

(Minute - Development Committee 6 June 2019)

6 BINHAM - PF/18/1524 - Proposed conversion of an agricultural barn to a dwelling; Westgate Barn, Warham Road, Binham, Fakenham, NR21 0DQ for Mr & Mrs Bruce

The Committee considered item 8 of the agenda.

Public Speaker

Peter Gidney (supporting)

The Principal Lawyer referred to a letter which had been received from Solicitors acting for the applicant and which had been forwarded to Committee Members. He advised the Committee on the content of the letter, which suggested that the previous Committee on 28 March had approved the application by its rejection of the Officer's recommendation, raised issues regarding the Officer's recommendation and expressed concerns regarding the handling of the application.

The Principal Lawyer explained that the resolution to defer this application was clear and unambiguous and the minutes had been formally approved by the former Committee on 23 April. He advised that the rejection of the Officer's recommendation at the meeting on 28 March did not mean that the officers had to reject their objective, qualified, professional opinions and in the absence of significant changes to material considerations it was consistent to again recommend refusal of the application.

The Principal Lawyer advised that there was no such concept as indirect approval and an expression of predisposition could not fetter a councillor's discretion. Predetermination would be unlawful and would make any decision vulnerable to legal challenge.

The Principal Lawyer stated that the handling of the application was a reflection of its complicated nature. The application had to be considered objectively, on its merits and as an application to carry out development on the land irrespective of the land ownership issue.

The Head of Planning presented the report and displayed plans and photographs of the site. He reported that a representation had been received from former Councillor Mrs A Green stating that she considered that planning permission had been granted at the 28 March meeting and that leniency had been offered to the conversion of farm buildings at recent Development Committee meetings. He referred to the advice given by the Principal Lawyer with regard to the previous resolution.

The Head of Planning confirmed that the building would be timber clad and not faced with brick as stated in the report. He clarified that the barn was 4.5 metres in height and the proposed garage would be 5.8 metres in height.

The Head of Planning recommended refusal as set out in the report.

Councillor R Kershaw, the local Member, stated that he had attended the Binham Parish Council meeting and no objections had been raised in respect of this application .

Councillor N Pearce considered that the proposal was an innovative solution to a dilapidated barn. He had viewed the site from further along the Warham Road and the infill would hardly be seen. He requested clarification as to whether or not the garage counted as floor space and as part of the building.

The Head of Planning explained that Policy HO9 related to the amount and extent of change. The infill area and garage were new build and had to be considered in combination.

Councillor Mrs A Fitch-Tillett welcomed the attempt to improve the glazing proposals. However, this was still a building in the countryside, and an agricultural building which had been amended and extended. The development was contrary to policy and with a heavy heart, she proposed refusal of this application as recommended.

Councillor N Housden asked if sections showing the height and bulk of the garage building had been requested and whether or not the applicants had been requested to reduce its scale.

The Head of Planning explained that the heights were shown on the plan and he considered that sections were not necessary as the differences were apparent. He had met with the applicants following the deferral of the application and had offered an opportunity to reflect on and discuss changes to the size and scale of the building in the light of the recommendation.

Councillor N Lloyd welcomed the geothermal heating proposals but he understood that once installed, it would not be possible to plant anything over the top of it.

The Chairman invited Mr Wyndham Spice, on behalf of the applicant, to respond to Councillor Lloyd's comment.

Mr Spice explained that he had installed a number of geothermal systems. Pipework would be installed at a depth of 1200 mm and anything could be planted on top of it.

Councillor Lloyd expressed concern at the precedent that would be set if this application were approved.

Councillor D Baker stated that policies and procedures were important but it was necessary to exercise common sense. The proposal would not impact anybody and no objections had been raised. The proposal would reuse a derelict barn which had no agricultural use. The site was not in a Conservation Area. The infrastructure was environmentally friendly and he considered there was no reason to refuse this application.

Councillor P Heinrich considered that there was a need for flexibility depending on circumstances. It was a good design and very sympathetic to the existing building. It would not make a dramatic change to the landscape and he could not see a reason to refuse the application.

Councillor A Brown appreciated the concerns with regard to breaching Policy HO9 but considered that compromise should be applied to this application. He suggested that the impact could be ameliorated by screen hedging to make the site less visible in the surrounding area, limiting the height of the garage to 4.5 metres to be consistent with the existing barn and an open cart shed design for the garage. He considered that it was good to bring buildings back into use and the proposal would provide new housing.

The Head of Planning summarised his views with regard to the balance in this application. There would be a slight impact on the landscape and Conservation Area, which had to be balanced against the benefits. Policy HO9 allowed conversion of rural buildings with limited change. The building was currently a simple U shaped barn but this would no longer be the case if the proposal was built. There had been many good

changes to the proposal during the process. In making their decision, it was paramount that Members balanced the harm to policy and the landscape against the positive issues. However, he referred Members to his recommendation and the fundamental changes which were outstandingly detrimental to the understanding and appreciation of the building in the area.

The Principal Lawyer referred to Mr Gidney's statement that there was a presumption in favour of development. He advised that the issue was more complicated as the presumption was to determine the application in accordance with the development plan unless material considerations indicate otherwise.

The Chairman seconded the proposal to refuse this application. She had tremendous sympathy for the applicants but the application was contrary to policy.

RESOLVED by 9 votes to 5

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