelling on the site, from traffic passing and repassing on the driveway to the larger property to the rear. These amenity shortcomings conflict with policy DM02 design of the Adopted Waveney Development Management Policy where amenity for existing and proposed dwellings shall be sufficient for the needs of those dwellings.

6.2 The Spatial Strategy for the District proposes that 70-80% of new housing development in the District will take place in Lowestoft. This site is within the physical limits for Lowestoft established under policy DM01, and so residential development in this area is acceptable in principle; however this does not mean that every site is suitable for development, and other considerations must be applied. These considerations are addressed further below.

6.3 This amended scheme is for a smaller bungalow than previously proposed and there are no longer rooms proposed in the roof, but it remains in a similar position, set behind the existing retained bungalow. This is undeniably a departure from the general pattern and grain of development within the area but is now much more commensurate to those of the existing bungalows on and immediately adjacent to the application site. The foot print of the existing bungalow measures approximately 216m² with the proposed, smaller bungalow having a footprint of approximately 118m² which is quite a significant reduction from both of the earlier schemes which were 257m² and 173.5m² respectively resulting in reduction of 139m² from scheme 1 and a reduction of 55.5m² from scheme 2.

6.4 As already noted, this application does remain finely balanced. These types of proposal are not uncommon within the District and provide the opportunity to increase the housing stock

within sustainable locations, although it is important to reiterate that each application is assessed on its own merits and the particular context within which it is to be accommodated. Nevertheless it is believed that the proposed development would broadly comply with the Council's Spatial Strategy for the location of new residential development being located within a residential area of the Town within the defined development limits.

- 6.5 Policy CS02 High Quality and Sustainable Design requires all development proposals to demonstrate a high quality and sustainable design that positively improves the character, appearance and environmental quality of an area. It does however go further to state that proposals should also reflect local character and distinctiveness and protect local amenity and it is this particular issue that has led to earlier refusals. Members concluded that the previous proposals did not reflect either the character or distinctiveness of the area and did not protect the amenities of local residents. Members will need to consider whether the latest changes are sufficient to address earlier concerns and warrant a change of opinion.
- 6.6 As members will no doubt recall, both of the earlier applications generated a large number of objections, with many of the local residents objecting on the grounds that the proposed development is out of character with its surroundings and would have an unacceptable and detrimental impact on their existing amenities. Although at the time of writing this report only 18 objections had been received, officers are anticipating a similar level of objection and similar grounds as the previous applications.
- 6.7 Whilst it is undeniable that 'back-land' development is, perhaps, more unusual in this particular part of the Town, there are many instances of similar developments throughout the District, and although each application is assessed on its own merits it is considered that the erection of a dwelling in this location would be acceptable. With regards to residential amenity, there are sufficient distances between the nearby dwellings to not increase overlooking and the addition of a 1.8 metre high boundary fence around the site, further reduces the potential impact. It is suggested that should planning permission be granted that permitted development rights be removed which would otherwise allow the loft to be converted at a later date and for the removal of rights to insert any windows or roof lights. For these reasons it is considered that the proposed development would comply with Policy CS02.
- 6.8 Policy CS11 Housing relates to housing provision within the hierarchy of settlements, with Lowestoft being the prime settlement. In this respect the proposed development complies as it is located within the physical limits boundaries of the Town. Much issue was made to the 'exceptional circumstances' mentioned in policy CS11, however these circumstances relate to developments outside physical boundary limits.
- 6.9 Policy DM01 Physical limits identifies locations where development is preferable, with Lowestoft being the prime development area followed by the market towns and larger villages. The proposed development complies with this policy as the site is located within the physical limits of Lowestoft.
- 6.10 Policy DM02 Design Principles states that planning permission will normally be granted where the proposed development is sympathetic to the site and its surroundings and where the proposal respects and enhances the identity and character of the site.
- 6.11 As members will recall, both of the previous applications were refused as noted in paragraph 6.1 as it was considered that the proposed development constituted an overdevelopment of the site and would have a detrimental impact on the amenities of nearby residents. However, in order to address these reasons for refusal the overall footprint has been reduced and the roof-line changed in an attempt to reduce the overall bulk of the building. Therefore, in this instance, and having considered the proposed development against this policy, it is your officer's opinion that it would comply with the provisions of policy DM02.

- 6.12 However, one of the overriding concerns that has been present throughout all of the applications, is that of the proposed driveway and its impact on both the future residents of No.28 and No.26 with particular note given to the close proximity to windows. There are windows overlooking the driveway of No.26 which measure approximately 3 metres in width. Furthermore, there is proposed planting and a 1.8m high fence proposed along the boundary to help to mitigate any noise and visual impact that may have otherwise been felt. The fence would drop down to the required 600mm at the entrance to retain the required visibility splay.
- 6.13 The erection of an acoustic/environmental noise barrier fence along with additional planting would go some way to mitigating the potential impact of vehicles travelling along the driveway to the new property. Again, at the time of writing there had been no comments received from Highway Officers, however there have been no objections to the previous two applications on highway grounds and it is difficult to envisage any changes in opinion arising from this application. Nevertheless members will be updated prior to committee should any comments be received.
- 6.14 Both of the previous applications were subject to a large number of objections which included comments relating to dominating/overbearing appearance/scale, inappropriate and uncharacteristic design, unacceptably small gardens that are uncharacteristic of its surroundings loss of outlook/overlooking and loss of privacy, adverse impact on neighbours, over development of the site, setting of precedent, overshadowing of footpath, landscape/wildlife impact , loss of trees, light pollution, noise, 'garden grabbing', covenant states only one dwelling per plot, loss of property value and the proposal is purely for profit. These comments are reflected in objections received from local residents so far.
- 6.15 The proposed development has been further amended in order to try and allay some of the previous concerns of local residents and the reasons for refusal, and the overall scale and footprint has been reduced and garden space increased to the existing dwelling and there is an acceptable level of amenity space for both existing and proposed properties.
- 6.16 Whilst it is inevitable that the proposed development would have some impact on the outlook of existing properties, there is no legal right to a view, and any loss of outlook would not be so detrimental so as to warrant refusal of the scheme on this point alone. Again, the issue of overlooking would be minimal, particularly as the dwelling has been further reduced to a single storey property.
- 6.17 Additionally, there is a 1.8 metre high close board fence surrounding the site and there is sufficient space between the dwellings to further reduce the potential for overlooking from the main, ground floor living area. However it is suggested that should members decide this application is acceptable and that permission be granted, that permitted development rights be removed for the addition of windows or roof lights in order to further protect the amenities of adjacent residents. Furthermore, it is suggested that additional restrictions on extensions and outbuildings all be attached to avoid the risk of the site becoming overdeveloped by virtue of permitted development rights, which would go some way to ensuring the amenities of adjacent residents are protected
- 6.18 Other issues that had been raised included comments relating to 'garden grabbing', the legal covenant relating to the site stating that there shall only be one dwelling per property and that the proposal is purely for profit and not for the benefit of the local community. However, again, in the absence of any formal comments this can only be given limited weight.
- 6.19 With regards to covenants, it remains that these are not material to planning considerations and are a civil issue that cannot be dealt with under planning laws. Furthermore earlier comments relating to loss of value of existing properties is also not a material planning consideration and cannot be legally used under planning law to refuse an application.

- 6.20 Previous comments received also mentioned the re-classification of garden land as greenfield, and was noted in revisions to PPS3 in 2010, which was then carried forward into the National Planning Policy Framework. This does feed into Policy CS11 of the Core Strategy, where a hierarchy of appropriate spatial location for sustainable development is set out, although there is no specific regard to garden land. As a stand-alone site, it is considered that this site is well located close to a bus route and is well within the established area for development. Additionally the National Planning Policy Framework sets out a presumption in favour of sustainable development and this proposal would comply with those considerations.

7 CONCLUSION

- 7.1 As noted previously in this report this application is finely balanced, and whilst the comments and concerns of local residents have been thoroughly considered it remains, in planning terms, that the proposed dwelling constitutes an acceptable form of development and accords with the provisions of the adopted Waveney Local Plan and in particular policies CS01 Spatial Strategy, CS02 High Quality and Sustainable Design, DM01 Physical Limits and DM02 Design Principles.
- 7.2 Significant alterations have been made to the proposal and a reduction in the overall footprint and floor area to create a modest two-bed bungalow which would have a limited impact on the amenities of adjacent residents.
- 7.3 Although it is appreciated that backland development in this location is unusual, it is not wholly unacceptable and with the controlling conditions noted below, the impact could be further mitigated.

8 RECOMMENDATION

That permission is granted subject to the following conditions:

1. The development hereby permitted shall be begun within a period of three years beginning with the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 as amended.

2. The development hereby permitted shall be carried out in accordance with the following plans unless otherwise submitted to and agreed in writing with the local planning authority:

BAS/MGray/200/B – Proposed ground floor plan
BAS/MGray/201/B – Proposed roof plan
BAS/MGray/202/B – Proposed western and southern elevations
BAS/MGray/203/B – Eastern and northern elevations

Reason: To ensure the development is carried out in the manner considered by the local planning authority and to secure a properly planned development.

3. Prior to the commencement of development, an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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

4. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

5. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

6. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 3, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 4, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 5.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and

ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

7. No other part of the development shall be commenced until the new vehicular access has been laid out and completed in all respects in accordance with Drawing No. DM02; and with an entrance width of 3 metres and been made available for use. Thereafter the access shall be retained in the specified form.

Reason: To ensure that the access is designed and constructed to an appropriate specification and is brought into use before any other part of the development is commenced in the interests of highway safety.

8. Before the development is commenced details of the areas to be provided for storage of Refuse/Recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.

Reason: To ensure that refuse recycling bins are not stored on the highway causing obstruction and dangers for other users.

9. Before the development is commenced details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained thereafter in its approved form.

Reason: To prevent hazards caused by flowing water or ice on the highway.

10. Before the development is commenced details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained thereafter in its approved form.

Reason: To prevent hazards caused by flowing water or ice on the highway.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) (with or without modification), no building or structure permitted by Classes A (extensions or alterations), B (changes to the roof) or E (buildings or enclosures within the curtilage of the house) of Schedule 2 Part 1 of the Order shall be erected without the submission of a formal planning application and the granting of planning permission by the Local Planning Authority.

Reason: To secure a properly planned development.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) (with or without modification), no windows, roof windows dormers or roof-lights [other than those expressly authorised by this permission] shall be constructed on any elevation.

Reason: to preserve the amenity of adjacent property.

13. Details of all external facing and roofing materials shall be submitted to and approved by the Local Planning Authority before development commences. Development shall be carried out in accordance with the approved details.

Reason: To ensure the satisfactory external appearance of the development.

ADDITIONAL NOTES

The Local Planning Authority has assessed the proposal against all material considerations including planning policies and any comments that may have been received. The planning application has been approved in accordance with the objectives of the National Planning Policy Framework and local plan to promote the delivery of sustainable development and to approach decision taking in a positive way.

BACKGROUND INFORMATION:

See application ref: DC/16/3183/FUL at
www.waveney.gov.uk/publicaccess

CONTACT

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