

Development Control Committee



Forest Heath
District Council

Minutes of a meeting of the **Development Control Committee** held on
Wednesday 2 September 2015 at **6.00 pm** at the **Council Chamber,**
District Offices, College Heath Road, Mildenhall IP28 7EY

Present: **Councillors**

Chairman Rona Burt

Vice Chairman Chris Barker

David Bimson

Brian Harvey

David Bowman

James Lay

Ruth Bowman

Carol Lynch

Louis Busuttill

Peter Ridgwell

Simon Cole

David Palmer

Stephen Edwards

Peter Ridgwell

75. **Chairman's Announcement**

Prior to the consideration of the items on the agenda, the Chairman informed all members of the public in attendance that they were present in order to listen to the discussion and did not have the right to address the meeting. They were not to cause a disturbance or interrupt and, if necessary, anyone making a disturbance could be asked to leave.

76. **Apologies for Absence**

Apologies for absence were received from Councillor Andrew Appleby.

Councillor Louise Marston was also unable to attend the meeting.

77. **Substitutes**

Councillor David Palmer attended the meeting as substitute for Councillor Andrew Appleby.

78. **Minutes**

The minutes of the meeting held on 5 August 2015 were unanimously accepted as an accurate record and were signed by the Chairman.

79. **Planning Application DC/14/1711/FUL - Small Fen Farm, Small Fen Lane, Brandon (Report No DEV/FH/15/033)**

Planning Application – temporary occupation of building as dwelling for a period of up to five years.

This application was referred to the Development Control Committee due to the significance of the matter and due to the very extensive and detailed enforcement related matters in connection with the application.

The Principal Planning Officer reminded Members that this item had been included on the agenda for the Development Control Committee on 5 August 2015 but had been withdrawn by Officers in order to clarify the policy assessment in greater detail and to properly explore some alleged factual inaccuracies. The report before Members had therefore been updated and, where necessary, corrected.

The Officer opened his presentation by setting out the lengthy history of a longstanding planning enforcement investigation into the site. He drew attention to the appeal decision which had been attached as a Working Paper for the Committee's reference.

Members were advised that since publication of the agenda one further letter of representation had been received from an individual who had previously responded, however, this letter contained no new points beyond which had been already raised.

The Officer made reference to both the 'emerging' planning policy position in relation to Brandon as well as the unique personal circumstances of the applicant. On balance Officers were recommending that the application be refused as set out in Paragraph 91 of Report No DEV/FH/15/033.

A number of Members voiced sympathy with regard to the personal circumstances of the applicant and asked if it would be possible for the application to be refused but to permit a moratorium on direct action; in order to allow opportunity for natural justice to take place (i.e. time in which for an appeal to be lodged) and/or changes or developments in respect of the personal circumstances.

The Service Manager (Planning – Development) confirmed that this was possible because under the law the Council had a discretion as to when to take direct action pursuant to an Enforcement Notice. It was suggested, however, that the recommendation be made on the basis that an update report would be provided to the Committee on the expiry of the moratorium.

It was, therefore, proposed by Councillor David Bowman that the application be refused as per the Officer recommendation but that the applicant be granted a 12 month moratorium on direct action and that following this period a further report be presented to the Development Control Committee. This was duly seconded by Councillor Carol Lynch and with the vote being unanimous, it was resolved that:

Planning permission be **REFUSED** for the following reason:

1. The dwelling proposed for retention remains an isolated dwelling contrary to the provisions of paragraph 55 of the NPPF and those of Policies DM5 and DM27 of the Joint Development Management Policies 2015. It is also the case that the building to be retained is significantly larger, higher and bulkier than the one it replaced and remains visible over a wide public area. In line with the conclusions of the previous appeal Inspector it is thus an obtrusive and uncharacteristic form of development in this setting contrary to the requirements of the NPPF in relation to good design and those of Policy DM2.

Very significant constraints exist in relation to the potential allocation of any sites within and around Brandon. There is presently no indication of when, or even if, these matters will or can be resolved. It is not therefore considered that any material weight can presently be attached to the emerging planning Policy position. In light of this fact, in light of the harm identified, and in light of the generous timeframe for review in relation to this matter that has already now been offered, firstly by the Planning Inspectorate in their appeal decision letter and secondly by the Local Planning Authority in the consideration of this application, it is not considered reasonable to allow a temporary approval for the further retention of this unauthorised dwelling.

In balancing and concluding on this matter it is recognised that weight can be attached to the personal circumstances of the applicant, and to the medical evidence confidentially submitted. The weight to be attached to this however is not considered sufficient to meet the high test set out in paragraph 015 of the NPPG. The weight that must be attached to this personal circumstance is also further limited by the circumstances surrounding the sale of Mrs. Ellen Usher's own property. In this context it is not considered therefore that the personal circumstances presented in the case are sufficient to outweigh the obvious and continuing harm presented by this unauthorised dwelling.

But that direction action to secure compliance with this outstanding breach of planning control be subject to a 12 month moratorium in order to allow opportunity for the possible appeal to be lodged if the applicant is minded and/or for any developments in the personal circumstances of the applicant to be considered. An update report would be provided to the Development Control Committee on expiry of the moratorium.

Speaker: Mr Richard High (agent) spoke in support of the application.

80. **Planning Application DC/15/0922/OUT - Land adjacent 1 St John's Street, Beck Row (Report No DEV/FH/15/034)**

Outline Planning Application (Means of Access to be considered) – Residential development of up to 60 dwellings with new vehicular access from St. John's Street.

This application was referred to the Development Control Committee at the request of Councillor David Bowman given the local community interest.

A Member site visit had been held prior to the meeting. The Parish Council supported the scheme, however objections had been received from third parties. The application was recommended for approval as set out in Paragraph 204 of Report No DEV/FH/15/034.

The Principal Planning Officer – Major Projects advised that the scheme had already been amended by the applicant in order to alleviate some concerns raised by residents of neighbouring properties with regard to the position of dwellings along the site boundary. However, she asked Members to note that the indicative layout included within the agenda papers was purely for illustration purposes at this outline stage of the application.

In view of the number of major planning applications for residential development in Beck Row during the last 18 months the Officer made specific reference to the cumulative impact of development on the village. Councillor Simon Cole raised specific concerns with regard to the impact of development on primary education provision. The Officer advised that Suffolk County Council had provided details on the long-term expansion plans for Beck Row Primary School and she read this out to the meeting.

Lastly the Committee was advised that, in view of the recent planning applications already approved for Beck Row, the village had now reached its maximum number of S106 contributions towards the library service. Accordingly, any future contributions would have to be allocated to specific library 'projects', however, as the County Council had advised that there were no such projects available at this time the Planning Authority would not be in a position to pursue this particular contribution from the developer.

Councillor David Bowman raised specific concerns with regard to the footpath proposed as part of the development that ran along the boundary of the site with neighbouring Beverley Close. The footpath was currently in two parts and he asked if it would be possible to condition this part of the application to ensure that it was joined into one coherent footpath along the boundary and that some form of barrier was put in to prevent vehicles from driving across it to access the development.

The Officer confirmed that this could indeed be conditioned to ensure the footpath was constructed in this way. Following which, Councillor Bowman then proposed that the application be approved as per the Officer recommendation and with the additional condition regarding the footpath. This was duly seconded by Councillor David Bimson and with the vote being unanimous, it was resolved that:

Planning permission be **GRANTED** subject to:

1. The completion of a S106 agreement to secure the following (subject to meeting the CIL Reg 122 tests):
 - Policy compliant level and tenure split of affordable housing.
 - Education contribution.
 - Pre-school contribution.

- Provision of on-site and off site open space.
- Transport contribution.

In the event that there are any substantive changes to the S106 package, then this would go back to Members for consideration.

In the event the applicant declines to enter into a planning obligation to secure the Heads of Terms set out above, for reasons considered unreasonable by the Head of Planning and Growth, planning permission be refused for the following reasons (as may be appropriate):

1. Unsustainable form of development not mitigating its impact on education provision, open space sport and recreation, transport (contrary to the Framework and Core Strategy Policy CS13).
2. Non compliance with affordable housing policy (contrary to Core Strategy policy CS9 and supporting SPD document).

2. And the following conditions/informatives:

1. Time.
2. Compliance with approved plans.
3. Archaeology – investigation and post investigation assessment.
4. Contamination – further investigative work if found.
5. Foul water disposal details.
6. Surface water drainage details: SuDs management plan.
7. Construction method statement.
8. Working hours.
9. Ground levels details.
10. Details of boundary treatment.
11. Samples of materials.
12. Detailed scheme of hard and soft landscaping.
13. Tree protection.
14. Details of tree works for retained trees.
15. Detailed Arboricultural Method Statement and Tree Protection Plan.
16. Open space management plan.
17. Details of lighting.
18. Recommendations of Ecological Appraisal to be implemented.
19. Recommendations of Botanical Survey to be implemented.
20. In situ retention of plant species.
21. Recommendations of Reptile Survey to be implemented.
22. Development in accordance with agreed design code/development brief.
23. Provision of fire hydrants.
24. Waste minimisation and recycling strategy.
25. Highways – including provision of Sustainable Travel Information Packs.
26. Extension/completion of footway along Beverley Close boundary with barriers constructed to prevent vehicle access across.

Informative : connectivity with Lamble Close

Speaker: Ms Julie Sheldrick (agent) spoke in support of the application.

81. **Planning Application DC/15/1515/TPO (Tree Preservation Order) - Rear of 33 Lamble Close, Beck Row (Report No DEV/FH/15/035)**

TPO 048(1963)1 Tree Preservation Order: 1 no. Oak – Crown lift by 4m and remove ivy (197 on Order).

This application had been referred to the Development Control Committee due to Forest Heath District Council being the applicant. No representations had been received and Officers were recommending that the application be approved as set out in Paragraph 17 of Report No DEV/FH/15/035.

Councillor David Bowman spoke in support of the works and moved that the application be approved as per the Officer recommendation. This was seconded by Councillor Simon Cole and with the vote being unanimous, it was resolved that:

The works proposed to the protected tree be **APPROVED** subject to the following conditions:

1. The works which are the subject of this consent shall be carried out within two years.
2. The authorised works shall be carried out to the latest arboricultural standards and in line with the Pro Natura 'Ancient Pollard Management Plan' (2011).

The meeting concluded at 6.56pm

Signed by:

Chairman
