

Minutes of a Meeting held in the Conference Room, Riverside, Lowestoft
on **Tuesday, 12 February 2019 at 6.00pm**

Members Present:

P Ashdown (Chairman), N Brooks, P Byatt, M Cherry, G Elliott, J Ford, T Goldson, P Light, M Pitchers, C Punt, K Robinson and J Smith.

Officers Present:

C Buck (Senior Planning and Enforcement Officer), M Gee (Planning Officer), P Perkin (Development Management Team Leader) and S Carter (Democratic Services Officer).

In attendance:

Councillor Y Cherry

1 APOLOGIES / SUBSTITUTES

Apologies for absence were received from Councillors Graham, Ladd and Rivett.

Councillor Byatt attended the meeting as a Substitute for Councillor Graham.

Councillor Punt attended the meeting as a Substitute for Councillor Ladd.

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

2 MINUTES

RESOLVED

That the Minutes of the meeting held on 15 January 2019 be approved as a correct record and signed by the Chairman

3 DECLARATIONS OF INTEREST

Councillor Byatt declared a Local Non Pecuniary Interest in Item 9 – DC/18/4470/COU – 364 London Road South, Lowestoft, as being Ward Member. He advised that he had been asked to speak by an objector and, after speaking, he would leave the meeting and not participate in discussions or voting thereon.

Councillor Light declared a Local Non Pecuniary Interest in Item 8 – DC/18/3428/FUL – Land between Hollow Lane and Uplands Road South, Carlton Colville, as being Ward Member. He advised that he had corresponded with the residents prior to being appointed to serve on the Committee and, after speaking as Ward Member, he would leave the meeting and not participate in discussions or voting thereon.

4 DECLARATIONS OF LOBBYING

Councillor Ashdown declared that he had received communications in relation to Item 8 – DC/18/3428/FUL – Land between Hollow Lane and Uplands Road South, Carlton Colville.

Councillor Byatt declared that he had received communications in relation to Item 9 – DC/18/4470/COU – 364 London Road South, Lowestoft.

Councillor M Cherry declared that he had received communications in relation to Item 8 – DC/18/3428/FUL – Land between Hollow Lane and Uplands Road South, Carlton Colville.

Councillor Light declared that he had received communications in relation to Item 8 – DC/18/3428/FUL – Land between Hollow Lane and Uplands Road South, Carlton Colville.

Councillor J Smith declared that he had received communications in relation to Item 9 – DC/18/4470/COU – 364 London Road South, Lowestoft.

5 APPEAL DECISIONS REPORT

The report of the Head of Planning and Coastal Management advised the Committee that one appeal had been determined in December 2018 and it had been conditionally allowed.

RESOLVED

That the report concerning Appeal Decisions in December 2018 be noted.

6 DELEGATED CHIEF OFFICER DECISIONS

The report of the Head of Planning and Coastal Management informed Members of all the Chief Officer delegated planning decisions made during December 2018.

RESOLVED

That the report concerning the Chief Officer Delegated Planning Decisions made during December 2018 be noted.

7 ENFORCEMENT ACTION – CASE UPDATE

The report of the Planning Development Manager provided Members with a summary of all outstanding enforcement cases sanctioned under delegated powers or through the Committee up until 24 January 2019. There were currently seven cases.

RESOLVED

That the report detailing the outstanding Enforcement Matters up to 24 January 2019 be received.

8 DC/18/3428/FUL – LAND BETWEEN HOLLOW LANE AND UPLANDS ROAD SOUTH, CARLTON COLVILLE

The Development Management Team Leader presented the application which was seeking full planning permission for a childcare day nursery. The application was before the Committee following a Member call-in.

The application was for a childcare day nursery on a triangular shaped plot of land within a primarily residential area. The site mainly consisted of an area of unmanaged grassland which was overgrown and contained young trees and scrub closer to the site boundaries. The proposal was for a single storey building approximately 43m x 11m, with an eaves height of 2m and overall height to the ridge of 6m. The accommodation would comprise a room for up to 15 babies, three further rooms split between age groups from 1 year olds to 5 year olds, a reception, office, kitchen, laundry and a plant room. The rooms had been sized to accommodate 90 children if fully occupied; however, the actual proposed on-site care would be for 70 children, with 22 staff.

Members were shown an aerial view, photographs and location plans of the site and its surrounds including views along Uplands Road South and Fordson Way, pedestrian access through Hollow Lane, the existing provision of cycle and pedestrian pathways in the area, and photographs from within the site. The amended plans showed the site layout with an increase in car parking on site and revised access, and the floor plan and elevations of the building which remained unchanged.

A site visit had been undertaken on 8 February 2019, the notes of which had been published and were circulated at the meeting.

The Development Management Team Leader explained the key issues:

- Principle of the development
It was sustainably located and within the defined physical limits of Carlton Colville.
- Transport and access
Objections from residents had been received but the County Highways had no objection and in view of its comments in paragraph 9.6 of the report, there were no highway grounds to refuse the application.
- Residential amenity
The building was to be located on the site some distance away from residential properties and it was therefore considered there would be no significant impact on residential amenity.
- Ecology and biodiversity
The appraisal had been considered by Suffolk Wildlife Trust and with mitigation and suggested enhancements, which could be secured by condition, there was the opportunity to improve the value of the site for local wildlife.

In conclusion, the proposal to create a new nursery building was sustainably located close to residential development and would provide a local community asset that was likely to be welcomed by families with small children. The County Council supported the application as there was a need for more early education places in the area. Subject to appropriate controlling conditions covering highway issues and biodiversity, the proposal would accord with the relevant Local Plan policies and the National Planning Policy Framework. Approval was being recommended.

Mrs J Tyler – Carlton Colville Town Council

Mrs Tyler thanked Members for being given the opportunity to speak. A lot of development had recently been imposed on a little village and the site in question had remained undeveloped for many years. There had been an increase in traffic and parking issues. She referred to the Local Plan and Policy DM02 which should, amongst other things, protect the amenity. Certain matters needed further consideration. The entrance opposite dwellings on Uplands Road South would result in residents suffering noise and exhaust fumes from the increase in traffic. The proposed travel plan was not enforceable. Although it was a much needed development, the impact on the residents should be given serious consideration. The entrance could be moved towards Hollow Lane. Common sense should be used to deal with the problems and address the issues for the residents.

Councillor P Light – Ward Member

Councillor Light explained that Carlton Colville had a reputation for developments that had made peoples lives a misery. Although there was a bonus for having this particular development, consideration needed to be given to the effect on the nearby retired residents. The site was in a semi-rural location with no infrastructure and to approve the proposal would have a detrimental impact on residents. There would only be four parking spaces for parents to drop off/collect their children, visitors' parking for parents meeting the manager was not being provided and there were few young families in the immediate location to use the nursery facility. Some issues had not been recognised including the pressures at particular times of the day. Working parents using free government sessions would have to attend at specific times of the day and the hourly bus service was inadequate. The report indicated that officers were not sure of impacts as a result of traffic and parking.

Note: Councillor P Light left the meeting at 6.23pm.

Ms J Knights and Ms S Wood - Objectors

Ms Knights explained that she was speaking against the application on behalf of all residents because of the impact the proposal would have on their lives. The nursery was no good for the area and everyone would be strongly affected. The site was not in an urban area; it was a semi-rural location with no supporting infrastructure. There were serious issues with parking connected to Carlton Court Hospital and the bus company had already raised the problem with parking on the road and this would only get worse with the extra vehicles. The proposed 26 spaces on site were insufficient particularly with so many parents trying to drop off their children. Ms Knights asked that consideration be given to all home owners who wished to live in peace and quiet.

Ms Wood stated that, although it could be classed as an untidy site, there was a variety of wildlife including, for example, muntjac deer, toads and hedgehogs. People cycling to the site could not be guaranteed. Parents would not drop off their children, they would need to park and take them in. The parking provision was not proven to be adequate and the proposed entrance would cause more chaos in Fordham Way. Ms Wood acknowledged the mention of the Traffic Regulation Bond to secure residents parking but that would have to be paid for. The Committee should not ignore the residents and the Town Council. They lived in a tranquil place and that would be ruined if the development proceeded.

Ms K Johal - Applicant

Ms Johal thanked Members for being given the opportunity to speak and she welcomed the officer's recommendation that the application should be approved. It should be noted that Children's Services supported the provision of a childcare nursery and County Highways had no objection. The revised proposal had increased car parking provision beyond the minimum requirements and the proposed drop-off and pick-up area on the site would avoid the use of the highway. It was a simple and achievable proposal. Ms Johal advised that she had worked with children in nurseries for over 12 years and there had been no problems with parking at any of the sites. Suffolk County Council were in full support of the nursery and had commented that high quality early years provision improved outcomes for children, by providing the best educational experience for children and support for working families. The proposed nursery would provide for local needs particularly with the planned housing development in the vicinity, be financially stable, create jobs in the local community and drastically improve the environment. Ms Johal thanked the Committee for listening and requested its support for the application.

Questions to Applicant

Members asked specific questions relating to:

- Objections relating to the access and it being moved.
- A Traffic Regulation Order (TRO) Bond.
- Travel Plan and incentives.
- Drop-off and pick-up by parents.
- Routine for the day.
- Parking.
- The actual location of the site.

Ms Johal explained that the proposed access had been moved from the original plan and County Highways had advised that its new location was the best option. A backlog of traffic from the nursery would have to be proved before consideration was given to a TRO; traffic issues might be caused by other vehicles and not those actually attending the nursery.

It was anticipated that staff would live locally and by working on a shift pattern, not all would be travelling by car at the same time. Cycle racks were being provided, and others might walk or use public transport. The nursery would provide space for 70 children and arrival and departure times would vary between 8.00am and 6.00pm depending on the working patterns of the parents. Therefore, the suggestion that 70 cars would be on site at the same time was highly unlikely; it could not be compared to schools, as their parking issues were very different. As a nursery provider, Ms Johal explained that she always worked well with parents and residents alike. Some parents dropped off their children, whilst others took them into the building until their child had settled into a routine. That routine would include a breakfast club, activities in the morning, lunch at 12 noon and in the afternoon some young ones would sleep whilst others had a structured afternoon until pick up.

Ms Johal explained that there was a large residential development across the road and another housing development was due to commence nearby with the aim of bringing young

families into the area. There were no nursery places in Carlton Colville or indeed within a certain radius of the site.

Questions for Officers

Members sought clarification on the issues with, and provision of, a TRO Bond and whether that could be a condition if approval was granted.

The Development Management Team Leader explained that the view of the Suffolk County Council was that a TRO might be required but they did not think it was essential at this moment in time. Therefore, it was not possible to require the applicant to do so, via a Section 106 Agreement, if it might not be needed. If the application was approved and at some future date the need for a residents' scheme for on-street parking was identified, it could be dealt with at that time. He advised that a Bond would secure the necessary funding, if needed, but that it would only be in place for a period of five years.

A Member commented that if a TRO was made, double yellow lines might restrict people going to the nursery but it would also restrict local residents.

Debate

It was proposed and duly seconded that approval should be granted subject to the conditions in the report and the inclusion of a TRO Bond. Members agreed that a TRO bond was essential and also expressed concern about the internal layout. There needed to be a defined route to separate pedestrians and cyclists and a clear drop-off and pick-up point should be identified on the site. It was important to provide such nursery facilities in order to bring younger people into the area. Although condition 12 referred to a Deliveries Management Plan, no reference had been made to ensuring a Construction Management Plan was in place.

Members welcomed the provision of the nursery as an important facility in the area but were of the opinion that officers should be given delegated authority to approve the application subject to the inclusion of a Section 106 Agreement for a TRO bond, a Construction Management Plan, improvements to the pedestrian and cycle access and identifying a designated pick-up/drop-off point. The Development Management Team Leader believed there would be no need to re-consult on those proposals.

Having amended the recommendation accordingly, it was unanimously

RESOLVED

That the officers be given delegated authority to approve the application subject to agreeing a revised layout to improve the pedestrian and cycle access and designated pick-up/drop-off point on-site, securing a Traffic Regulation Order and 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 be completed in all respects strictly in accordance with Drwg. No. 1959.15.3 received 13 August 2018 and 1959.15.2A received 4 December 2018, for which permission is hereby granted or which are subsequently submitted to and approved by the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.
3. No part of the development shall be commenced until details of the proposed access (including the position of any gates to be erected and visibility splays provided) have been submitted to and approved in writing by the Local Planning Authority. The approved access shall be laid out and constructed in its entirety prior to any other part of the development taking place.
Thereafter the access shall be retained in its approved form.
4. The gradient of the vehicular access shall not be steeper than 1 in 20 for the first five metres measured from the nearside edge of the adjacent metalled carriageway.
5. Prior to the development hereby permitted being first occupied, the vehicular access onto the car park shall be properly surfaced with a bound material for a minimum distance of ten metres from the edge of the metalled carriageway, in accordance with details previously submitted to and approved in writing by the Local Planning Authority.
6. The vehicular access hereby permitted shall be a minimum width of six metres for a distance of ten metres measured from the nearby edge of the carriageway.
7. Before the access is first used visibility splays shall be provided as shown on Drawing No. 1959.15.2A with an X dimension of 2.4m and a Y dimension of 43m and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.
8. Before the access is first used pedestrian visibility splays of 2m by 2m shall be provided and thereafter retained in their specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.
9. Before the development is commenced details shall be submitted to and approved in writing by the County 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.
10. The use shall not commence until the area(s) within the site shown on DRAWING NUMBER 1959.15.2A for the purposes of [LOADING, UNLOADING,] manoeuvring

and parking of vehicles has been provided and thereafter that area(s) shall be retained and used for no other purposes.

11. Before the use commences details of the areas to be provided for secure cycle storage 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 and used for no other purpose.
12. All HGV traffic movements to and from the site over the duration of the construction period shall be subject to a Deliveries Management Plan which shall be submitted to the Planning Authority for approval a minimum of 28 days before any deliveries of materials commence.

No HGV movements shall be permitted to and from the site other than in accordance with the routes defined in the Plan.

The site operator shall maintain a register of complaints and record of actions taken to deal with such complaints at the site office as specified in the Plan throughout the period of occupation of the site.

13. 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.

14. No development shall take place within the area indicated [the whole site] until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

The scheme of investigation shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording
 - b. The programme for post investigation assessment
 - c. Provision to be made for analysis of the site investigation and recording
 - d. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 - e. Provision to be made for archive deposition of the analysis and records of the site investigation
 - f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
 - g. The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.
15. No building shall be occupied until the site investigation and post investigation assessment has been completed, submitted to, and approved in writing by the Local Planning Authority, in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 14 and the provision made for analysis, publication and dissemination of results and archive deposition.
16. The recommendations of the Preliminary Ecological Appraisal (Greenlight Environmental Consultancy Ltd, November 2018) shall be implemented in full.
17. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The statement shall provide details of:
- proposed hours of work
 - proposed piling methods
 - the parking of vehicles of site operatives and visitors
 - loading and unloading of plant and materials
 - storage of plant and materials used in constructing the development
 - the erection and maintenance of security hoarding and acoustic screens
 - wheel washing facilities
 - measures to control the emission of dust and dirt during construction
 - a scheme for the recycling/disposing of waste resulting from construction works
- The approved Statement shall be adhered to throughout the construction period.

Note: Councillor Light returned to the meeting at 7.10pm.

9 DC/18/4470/COU – 364 LONDON ROAD SOUTH, LOWESTOFT

The Planning Officer presented the application which was for the change of use of the ground floor medical surgery (D1) to a self-contained flat. In addition, retrospective planning permission was sought for the retention of a flue, connected to a domestic A rated combi boiler on the front elevation facing London Road South. The application was before Committee as the applicant was a relative of an elected Member.

The Planning Officer explained that the site, comprising a mid-terrace two-storey dwelling, was located within the physical limits and Conservation Area for South Lowestoft. The property fronted London Road South, with a B&B to the north and a rear access track to the east. Historically, the property had been used as a doctors' surgery on the ground floor with two flats above. That surgery had moved to a new location on Economy Road several years ago and had been left vacant since that time.

Members were shown a photograph of the site and street scene together with the current and proposed floor plans.

The Planning Officer explained the key issues:

- Principle of development and flat saturation policy.
- Impact on amenity of adjacent and future occupants.
- Transport and access, where there were no issues.
- Minimal harm as a result of the flue.

Whilst the proposal did not technically accord with Policy DM19, it was not considered to have an adverse impact on parking, amenity or the character and appearance of the Conservation Area. The proposed change was for the ground floor only and would not result in the loss of a larger family home in the area. The proposal would provide an additional small residential unit and, on planning balance, approval was being recommended subject to the appropriate Recreational Avoidance and Mitigation Strategy (RAMS) payment being made.

Councillor P Byatt – Ward Member

Councillor Byatt believed there were some serious questions about the application and the flat saturation policy should be considered. The ground floor had not been a doctors' surgery for many years and the flats above had provided nurses' accommodation, so parking issues were not relevant. Considering the possibility of saturation, should it be looked at as a whole family unit or three separate units. Councillor Byatt questioned the vent at the front of the property in a Conservation Area and if this was allowed, there would be more.

Note: Councillor Byatt left the meeting at 7.18pm.

Mr R Breakespear - Objector

Mr Breakespear explained that he lived at No 362 and outlined some of the history relating to Nos. 364 and 366. No. 364 had been converted to two maisonettes in 2013 and, in his opinion, there was the provision of three self-contained units without permission. A case study in 2003 had shown that there was flat saturation in the area. The flats had been rented out to different nationalities and if people stayed for a few nights, he believed it was being used as a HMO. He stated that the people who had been living there, without permission, had now moved out. The boiler flue at No. 364 had been installed without permission; the steam blew out directly into his window and such a plastic flue was not acceptable in the Conservation Area. Mr Breakespear explained that an objection had been made in 2018 about another neighbour's replacement windows and now as local residents,

they were objecting to this application. They did not like what was going on in a neighbouring property and the application should not be approved.

Questions

Members asked specific questions relating to:

- The retrospective application for the flue.
- The differences between HMOs and a building with flats.
- Alternative uses for the doctors' surgery.
- Additional traffic.

The Planning Officer explained that if retrospective permission was not granted for the flue, Members could ask for its removal if necessary. However, not only was it considered to have minimal impact on the Conservation Area but it might not be possible to relocate it elsewhere. It was likely that if an application had been submitted prior to its installation, permission would have been granted.

Although he did not have the formal definition to hand, the Planning Officer advised that HMOs had a number of residents living in separate rooms and sharing facilities such as a kitchen and bathroom, whereas flats and maisonettes were self-contained and only used by the people who lived in the whole unit. HMOs came within a different use class. The doctors' surgery was within use class D1 medical centre; an alternative use for 'people coming and going' could be, for example, a gallery. It was likely that there would have been more traffic using the doctors' surgery than the traffic caused by a residential flat.

In viewing the photographs of the street scene, the Committee noted that there were flues on other buildings and that a B&B sign was outside an adjoining property. The Planning Officer was not aware if such a sign required planning permission.

Debate

In noting issues with homelessness, Members agreed the importance of providing living accommodation and, in its position in the town, it was unlikely that any business would require the type of accommodation provided in the property. Members recognised the fact that it was inexcusable that a planning application had not previously been submitted for the flue. However, the flue was small and not unsightly and was not the only one in the street.

Members were of the opinion that the change of use was an acceptable proposal and should be approved. There being no further discussion, it was

RESOLVED

That permission be granted, subject to the completion of a legal agreement to secure the appropriate RAMS contribution and 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 be completed in all respects strictly in accordance with Proposed Layout received 29/10/2018, for which permission is hereby granted or which are subsequently submitted to and approved by the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.

Should the legal agreement not be signed within six months from the date of the resolution then permission be refused for lack of payment for RAMS.

Note: Councillor Byatt returned to the meeting at 7.35pm.

10 LOCAL PLANNING ENFORCEMENT PLAN

The Senior Planning and Enforcement Officer presented the report, the purpose of which was to consider the Council's new Local Planning Enforcement Plan and highlight the information and legislation available to members of the public on enforcement service functions of the Council.

The Committee was advised that taking planning enforcement action was a discretionary function for local planning authorities but the Council did have a duty to investigate breaches of planning control that occurred in its area. In addition, if the Council failed to take action against breaches of planning control, it would undermine the public's confidence in the planning system.

The report explained that the National Planning Practice Guidance – Ensuring Effective Enforcement had been updated in 2018 and provided a comprehensive overview of the planning enforcement process, the powers available to local authorities and the circumstances under which it was appropriate to use those powers. Within paragraph 58 of the National Planning Policy Framework, it was suggested that local planning authorities should consider publishing a Local Enforcement Plan to proactively manage enforcement that was appropriate to their area. As a result, and appended to the report, was a draft Local Planning Enforcement Plan which aimed to set out how enforcement action would be taken in East Suffolk. That Plan took into account both the common issues that required planning enforcement action and the resources that would be at the Council's disposal.

The Committee was being requested to agree the Plan be adopted as guidance to officers, members of the public and developers on how the Council would carry out its function of enforcing planning control.

In response to Members' questions, the Senior Planning and Enforcement Officer confirmed that legal action for non-compliance with a Breach of Condition notice would be via the Magistrates' Court and the Enforcement Notice appeal would be through the Planning Inspectorate. There were currently two dedicated enforcement officers to ensure enforcements were dealt with in a timely manner. The Committee welcomed the Plan and there being no further discussion, it was

RESOLVED

That the new Local Planning Enforcement Plan be agreed for formal adoption.

The meeting concluded at 7.40pm.

Chairman