



GREAT YARMOUTH
BOROUGH COUNCIL

Development Management Committee

Minutes

Wednesday, 21 February 2024 at 18:30

PRESENT:-

Councillor A Wright (in the Chair); Councillors Annison, Bird, Boyd, Capewell, Freeman, Galer, Green, Martin, Mogford, Murray-Smith, Williamson & A Wright.

Councillor Newcombe attended as a substitute for Councillor Pilkington.

Mr A Chrusciak (Interim Head of Planning), Mr R Parkinson (Development Manager), Ms C Whatling (Monitoring Officer), Mr M Joyce (Principal Planning Officer), Ms E Nutman (Planning Officer), Mr D Zimmerling (IT Support) & Mrs C Webb (Democratic Services Officer).

01 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Pilkington.

02 DECLARATIONS OF INTEREST

Councillor Annison declared a personal interest in item 5 as the developer was known personally to him.

Councillor Murray-Smith declared a personal interest in items 6 & 7 as he owned a chalet on the Holiday Park.

Councillor Williamson declared a personal interest in items 9 & 10 as he was a trustee of Out There Arts and would leave the meeting during the determination of the items.

However, in accordance with the Council's Constitution, Councillors Annison & Murray-Smith were allowed to both speak and vote on the items.

03 MINUTES

The minutes of the meeting held on 24 January 2024 were confirmed.

Committee agreed 6 March 2024 as provisional date for addition Development Management Committee meeting.

04 APPLICATION 06 23 0758 VCU - Cliff Top Car Park, East of 70 to 75 Marine Parade, Gorleston

The Committee received and considered the report and the addendum report from the Planning Officers.

The Principal Planner reported that this was a connected application as the Council is both the applicant and the landowner and had been referred to the Monitoring Officer who had asked for it to be brought before the Committee for determination.

The Principal Planner reported that Members are reminded that case law has ruled that an application to remove or vary conditions on a planning permission has the effect of creating a new planning permission altogether. The determination of this proposal must have regard to the permission(s) already granted and the intended variations, and any material considerations relevant to the development since the previous permission was granted.

The proposal is for the Variation of Conditions 4 and 8 of planning permission 06/21/1018/CU to:-

- (i) allow trading for up to 220 days per year for the hot food takeaway uses between 1 March and 2 January the following year; and
- (ii) change the seasonal opening times as follows: to trade from 7.30am - 6.00 pm between 1 November and 31 March; and, to trade from 7.30am to 8.00 pm between 1 April and 31 October.

The Principal Planner reported that application 06/21/1018/CU was approved for the *“Proposed change of use of land for the mixed use purpose of car parking and temporary stationing of up to 3 no. mobile concession units for the purposes of retail (use class E1a) and/or hot food takeaway (sui generis) use”*, which was subject to conditions.

This application relates to Condition 4 to allow both the hot drink and hot food take away concession units to trade for more months throughout the year, and Condition 8 to amend the trading hours to allow all the concession units to commence its use 30 minutes earlier each day. This will further extend the relaxation in permitted hours and trading of the hot drinks concession unit beyond those relaxed hours approved under 06/22/0762/VCU.

The Principal Planner reported that in deciding an application under Section 73 of the Town and Country Planning Act 1990, the Local Planning Authority may only consider the question of the conditions subject to which planning permission should be granted. A complete re-consideration of the proposal cannot be undertaken. As a result, only the conditions applied for can be considered providing that they do not alter the overall development as applied for (as detailed in the original description of development).

The Principal Planner informed the Committee that the Environmental Health Team reviewed the application and confirmed no complaints have been received to date about the use and, as such, would not raise any objections to the proposal. There were no objections from County Highways Authority and no policy concerns.

The Principal Planner reported that 15 objections were raised to this proposal with regard to the generation of noise, disturbance and littering. Whilst there are amenity issues, officer consider that the limiting conditions which retained from 06/21/1018/CU are sufficient on mitigate any potential adverse amenity issues arising. On the basis of no objection from the Environmental Protection Team and the distance from the residential properties, it is considered that a starting time of 07:30hrs instead of 08:00hrs is acceptable. It does not mean that the concession units have to operate all of these hours, it would mean that there is the flexibility to operate for all or part of these hours.

The Principal Planner reported that with regard to policy harm, Strategic Planning have advised that the Gorleston Masterplan identifies some of the existing concession offer is limited and recognises that new, small scale, (retail, leisure) and food and drink concessions could help to improve the offer and increase numbers of visitors to the seafront. However, it does recognise that the number of concessions needs to be carefully balanced to ensure the unique character of the area is not undermined, nor detracts business from Gorleston town centre.

The Principal Planner reported that at paragraph 6.3.3 (Agenda pack page 17) the printed sentence ends without completion. The sentence should read:-
“Officers would advise that the Environmental Protection team has confirmed that no noise complaints have been received nor have there been any other complaints lodged with Environmental Health Officers regarding odour or litter associated with the current activities of the car park. Officers would point out however that it is understood that to date only the hot drink coffee sales concession unit has been operating, which would not be expected to cause noise or odour concerns.”

There are the following updates to the report:-

- (i) Page 13 of the Agenda – An Extension of Time has been agreed by the applicant to 29 February 2024.
- (ii) Additional late objection concerning generation of rubbish, cooking smells and loss of car parking space. Officers would advise that these matters are dealt with in the main body of the report; see in particular paragraph 10.12 (page 20). The new objection is not considered to raise new material considerations which affect the proposed recommendation.

The Principal Planner reported that the proposal is for the variation of two conditions on a previous and still extant permission, one variation relating to amending the trading hours, the other variation relating to a change in the months one of the three concession units can trade for. This widens the change to cover all three concession units. However, to ensure the application falls within the scope of the original planning permission granted under 06/21/1018/CU, and remain a 'temporary use', it is considered necessary and reasonable to require that no trading shall take place for any unit outside of 1 March to the 1 January annually (i.e. January and February remain 'fallow' months). Having considered the details provided, the proposal is considered to be acceptable and the conditions will be amended accordingly, together with the remaining conditions imposed (and amended where appropriate, for example to reflect that the development commenced under the previous permission).

The Principal Planner reported that the application is recommended for approval with the conditions numbered 1-12 as detailed on pages 23-26 of the agenda report plus the informative notes.

Councillor Wells, Ward Councillor addressed the Committee and reported that he was unaware of the addendum report. He reported that the application site was within a residential area and that if permission was granted, that mitigation measures to be put in place in this Conservation Area to cover the noise emanating from the use of generators and that advertising boards be kept to one per unit. Councillor Wells was concerned that one of the units occupied 2 car parking spaces and asked in regard to enforcement action. He proposed that the concessions cease trading at 6pm Monday to Saturday and 4pm on Sundays and through the winter period.

There were no questions from members so the Committee moved to the debate and decision.

Councillor Williamson proposed that the application be approved with the suggested conditions. This was seconded by Councillor Freeman.

RESOLVED:-

That application 06/23/0758/VCU be approved with the conditions as detailed on pages 23-26 of the agenda report.

05 APPLICATION 06 23 0393 VCF - Darwin Court, Nuffield Crescent, Gorleston

The Committee received and considered the report and addendum report from the Planning Officer. The Development Manager reported that this was a retrospective application for a variation of Conditions 2 (approved plans) and 9 (Landscaping) of planning permission 06/14/0773/F (Construction of 46 dwellings with associated parking and site works on site of former residential care home). Amendment to surface water drainage soakaway location and revised timescale for tree planting. This is a major development of more than 25 dwellings.

The Development Manager reported the following update to the report:-

1. The applicant's Agent has provided some clarity in respect of the measures to provide root protection measures, both for the trees to be planted in the highway verge, and the trees planted within the central island. This is needed to protect utilities and the soakaway.

2. The root protection measures are similar to those originally included as part of 06/14/0773/F. Clarification has been given as to how the root protection measures will be adapted to protect the adjacent soakaway.
3. Condition 3 should therefore be amended to reference the clarification from the agent, which was received after the report was published.

The Development Manager reported that the recommendation is for approval with conditions as per the published agenda report with an amendment to Condition 3 to read:-

No later than 31st March 2024, the two Amelanchier Lamarkii trees to be provided in the central grassed area of the site shall be planted in accordance with the root protection details shown on plan 2074-15 Rev.4 as originally submitted within application 06/14/0773/F, and in accordance with the methodology outlined in the email from Graham Craske (received by the Local Planning Authority on 20/02/2024 14:35). All trees shall thereafter be maintained in strict accordance with the maintenance details provided within the Planting Specification Document received on 06 February 2024.

The reason being that as the trees within the central grassed area are necessary ensure a high quality form of development and in the interests of ensuring appropriate visual amenity for the local area, to enhance biodiversity and to secure appropriate residential amenity in accordance and the root barrier measures are required to ensure that the planting does not adversely affect surface water drainage; in accordance with Policies CS9 and CS11 of the adopted Great Yarmouth Local Plan Core Strategy (2015).

Councillor Boyd asked how was this situation allowed to happen and how could this be policed better moving forwards. The Development Manager reported that he did not have the financial resources to employ a dedicated officer to monitor the discharge of planning conditions. The majority of conditions were self-policed but the re-planting requirements of this application would be monitored.

Councillor Bird asked who would be responsible for the grass cutting of this area. The Development Manager reported that this was a public verge on a public highway and would be cut by the public authority. Councillor Bird questioned whether the formation of a management company would be beneficial to maintain these areas.

Councillor Williamson reported that he supported the application as the planting of trees was an essential element of the Design Code and both the local residents and the environment would benefit enormously.

Councillor Boyd proposed that the application be approved with the suggested conditions. This was seconded by Councillor Annison

RESOLVED:-

That application 06/23/0393/VCF be approved subject to the conditions set out on pages 35 to 38 of the agenda report with the amendment to condition 3 as reported at the meeting.

06 APPLICATION 06 23 0831 CU - Club House, Florida Estate, Back Market Lane, Hemsby

The Committee received and considered the report from the Planning Officer. The Development Manager reported that this was a connected application as it was submitted by an employee of the Council and the Monitoring officer had requested that it be determined by the Committee.

The Development Manager reported that the application was a proposed change of use and sub-division of an existing storage unit (Use Class B8) to provide 2no. commercial premises for retail and hair salon (Use Class E). The application site is located within the Florida Estate in Hemsby, at the south-easternmost perimeter of the Florida holiday park, adjacent the Bermuda Holiday Park immediately to the south and the Seadell Holiday Estate immediately to the east. The area consists of single storey holiday chalets within all three holiday parks which surround the application site. The application site is a single storey unit to the rear of The Florida Entertainment Centre known as Bensley's bar. The application site is attached to the north of Bensley's Bar.

The Development Manager gave the following update on the response received from Hemsby Parish Council:-

1. Paragraph 6.3 of the Report to Committee describes how Hemsby Parish Council were expected to meet to consider the application on Monday 19 February. Unfortunately the Parish confirmed on 20/02/24 that they were unable to consider the application on 19/02/24 as their meeting was cancelled due to it being inquorate.
2. It is noted that the Parish Council were only consulted on 02 February 2024, and as statutory consultees the Parish should have been allowed 21 days consultation period to provide comments, which would end on 23 February 2024.
3. It is recommended that Hemsby Parish Council should be granted an opportunity to submit comments within 10 days of their unresolved meeting of 19 February, and if no comments are received by that time the application should be determined as voted for by the Committee, but if comments are received the authority to determine the application should be delegated to the Head of Planning to determine the application in consultation with the Chair of the Committee, having regard to the vote of the Committee.

The Development Manager reported that it was proposed that the recommendation at Paragraph 13 is amended to:-

It is recommended that the Committee resolve to delegate authority to the Head of Planning to grant planning permission subject to:-

- (a) not receiving any representations from Hemsby Parish Council by 1 March 2024, or such limited extended period considered reasonable by the Head of Planning, which in the view of the Head of Planning raise new planning considerations that have not been covered in the published Agenda papers or Development Management Committee's considerations; and
- (b) the conditions listed in the Committee Report, with any required amendment to their wording; or the inclusion of other Conditions and/or Informative Notes; as considered to be appropriate by the Head of Planning.

Councillor Williamson asked for clarification as to what were "comparison goods". The

Development Manager explained that they were goods which were not required on a day to day basis and which could be purchased at any other outlet other than a corner shop. Councillor Williamson asked if this could be policed. The Development Manager that this could be enforced via proportionality.

Councillor Murray-Smith asked how this would work in practice and perhaps the applicant would be able to understand this condition better if more precise language was used to describe it. The Interim Head of Planning explained that this condition was required, and constrictive language was not used, so as not to undermine the vitality of the village centre. The Committee had approved a similar condition on the recent application submitted by Lidl and that these specific conditions and language were understood in the retail industry. A requirement of a maximum 25% of comparison goods to be sold would be easier to police by eye and this would also help to support the tourism industry.

Councillor Annison proposed that the application be approved with the suggested conditions. This was seconded by Councillor Williamson.

RESOLVED:-

That application number 06/23/0831/CU be approved subject to the conditions set out at pages 49 to 52 of the agenda report together with the verbal update given at the meeting by the Development Manager.

07 APPLICATION 06 23 0678 VCF - Former Pontins Holiday Centre, Beach Road, Hemsby

The Committee received and considered the report from the Planning Officer.

The Principal Planner reported that this was a connected application as it was submitted by an employee of the Council and the Monitoring Officer had requested that it be determined by the Committee. The application is a major development of over 1ha and more than 25 dwellings.

The Principal Planner reported that there is a correction at page 79 of the agenda pack, the Parish should be corrected. The Parish is Hemsby Parish, and the Ward is East Flegg Ward. Officers confirm this is an oversight in the report writing and the correct Parish Council and Ward Councillors were consulted. The Parish Council has responded, at paragraph 6.3, page 83, of the agenda pack.

The Principal Planner reported that the Hemsby Design Code did not form part of the consultation process by officers. However, The GY Design Code SPD was utilised which was aligned to both the views of the Parish and the Council.

The Principal Planner reported that there are no updates to report and the recommendation is as per the published agenda report.

Councillor Galer asked for clarification in regard to conditions 3, 4 & 5. Condition 3 referred to Limits to use of the caravans/holiday chalets – use as holiday accommodation only. Condition 4 referred to Limits to use of the caravans/holiday chalets – maintain an up-to-date register of occupiers. Condition 5 referred to Limits to use of the caravans/holiday chalets – no occupation over 2 weeks in any year.

These conditions must remain in force to ensure that the Local Planning Authority retained control over the use of the units for holiday accommodation, to enable the Local Planning Authority to retain control over the use of the caravans for holiday accommodation in an area where permanent residential accommodation would not normally be permitted and to enable the Local Planning Authority to retain control over the use of the caravans for holiday accommodation.

The Principal Planner assured Councillor Galer that this application was only to vary Condition 6 and that the applicant would have to come back to Committee to vary any other conditions.

The Interim Head of Planning explained the necessity for conditions 3, 4 & 5 and assured Councillor Galer that they would remain in force on the planning permission already granted.

Councillor Freeman reported that the Committee should consider what the applicant had requested and was in front of them this evening, to vary condition number 6 to install solar panels and porch design on approved accommodation blocks B, Q1, Q2, R & T and that he supported the application providing that the applicant came back to the Committee if any further changes to the approved building design was required.

Councillor Mogford asked for an assurance that the provision of an on-site swimming pool, gym and spa would not be affected by this application. The Principal Planner assured the Committee that this application would not affect this provision.

Councillor Annison proposed that the application be approved with the suggested conditions. This was seconded by Councillor Williamson.

RESOLVED:-

That application number 06/23/0678/VCF be approved, subject to the conditions as set out on pages 64 to 72 of the agenda report.

08 APPLICATION 06 23 0847 CU - 1 Carrel Road, Gorleston

The Committee received and considered the report from the Planning Officer. There were no updates to the report.

The Planning Officer reported that this was a connected application as the land which is the subject of the application is owned by the Council and the Monitoring officer had requested that the application be determined by the Committee.

The Planning Officer reported that there is a correction to the report:-

To amend paragraph 10.18: *"The S106 Agreement dated 27 September 2023"*

To amend paragraph 10.19: *"The Agreement requires at the Second Schedule paragraph 1.3 that the Council was to "lay out the Open Space as a public open space by 30 April 2022 2002 and thereafter maintain it in good condition" (Planning Officer's emphasis)."*

The Planning Officer reported that the application sought retrospective permission for the construction of a private residential driveway and parking area and change of use of the land from informal open space into use as part of a private residential curtilage. The land subject of the retrospective development was part of the Wood farm Lane Housing Development. This development, which was granted approval in 1999, also contained a s106 Agreement which designated and established public amenity land and open space.

The Planning Officer reported that under the agreement there were no covenants that prevented the space as being used as anything else and the transfer of the land from the developer to the Council was also free of burdens. Therefore, it was not set out anywhere within the s106 that the open space needed to be retained in perpetuity.

The Planning Officer reported that whilst considering the application on its own planning merits, it is considered that there is a degree of benefit of the driveway due to it reducing the need for on street parking and improving the traffic flow in the area which is considered to be beneficial due to the application site being located on the corner of a junction.

The Planning Officer reported on the open space available in the surrounding area. The open space at the top demonstrates high-quality open space clearly used for recreational purposes as set out in the s106. The strip of grassed area at the bottom is considered to be informal open space as it was not designated as recreational space and serves visual purposes only as it creates visual spacing for the purposes of urban design.

The Planning Officer reported that the corner of the grassed area is considered to be the most significant part of the strip as it serves the street scene by opening up the area around the junction. However, it can be considered that only a small amount of this land has been lost as a result of the proposal. There is also a tree that services visual amenity purposes, however, the driveway is set back from this and does not impact it.

The Planning Officer reported that this could also be a fall-back position as the development may be considered established due to the passage of time that has elapsed. The application was therefore recommended for approval subject to conditions. To retain in accordance with plans and the driveway only to be used for the parking of vehicles and for private domestic parking only.

The Planning Officer reported that property had confirmed the sale of the land in September 2023 and it took 10 years for change of use to be established.

The Planning Officer reported that they have noticed that Ward Councillors have not been expressly consulted due to an administrative oversight. Councillors Cllr Flaxman-Taylor and Cllr Wells were consulted on 8 February and invited to provide comments by 29 February 2024. At the time of writing, no comments have been received. Officers will endeavour to obtain a written position from the Ward Councillors before the Committee meeting and provide an update to the meeting. In the event that comments are not provided by 21 February, the Officer recommendation will seek authority to determine the application at the end of the Ward Councillor consultation period, i.e.. from 29 February 2024.

Councillor Murray-Smith raised concerns in regard to the loss of public green space for public use. He asked how long the curtilage had been incorporated into the curtilage of 1 Carrel Road. The Planning Officer informed the Committee that photographs on Google Earth taken in 2008 showed that the land in question had formed part of the curtilage of 1 Carrel Road.

Councillor Annison asked if the driveway of 1 Carrel Road was permeable, was it necessary for the applicant to have to apply for change of use. The Interim Head of Planning explained why an application for change of use was required under the present planning legislation.

Councillor Murray-Smith reported that he could not support this application on the principal as he did not support the principle of retrospective planning applications. Some Members reported that they were concerned in regard to the lack of planning compliance officers. The Chair asked Officers to take note of Members' concerns in respect of the consideration of retrospective planning applications in regard to areas of green/open space.

The Chair reported that the Committee had no grounds to refuse the application as the land had been in the curtilage of 1 Carrel Road for a period of 16 years.

Councillor Freeman recommended that the application be approved with the suggested conditions. This was seconded by Councillor Williamson.

RESOLVED:-

That powers be delegated to the Head of Planning to approve application number 06/23/0847/CU, subject to:-

- (i) Not receiving any adverse comments from local Ward Councillors by 29 February 2024 which cannot be resolved by planning conditions, and
- (ii) Subject to the following proposed conditions as set on page 83 of the agenda pack.

10. APPLICATION 06 23 0647 VCF - Ice House, Bridge Road, Great Yarmouth

Committee received and considered the report from the Planning Officer.

The Planning Officer reported that she would take both applications for the Ice House (VCF & LB) together. The Planning Officer reported that there are no updates to the report and the recommendation is for approval of the applications as per recommendation s in the agenda report with the addition of new condition 13 as presented to the Committee and set out on the PowerPoint slides. This was a connected application affecting land which the Council has a legal or financial interest in and had been brought to the Committee for determination at the request of the Monitoring Officer.

The Planning Officer reported that the variation application is for the variation of conditions 2 & 5 of the full application for the amendment to approved plans to revise the layout by relocating proposed external staircase and internal lift.

The Planning Officer reported that the Listed Building consent includes alterations by previous listed building consent with some minor changes which revises the layout relocation the proposed external staircase and internal lift.

The Planning Officer reported that the principle of development for the variation was established through the grant of planning permission under the full application. The principle of the majority of the changes included in the listed building consent have already been accepted and established through the grant of the previous listed building consent. The minor changes proposed are assessed under this application.

The Planning Officer showed a series of photographs and the plans which were labelled with blue showing the previously approved and the pink demonstrates the proposed amendments. The external staircase is proposed to be relocated from the RHS of the north eastern elevation to the left hand side of the north eastern elevation.

The Planning Officer reported that in terms of design and the impact on the conservation area. The changes proposed will not result in any negative impacts on the character and appearance of the area and will instead result in a more open and inviting space and will also provide more room for the drop-off area.

The Planning Officer reported that the relocation of the internal wheelchair lift will result in an improvement in circulation routes and the accessibility of the building for those with disabilities.

The Planning Officer showed a plan approved under the CD application which shows the first floor and south elevation and the heat source pumps and louvres visible above the boundary treatment. However, this variation permission supersedes and improves the CD plan, as the heat pumps are more hidden which preserves the appearance of the listed building.

The Planning Officer reported that the Plant Room with ventilation machinery replaced with opening windows under application 06/22/0499/CD, that significant negotiations have taken place to ensure that the ventilation system is appropriate. The initial consent allowed for bulky mechanical plant being installed on the exterior of the building. The raised concern due to the impact on the visual appearance of the listed building. Other options, including louvres on the southern elevation have been explored but raised concern due to the amount of loss of primary fabric required and that the south elevation would be the only elevation without intervention. The scheme as currently proposed including louvres hidden on the north elevation by the consented to extension and the windows on the southern elevation.

The Planning Officer reported that in regard to the heat pumps, a new condition has been added as these are aspects that requires permission and listed building consent in their own right and this gives the Council an opportunity to formalise.

The Planning Officer reported that in terms of the design and the impact on the conservation area it is considered that the proposal preserves and enhances the listed building through the use of the imposed conditions. Any level of less than substantial harm which is caused will be outweighed by the improvement in visual appearance and the public benefits that the proposal provides.

The Planning Officer reported the newly added condition, which is to be applied to both applications. Whilst some conditions have been discharged or part-discharged, others remain live and unresolved and these are reflected in the conditions.

The Planning Officer reported that condition 5 of 06/22/0499/CD approved plan included removing external lighting.

The Planning Officer concluded that both applications should be approved subject to the conditions as set out separately in both applications with the addition of the new condition which was reported at the meeting.

Councillor Freeman asked if the heat pumps, which were large and ugly machinery, would be screened from public view. The Planning officer reported that the heat pumps would receive boundary treatment and be tucked away out of public view behind them.

Councillor Annison proposed that the application be approved with the suggested conditions and the additional condition number 13 as outlined at the meeting. This was seconded by Councillor Martin.

RESOLVED:-

That application reference 06/23/0647/VCF be approved subject to the conditions listed on pages 93 to 96 of the agenda report and new condition number 13 which was reported at the meeting.

11 APPLICATION 06 23 0719 LB - Ice House, Bridge Road, Great Yarmouth

The Committee received and considered the report from the Planning Officer.

The Planning Officer reported the details of this application in conjunction with application reference 06/23/0647/VCF.

The Planning Officer reported that there are no updates to the report and the recommendation is as per the published agenda report.

The Planning Officer reported that the application was recommended for approval, as per recommendation with the addition of new condition 7, as presented to the Committee and set out on the PowerPoint slides.

Councillor Freeman proposed that the application be approved with the suggested conditions and the additional condition number 7 outlined at the meeting. This was seconded by Councillor Boyd.

RESOLVED:-

application number 06/23/0719/LB be approved subject to the conditions set out in pages 103 to 105 of the agenda report with the addition of new condition 7, as presented to the Committee.

The meeting closed at 19:58