

WEST LINDSEY DISTRICT COUNCIL

MINUTES of a Meeting of the Development Management Committee held in the Council Chamber at the Guildhall, Gainsborough, on Wednesday, 16 November 2011 at 6.30 pm.

Present: Councillor Chris Underwood-Frost (In the Chair)
Councillor Stuart Curtis

Councillor Owen Bierley
Councillor Alan Caine
Councillor David Cotton
Councillor Richy Doran
Councillor Ian Fleetwood
Councillor Malcolm Leaning
Councillor Jessie Milne
Councillor Roger Patterson
Councillor Judy Rainsforth

In Attendance: Development Management Team Leader
Senior Development Management Officer
Democratic Services Team Leader

Also Present: Councillor Anne Welburn

Also in Attendance: 22 members of the public

53 PUBLIC PARTICIPATION

Councillor Mrs Robinson of Cherry Willingham Parish Council addressed the Committee raising concerns that the Parish Council had with the Planning process and disappointment at the lack of consultation it was felt there had been. The Parish Clerk had been on holiday when the amended plans for the application for the Marina been submitted thereby reducing the consultation period and because of the short notice there was insufficient time for the Parish Council feedback. It was noted that the report was already being prepared prior to the end of the consultation period so it was feared that consultation replies would not be included. Cllr Robinson asked the Committee to note her comments and suggest changes to the process.

The Development Management Team Leader responded to Cllr Robinson by stating that the regulations required a 21 day consultation period on planning applications, but that there was no legal requirement on amendments. He assured Cllr Robinson that any new issues raised in consultation replies would be given due consideration and would also report these to Committee

advising members to consider them fully before reaching any decision. This would be the case with the marina application, the Senior Development Management Officer updating members when introducing the item.. It was pointed out that large reports do have a long preparation time but that all material considerations are included during the preparation of the reports. The Development Management Team Leader assured Cllr Robinson that a full written response would be provided to the Parish Council.

The Development Management Team Leader then updated the Committee on the responses that had been sent to South Kelsey Parish Council and Mrs Mallinson who had spoken in the Public Participation section of the previous Committee meeting.

The first question was from South Kelsey Parish Council relating to a playing field extension in the village and a landscaped area to the east of the playing field extension area. The Development Management Team Leader read the main body of the written response (from Mark Sturgess) to the Parish Council.

“As I understand it Anne Killah of Lincs Legal Services was involved with the transfer of this land (The Playing Field Extension) from Alison and Cadle to the Parish Council up to May 2010.

Anne’s main involvement appears to have been ensuring that the restrictive covenants which were present on the land did not prevent the Parish Council from using the land as an extension to the playing field once it was transferred. The transfer agreement also included a £10,000 sum for future maintenance and this would have been passed to the Parish Council on completion of the transfer of the land. It appears at this point in 2010 Anne had addressed all the covenant issues on the site and had spoken to the solicitors acting for Alison and Cadle. They advised Anne that they were ready to complete the transfer of the land and the associated funding.

Anne also spoke to the solicitors representing the Parish Council who advised that they had not been instructed to act in the completion of this transfer. At this point Anne emailed the Parish Council advising them that they should proceed with the transfer of the playing field extension. Lincs Legal Services closed the file as they had progressed the site to a point where the transfer could be completed and the playing field extension implemented.

It appears at this point the ball was in the Parish Council’s court to complete the transfer. I am willing to work to resurrect the transfer of this land to the Parish Council and I would be grateful if you would confirm that you want me to do that on the basis of the information set out above. It would also be useful if you could let me have the name and address of a solicitor who could act for the Parish Council in this matter.

(Turning to) The Landscaped Area.

As I understand it this is a small area which is next to, but not part of, the playing field extension. It forms part of the “structural landscaping” around the Alison and Cadle development. The history of this land is less clear than that of the playing field extension. My understanding of the situation surrounding this land is this.

The land was originally due to be transferred to the Parish Council by Alison and Cadle. Alison and Cadle then decided that they would retain the land themselves. Lincs Legal Services advised both the District and Parish Councils that there was no obligation on the part of the developer to transfer the land and it was acceptable in planning terms for them to retain the land and manage it themselves as part of the landscape for their development.

The main issue here is that the landscaping of the area has not taken place. I shall be reopening this part of the case to see if the landscaping condition can still be enforced.

I hope the above explanations assist the Parish Council. As you know these issues have been on going for a number of years now and I as well as you would like to resolve them. With regard to the transfer of the playing field land we will endeavour to re-open discussions with Alison and Cadle to transfer the land and the maintenance payment. However I will need confirmation from the Parish Council that they are happy to complete the transfer and that their solicitors have been instructed to act for them in this matter. I will also be investigating what action can be taken to ensure that the landscaped area is finished off to the appropriate standard.

Additionally your statement presented at the Development Management Committee contains other questions. I am at present investigating these issues and will respond when I have the relevant information.

In the meantime please give me a ring if you wish to discuss any matters in this email.”

The second question was from a Mrs Mallinson regarding the same landscaping area as referred to above.

To Mrs Mallinson

“Following your questions at the Development Management Committee on 19 October I initiated a full review of the landscaping conditions which applied to this site. This has included investigating the matter fully with all the current staff who have had an involvement with this site. Obviously this investigation has taken longer than I originally anticipated and therefore I was not able to get a full reply out to you by 4 November, for which I apologise.

During the course of my investigation I note that this is not the first time you have raised this issue with the Department and you had a full response to the landscaping issue from Mrs Bentley on 7 April 2011 (I believe you referred to this letter at the Development Management Committee). For clarity I attached a copy of this letter.

As part of this investigation I have gone through the file with Mrs Bentley to see if there was anyway that the landscaping condition could be enforced. It is her view and the view of Simon Sharp that the landscaping condition is not now capable of being enforced.

Officers of this Department have been trying to liaise with the developer – Alison and Cadle – to get them as a gesture of good will to landscape this site. To date they have not responded to our letters and emails. We are also examining less conventional ways of seeing how this site could be landscaped; however we do need the agreement of the land owner in order to implement any of these solutions.

As you will appreciate this has proved to be a troublesome site and its planning history goes back some years. The difficulties which have arisen with it are principally related to how the various applications made on this site over the years have been dealt with. This Council has since changed the way it deals with applications of this nature so that this situation is unlikely to arise again. I know that this is of little comfort to you as you have been expecting this land to be landscaped in accordance with the condition and I once again apologise for any difficulties this might have caused you.”

54 MINUTES

Meeting of the Development Management Committee held on 19 October 2011

RESOLVED that the Minutes of the meeting of the Development Management Committee held on 19 October 2011 be confirmed and signed as a correct record.

55 MEMBERS' DECLARATIONS OF INTEREST

Councillor David Cotton declared that he knew the family of the applicant for Item 4, and although he did not feel that the interest was prejudicial he would refrain from taking part in the discussion and voting on the application.

Councillor Leaning declared a personal interest in Item 3 as he was a member of the Witham Drainage Board.

Councillor Fleetwood declared a personal interest in Item 3 as he was a member of the Witham Drainage Board, on the Board of the Environment

Agency and also a member of the County Council and Cherry Willingham Parish Council.

56 UPDATE ON GOVERNMENT CHANGES TO PLANNING POLICY

The Development Management Team Leader informed Members that there were no updates that affected consideration of matters before the Committee at this meeting other than that the Localism Bill had received royal assent yesterday and was now law. Updates would be given in due course.

57 PLANNING APPLICATIONS FOR DETERMINATION (DM.16 11/12)

RESOLVED that the applications detailed in report DM.16 11/12 be dealt with as follows :-

Item 1 - 127518 - Nettleham

Planning application for the erection of four detached dwellings and a replacement dwelling

The application had been the subject of a site visit as agreed at the previous meeting (minute 49 refers), and appreciation was expressed to all involved in the organisation of the visit. The Development Management Team Leader clarified the officer's reasoning for recommending a site visit on this application prior to consideration. The recommendation was principally due to the proximity of a Scheduled Monument, an historical asset of the highest significance.

The Development Management Team Leader updated the Committee on representations that had been received on the application, and read out the statement submitted by Councillor Sellars (Ward Member). Councillor Sellars expressed concern on matters of overshadowing and loss of privacy. The Scheduled Monument was a tourist attraction in the area and the Parish Council took care to look after this asset to the village. Concern was also expressed that no archaeological survey was planned.

Nettleham Parish Council had submitted that the amendments made to the plans did not alter their objections. Further comments had been received from neighbours reiterating previous objections and noting that the amendments make the situation worse than the original design. The impact on residential amenity was raised, and also the presence of bats. The Development Management Team Leader noted that the likely impact on bats would be low, but this could be addressed through conditions should the Committee be minded to grant permission.

No comments had been received from English Heritage.

John Evans of Nettleham Parish Council addressed the Committee and slides of an aerial view were displayed. This was the fourth attempt to gain permission for housing development on this site, all previous applications had been refused, subsequently appealed and then dismissed. The proposals conflicted with many policies. Concerns were raised on matters of height, screening, the impact on neighbours' gardens, the inappropriate design on the edge of a conservation area and the need for a full archaeological survey. The scheme itself was a good one, but this should not override the heritage aspects.

Andy Booth, agent for the applicant then spoke to the meeting, stating that he was happy with the report and its recommendation, which he felt addressed all of the issues and expressed his thanks to officers for their assistance. Mr Booth described how the application sought to respond positively to the needs of the site, and how this was an exemplar scheme with sustainable standards. Such high level schemes should be promoted.

Richard Georgeson, objector to the scheme then spoke on the application. Mr Georgeson raised issues of the proposed development overlooking the neighbouring gardens, particularly plot 4. The loss of light and proximity of the road were additional issues. A petition had been submitted the previous day containing signatures of residents opposed to the development. Mention was also made of one resident who had an extension to their home to enable a disabled person to sleep on the ground floor, there would be a particularly detrimental impact on this property.

Mark Brownrigg also spoke against the application and raised further issues relating to the impact on the character of the area, granting the application would set a dangerous precedent on the fringe of a scheduled monument. Respect should be accorded to the local environment and existing housing, the proposal was in conflict with the Nettleham Village Design Statement. Further matters relating to damage to the water table and the disturbance from vehicles were also raised.

Alan Bonney then addressed Members of the Committee raising concerns that the historic setting had not been given sufficient attention. He noted that the Lincolnshire Historic Society had required that no digging take place between the boundary and the first property, so queried where drainage would be located.

Councillor Malcolm Leaning (Ward Member) then spoke at length on the application stating that all the representations received, the speakers at the meeting, officers' opinions and the site visit all need to be taken into consideration, and also the verdicts of the Planning Inspector on the previously submitted appeals. Councillor Leaning then cited all the reasons given by the Inspector for dismissing the appeals and that these issues remained valid concerns. A further issue of Nettleham's housing land supply being exceeded was also raised. Councillor Leaning agreed that the scheme was exemplary but there was not justification for overriding the heritage.

Councillor Leaning then proposed that the application be refused, citing the relevant policies.

The Development Management Team Leader clarified that in annex B of Planning Policy Statement PPS3 gardens were no longer classified as previously developed land, and that the density target in this same statement was no longer in place. The West Lindsey Development Plan was the first consideration unless material considerations dictated otherwise. The Council's Corporate Plan gave a commitment to energy reduction, and weight could be afforded to this. The Nettleham Village Design Statement was also a material consideration

Committee Members then discussed the application further stating that there had been no material change since previous applications had been refused, there was a lack of compliance with the Village Design Statement and concern was expressed regarding the impact on neighbours, particularly no. 17. Acknowledgement was given by several Members that the scheme was imaginative sustainable development and would be welcomed in a more appropriate location. The aerial photographs were referred to and it was noted that the archaeological site could conceivably extend further than was supposed and that the existing properties may even be built on part of the monument and the site been eroded over the last century. The motion to refuse the application was then seconded and voted upon.

It was **AGREED** that the application be **REFUSED** for the following reasons:-

- 1) The development does not take full account of the need to protect the environment with regard to the impact on the character, appearance and amenities of neighbouring and other land, including visual encroachment into the countryside and (criteria vii) the impact on the character, appearance and the setting of a historic asset (Scheduled Monument) and as such is contrary to policy STRAT1 of the West Lindsey Local Plan First Review, specifically criteria vi and vii.
- 2) The development will conflict with criterion (iii) of policy STRAT6 as it would be significantly detrimental to the amenities of adjoining or nearby occupiers and all proposals must be on previously developed land whereas this site is garden land.
- 3) The development will conflict with policy STRAT9. No site, whether brownfield or greenfield, allocated or not, will be released if to do so would be premature, as adversely affecting the Council's management of the housing land supply.
- 4) The development will conflict with policy RES1. Planning permission will be granted provided that proposals are satisfactory with regard to the impact on the amenities of nearby residential properties which this is not.
- 5) The development will conflict with policy RES3 as it is tandem development that will lead to a significant level of nuisance resulting from the

movement of vehicles to and from proposed development past existing residences.

6) The proposals contained within the planning application will conflict with policy HE9 of PPS5, the harm of the setting of the significant ancient monument.

Item 2 - 127509 – Gainsborough

Planning application for residential development comprising 35 dwellings and related infrastructure

The Committee was reminded that the application had been deferred from the previous meeting to allow for negotiation on some aspects of the proposals. The Development Management Team Leader presented the revised application and stated that the applicant had responded favourably to the previous concerns. The Lincolnshire Wildlife Trust had noted from the ecological survey submitted by the applicant, that a badger sett was on the site, but this was considered to be old and no longer in use and a licence to close the sett would be sought from Natural England.

Note Councillors Cotton and Milne declared personal interests at this point as being members of the Lincolnshire Wildlife Trust.

Neil Kempster of Chestnut Homes addressed the Committee affirming that the points raised by the previous meeting had all been amended and that the company had been happy to do so, this had led to an enhanced development. The proposals were for the final stage of a wider development and it was proposed that work would commence as soon as possible. Negotiations were ongoing with social landlords and the affordable housing part of the development was planned to be the first stage of work. There would also be the benefit of economic activity to the area.

The Ward Member for the area complemented the Developer and officers on the work that had been done to reach a solution agreeable to all parties, and sought assurance that Plot 2 had no permitted development rights. This matter was addressed in condition 18.

Note Councillor Curtis declared a personal interest at this point as he knew the Director of Chestnut Homes.

It was moved, seconded, voted upon and **AGREED:-**

That the decision to grant permission subject to the conditions detailed in the report be delegated to the Planning & Development Services Manager upon:-

- the expiration of the consultation and publicity period for the amended plans, subject to no new issues being raised in

representations received which have not already been addressed in the report below and;

- the signing and completion of a section 106 agreement pertaining to the provision of affordable housing (subject to viability), fire and rescue infrastructure and public open space provision and management.

Item 3 - 127112 – Cherry Willingham

Planning application for development of a 220 berth marina with access to the moorings from the river Witham and marina building incorporating a chandlery, workshop, cafe and customer facilities. Also, 40no. 2 bedroom holiday lodges, 24no. bedroom hotel with attached restaurant-bar, landscaping and open space improvements and improved access from Fiskerton Road East incorporating a right turn ghost island.

The Senior Development Officer updated the Committee on comments that had been received from Councillor Irmgard Parrott (Ward Member) who was unable to be present. Councillor Parrott had noted that a petition had been submitted five years ago requesting a footpath to the river from the village, this development would secure that amenity, as well as developing tourism and providing jobs for the area.

The Senior Development Officer then stated that 20 further representations had been received and summarised these as being mainly concerns regarding the design of the buildings and accidents on the roads.

No objections had been raised by statutory consultees. LCC tourism had said that there was a demand for moorings nationally and it had been raised that flood defences were of paramount importance and the development would assist in keeping boats off the main waterway. The Parish Council had felt that the location of the hotel in the amended plans was better but had concerns about the scale and design of the building.

Access to the river would be covered in a legally binding agreement in the form of a public bridleway which would be opened prior to implementation of the rest of the development. Further discussions were ongoing with County highways officers and a construction traffic method statement was to be drawn up as required by a proposed condition. Consideration was to be given to a maintenance regime for public areas, and it would be ensured that the accommodation would be for holiday makers only.

Councillor Mrs Robinson of Cherry Willingham Parish Council then spoke to the meeting stating that extensive consultation had been undertaken with residents. There was broad support for the project but some concerns remained, not all of which would be addressed by the S106 agreement. Active pursuance of a bridge was being sought. The Parish Council were concerned about road safety and felt that the £5,000 contribution for traffic calming was insufficient. The footpath on Fiskerton Road was of particular

concern and Cllr Robinson urged the Committee to undertake a site visit to see for themselves. Other concerns were regarding the design of the hotel buildings, two storeys on raised land would be too prominent and the design was too large and too stark.

Mrs Hazel Larcombe then addressed the meeting saying that she had lived in Cherry Willingham for 50 years and in recent times had seen many centres of employment disappear. The proposed development estimated the creation of 60 jobs, and access to the river would enhance leisure provision and a water bus to Lincoln would be a good idea. There was no desire to allow the village to become a retirement home, regeneration was needed.

The agent for the applicant, Phil Scrafton was next to address the Committee. Mr Scrafton described how the applicant had liaised with Lincolnshire Waterways and been in discussion with the community regarding design and siting of the project. Jobs provided would be of benefit to the area, and there was to be a traffic calming contribution along with the public footpath to remain in perpetuity, and public amenity land. The project was to be carefully phased to ensure best public benefit.

Councillor Anne Welburn (Ward Member) then spoke on the application and distributed photographs showing the road, which she felt required robust traffic calming measures to address the serious problems, which had caused accidents in recent times. The speed limit had been reduced to 40 mph but traffic still went too fast. A roundabout had been requested but rejected. It was estimated 500-700 cars per hour used the road at quiet times, at peak times the road was as busy as the A15, so some traffic calming system was definitely necessary.

The Development Management Team Leader clarified that officers had assessed all the relevant material considerations including those raised by the parish and residents.

Councillor Fleetwood (County Councillor) felt that the project would be good for the area, in terms of jobs and leisure, but that he was concerned about the traffic implications and felt that the £5,000 provision was insufficient. Councillor Fleetwood proposed a site visit for Members of the Committee to assess the site for themselves.

The site visit proposal was then seconded, and it was requested that an officer from County highways also attend. It was also suggested that Rob Lawton of West Lindsey Council could attend for consideration of the architectural aspects of the proposal.

The site visit was then voted upon and **AGREED**.

Note Councillor Cotton requested that it be recorded that he had voted against a site visit.

Note The meeting then adjourned for a comfort break.

Item 4 - 127589 and 127615 - Riseholme

Planning application and Listed Building Consent for conversion of nursing home to 7 maisonettes.

The Development Management Team Leader reminded the Committee that previous applications had been brought before this committee for this site. In terms of viability and enabling development, valuations from an estate agent had been received which had been initially checked by both himself and Nick Ethelstone (the Council's Development Contributions Officer). Early indications appeared to show that the previously permitted three units were not now viable as enabling development to secure the preservation of the listed building but the seven units would. The three units would yield a combined value of around £570,000 whereas seven dwellings would yield £725,000.

Rob Bradley, agent for the developer spoke on the application. Mr Bradley described how the Nursing Home use for the building has not been in existence for over 10 years and the owner was trying to bring the building back into use. The proposal would be feasible and financially viable, and the restoration was intended to be sensitive, with no split of the grounds and minimal external alteration. The traffic impact would be minor and although there was no desire to dismiss the concerns of neighbours, the nearest was around 80 metres away.

No objections had been received from Councillor Sellars (Ward Member) and Councillor Leaning (Ward Member) agreed that there were no planning reasons to object. There was a need to find a use that would preserve the historical asset.

The Development Management Team Leader confirmed that the condition of the building was being monitored for deterioration and, if any of the permitted schemes were not implemented and the building deteriorated further, then action would be taken

Members afforded significant weight to the enabling development consideration and agreed with the weight afforded by officers to other issues. .

It was then moved, seconded and voted upon, and it was **AGREED**

That the decision to grant permission and listed building consent subject to the conditions detailed in this report and (for the planning permission) the securing of an affordable housing provision through legal agreement (if viable), be delegated to the Planning & Development Services Manager subject to that Manager being in receipt of written evidence demonstrating that the proposal is required

as enabling development and that no other funding is available at this time to negate the need for such development

Item 5 - 127060 – Market Rasen

Planning application for demolition of existing garage block - comprising three single domestic garages - and erection of pair of semi-detached dwellings on site of garages

The Development Management Team Leader informed the Committee that the application had been considered in June 2011 and there was a requirement that if a S106 agreement was not completed, applications could be brought back for further consideration. The application before them was a request to remove the S106 requirement for affordable housing provision.

Tim Langdale-Smith then addressed the Committee to object to the proposal on the grounds that the neighbouring properties were Grade II listed buildings and were the oldest in Market Rasen. The garages were built behind for the use of those houses to enable off road parking. The right of way behind those houses was already limited and this would reduce the scope of the proposed development. The proposed development would also reduce the light to numbers 38 and 39.

Members debated the merits of the S106 agreement and some were of the opinion that the proposed development was for one bedroomed properties, so that if permitted development rights were removed, this would effectively make them affordable housing. This was moved and seconded, but then the seconding was withdrawn.

Other Members felt that as they had previously resolve to grant permission subject to the completing and signing of section 106 agreement that would secure the provision of both dwellings as affordable housing , and that this agreement had not been entered into, then there were no other reasons for supporting the proposal. The applicant should have signed the agreement.

It was moved, seconded and voted upon that the application be **REFUSED** for the following reasons;

In the absence of the provision of affordable housing being secured, there were no other reasons for supporting this development in this location

58 MEMBERS SITE VISIT – APPLICATION 127585 - NEWTON TRENT (PROPOSED DEVELOPMENT BY ANGLIAN WATER) (DM.17 11/12)

The report related to a current planning application. A finely balanced material consideration was the impact on the adjoining Scheduled Monument and associated non-designated heritage assets. A site visit by Members would

enable the Committee to appraise the juxtaposition of the application site and the heritage assets.

It was moved and seconded that a site visit take place prior to consideration of the application. Details to be agreed at the end of the meeting, and if possible to be arranged to coincide with the Cherry Willingham site visit.

RESOLVED that members agree to undertake a site visit at Newton on Trent.

59 ENFORCEMENT QUARTERLY UPDATE (DM.18 11/12)

The Development Management Team Leader updated the meeting on progress that had been made on two enforcement cases, and assured Members that action was taken when it was necessary and expedient to do so.

Members noted that it would be useful to have the definitions of the priority categorisations within the report. These were listed on the Council's website, so it would be possible to provide a weblink within the reports. It was affirmed that cases could change priority category, and that those incidences which were felt to be a danger to the public were those categorised as high priority.

RESOLVED that

- The report be noted, and
- The appreciation of the Committee be passed to the enforcement team.

60 TREE PRESERVATION ORDER (DM.19 11/12)

The report sought confirmation of a Tree Preservation Order to protect one tree on a playing field at Market Rasen.

RESOLVED that the tree preservation order be confirmed.

61 DETERMINATION OF APPEALS

RESOLVED that the determination of appeals be noted.

62 SITE VISIT

It was **AGREED** that the site visit take place on Friday 2 December, leaving the Guildhall at 9.30am. Details to be agreed.

The meeting concluded at 9.35 pm

Chairman