

THURSDAY, 20 AUGUST 2020

Minutes of a meeting of the **Development Committee** held remotely via Zoom at 9.30 am when there were present:

Councillors

Mrs P Grove-Jones (Chairman)
Mr P Heinrich (Vice-Chairman)

Mr A Brown
Mr P Fisher
Mrs W Fredericks
Mr G Mancini-Boyle
Dr C Stockton
Mr A Yiasimi

Mr C Cushing
Mrs A Fitch-Tillett
Mr R Kershaw
Mr N Pearce
Mr A Varley

Dr P Bütikofer (In place of Mr N Lloyd)

Mr T FitzPatrick – Walsingham Ward
Mr J Toye – Erpingham Ward

Mr H Blathwayt - observer
Mr V FitzPatrick - observer
Miss L Shires- observer
Mrs E Spagnola - observer

Officers

Mr P Rowson, Head of Planning
Mr N Doran, Principal Lawyer
Mrs S Ashurst, Development Manager
Mr C Reuben, Senior Planning Officer
Mrs E Denny - Democratic Services Manager
Miss L Yarham, Democratic Services & Governance Officer (Regulatory)

17 TO RECEIVE APOLOGIES FOR ABSENCE AND DETAILS OF ANY SUBSTITUTE MEMBER(S)

An apology for absence was received from Councillor N Lloyd. Councillor Dr P Bütikofer attended the meeting as his substitute.

18 MINUTES

The Minutes of a meeting of the Committee held on 23 July were approved as a correct record and signed by the Chairman.

19 ITEMS OF URGENT BUSINESS

None.

20 DECLARATIONS OF INTEREST

Committee Members had received a letter and presentation document from Martin

Leay in respect of Egmere PF/20/0365.

21 **COLBY - PF/20/0660 - CONSTRUCTION OF 2NO. DWELLINGS (SEMI-DETACHED) (PART RETROSPECTIVE); HEPPINN BARN, NORTH WALSHAM ROAD, BANNINGHAM, NR11 7DU FOR MR & MRS JONES**

The Senior Planning Officer presented the report and referred to the slides that had previously been circulated to the Committee. He recommended the refusal of this application as set out in the report.

Public Speakers

Mo Anderson-Dungar (Colby with Banningham Parish Council) (also speaking in respect of PF/20/0708 below.)

Ann Bartaby (supporting)

Councillor J Toye, the local Member, referred to the history of this site and the circumstances that had led to the current application. He stated that the design of the proposed building was the same as had been permitted under the prior notification application, in the same location and with the same layout, and had there not been a poor survey and miscommunication regarding underpinning of the building the family would now be living in the dwellings. He considered that the site was in a sustainable location as it was close to regular bus routes into Aylsham and North Walsham, and a school, garage and restaurant were within a short walking distance. He considered that the issue was not about building in the countryside; it was enabling a family to build what had been approved under a different set of rules, and listening to local people and the support they had given to this application. He considered that the application should be approved as it was sustainable development, it would improve the local environment and employ local people.

Councillor P Heinrich stated that two prior notifications had been approved and the barn structure had been deemed suitable for conversion at the time. Two dwellings would have existed on the site if problems had not occurred. The application merely replicated what would have been created by the prior notifications. He considered that there were exceptional circumstances in this case. Whilst it could be argued whether or not Policy SS2 was applicable, the applicant's agent had cited an appeal decision, there was case law and paragraph 79 of the NPPF gave a definition of 'isolated'. He stated that this was not an isolated greenfield site in the open countryside. It was a brownfield site on the edge of a cluster of houses which was typical of this part of North Norfolk, there were facilities nearby and the site was on a bus route between two market towns with good facilities. He considered there would be planning gain in removing an eyesore building and replacing it with two good quality, modern, sustainable dwellings. There was support for the application from the Parish Council and no local objections. He considered that natural justice was relevant in this case and to prevent a house being built where a house might rightly exist was against natural justice. He would therefore vote against the officer's recommendation.

The Development Manager explained that the previous permissions had been granted under prior notification which allowed the conversion of existing buildings. The buildings no longer existed and the permission could no longer be implemented. The proposal was therefore new build. The application site was in the defined Countryside policy area and not within a defined settlement. The Council regularly won planning appeals on Policy SS2 grounds and the policy had very recently been upheld as being in line with national policy and could be afforded full weight.

Applications should be determined in accordance with the adopted Development Plan unless there were other material considerations to outweigh it. The location was not sustainable for the reasons given in the report. Whilst she had every sympathy with the applicants and their situation, natural justice could not be afforded any weight in planning considerations.

Councillor G Mancini-Boyle asked if concerns regarding car use could be addressed by charging points and electric vehicle use. He considered that the issue regarding the environment had been addressed by the use of heat source pumps and renewable energy. He asked if the Committee was obliged to cite a policy in the event of a contrary view being taken.

The Head of Planning explained that any decision must be made on planning policy and must be evidenced on its interpretation. Planning policy did not recognise whether vehicles were electric or not, and the use of electric vehicles would not necessarily make a development sustainable as it required a journey by private car. Such a condition would have little weight in planning law.

The Principal Lawyer confirmed that the role of planning was to determine whether a development in a particular location was right for its foreseeable lifetime. Personal circumstances were not planning considerations and the decision had to be taken in accordance with the adopted Development Plan unless other material considerations indicated otherwise.

Councillor N Pearce referred to conflicting comments as to whether or not the site was in the Countryside, and requested confirmation as to its status.

The Development Manager confirmed that the site was within the Countryside Policy Area in the adopted Local Plan.

Councillor C Cushing considered that this was a difficult matter. He stated that the applicants had reached this situation through no fault of their own and had been honest and stopped work when they realised there was a problem. He expressed support for the application.

Councillor R Kershaw stated that he was very sympathetic to the applicants. However, this was a new build in policy terms and he supported the Officer's recommendation.

Councillor A Varley asked what would happen to the land and building if the application were refused. He referred to the Council's obligation to find suitable plots of land to provide housing for its residents and he was concerned that it would be harsh to adhere to policy as the land was previously considered suitable for a dwelling. He considered that the Committee should be open minded, and apply common sense as well as looking at its policies.

The Development Manager reiterated that there was no structure left on the site which was capable of conversion. The previous application had been approved on the basis of the conversion of an existing building, which no longer existed. The current application was for a new build dwelling in the Countryside and it was necessary for it to be sustainable. Whilst the Council was obligated to find sites for housing, this was a matter for the Local Plan.

Councillor N Pearce considered that common sense should be followed and stated that he wanted to propose the approval of this application.

Councillor C Stockton considered that the interpretation of sustainability was key. He referred to the rural nature of North Norfolk. Given that there were public rights of way and a bus service into two towns, he considered that, in North Norfolk terms, the site was sustainable. He supported Councillor Pearce.

Councillor R Kershaw proposed that the application be refused in accordance with the recommendation of the Head of Planning, which was seconded by Councillor A Brown.

The Head of Planning responded to the point raised by Councillor Varley. He stated that officers would work with the applicants to find an alternative use for the building. Refusal of this application did not mean that other uses would not be acceptable in policy terms in the Countryside. If this were not possible then enforcement powers could be used if absolutely necessary.

The proposal to refuse this application in accordance with the recommendation of the Head of Planning was put to the vote and declared lost with 5 Members voting in favour and 8 against. Councillor P Bütikofer had left the meeting temporarily due to technical issues and did not vote.

The Head of Planning advised the Committee that its decision must be led by national and local planning policies. He summarised the issues that had been put forward by the applicants' agent and by Members. He advised caution with regard to personal circumstances as they could be argued in other cases in the future.

Councillor Pearce referred to the report, which stated that the proposal met the requirements of EN4, CT5, CT6, EN2 and EN9.

The Development Manager stated that officers had not said that the proposal was contrary to the policies quoted by Councillor Pearce. The Committee was making an alternative decision based on principle so principle reasons were required.

The Head of Planning advised that Policies SS1 and SS2 were the principle policies in this case, together with paragraph 79 of the NPPF based on the sustainability issues put forward by Members.

It was proposed by Councillor C Cushing, seconded by Councillor A Varley and

RESOLVED by 8 votes to 5

That this application be approved on the grounds that the development is sustainable in accordance with Local Plan Policies SS1 and SS2, subject to conditions considered to be appropriate by the Head of Planning.

22 **COLBY - PF/20/0708 - CHANGE OF USE OF LAND FROM AGRICULTURE TO RESIDENTIAL CURTILAGE IN ASSOCIATION WITH PLANNING APPLICATION PF/20/0660; HEPPINN BARN, NORTH WALSHAM ROAD, BANNINGHAM, NR11 7DU FOR MR & MRS JONES**

Following the approval of application PF/20/0660 above, the Senior Planning Officer recommended approval of this application subject to the conditions listed in the report.

Councillor J Toye, the local Member, supported the recommendation.

It was proposed by Councillor P Heinrich, seconded by Councillor N Pearce and

RESOLVED unanimously

That this application be approved subject to the conditions listed in the report.

23 **EGMERE - PF/20/0365 - ERECTION OF DWELLING (ESTATE HOUSE UNDER NPPF PARAGRAPH 79E)) AND RESTORATION OF BARNES; ASSOCIATED LANDSCAPE AND ECOLOGY PROPOSALS AND CHANGE OF USE OF LAND FROM AGRICULTURE TO RESIDENTIAL CURTILAGE; CREEKE BUILDINGS, WALSINGHAM ROAD, EGMERE FOR THE HOLKHAM ESTATE**

The Senior Planning Officer presented the report and referred to the slides that had previously been circulated to the Committee. He stated that drone footage showing the site and wider landscape was available. He recommended approval of this application subject to the conditions as set out in the report.

Public Speaker

Martin Leay (supporting)

Councillor T FitzPatrick, the local Member, considered that the plans were very imaginative and that the proposal met the criteria in the NPPF. He referred to the history of outstanding buildings in North Norfolk. He considered that the proposed development would fit in well with the surrounding area and there was a real opportunity to provide employment and develop skilled craftsmen and tradesmen. He was happy to support this application and had received no objections to it.

Councillor Mrs A Fitch-Tillett considered that the building was truly outstanding, and that the development was sensitive within the landscape, had taken wildlife into consideration and there was a superb emphasis on carbon neutrality. She proposed approval of this application as recommended.

With the approval of the Chairman, Councillor P Heinrich asked Mr Leay how many apprentices would be employed and how the proposal would benefit the local community.

Mr Leay stated that there would be one apprentice working with the contractors, and that the building would be seen as an exemplar of new construction following the best traditions of traditional architecture, and the trades working on the building would afterwards apply those skills in the wider locality.

Councillor Heinrich requested that the drone footage be shown as he was unsure how the development would relate to the enhancement of the surrounding landscape and biodiversity.

The Head of Planning referred Members to the sections of the Officer's report relating to landscape and biodiversity.

The Senior Planning Officer presented the drone footage and indicated the site, the main features of the landscape and explained where the building and landscaping would sit in the wider landscape.

Councillor Heinrich stated that this was an application for a new house in the

Countryside, which would have been rejected if paragraph 79(e) of the NPPF did not apply. He considered there would be no great benefit to the community beyond one apprentice and additional skills for existing workers. There was no contribution towards community facilities or affordable housing. He considered that the proposed building was a pastiche of neo-Classical style. He stated that there were many large country houses in the area, and he questioned the need for another. He had considered carefully the national guidance, Inspectors' reports and Court cases relating to development of this nature, and he considered that it was a matter of interpretation of paragraph 79(e), which was not prescriptive. In his opinion the design was not innovative, although it was arguable that the proposal achieved a higher standard of architecture. He considered that the proposed dwelling would not raise design standards in the area as it was an individual property and typical of North Norfolk estates. He was not convinced that the proposal was really sensitive to the defining characteristics of the area. He accepted that it would enhance the landscape with a parkland setting and improvements to the wider area. He stated that he would have been more inclined to support the application if it had been a modern, innovative design in architecture and landscaping for the 21st Century but he was not convinced by the current proposal.

Councillor P Bütikofer referred to paragraph 78 of the NPPF relating to sustainability. He considered that this proposal did not follow paragraph 78 as it was a single dwelling. He referred to a Planning Inspector's report relating to isolated homes in the Countryside.

The Head of Planning explained that proposals did not need to comply with paragraph 78 if they were considered to be in compliance with paragraph 79(e), which required the site to be in an isolated location.

Councillor A Brown accepted that the bar had been set at a high standard, but did not consider that it was high enough for a scheme that had been put forward on outstanding design quality instead of innovation. He did not consider that the building as proposed would meet the requirement to raise the standard of design more generally. He referred to the statement that the proposal would significantly enhance its immediate setting, and questioned the meaning of 'immediate setting', which had not been defined. Given that the property would be well camouflaged from the road, he could not see how the public would benefit from its architecture unless the grounds were open to the public. He referred to the comments by Historic England regarding paragraph 8 of the NPPF, which required net gains for social, economic and environmental objectives. He considered that the only objective that could be met by this scheme was the economic objective, although he had concerns as a condition could not be imposed to require the engagement of a local apprentice or local contractor. Such a requirement could only be secured by a community benefit agreement which sat outside the planning legislation.

Councillor R Kershaw supported the views of Councillors Brown and Heinrich. He considered that the building was a pastiche, did not take innovation far enough and did not provide benefits for the wider community.

Councillor C Cushing disagreed with the previous speakers. He considered that this was a subjective matter and he could not see that the bar could be raised any higher than the proposed building. He considered that a modern style building would not be in context with the environment. There would be benefits in the enhancement of hedgerows, wildflower meadows and enhancement of the existing field. There would be economic benefit in terms of the amount of work, effort and money that would be put into the local economy to build a house of the style proposed. He

considered that this was an outstanding proposal. He seconded Councillor Mrs Fitch-Tillett's proposal to approve this application as recommended.

The Senior Planning Officer stated that this application had been considered by Historic England and the Council's own Conservation and Design Team, who agreed that the design could be considered to be truly outstanding. The applicants had sought the opinion of a panel of RIBA experts who had reached the same conclusion. He suggested that a modern, contemporary approach would not be right for the site, and the plan as proposed was in keeping with the ethos of the Holkham Estate.

Councillor A Yiasimi considered that the design was outstanding and the landscape enhancement was excellent. He considered that the lakes alone would attract many birds and other wildlife, and the drone footage had demonstrated a wider benefit.

Councillor N Pearce referred to the lack of objection from consultees. He considered that the proposal was innovative and would provide benefits to wildlife. He considered that the proposal would enhance the District's heritage.

Councillor A Varley considered that the proposal was exceptional in biodiversity terms and encouraging wildlife. However, he was concerned as to how much working farmland would be lost by the proposal.

The Head of Planning referred to the presentation and the landscape strategy, which contained a landscape masterplan. A significant amount of land would be retained in agricultural use, with other areas being given over to biodiversity, landscaping and the introduction of water features into the landscape. The loss of agricultural land was part of the planning balance.

The Senior Planning Officer added that the area of the site which would be taken up by the house and formal gardens was small. The majority of the site would be taken up by landscaping and landscape enhancements. A large proportion of the site would be retained for agriculture and pasture in addition to the wildflower meadows and aquatic habitats.

Councillor Mrs W Fredericks stated that this was a new build in the countryside, which was unsustainable, away from any shops and towns, and would only benefit the local community by its view. She was concerned as other dwellings had been refused as they were in the countryside and were unsustainable. She considered that this application was contrary to the policies which the Council was trying to uphold.

The Head of Planning reiterated that this proposal was exceptional and should be judged on that basis. It was a matter for the Committee to decide if the building was truly outstanding in terms of its architecture, biodiversity offer and wider landscape benefit. Community benefit did not have significant weight as it stood outside the planning process and could not be part of the planning decision. If the Committee did not accept that the building was truly outstanding it would be necessary to give planning reasons as to why it was not.

The Development Manager reminded the Committee that planning decisions must be made in accordance with the Development Plan, and outlined the local and national policy issues which were applicable in this case.

The proposal to approve this application was put to the vote, with 7 Members voting

in favour and 7 against. The Chairman exercised her casting vote in favour of the proposal and it was

RESOLVED

That this application be approved in accordance with the recommendation of the Head of Planning.

24 APPEALS SECTION

(a) NEW APPEALS

The Committee noted item 10(a) of the agenda.

(b) INQUIRIES AND HEARINGS - PROGRESS

The Committee noted item 10(b) of the agenda.

The Development Manager informed the Committee that the Council's statement of case in respect of Cley-next-the-Sea ENF/18/0164 had been submitted to the Planning Inspectorate and a hearing date was awaited.

(c) WRITTEN REPRESENTATIONS APPEALS - IN HAND

The Committee noted item 10(c) of the agenda.

The Development Manager informed the Committee that Itteringham ENF/17/0006 and CL/19/0756 would be dealt with by way of Public Inquiry.

(d) APPEAL DECISIONS

The Committee noted item 10(d) of the agenda.

The Development Manager stated that the Council's record on appeal decisions showed that the Council was making very robust planning decisions, which were upheld by Planning Inspectors.

The Chairman stated that a great effort was being made by the team.

(e) COURT CASES – PROGRESS AND RESULTS

The Committee noted item 10(e) of the agenda.

RESOLVED

That under Section 100A(4) of the Local Government Act 1972 the press and 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 paragraph 5 of Part I of Schedule 12A (as amended) to the Act.

The Head of Planning updated the Committee on the outcome of a court case in respect of a planning matter at Holt. A public announcement on this matter would be made at a later date.

The meeting closed at 11.39 am.

CHAIRMAN
Thursday, 17 September 2020