

DEVELOPMENT COMMITTEE

Minutes of the meeting of the Development Committee held on Thursday, 12 May 2022
in the Council Chamber - Council Offices at 9.30 am

Committee Mr P Heinrich (Vice-Chairman)

Members Present:

Mr A Brown
Mrs A Fitch-Tillett
Dr V Holliday
Mr R Kershaw
Mr N Lloyd
Mr N Pearce
Ms L Withington

**Substitute Members
in Attendance:** Cllr V Fitzpatrick
Cllr J Toye

**Officers in
Attendance:**

Major Projects Manager (MPM)
Development Management Team Leader (DMTL)
Senior Planning Officer (SPO)
Principle Lawyer (PL)
Democratic Service Manager
Democratic Services Officer – Regulatory
Democratic Services Officer – Scrutiny

128 TO RECEIVE APOLOGIES FOR ABSENCE

Apologies for absence were received from the Chairman; Cllr P Grove-Jones, Cllr G Mancini-Boyle, Cllr M Taylor and Cllr P Fisher.

129 SUBSTITUTES

Cllrs V Fitzpatrick and J Toye were present as substitutes for Cllr G Mancini-Boyle and P Fisher respectively.

130 MINUTES

The Minutes of the 14th March, 31st March and 14th April 2022 were approved as a correct record subject to an amendment raised by Cllr V Fitzpatrick to Minute 113 (31st March 2022) to read:

“The MPM introduced the Officer’s report and recommendation for refusal. He advised that the application had been brought to the Committee in accordance with the Constitution as the application had been submitted by Cllr’s T Fitzpatrick and V Fitzpatrick. The MPM noted that the proposed application was a resubmission application from a scheme which had been previously refused by the Development Committee in 2020”

131 ITEMS OF URGENT BUSINESS

None.

132 DECLARATIONS OF INTEREST

Cllr V Holliday declared a non-pecuniary interest in Planning Application PF/21/2977 (Item 9) she considered herself to be pre-determined and would therefore refrain from voting on the application.

Cllr A Brown declared a non-pecuniary interest in Planning Application PF/20/1278 (Item 8) he considered himself pre-determined and would therefore refrain from voting on the application.

133 BRINTON - PF/20/1278 - REMOVAL OF CONDITION 3 (HEDGE RETENTION) OF PLANNING PERMISSION PF/93/0561, TO REGULARISE POSITION FOLLOWING REMOVAL OF HEDGE, KNOCKAVOE, NEW ROAD, SHARRINGTON, MELTON CONSTABLE

The DMTL introduced the Officers report and recommendation for approval. He advised Members that the hedge, which had been removed, had been replaced by a close board timber fence, approximately 1.5 metres high. The hedge was understood to consist of *Elaeagnus*, a non-native flowering shrub, and in the supporting Planning Statement it was advised that around 50 per cent of the hedge was dead at the time it was removed which is thought to be around the middle of 2020 as a contravention was reported to the enforcement team at the beginning of June 2020.

The DMTL advised that the previous condition was considered to be poorly drafted and failed to meet all of the six tests as set out on page 52 of the Agenda Pack. The deficiencies in the condition set out in the report including; lack of precision, no requirement for the hedge to be maintained to a specific height, and no requirements for the hedge to be replaced if it died or was damaged.

He commented that there was no record how high the hedge was when the condition was imposed or the species that made up the hedge and that correspondence from 1993 suggested the hedge could have been Hawthorne, but that this was not definitive.

The DMTL stated that Officers considered that the condition did not meet tests 4, 5 and 6 of Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should only be used where they satisfy the following six tests, as such it is recommended that the application is approved. In this case no conditions were considered by Officers to be necessary.

Public Speakers:

Deborah Hyslop – Chairman of Brinton Parish Council.

- i. The Local Member – Cllr A Brown – spoke against the Officers recommendation. He commented that Condition 3 of the original 1993 consent stated that the removed hedge should not be ‘uprooted or otherwise destroyed without prior consent’, and stated that two years ago the applicant removed the hedge for reasons which were unclear. Cllr A Brown acknowledged that the subsequent submitted application was objected to by both the Parish Council and the Landscape Officer. He stated that there was a vicarious objection implied by the recent Conservation Area Appraisal due to the assessor recommending the retention of hedging instead of urbanising hard fencing to maintain the village character, and that it’s notable that the assessor makes no distinction between properties either in or adjacent to (as

in this case) the conservation boundary. He noted the comments made by the Landscape Officer that the removal of the hedge would contravene Core Policy EN4 of the NNDC Core Strategy because it provides amenity value, continuous soft edges in the village street scene had been interrupted, as apparent in photos on pages 12 and 13 of the Agenda Pack. Cllr A Brown challenged the officers appraisal, detailed on pages 52 and 53 of the Agenda pack and stated that 1. It is an unfortunate reflection on the Authority in 1993 due to the errors in drafting Condition 3 (i.e. no stipulation for height, species type or duty to replace a dying hedge) which means the Authority are prevented from taking enforcement action 2. Members were advised not to consider the fence as a front boundary breach permitted development rules being 1.5 metres high instead of 1 metre limit. 3 He considered Members should be pressing for an application if Condition 3 is removed. 3. The length of time from July 2020 taken to deal with this case was a concern.

- ii. The PL advised she had not provided advice on the enforceability of the condition and that the opinion offered was by Planning Officers only.
- iii. Cllr J Toye sought clarity from Officers on the potential outcomes arising from the application and questioned if Members were minded to enforce Condition 3, what would be the effect on the current boundary. The MPM advised if the decision was reached by Members to enforce the condition, that the enforcement team would be notified. Cllr J Toye asked whether Members could grant a new planning condition, the MPM advised this was within Members gift. Cllr J Toye enquired what would be the best process to have a hedge re-introduced on the boundary. The MPM advised that this could be through the retention of the condition or the granting of a new condition but that this decision may be subject to appeal by the applicant. Cllr J Toye asked, if the condition was removed, what would be the best way forward which would re-establish the original intention for the hedge. The PL considered that the purpose of the condition was more or less sufficiently clear. If the hedge was considered to be dying it would have been incumbent on the site owner to contact the council to seek a way forward.
- iv. Cllr N Lloyd thanked the PL for her guidance, which he supported. He considered the intention of Condition 3 was clear, that a hedge should be retained at Knockavoe, and supported the comments made by the landscape officer.
- v. Cllr N Pearce affirmed that the removal of the hedge and introduction of the fence was against planning guidance. He expressed his support that the condition be retained, and be enforced upon.
- vi. Cllr V Fitzpatrick stated that every application should be considered on its merits. He considered that the wording of the condition was not precise and that it may not be enforceable.
- vii. Cllr V Holliday asked of the condition when drafted in 1993 would have aligned with NPPF as it was. The PL confirmed this would have been the case.
- viii. Cllr A Fitch-Tillett expressed her support that the condition be retained. She considered that the replacement wooden fence with concrete posts, which had been introduced across the district, were unsightly and not in keeping with the rural landscape and specifically the associated village.

- ix. Cllr V Fitzpatrick proposed acceptance of the Officers recommendation, seconded by the Chairman.

THE VOTE WAS LOST by 2 votes for, 7 against, and 1 abstention.

- x. Cllr N Lloyd proposed that Condition 3 be retained in accordance with the Landscape Officers assessment in that the removal of the hedge was a contravention of NNDC Policy EN4.

RESOLVED by 8 votes for, 1 against, and 1 abstention.

Condition 3 of planning permission PF/93/0561, be retained, which reads “except as required to construct an access the hedge on the front boundary and the young trees within the site shall be retained and shall not be topped, lopped, felled, uprooted or otherwise destroyed without the prior written consent of the Local Planning Authority” to comply with policy EN4 of NNDC Core Strategy Policy.

The MPM advised Members that the fence would be subject to enforcement action, and that the decision made by the Committee may be appealed. He informed Member that he would inform the enforcement manager to progress with enforcement action.

134 WIVETON - PF/21/2977 CHANGE OF USE OF AGRICULTURAL LAND TO A DOG WALKING FIELD WITH ASSOCIATED CAR PARKING AREA; ERECTION OF 1.8 M FENCE AROUND THE PERIMETER OF THE DOG WALKING AREA; ERECTION OF STORAGE SHED FOR MAINTENANCE EQUIPMENT AND FIELD SHELTER AT LAND EAST OF THE ACREAGE, COAST ROAD, WIVETON, NORFOLK

The SPO introduced the Officers report and recommendation for approval. She informed Members that there was an amendment to the recommendation contained on Page 65 of the Agenda Pack, bullet point 4 which should now read “*The use of the site shall be for the purposes of dog walking/exercise only and not by groups, clubs, training classes, dog shows or other similar related activity.*”

She advised that Wiveton Parish Council had made four additional points which were not included in the report.

1. That the proposal is contrary to the North Norfolk Landscape Character Assessment. The site falls within RHA 1 Rolling Heath and Arable with one of the guidelines being to conserve the high scenic quality and natural beauty of the area and also to conserve and expand Including ecological connectivity and the proposal for dog walking is contrary to the spirit and purpose of these guidelines.
2. The urban nature of the access standards required by Highways brings increasing suburbanisation to a rural landscape.
3. Damage to the environment, loss of a feeding and breeding habitat for locally scarce/under threat wild birds, mammals, amphibians and insects.
4. It is contrary to specific policies in the current North Norfolk Local Plan Policy EN 1, EN 2 and EN 9.

As such an additional condition was recommended:

On the cessation of the use of the field for the development, the storage and maintenance building shall be removed from the site and the land restored in

accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority.

The SPO stated that the main issues for consideration were the principle of the development, design and impact on the heritage asset (conservation area); landscape impact within the AONB; amenity and highways impact. She advised that in terms of the principle, the site was within the rural area where Policy SS 2 states that development will be limited to that which requires a rural location and is for one of a number of specified types of development which includes recreational use. The development is acceptable in principle.

She summarised that the landscape impact arises largely from the proposed storage shed, whilst the site lies within the AONB and designated undeveloped coast valued for its wide, open and unsettled areas of land which provide a sense of remoteness, tranquillity and wilderness, in this instance the main physical changes to the site would be two buildings of a relatively modest size and scale which would be subservient to the important views of the landscape beyond and on balance are not considered to significantly detract from the landscape setting or have a significant adverse impact on the special qualities of the AONB.

Public Speakers

John Ramm – Chairman Wiveton Parish Council

Nichola Harrison – Objecting

Annette Rigby - Supporting

- i. The Local Member – Cllr V Holliday – spoke against the Officers Recommendation. She acknowledged that there had been support for the application, but considered that the development for not sustainable or suitable for its location. She stated, based on the representations received, assuming that those individuals were to use the dog walking field, there would be an average round trip of 22 miles. On the assumption that there are 7 dog walking sessions a day, use of the field would generate a daily mileage of 151 miles, and 1057 miles a week. She asserted that if 25% of the dogs were brought via electric car, the mileage in fossil fuel cars equates (according to the Sustainable Travel Calculator) to .22tonnes CO₂/week and 11.44 tonnes/CO₂/year. The Local Member commented that flying from Norwich to Schipol return only produces .07tonnes CO₂/person. Even if all the customers are more local, say with an average round trip of 12 miles, the same calculation is .16 tonnes/CO₂/week or 8.32 tonnes/yr. The above also only assumed one vehicle per session, and that the design statement would allow for parking of three vehicles, and two households at any time. Cllr V Holliday relayed NNDC's net zero strategy and the commitment to reduce carbon emissions across the district, and that she did not consider the application fit with the NNDC local plan policy SS4. The Local Member noted a recent study which showed the impact of dog waste, high in nitrogen and phosphorus and its negative impact on biodiversity and ecosystem function. Within the study Dog nitrogen and phosphorus fertilisation rates per hectare per year averaged out at about 11kg nitrogen, and 5kg phosphorus. Even if the dog waste was removed, the urine would remain an enduring problem. She stated that whilst it could be argued better that the dogs utilise a designated field rather than protected habitats including nearby marshes, the density of dogs would be greater in the field. Cllr V Holliday considered that the application would lead to a disturbance to the tranquillity and sense of remoteness which are essential features of the AONB, and to which the Council had a duty to preserve and enhance. She asserted that the proposed

application contradicted NNDC policy SS4, EN2 and EN3.

- ii. Cllr A Fitch-Tillett expressed her support for the Officers Recommendation for approval, and considered that the inclusion of the site would take pressure off more sensitive public area's within the AONB as identified within the Officer Report. She acknowledged that the North Norfolk Coast Partnership saw value in the application, which may reduce the numbers of dogs off lead which can cause disturbances to protected species. She commented that during summer months dogs off lead could disturb ground nesting birds, and during winter months the seal pupping season. On balance, Cllr A Fitch-Tillett considered that the proposed application would not result in a significant detriment to the special qualities of the AONB, and so proposed acceptance of the Officers Recommendation.
- iii. Cllr J Toye stated that it was not uncommon for dog walkers to drive a long way to walk their dogs, therefore comments on users requiring vehicles should be given less credence. He reflected that during the Covid lockdowns there had been a rise in the number of difficult dogs with behavioural difficulties, and that there was value in these animals having a space to exercise without disturbing other walkers and protected species in the AONB including ground nesting birds. Cllr J Toye commented that he would prefer to see amendments to the scheme which would enhance the AONB.
- iv. The SPO affirmed that tree planting was proposed on the eastern boundary which would also aid to screen the new fencing to the east.
- v. Cllr A Brown considered that there were many sites of this nature appearing across the district, but that the sites location within the AONB meant the bar was set higher. He asked a series of questions to Officers for clarification, first; how the condition of the operating hours could be enforced. The MPM advised that, as with the enforcement of any condition, it was reliant on individuals reporting breaches to the enforcement Team. Second, How could the amount of users be regulated, the SPO advised that a management plan would be required subject to prior approval. Third, if the site would be spot checked. The SPO relayed the MPM advice that the enforcement team were reliant on the public reporting a breach. The MPM relayed that the enforcement team would take appropriate action if a breach was reported and assured Members that a Management plan for the site would need to be provided and signed off by the Council, after which time it would be placed in the public domain.
- vi. At the discretion of the Chairman, the Applicant was invited to address Members questions. The Applicant commented that she would be agreeable to restrict the number of dogs on the site at any one time – if this was considered to be a suitable condition by members.
- vii. Cllr R Kershaw reflected on objections raised, and considered that as the site was only utilising 1 acre for dog walking, this would not have a detrimental effect on the local deer population. He stated that socialisation of dogs was a good thing, and use of the proposed site by difficult dogs may cut back anti-social behaviour. He commented that concerns about traffic generated from the site were misplaced, and affirmed that the site was in close proximity to a builder's yard which would generate much more traffic. Cllr R Kershaw commented that had the application been for horses and not dogs, there likely would not have been an issue.

- viii. Cllr N Lloyd noted the issues raised by Members and Members of the Public, and commented that the use of the site from dawn to dusk was too long. Whilst comments of the impact of Carbon were a good argument, they did not have weight under planning law at present.
- ix. Cllr N Pearce supported the representation of the Local Ward Member. He commented that he was not against dogs, or dog walking site, but that this was not a suitable location due to presence in the AONB. He noted that the proposed application was subject to 7 conditions, with more potentially being added, and considered that the use of so many conditions indicated that the proposal was contentious and should be deferred pending addition of information on the application's impact on the village.
- x. The MPM reflected that, from the representations made, Members were broadly okay with the principle of the application, but that details of the Management Plan.
- xi. Cllr J Toye seconded the proposal to accept the officer's recommendation.

RESOLVED by 8 votes for, 1 against, and 1 abstention.

That planning application PF/21/2977 be approved subject to conditions relating to the following matters and any others considered necessary by the Assistant Director for Planning.

- Time limit for implementation
- Approved plans
- Prior to first use a management plan shall be submitted and agreed by the Local Planning Authority
- The use of the site shall be for the purposes of dog walking/exercise only and not by groups, clubs, training classes, dog shows or other similar related activity
- Prior to first use, full details of the proposed fencing and new native hedgerow/tree planting shall be submitted to and agreed in writing by the Local Planning Authority.
- Full details of any external lighting to be submitted to and agreed in writing with the Local Planning Authority.
- Operating hours
- On the cessation of the use of the field for the development hereby permitted, the storage and maintenance building shall be removed from the site and the land restored in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority

135 DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE

- i. The MPM advised Members of changes to performance reporting at Committee. He affirmed that the changes should enable Members to have a fuller picture of the activity within the department. Members noted the contents of the Development Management Performance Report.
- ii. The PL informed Members that there were only 5 outstanding S106 agreements, down from 10.

136 APPEALS SECTION

- i. New Appeals
No comment.
- ii. Inquiries and Hearings
The MPM confirmed that the Council were awaiting a conclusion for the Kelling application (PF/20/1056) and Ryburgh application (ENF/20/0231)
- iii. Written Representations and Appeals
No comment.
- iv. Appeal Decisions
No comment.

137 EXCLUSION OF PRESS AND PUBLIC

None.