

Minutes of a Meeting held in the Conference Room, Riverside, Lowestoft
on **Tuesday, 29 May 2018 at 6.00pm**

Members Present:

P Ashdown (Chairman), N Brooks, J Ceresa, M Cherry, G Elliott, J Ford, M Ladd, M Pitchers, C Rivett and K Robinson.

Officers Present:

P Perkin (Development Management Team Leader), P Rowson (Planning Development Manager) and S Carter (Democratic Services Officer).

In attendance:

Councillor Y Cherry

Prior to the commencement of the meeting, the Chairman reminded Members of the sad loss of Councillor Sue Allen, a Planning Committee Member, whose input and efforts over a good number of years would be missed. She had been a very important and knowledgeable Member and the Chairman expressed thanks for her valuable contributions to the Committee and its deliberations and decisions. The Officers expressed their support in appreciation of her work.

1 APOLOGIES / SUBSTITUTES

Apologies for absence were received from Councillors Goldson, Groom and Neil.

Councillor Robinson attended the meeting as a Substitute for Councillor Goldson.

2 MINUTES

RESOLVED

That the Minutes of the meeting held on 17 April 2018 be approved as a correct record and signed by the Chairman, subject to "A12" being amended to read "A1" on the fourth point on page 13.

3 DECLARATIONS OF INTEREST

Councillor Ladd declared a Local Non Pecuniary Interest in Item 8 – DC/18/0765/VOC – Sunnyways, London Road, Gisleham, Item 9 – DC/18/0947/FUL – Land adjacent Sunnyways, London Road, Gisleham and Item 11 – DC/17/0862/FUL – Land at Dam Lane, Kessingland, as being County Councillor for the area.

4 DECLARATIONS OF LOBBYING

No declarations of lobbying were made.

With the agreement of the Chairman, Items 5, 6 and 7 on the Agenda were considered together, although Members were given the opportunity to ask questions and comment upon each report separately.

5 APPEAL DECISIONS REPORT

The report of the Head of Planning and Coastal Management advised the Committee that no decisions had been made in February and April 2018. In March 2018, four appeal decisions had been made, two had been dismissed and two conditionally allowed.

RESOLVED

That the reports concerning Appeal Decisions in February to April 2018 be noted.

6 DELEGATED CHIEF OFFICER DECISIONS

The reports of the Head of Planning and Coastal Management informed Members of all the Chief Officer delegated planning decisions made during February, March and April 2018.

RESOLVED

That the reports concerning the Chief Officer Delegated Planning Decisions made during February to April 2018 be noted.

7 ENFORCEMENT ACTION

The report of the Head of Planning and Coastal Management provided Members with a summary of all outstanding enforcement cases sanctioned under delegated powers or through the Committee up until 14 May 2018. There were currently five cases.

In response to a question relating to the lack of response received in relation to 73 High Street, Lowestoft, the Planning Development Manager explained that it had been a long running case over the last five to six years. In a number of cases, some letters did not always receive a response and it was considered that now might be the time to begin to take the enforcement notice forward with a view to prosecution. There was concern that actions were not forthcoming and the case would be discussed with the Enforcement Officer with a view to sending a letter relating to outstanding planning enforcement matters and the owners liabilities.

RESOLVED

That the report detailing the outstanding Enforcement Matters up to 14 May 2018 be received.

8 CHANGE IN THE ORDER OF BUSINESS

The Chairman of the Committee advised that, in view of the public speakers waiting to speak, there would be a change in the order of business and Item 11 – DC/17/0786/FUL – Land at Dam Lane, Kessingland and Item 12 – DC/18/0845/FUL – Valley Farm, Bungay Road, Holton, would be taken first.

9 DC/17/0786/FUL – LAND AT DAM LANE, KESSINGLAND

The Planning Development Manager presented the application which sought approval for the formation of a lake for private recreational use and erection of five timber structures on land for amenity and storage use. The Applicant's intention had been to form a wildlife pond for the enjoyment of his family and the application before the Committee was retrospective.

Dam Lane was a narrow single track lane and on the site, extending to 0.6 hectares, the Applicant had excavated a large pond and erected five timber buildings around the perimeter of the site. The site was within Flood Zone 3 and despite several versions of a Flood Risk Assessment having been submitted, the Environment Agency maintained its objection.

Members were shown an aerial view, photographs and location plans of the site and its surrounds including a sketch of the proposal showing the location of the bird hide, BBQ, garden room and the two summerhouses. There were two accesses to and from the site. The lake had been excavated and a series of bunds created. All works required planning permission and none existed.

The Planning Development Manager explained that, from previous to current photographs, it could be seen that the site was now bedded in with an amount of screening and the cabin structures sat on a bund adjacent to the highway. The bunds were an issue with regard to flooding. Local residents and both Gisleham and Kessingland Parish Councils had raised various concerns including flood risk and access along a single track lane, and the Environment Agency had also expressed concern, full details of which were contained in the report.

The Committee was advised that Government policy was to ensure that flood risk was not increased elsewhere and only considered development areas at risk of flooding where it could be demonstrated that, within the site, the most vulnerable development was located in areas of lowest flood risk unless there were overriding reasons to prefer a different location. Also, that the development was appropriately flood resilient and resistant, and included safe access and escape routes where required. The Applicant had been given every opportunity to supply information to meet the Environment Agency's objection. That information had not been forthcoming and it was therefore recommended that planning permission be refused. As the application was retrospective, enforcement action should follow the refusal of planning permission and that would include the removal of the bunds and buildings.

Mr L Martin - Kessingland Parish Council

Mr Martin explained that the Parish Council had submitted its objections in April 2017 and, since that time, two flood risk assessments had been submitted to the Environment Agency and both rejected. Since then, a further issue had come to light with regard to the Benacre pumping station which was, as detailed in the officer's report, likely to fail at some point. Coastal defences around the pumping station were being looked at and potential flood and tidal defences could be moved inland to the west of the A12. Fluvial storage capacity was affected and there would be additional flooding in Kessingland and Black Street. Mr Martin

strongly requested the Committee refuse the retrospective planning application in line with the officer's report.

Mr G Regan - Applicant

Mr Regan thanked the Committee for allowing him to speak. He had not realised he had committed an offence and explained that the reeds had been dug in and the top to floor windows in the shelters and huts had now been boarded up. Removing screening would cause problems and the wildlife on the site would be badly affected and unnecessarily harmed. Flood risk assessments had been undertaken and he had received a letter dated 6 December from the Environment Agency overcoming objections. Users of the road should stick to the natural speed limit. Mr Regan explained that he had complied with everything everyone had asked of him and he had already addressed the problem with one of the bunds. The ecological survey was due to be undertaken Friday week. Other properties had been built in similar flood zones, so this was not unique. The planning permission being sought would allow everything to be rightfully in place and there would be no adverse risks.

Questions

Members asked questions relating to:

- Fluvial and tidal flooding.
- Building within a flood plain and safety issues.
- History of the lake.
- Removal of bunding.

The Planning Development Manager explained that the flooding issue related to both fluvial and tidal. The development and various structures were within the flood plain and the planning application was for the whole site, not part of it. The Environment Agency (EA) had sought confirmation that the Applicant would not sleep in the buildings; the EA's concern over safety issues was if the buildings were lived in and slept in overnight. Significant issues related to flooding in relation to the coastal management scheme and any failure of the pumping station. The lake had not always been in situ and any enlargement would have to be the subject of a further application. The concerns over flooding had arisen due to the excavation of the site to form the lake and the bunding created from the spoil would disperse water.

It was noted that the Applicant had a letter from the Environment Agency advising that there could be some mitigation if the bunding was removed and the site screened. That would alleviate the problems particularly as no-one would be living on site. However, the application before Members that evening could not be changed; removal of bunds would be via the enforcement process or a new planning application could be submitted for any changes

Debate

Members expressed the view that the application should be refused on the grounds given in the officer's report. The Applicant could then come back to Committee with a new application. The Planning Development Manager advised that, depending on the decision

made that evening, the officers would meet with the Applicant to discuss what could be delivered by way of a revised planning application. There being no further discussion, it was unanimously

RESOLVED

That planning permission be refused for the following reasons:

1. The site is located within Flood Zone 3, the area of highest flood risk. Government and Council policy is that development should not increase flood risk elsewhere, but in this case the spoil from creating the lake has been re-graded across the site and is acting as a bund between the watercourse and the site, which means that the site has been taken out of the functional floodplain now and into the future. In addition, there is a proposed flood alleviation scheme for the Lothingland Hundred system. This scheme will result in moving the tidal defences further inland and a number of options are being considered. This may affect the fluvial flood storage capacity in the area downstream of the A12, which could also affect the fluvial flood storage capacity in the area of this application. This further highlights the importance of there being no loss of fluvial flood storage capacity.
2. This site is in the open countryside where policy CS01 states that the objective is to preserve the countryside for its own sake. The development includes five buildings of various types which are out of place in this rural site and detrimental to the character of the countryside.

10 DC/18/0845/FUL – VALLEY FARM, BUNGAY ROAD, HOLTON

The Development Management Team Leader presented the application which sought approval for the development of a single residential dwelling, pedestrian and vehicular access within the site, landscaping, car parking and associated infrastructure, together with the use of the existing access points into the site from Bungay Road. The purpose of the dwelling in the garden of Valley Farm was to meet the Applicant's rare medical condition.

Members were shown an aerial view, photographs and location plans of the site and its surrounds including a red line drawing, the two access points, the existing farmhouse, the actual location of the application site and views across the garden looking south west. The elevations showed a single storey dwelling of contemporary design with fully landscaped gardens. In addition, there were two holiday units, a swimming pool and a building which was used to service the holiday lets.

The application had been referred to Committee due to the conflict with Development Plan Policies.

The site was located in the open countryside outside, but in close proximity to, the defined physical limits of Holton and, as such, was not considered to be an isolated site. The National Planning Policy Framework (NPPF) promoted a presumption in favour of sustainable development and, at the present time, the Council was unable to demonstrate a five year supply of housing land. Under those circumstances, the NPPF indicated that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

In seeking to address the Applicant's medical needs, the dwelling was being promoted as one that met the criteria in paragraph 55 of the NPPF of exceptional and innovative design due to the way that the architecture responded to the specific medical needs of the applicant. The site was considered to be sustainably located and, taking into account all the material considerations, the application was being recommended for approval subject to conditions.

Ms H Smith - Agent

Ms Smith thanked Members for being given the opportunity to speak on behalf of the Applicant. The report was accurate and the application was considered to be a well balanced proposal. The Local Plan policies were now considered to be out of date as the Council was unable to deliver its required five year housing land supply. Paragraph 55 of the NPPF allowed residential development when not isolated; the site was not isolated due to its proximity to Holton. The proposed dwelling was of high quality and had been purposely designed for the Applicant who suffered from an incurable neurological disease. There had been no objections from consultees and the proposal was considered to cause no harm. Ms Smith requested the Committee support the recommendation and approve the application

Questions to the Agent

Members asked specific questions relating to:

- Passive house principles.
- Extra traffic.

Ms Smith confirmed that the design did comply with such principles and as the owner currently lived in the existing property, there should be no extra traffic. However, if the existing property was sold, that might result in additional vehicles using the site.

Questions

In response to Members' questions, the Development Management Team Leader confirmed that the dwelling was proposed to be built in the existing garden of an existing property; that was not considered to be a strategic gap. The planning application approved in April 2018 for the creation of disabled accommodation related to the existing garages which were part of the existing house. That was the fall back position; if the application now before Members was not approved.

Debate

Comment was made that the proposal was considered to be a well designed property adequately contained in the garden and there being no further discussion, it was unanimously

RESOLVED

That the application be approved, 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.
2. The development hereby permitted shall not be brought into use until it has been completed in all respects strictly in accordance with Plans PL 010, PL 101, PL 110, PL 201, PL 202, PL 203, PL 204, PL 205, PL 206, PL 301, PL 302 and 1998 01 received 23 February 2018 for which permission is hereby granted or which are subsequently submitted to and approved in writing by the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.
3. No other part of the development hereby permitted shall be commenced until the existing vehicular accesses have been improved, laid out and completed in all respects in accordance with DM02; and with an entrance width of 4.5m. Thereafter the access shall be retained in the specified form.
4. Prior to the development hereby permitted being first occupied, the vehicular access onto the highway shall be properly surfaced with a bound material for a minimum distance of 5 metres from the edge of the metalled carriageway, in accordance with details previously submitted to and approved in writing by the local planning authority.
5. The vehicular access hereby permitted shall be a minimum width of 4.5 metres for a distance of 10 metres measures from the nearby edge of the carriageway.
6. Before the development is commenced details of the areas to be provided for the collection 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.
7. The use shall not commence until the area within the site shown on PL-010 for the purposes of manoeuvring and parking of vehicles has been provided and thereafter that area shall be retained and used for no other purposes.
8. In the event that contamination is found or suspected at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of the contamination 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.

Where remediation is necessary a detailed remediation scheme 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. The approved remediation scheme must be carried out in

accordance with its terms. 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.

9. The landscaping scheme shown on Plan 1998 01 shall be completed prior to occupation of the dwelling or such other date as may be agreed in writing with the Local Planning Authority. Any trees or plants which die during the first 3 years shall be replaced during the next planting season.

11 DC/18/0862/FUL – 9 GLEBE CLOSE, LOWESTOFT

The Chairman announced that this application listed as Item 10 on the Agenda had been withdrawn from the Agenda.

12 DC/18/0765/VOC – SUNNYWAYS, LONDON ROAD, GISLEHAM

The Development Management Team Leader presented the application which sought approval for a variation of Condition No. 2 of DC/17/2574/FUL which proposed a pair of semi-detached bungalows with rooms in the roof space incorporating dormer windows, with revisions to previously approved drawings.

The previously approved layout plan stated that an existing privet hedge and conifer trees along the current driveway adjacent to the southern boundary were to be retained. However, some of that vegetation had been removed and the application now before Members sought to amend the approved plan by replacing the hedge and trees with a 1.8m high close boarded timber fence.

Members were shown an aerial view, photographs and location plans of the site and its surrounds including the original hedge which was not particularly attractive; that had now been removed.

The Applicant had provided reasons as to why the hedge had been removed, largely to improve access, full details of which were contained in the report. The proposed timber fence would retain an adequate level of screening to the property immediately to the south and its appearance was considered to be satisfactory. The adjacent neighbour had no real objection to the proposed fence as it would provide better screening.

The Development Management Team Leader advised that it was considered that the revision was acceptable and the application was recommended for approval.

Questions

In response to Members' questions relating to the location of the new dwellings and the removal of the hedge, the Development Management Team Leader confirmed the dwelling was extremely close to the boundary but it was in accordance with the approved plans. It was confirmed that the hedge had been removed prior to seeking permission for its removal.

Debate

Members expressed concern over the removal of a valuable hedgerow which was to have been permanently retained. It appeared to some Members that it would have been impossible to build the dwellings if the hedge had been preserved. The Committee noted that the closest neighbour would accept the proposed fence as being a suitable option for the boundary. As there was now no opportunity to comply with the retention of the hedge, the Planning Development Manager advised that the officers could draft a letter from the Chairman, on behalf of the Committee, to the Applicant expressing Members concerns and such a letter could go out with the decision notice. It was then

RESOLVED

That permission be 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.
2. The development hereby permitted shall not be brought into use until it has been completed in all respects strictly in accordance with Plans 070417 1D received 21 February 2018 and 070417 2A received 30 August 2017; for which permission is hereby granted or which are subsequently submitted to and approved in writing by the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.
3. 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.
4. No other part of the development hereby permitted shall be commenced until the existing vehicular access has been improved, laid out and completed in all respects in accordance with DM02; and with an entrance width of 4.5m. Thereafter the access shall be retained in the specified form.
5. 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 3m and been made available for use. Thereafter the access shall be retained in the specified form.
6. Prior to the development hereby permitted being first occupied, the vehicular access onto the highway shall be properly surfaced with a bound material for a minimum distance of 5 metres from the edge of the metalled carriageway, in accordance with details previously submitted to and approved in writing by the local planning authority.
7. The use shall not commence until the area within the site shown on Dwg No 070417 1D for the purposes of parking of vehicles has been provided and thereafter that area shall be retained and used for no other purposes.

8. In the event that contamination is found or suspected at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of the contamination 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.

Where remediation is necessary a detailed remediation scheme 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. The approved remediation scheme must be carried out in accordance with its terms. 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.

13 DC/18/0947/FUL – LAND ADJACENT SUNNYWAYS, LONDON ROAD, GISLEHAM

The Development Management Team Leader presented the application which sought approval for temporary accommodation for one year.

The report reminded the Committee that planning permission had been granted in September 2017 for a pair of semi-detached bungalows on the site and this application sought consent for a static caravan measuring approximately 10m x 4m to be on the site as temporary accommodation for one year whilst the bungalows were being constructed. In addition to the static caravan, the application also included two small sheds and a generator.

Members were shown various views of the site and a photograph of the static caravan. It was confirmed that the hedge had been removed to allow the caravan to be located on the site.

The Development Management Team Leader explained that, as the provision of temporary accommodation on the site for the duration of building works was considered reasonable, approval was being recommended.

Questions

Members asked specific questions relating to:

- Noise from the generator and limiting hours of its operation.
- Screening and noise baffling.

The Planning Development Manager explained that there were tests for planning conditions. As a result of the Environmental Health Officer advising that the noise from the generator was not a statutory nuisance, there was no clear case for restricting its use or specifying operating hours. It would not be possible to impose a condition that was not enforceable. Although a neighbour advised that the generator was causing distress, the technical advice was that there was no significant nuisance.

Debate

It was proposed and duly seconded that the application be approved subject to attenuation being sought and it was

RESOLVED

That permission be granted subject to the following conditions:

1. The temporary residential caravan shall be removed from the site on 31 May 2019 or upon first occupation of the approved dwellings on the site, whichever is the earlier.
2. Within one month of the date of this permission a scheme to mitigate noise from the generator shall be submitted to and approved in writing by the Local Planning Authority. The generator shall be operated in accordance with the approved details.

Note: Councillors Brooks and Ladd left the meeting at 7.00pm.

14 EXEMPT/CONFIDENTIAL ITEM

RESOLVED

That, under Section 100(A)(4) of the Local Government Act 1972 (as amended), the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act.

15 CONFIDENTIAL MINUTES

RESOLVED

That the Exempt Minutes of the meeting held on 17 April be approved as a correct record and signed by the Chairman.

The meeting concluded at 7.02pm.

Chairman