

Development Control Committee

Minutes

Wednesday, 07 August 2019 at 18:30

PRESENT:

Councillor Annison (in the Chair); Councillors Bird, Freeman, Flaxman-Taylor, P Hammond, Lawn, Mogford, Wainwright, & B Wright.

Councillor C Walker attended as a substitute for Councillor Williamson.

Mr D Minns (Planning Manager), Mrs G Manthorpe (Senior Planning Officer), Ms C Whatling (Monitoring Officer), Mr G Bolan (Technical Officer) & Mrs C Webb (Executive Services Officer).

1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Fairhead, Williamson & Williamson.

2 DECLARATIONS OF INTEREST

There were no declarations of interest declared at the meeting.

3 MINUTES

The minutes of the meeting held on 12 July 2019 were confirmed.

4 PLANNING APPLICATIONS

5 06-19-0354-F FORMER CLAYDON SCHOOL LAND AT BECCLES ROAD GORLESTON

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

The Senior Planning Officer reported that the application was a full application for the erection of 12 dwellings with access through the previously approved estate development with access off Beccles Road. The application site was within an area previously marked as open space as part of the adjacent planning application (06/15/0737/F), however, this land was marked in addition to the policy required amount and could not be secured as adopted public open space by the Council.

The Senior Planning Officer reported that the dwellings proposed were single storey adjacent the dwellings to the rear of Claydon Grove which was acceptable to mitigate over looking and adverse impact on existing amenities. The two storey dwellings were of an attractive design and the proposed development fitted in well with the re-orientation of the three previously approved dwellings and the development currently under construction.

The Senior Planning Officer reported that the site was within the settlement of Gorleston, outside of the saved 2001 Borough-Wide Development Limits, but within the emerging Development Limits identified in the Draft Local Plan Part 2. The site was still currently designated open amenity space (REC11); however, the emerging Draft Local Plan Part 2 sought to replace this policy designation with a criteria-based policy on the functional uses of such sites. The recent approval for 113 dwellings immediately adjacent would surround this site (a former school playing field), it was therefore considered by the applicant to be surplus land that it is not required as part of the public open space provision.

The Senior Planning Officer reported that the previous application, 06/15/0737/F, marking the land as open space had been a consistent point of

objection to the current application. The land, previously being a school playing field, was in public ownership by Norfolk County Council, and had subsequently been sold to the applicant. The land was now in private ownership and formed part of a construction site for the previously approved development of 113 houses. The previous application currently under construction was providing policy compliant public open space as part of the development. The policy compliant open space was 4520 square metres of public open space (40 square metres x 113 dwellings). The application had provided 5731 square metres of public open space which had been secured by a s106 agreement. This was 1217 square metres of public open space more than that required by currently Local Planning Policy.

The Senior Planning Officer reported that the remaining area of open space which was bordered by a 1.8m high close bordered fence and the attenuation basin would be dealt with under a s106 agreement and did not form part of this application.

The Senior Planning Officer reported that there had been 25 objections to the development from neighbours, the main objections were summarised as follows:

- Loss of public open space.
- The Claydon Ward has the lowest level of public open space in Great Yarmouth.
- Adverse impact on infrastructure – schools, doctors and dentist.
- Increased traffic.
- The development as a whole will be too dense.
- 113 houses is more than enough.
- There is not enough ecological information submitted.
- Are consultees aware of the whole of the site.
- The residents are against further development.
- Overlooking.
- Gardens will back onto gardens.
- Insufficient water and sewerage systems.
- Access should be off Burgh Road.
- 125 dwellings is too many.
- Wildlife – birds, bats and bees will suffer.
- Shouldn't demolish a bungalow or fell trees.
- Why weren't these on the original plans.
- The land has always been designated as open space.
- This goes against the council's own policies to retain open space.

The Senior Planning Officer reported a statement from Councillor Williamson on behalf of Claydon residents regarding the application for an additional twelve dwellings on the former Claydon playing field site. The Monitoring Officer requested clarification of the public consultation period. The Senior Planning officer reported that the full application plan was available on line for the correct statutory period of 21 days whilst the application was validated, notwithstanding, that no new information had been received and the statutory consultation period had been extended to allow residents time to assess the

application and to submit any objections.

The Senior Planning Officer reported that Highways subject to the provision of visibility splays measuring 2.4 x 33m being provided at the junction with the private drive serving plots 94 – 101, would have no objection to the layout shown on drawing(7019.P2-SL01 rev E). As a consequence, any planning permission should include the following conditions:

SHC 16 Prior to the first occupation of the development hereby permitted visibility splays measuring 2.4 x 33 metres shall be provided to each side of the access serving plots 94 – 101 where it meets the highway. The splay(s) shall thereafter be maintained at all times free from any obstruction exceeding 0.225 metres above the level of the adjacent carriageway.

SHC 20 Prior to the first occupation of the development hereby permitted the proposed access, on-site car parking area shall be laid out, demarcated, leveled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.

The Senior Planning Officer reported that the application site was located within the Claydon Ward, an area that was classified as having one of the lowest amount of available areas for open space and children's play within the borough, according to the 2013 Open Space Study. The land was within private ownership and there was no mechanism available to compel the land to be provided as open space accessible to the public as a whole. When assessing the application, the area of land adjacent, with a cumulative area of no less than 5713 square metres when assessing the site as a whole, was an "over-provision" of the amount of open space required from 125 dwellings (the cumulative total which was 5000 square metres).

The Senior Planning Officer reported that whilst the development was being assessed cumulatively for obligations required through s106, the application, in not seeking to provide on-site open space, was requested to provide payment in lieu which could be utilised to improve, provide or maintain nearby public open space.

The Senior Planning Officer reported that the children's recreation payment would be required to comply with current policy as there was none proposed to be provided on site. These open space calculations did not include the attenuation basin (drainage) for the development which had been provided as part of the permission currently under construction (06/15/0737/F).

The Senior Planning Officer reported that Strategic Planning, noting the designation of the land within saved policy REC 11, had not objected to the application. As the land was within private ownership and could not be required under current planning policy to be provided as public open space, the land was not, in practical or legal terms, public open space. As such the development should not be assessed as a loss of public open space given that the owner can close the land off from the public at will.

The Senior Planning Officer reported that the s106 for planning application 06/15/0737/F contained wording that allowed for the application to be varied by way of a superseding application or by s73 application to vary conditions attached to the permission without requiring a deed of variation to the s106 agreement. This was noted as the application included the reorientation of units previously approved.

The Senior Planning Officer reported that the application, being physically adjacent and an application submitted by the same developer/landowner, should be dealt with cumulatively with the previously approved development when securing policy compliant infrastructure payments. In addition to the s106 obligations listed within paragraph 2.13 of this report, Norfolk County Council would be contacted to request a consultation response on payments for education and library provision should the application be approved.

The Senior Planning Officer reported that following objections on the grounds of overlooking to the previous withdrawn application detailed above, the applicant had submitted plans as part of this application showing bungalows backing on to the existing houses at Claydon Grove. This satisfied the requirement that applications should not significantly affect the amenities of existing occupiers of nearby properties. Should planning permission be granted it would be a recommended condition that these dwellings remained single storey bungalows to prevent overlooking and to retain control of this aspect of the development. It was not suggested to remove other permitted rights from the proposed dwellings.

The Senior Planning Officer reported that the consultation response in relation to the previously withdrawn application from Anglian Water required a planning condition for a drainage strategy to be submitted. This could be adequately conditioned with the wording provided by Anglian Water. Under the previous application, the Lead Local Flood Authority required details of surface water drainage be submitted. In the absence of an objection on the grounds of surface water drainage, it was assessed that the site could be drained, and conditions could be applied to adequately provide suitable drainage. It was noted that both of these responses were in relation to a previously withdrawn application, however, it could be reasonably assessed that the requirements were the same. Both consultees had been asked for consultation responses. Consultees, as was the norm, should assess the need, having looked at the submitted information relating to drainage, as to whether these conditions were required.

The Senior Planning Officer reported that the application detailed the surface water disposal, noting that consultation comments were awaited. However, they were expected to be in line with those recently received on the previous application. The acceptance at this stage of previous consultations was reasonable in this instance, given the layout of the developments and the lack of notable changes between the consultations on the previous application. There had been no major changes to policy or infrastructure in the timescale between the two applications and as such, while

consultation responses were being requested the ones previously submitted were adequate to inform a determination.

The Senior Planning Officer reported that concerns had been raised regarding the lack of ecological information provided, as per the above, the applicant had submitted the template Shadow Habitat Regulation Assessment. It was stated clearly that the submitted formation was acceptable to discharge the legal duty and that the Council, as Competent Authority, was able to carry out the appropriate assessment and could find in accordance with legislation and case law, that subject to mitigation the application could be supported.

The Senior Planning Officer reported that a resident had raised concerns regarding bats. Bats were a protected species and while they were not uncommon in an urban area, a site such as this and in this location, without any notable roosting available did not require information on protected species to be submitted. Biodiversity enhancements, however, could be conditioned and could encourage the roosting of bats but more likely would encourage the nesting of birds and as such should be included within the scheme.

The Senior Planning Officer reported that an important factor when determining applications was whether a Local Authority had the ability to demonstrate a five-year housing land supply. If a Local Planning Authority cannot show that they were meeting this requirement, their policies with regard to residential development would be considered to be "out of date". There was currently a housing land supply of 2.55 years (as at the end of year 2017/2018) which was a substantial shortfall. Although this did not mean that all residential developments must be approved, the presumption in favour of sustainable development must be applied.

The Senior Planning Officer reported that whilst weighing the material considerations in this application, considerable weight must be given to Paragraph 11 (d) of the National Planning Policy Framework stating that where the policies which were most important for determining the application were out of-date, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits. Footnote 7 stated that "this included, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicated that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

The Senior Planning Officer reported that the implication of the Wavendon judgement was that there must: firstly be an assessment as to which policies of the Development Plan were most important for determining this planning application; secondly, an assessment as to whether each of these policies were, or were not, "out of date"; and thirdly, a conclusion as to whether, taken as whole, these most important policies were to be regarded as "out-of-date".

If, taken as whole, they were regarded as “out-of-date”, then the “tilted balance” of NPPF paragraph 11 applied (for a refusal to be justified, the harms must “significantly and demonstrably outweigh the benefits...”). If, taken as a whole, they were not regarded as out-of-date, then the tilted balance did not apply.

The Senior Planning Officer reported that in regard to policy REC11 of the 2001 Boroughwide Local Plan, the most important policy applicable in determination of the application, was out of date and the weight applied should be limited. The application had been assessed against paragraph 11 of the National Planning Policy Framework, taking into account the Wavendon judgement. In the absence of any considerations that had demonstrably outweighed the benefit of housing and noting that the land was within private ownership, the tilted balance applied.

The Senior Planning Officer reported that the location of the application site was a sustainable one and the site had the potential to contribute to housing provision within a Main Town (Core Strategy Policy CS2), boosting housing supply in the short term and therefore the presumption in favour of sustainable development applied. In practice, this meant that the Local Planning Authority should approve applications unless the harms demonstrably outweighed the need for providing housing. There were benefits in providing housing within a sustainable location and this should be accorded significant weight and it was recognised that this development would contribute 12 houses to the Borough.

The Senior Planning Officer reported that the application was recommended for approval as the application, subject to the signing of a s106 agreement securing policy compliant obligations, Natura 2000 contributions and requested infrastructure payments requested by Norfolk County Council. The permission should not be issued until the s106 was signed and all consultation responses were received, any conditions requested by statutory consultees should be placed upon the grant of planning permission and all other conditions as required to ensure a satisfactory form of development, including the removal of permitted rights for first floor openings at the units proposed to the rear of Claydon Grove.

Councillor C Walker asked whether the officers would have recommended approval of the previous application submitted in 2016 if the application had been for 125 dwellings with only one area of open space provided. The Senior Planning Officer reported that every application was determined on merit.

Councillor C Walker asked why the open space designated in the previous application could not be protected. The Senior Planning Officer reported that the land was in private ownership and the landowner could not be forced to allow public to access it. She then asked that, in light of the Wavendon judgement, whether officers considered any other planning policies to be out of date. The Planning Manager reported that the committee had to consider the weight given to each policy which applied and how it would affect the overall balance.

Councillor P Hammond asked whether a management company would be formed to look after the public open space area going forward. The Planning Manager reported that the Council would be adopting this public open space to ensure it was protected.

Councillor Wright reported that the local residents had endured enough distress over the last few years regarding the development of the former Claydon School site and 113 dwellings was more than enough and the additional 12 dwellings should be refused.

Councillor Wainwright agreed that the residents had been poorly treated but that the provision of open space for residents could be a double edged sword as these areas were often misused resulting in anti-social behaviour which could cause great distress to local residents.

The Chairman moved the recommendation for approval which was seconded by Councillor P Hammond and following a vote, it was RESOLVED:-

That application number 06/19/0354/F be approved subject to the signing of a s106 agreement securing policy compliant obligations, Natura 2000 contributions and requested infrastructure payments requested by Norfolk County Council. The permission should not be issued until the s106 is signed and all consultation responses are received, any conditions requested by statutory consultees shall be placed upon the grant of planning permission and all other conditions as required to ensure a satisfactory form of development, including the removal of permitted rights for first floor openings at the units proposed to the rear of Claydon Grove.

6 DELEGATED AND COMMITTEE DECISION LIST 1 - 27 JULY 2019

The Committee received and noted the planning decisions made by delegated officer approval and by the Development Control Committee between 1 and 27 July 2019.

7 APPEAL AND OMBUDSMAN DECISIONS

The Committee received and noted the appeal and ombudsman decisions.

The Planning Manager reported the salient ares of the Inspector's report regarding application number 06/18/0345/CU. The Committee was deeply unhappy regarding the Inspector's decision and requested that the Planning Manager compose a letter to the Planning Inspectorate which they would all sign detailing their displeasure of the appeal.

8 ANY OTHER BUSINESS

The Chairman reported that there was no other business being of sufficient urgency to warrant consideration.

9 EXCLUSION OF PUBLIC

The meeting ended at: 19:40