

Minutes of a Meeting of the Planning Committee
held in St Mary's Church Hall, St Mary's Street, Ely
on Wednesday, 7th November 2012 at 2.00pm

P R E S E N T

Councillor Philip Read (Chairman)
Councillor David Ambrose Smith
Councillor Sue Austen (substitute for Councillor
Gareth Wilson)
Councillor Derrick Beckett
Councillor Will Burton
Councillor Lavinia Edwards
Councillor Jeremy Friend-Smith
Councillor Bill Hunt
Councillor Tom Kerby
Councillor Joshua Schumann
Councillor Robert Stevens
Councillor Sue Willows

OFFICERS

Amanda Apcar – Principal Solicitor
Claire Braybrook – Technical Officer (Environmental Services)
Ann Caffall – Senior Planning Officer
Alan Dover – Principal Development Officer
Sue Finlayson – Team Leader, Developer Control
Giles Hughes – Head of Planning & Sustainable
Development Services
Janis Murfet – Democratic Services Officer
Alkis Riziotis – Team Leader Development Control

I N A T T E N D A N C E

Councillor Colin Fordham
Councillor John Palmer
Councillor Charles Roberts
20 members of the public

32. **APOLOGIES AND SUBSTITUTIONS**

Apologies for absence were received from Councillors Mike Rouse and Gareth Wilson.

It was noted that Councillor Sue Austen would substitute for Councillor Wilson for the duration of this meeting.

33. **DECLARATIONS OF INTEREST**

Councillor Schumann declared a personal interest in Agenda Item No 7 (12/00698/FUL), but did not specify the nature of the interest.

Councillor Ambrose Smith declared a prejudicial interest in Agenda Item No 6 (12/00612/FUL) being a Parish and District Councillor and a resident of Victoria Street, Littleport. He said that he would leave the meeting before the application was considered.

34. **MINUTES**

It was resolved:

That the minutes of the meeting held on 3rd October 2012 be confirmed as a correct record and signed by the Chairman.

35. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman did not make any announcements.

36. **12/00551/FUL – ERECTION OF AFFORDABLE HOUSING – 8 UNITS – LAND TO REAR OF 7B WILBURTON ROAD, STRETHAM**

Ann Caffall, Senior Planning Officer, presented a resubmitted report which gave details of the application, the applicant's case, the site and its environment, the planning history and relevant factors and policies.

A Members' site visit had taken place prior to the meeting.

Mrs Caffall summarised the main points of her report and reminded Members that the main issues for consideration were:

- Principle of development;
- Highway Safety;
- Impact on adjoining occupiers;
- Impact on Conservation Area; and
- Site specifics.

The principle of development in the location was supported by both national and local policy, and paragraph 8.1 of the report set out the criteria which must be met in order to comply with policy H4. It was considered that the scale of the development was appropriate for the settlement hierarchy status of Stretham and amended plans had been received which satisfied the requirements of the Highway Authority for a private drive. The layout and design of the development was acceptable in terms of impact on adjoining occupiers and the character and appearance of the Conservation Area. Site-specific requirements regarding waste disposal had been met and could be achieved with suitable conditions.

At the invitation of the Chairman, Mrs Parsons nearby resident of Wilburton Road, Stretham, spoke in objection to the application and made the following points:

- She and her husband would be most affected by the proposals as they relied on this private road as their only means of access;
- She was also speaking on behalf of her neighbours Mr & Mrs Cullum;
- They were not against this land being developed, just the number of houses proposed on the site;
- What amendments to the access and visibility splay have been made since the last application as the two documents appear to be the same? How is the splay no longer a problem and what is going to happen to the parking area outside these properties? Where will these vehicles go? Mr Langford had not given his consent or been consulted on the application. Mr Lee had included a sliver of land which actually belonged to No 7 Wilburton Road;
- How can such a small access road cater for up to 24 vehicles? (currently it's accessed by up to 8). After seeking legal advice on this point the conditions are that "The applicants are under an obligation not to do anything on the site which is or which may become a nuisance or annoyance to you nor park or obstruct the access way in". We consider that this size of development and number of vehicles would contradict that right.
- Where will this brick built storage for refuse be located and how big will it be as it will need to accommodate 11 houses rubbish, surely this would be too large to accommodate in the space available at the entrance to the site.
Point 9.3 however is stating there will be on-site storage so this is a contradiction.
The refuse company have stated that they will not go onto a private site to collect waste so where is this storage going and where therefore is the suitable access for turning that is required.
- She and Mr Parsons had had their planning application refused due to the impact on the Conservation Area, so what made this application so different?
- Mr Lee had not demonstrated a need for this housing. We believe that eight of these kinds of houses would significantly harm the character or setting of the settlement and surrounding countryside.
- Width of 5 metres over the majority of its length which should be ample – If this application is to go ahead it will be too late to say "sorry it wasn't ample enough we got it wrong" and we rely on this private drive as our only access to our property this is surely a significant point. The road is narrow and no two cars can pass each other so this would cause significant inconvenience to existing residents especially us. The visibility, especially left, (i.e. towards the proposed new site) when pulling out of our drive is blind so this could cause accidents for both cars and pedestrians. This point also affects 7, 7a & 7c Wilburton Road.

- To conclude, we moved to this part of the village because of its quiet and old style village setting and this development would destroy that feel so on all these grounds as well as those listed in the application document we are asking for you to consider refusing the current application.

In response to a number of questions from Councillor Hunt, Mrs Parsons stated that she left her refuse bags on the pavement outside No 7 to be collected, her son played on the recreation ground, and she had had problems accessing the A1142; there had been several near accidents at this very dangerous access.

At the invitation of the Chairman, Mr Kratz, agent for the applicant, spoke in support of the application and made the following comments:

- The proposal had come about as a result of the partnership between one of the oldest social housing associations and a tenacious land owner;
- The proposal was totally compliant with Policy H4;
- The application had been lodged a year ago, and all the technical problems, including ownership of the access/visibility splays, had been answered;
- The main change to the application was the shared service access way. Highways considered this to be the safest option and it was completely compliant;
- There was a workable managed scheme in respect of waste disposal;
- There had been talk of other sites coming forward but the Community Land Trust had yet to do so;
- This application was all about deliverability. There would be a Section 106 Agreement which would go some way to meeting housing need in Stretham.

Councillor Hunt asked Mr Kratz what consultation had been carried out with the public in Stretham and the Parish Council in relation to this application. Mr Kratz replied that there had been none, but there was a public meeting, attended by 37 people, and at which 9 people had spoken. After this public meeting, 6 others had come forward to voice their support.

In response to a query by the Chairman regarding the visibility splay, Mr Kratz said that Highways had asked for evidence of ownership, and this had been provided to their satisfaction.

At the invitation of the Chairman, Councillor Charles Roberts spoke in his capacity as a District Councillor and a Ward Member for Stretham, the Chairman of Stretham Parish Council, and a founder of the Stretham Community Land Trust (CLT), and he made the following points:

- There was not a “nimby” attitude to development, and there was a very strong commitment to providing affordable housing;

- The need for such housing had been observed some time ago;
- Much work had been done on the CLT, which had been incorporated in October 2012;
- Extensive work had been carried out with the Forward Planning Team to identify suitable sites, and this one was on the list;
- Peterhouse College was keen to develop a much more suitable site which did not have the issues as at Wilburton Road;
- With regard to CLT's and affordable housing, there was a developer agreement in draft form, and this would come forward in 2013;
- With regard to the Highways Access, there was doubt over the 5 metres width, and this was a dangerous junction;
- The safety of the site was questionable because it was a very dangerous piece of road and the access area was difficult;
- There had been no consultation or notification regarding the visibility splay, and authority had not been given to use the land.

Councillor Roberts concluded by asking the Committee to refuse the application because there was more suitable land available and housing would come forward.

Councillor Hunt wished to know how soon the CLT properties would be available and was advised that the planning application was expected in February/March 2013, with properties being built towards the end of 2013. He then asked whether Councillor Roberts, as Chairman of the Parish Council, had received any comments of support for this proposal. Councillor Roberts replied that, to his knowledge, there had been none.

Councillor Stevens failed to see why this application was viewed as a threat, so he believed that it would add to local facilities rather than take away viability. Councillor Roberts responded, saying Policy H4 required that no more suitable sites should be available; however, there was one site which was more suitable and deliverable, and there was substantial local opposition to this proposal.

Councillor Friend-Smith said there was an immediate need for affordable housing and such applications should be encouraged when conditions could be met. He declared himself to be in favour of the general concept, as long as the appropriate safeguards were in place.

The Chairman enquired whether the waste disposal unit might be located elsewhere and the Head of Planning & Sustainable Development Services said that this could be looked at again.

Councillor Beckett believed that the residents of Stretham would love to have some affordable housing available so soon. There would always be some objections to such an application, but on balance he felt that it should be approved.

Speaking as a local Member, Councillor Hunt voiced his opposition to the scheme, believing it to be a really dangerous proposition. He thought that

the Committee would give it the go-ahead at its peril, because it was an accident waiting to happen. He said he could not support the proposal because of the highway safety impact on the adjacent occupiers.

Councillor Schumann said that he shared some of Councillor Hunt's fears about the highways related issues, but he would yield to the advice given by the Highways Authority. He acknowledged that there would be quite a profound effect on residential amenity, and this should be mitigated where possible.

It was resolved:

That planning application reference 12/00551/FUL be approved, subject to the conditions as detailed in the Officer's report, and with further consideration regarding the location of the waste disposal unit.

37. **12/00612/FUL – CHANGE OF USE OF GROUND FLOOR AT FRONT TO DANCE HALL (CLASS D2) – 11 VICTORIA STREET, LITTLEPORT**

(Councillor Ambrose Smith left the room prior to consideration of this application)

Alkis Riziotis, Team Leader Development Control, presented a report which set out details of the application, the applicant's case, the site and its environment, the planning history and relevant factors and policies.

A Members' site visit had taken place prior to the meeting.

Mr Riziotis summarised the main points of his report and reminded Members that the key issues for consideration were:

- Appropriateness of community/leisure use in his location;
- Extent of impact on residential amenity via noise;
- Parking.

It was noted that, if granted permission, the applicant proposed to install a second set of doors along the frontage, so as to create a lobby with entrance doors being diagonally opposite each other and thus allowing for the outer door to be closed before opening the inner one. This would mitigate escaping noise. The applicant planned to install these doors within 4 weeks, while a condition proposed also required their installation.

It was also noted that as the frontage was mainly glass above a brick base, the applicant proposed to install an additional second layer of glass on the inside, which should have a significant impact in containing noise.

The applicant was content to agree to all the conditions recommended via Environmental Health and to ensure that the music was kept to a low enough level to be commensurate with the ambient noise of the location. He

had also proposed that if noise remained an issue, he would install acoustic curtains.

At the invitation of the Chairman, Mrs Welchman, resident of a property directly opposite the proposed dance hall, spoke in objection to the application and made the following comments:

- Her son is severely autistic and has auditory processing issues. He needs a calm and quiet environment in order to cope with his disability;
- The main problem would be noise from the music, not just the volume, but also the fact that it would be going on late into the evening;
- Traffic and parking would also be an issue. The stretch outside No 11 was already under a huge amount of pressure from people using the village hall with the day centre, events and dance classes and patrons of the Indian Restaurant;
- There was no parking facility at the dance hall, but parents waited outside, parking along both sides of the road;
- The local Highways Authority had said that she would not be able to apply for a specific parking place outside her house. This posed great problems because her son has no sense of danger and she needs to be able to get easy access to the front door. Parking in the garden was not an option either, because her son has a history of “escaping” and she needs to keep him safe.
- The proposed hours of operation would have a massive impact on her family’s ability to enjoy their home. She feared that they would have no choice but to move, and this was unfair on her son as well as the other family members.

With regard to the disabled parking space, the Chairman advised Mrs Welchman to contact Highways at Witchford and request a space; if she encountered any problems, she was to let him know.

At the invitation of the Chairman, Mr Malkin addressed the Committee in support of his application, and made the following points.

- He ran YPL, having set it up 5 years ago to help the youth in the village;
- YPL had evolved into a centre for the whole community;
- The premises would not turn into a dance hall and disco;
- It would be predominantly used to teach dance;
- He had tried to identify the areas to be addressed and had agreed to put in another set of doors to help mitigate the noise, and also install a second set of glazing inside;
- At present, carpet bowls were played during the day, but he hoped to offer street and line dancing;
- He did not see how the cars stopping in the street at night could be anything to do with him, because the premises were not open;

- He had agreed that there should be no music after 9pm but had asked to be allowed to open until 10pm, so that the premises could be prepared in readiness for the next day;
- He had talked through Mrs Welchman's concerns with her and was happy to take any reasonable measures.

Mr Malkin then responded to comments and questions from the Committee.

Councillor Schumann asked whether Mr Malkin envisaged the hall being used for all hours or on a bookings basis. Mr Malkin replied that he was providing a need for the village and he would not be happy paying rent for 7 days if he could only use the premises for 5 days per week. It was also possible that the hall might be used for First Aid Training, as it was an ideal space and size.

Councillor Beckett noted that there was only one entrance/exit to the hall and asked if this was the fire exit. Mr Malkin confirmed that it was, and that the new door would have to be 1 metre wide. The Fire Officer had also stipulated that the doors should open inwards, which they did.

With regard to parents dropping off and collecting their children, Mr Malkin informed the Committee that dance class pupils would be given a letter asking their parents to use the car parks in Granby Street or at The Barn. If the parents transgressed, then one measure could be for that pupil to be refused any further lessons.

Councillor Friend-Smith thought Mr Malkin was to be congratulated for what he was trying to do, but everything could not be expected to continue as it was. He felt that the glass glazing should be of an unbreakable standard and the lobby should be bigger.

The Chairman suggested that if Members were minded to approve the application, the Head of Planning & Sustainable Development Services be given delegated authority to finalise appropriate conditions.

In connection with this, Councillor Stevens noted that Condition 2 of the recommendation said that noise levels would not exceed the ambient levels. Claire Braybrook, Technical Officer, advised that this was a very strict condition and would be perfectly okay. People might still hear very low levels of noise, but traffic and other ambient noise had been taken into account when setting the level.

Councillor Schumann said that while he had sympathy with Mrs Welchman's situation, this was a central village location and some noise was to be expected. He proposed and Councillor Friend-Smith seconded that the application be approved with the Head of Planning having delegated authority to deal with the conditions. Whereupon,

It was resolved:

That planning application reference 12/00612/FUL be approved, subject to the conditions as detailed in the Officer's report and with the Head of Planning & Sustainable Development Services being given delegated authority for final approval of further conditions relating to disabled access, hours of use, and soundproofing.

(Councillor Ambrose Smith rejoined the meeting).

38. **12/00698/FUL – ERECTION OF TWO DWELLINGS AND GARAGE – 19 BROOK STREET, SOHAM**

Sue Finlayson, Team Leader Development Control presented a report which gave details of the application, the applicant's case, the site and its environment, the planning history and relevant factors and policies.

A Members' site visit had taken place prior to the meeting.

Mrs Finlayson summarised the main points of her report and reminded Members that this was the third application that had been proposed recently to develop this site for two bungalows. The first had been refused and the second was "declined to be determined".

This application, whilst addressing some of the issues raised for refusal in respect of highways and trees, did not address the fundamental policy issues for which it was refused. The site was in the open countryside where Policies CS1 and CS2 restricted development to certain specific "exceptions". This application did not fall within those exceptions and was therefore contrary to those policies.

The proposal was also considered to be piecemeal and premature in respect of the future development of land adjacent to the site, contrary to Policy EN2. It was noted that the area close to the proposal site had been identified in the East Cambridgeshire Core Strategy Proposals Maps 2009 as an area of search for future residential development, and had been proposed for allocation in the Draft Local Plan. Additionally the application was for development behind existing properties, and would result in an erosion of the open character of the area by the encroachment of built form, albeit single storey, which would adversely impact on the existing character of the area, contrary to Policies EN1 and EN2 of the Core Strategy 2009.

At the invitation of the Chairman, Mr Hutchinson, agent for the applicant, spoke in support of the application and made the following points:

- The site was in a sustainable location and classified as countryside;
- The limit line was arbitrary;
- The site was well contained by hedgerows and the built form would not extend beyond this;

- Paragraph 8.9 of the report was incorrect because there were already two bungalows there and therefore backland development had already been established;
- The notion that this site was countryside was not justifiable because the open land would be developed;
- He did not consider the proposal to be premature and it would not prejudice further development;
- The proposed bungalows would not overlook any other properties;
- Soham Town Council had no concerns regarding the proposal and weight should be given to the lack of local objections;
- This application accorded with the aims of the National Planning Policy Framework;
- There was no justifiable reason to refuse the application.

During the ensuing debate, Councillor Hunt said he thought the Committee should back the officer's recommendation for refusal because the proposal was clearly outside the development line.

Councillor Beckett said he struggled to see why the application should be refused because it fitted in with the area and it was not open farmland at the back of the houses. Besides which, the land adjacent had been allocated for development in the Draft Local Plan.

Councillor Friend-Smith supported Councillor Hunt's view, saying that the application would have satisfied the exceptions rule, had it been for 2 affordable houses.

At this point it was proposed by Councillor Kerby and seconded by Councillor Beckett that the Officer's recommendation for refusal be rejected on the following grounds:

- The site is within a proposed development area identified in the Soham Masterplan;
- The form, setting and character of the site have the appearance of being part of the settlement;
- The site is immediately deliverable; and
- A S106 agreement will satisfy the condition regarding access.

Councillor Stevens sought clarification regarding what had been discussed at the recent meeting of the Development & Transport Committee, wishing to know whether the land behind the site was now officially available to build on? The Head of Planning & Sustainable Development Services replied that, in essence, yes it was. The working draft had been discussed but had now to go through a statutory process. At the moment it was seen as an important site in the working draft, but there was a formal process before allocation in detail was confirmed.

A vote was taken on Councillor Kerby's proposal to reject the Officer's recommendation, and the motion was declared carried.

It was then proposed and seconded that the application be approved on the grounds as detailed above, and Councillor Friend-Smith asked for a recorded vote to be taken. The result was as follows:

FOR (6): Councillors Beckett, Burton, Edwards, Kerby, Read
AGAINST (2): Councillors Ambrose Smith, Austen, Friend-Smith, Hunt, Stevens
ABSTAIN (1): Councillor Schumann

The motion was duly declared carried, whereupon

It was further resolved:

That planning application reference 12/00698/FUL be approved on the grounds as detailed above.

39. **12/00770/VAR – VARIATION OF CONDITIONS 1, 2 & 3 OF DECISION DATED 3RD OCTOBER 2008 FOR APPLICATION 08/00794/FUL – 104-106 LANCASTER WAY BUSINESS PARK, ELY**

Sue Finlayson, Team Leader Development Control, presented a report which gave details of the application, the applicant's case, the site and its environment, the planning history and relevant factors and policies.

A Members' site visit had taken place prior to the meeting.

Mrs Finlayson asked the Committee to note two housekeeping issues relating to the application:

- An email giving a retail assessment addendum had been forwarded to Members. The assessment proposed relocation of the business to the Angel Drove bulky goods site, and it also listed the additional items the applicant wished to sell, and the impact this would have.
- There was an error in paragraph 8.9 of the report. The distance stated in the second line should read **31cm** rather than 2.6 miles.

Mrs Finlayson then summarised the main points of her report and reminded Members that the key issues for consideration were:

- The planning history; and
- The implications of the proposed condition variations in terms of current planning policy.

It was noted that there had been a previous retrospective application in respect of the proposed use, and whilst a showroom was included in the submitted plans, its use was restricted to prevent direct sales to the public and subsequent unrestricted use by the following condition:

“Unit 4 to be occupied by Fenland Pine Interiors shall only be used for warehouse, office and furniture showroom uses and laid out as detailed on the floor plan submitted 16th January 2003. Unit 4 shall be used for the display and sale of goods manufactured by Fenland Pine Interiors in Unit 3 but not for direct retail sales to the public.

Reason: To prevent the unit being used for an unrestricted A1 retail use which would be inappropriate in an out of town location. Conditional planning permission is granted to facilitate the relocation of this existing established business from Broad Street, Ely operating on a “factory shop” basis.”

In 2008 Fenland Pine submitted a retrospective application for 54% of floor space to be used as a showroom and retail sales (A1), and the continuing use of the rest of the space for storage and a workshop. This application sought to regularise the unauthorised retail sales following enforcement action. At Planning Committee on 1st October 2008 Members determined that the application should be approved for a period of 5 years, with the restriction that only 50% of the floor space should be used for retail sales, and this should be limited purely to furniture.

The Council had attempted to restrict the unfettered A1 use of the premises since 2003, and the applicant at that time was aware of Council concerns that the site was not a sustainable location for retail use, and such use was contrary to policy. This would also have been the case when the current occupier took over the premises. Officers considered that materially changing the use of the site should be made by a change of use application, not by attempting to vary the planning conditions.

With regard to the implications in terms of current planning policy, the variation of the conditions as proposed would materially expand the retail provision, changing the current approved use considerably, undermining the retail strategy set out in Policy S1 and progressed through the Ely Masterplan, and potentially adversely impacting on city centre stores which retail the expanded group of goods proposed.

The proposal was contrary to Policy S1 which seeks to retain retail development in town centre or edge of centre sites to enhance the vitality and viability of existing town centres and provide a sustainable location where combined trips would be possible. No evidence had been provided to show the potential impact of extended sales on the city centre shops. Furthermore, the expanded use of the premises for retail sales would involve the loss of B1/B2/B8 land, contrary to Policy EC1 of the Core Strategy and would set a precedent for such use on other sites in the Business Park and on other out of town locations in the District, contrary to Policy S1 of the East Cambridgeshire Core Strategy 2009.

At the invitation of the Chairman, Mr Hendry, agent for the applicant addressed the Committee in support of the application and made the following points:

- The 2008 permission for 50% retail had been granted because no other site was available;
- Planning policy is clear – where a site is not available in a city centre location, other sites should be considered;
- Angel Drove is 5 miles away, and Mantles will bow to Tesco;
- Reeds wants to be in the District;
- The applicant has invested heavily and cannot afford to relocate;
- A reference to Westminster Council v Portland Estates;
- The applicant wished to increase the number of staff to 21;
- The owner of the Business Park supported the applicant, but did not want a retail park;
- The applicant would be willing to accept a personal permission;
- There were sufficient material considerations to justify permission being granted.

Mr Hendry concluded by saying that the applicant (Mr Carlyle) was present and would be happy to answer any questions.

Councillor Beckett asked whether Reeds would be prepared to relocate if a suitable site was available at Angel Drove. Mr Carlyle replied that he could not afford to take another site because he did not have the funds.

In response to a question from the Chairman, Mr Carlyle confirmed that he would be happy to accept a permission specific to himself.

Councillor Schumann wished to know whether Mr Carlyle would accept another temporary permission. Mr Carlyle said that this was difficult to answer in the current retail climate. Without Grovemere's help regarding the reduction of the rent, he would not be present at today's meeting. He was looking to the long term because he wanted to secure the tenure for his staff. Mr Hendry added that, with regard to the original temporary permission, there had been no proliferation and it had demonstrated there had been no harm; another temporary permission would be counterintuitive.

Councillor Friend-Smith said he was very impressed with the layout of the store but there would not be the same sort of space if it was in the city centre. Mr Carlyle responded, saying that he was doing it to increase his profits; the store was very successful at bringing in the customers, some of whom travelled quite a distance.

Councillor Beckett said that Reeds was an ongoing, very profitable business, and he had no desire to see it lost. Location was the problem, and if restricted, the business could not grow. He wondered whether it would be possible to allow the business to grow, and if finances picked up, have it relocated to a retail site.

Councillor Hunt, picking up on this point, asked whether reeds could be granted a 5 year extension with the permission being made specific to the business.

It was proposed and seconded that the Officer's recommendation for refusal be rejected on the grounds that there was no alternative site for the business to move to in the short term. When put to the vote, the motion was carried unanimously.

Members felt that while there was no impact on the town centre, the extension should be limited to 5 years to give the Angel Drove site time to come on stream.

Councillor Schumann expressed his support for Councillor Hunt's suggestion and duly proposed that the application be approved. The motion was seconded by Councillor Kerby, and when put to the vote, was declared carried by majority. Whereupon,

It was resolved:

That the Officer's recommendation for refusal be rejected on the grounds that there is no alternative site for Reeds Furniture & Bed Centre to move to in the short term.

It was further resolved:

That planning application reference 12/00770/VAR be approved with a 5 year extension to the existing temporary permission, made specific to Reeds, 90% floor area for retail sales and widening of the scope of goods sold.

The meeting closed at 4.55pm.