

BRECKLAND COUNCIL

At a Meeting of the

DEVELOPMENT CONTROL COMMITTEE

**Held on Monday, 15 February 2010 at 9.30 am in
Anglia Room, The Conference Suite, Elizabeth House, Dereham**

PRESENT

Councillor E. Gould (Chairman)	Mr J.P. Labouchere
Councillor Claire Bowes	Mr T.J. Lamb
Mrs M.P. Chapman-Allen	Mr S. J. F. Rogers
Mr P.J. Duigan	Mr B. Rose
Mr P.S. Francis	Mr F.J. Sharpe
Mr M. Fanthorpe	Mrs P.A. Spencer
Mrs D.K.R. Irving	Mr N.C. Wilkin (Vice-Chairman)

Also Present

Mr A.C. Stasiak	- Ward Representative
Ms C Sheridan	- North Norfolk District Councillor

In Attendance

Heather Burlingham	- Assistant Development Control Officer
John Chinnery	- Solicitor & Standards Consultant
Sheila Cresswell	- Committee Officer
Phil Daines	- Development Services Manager (Capita Symonds for Breckland Council)
Zoe Footer	- Land Management Officer
Michael Horn	- Legal Services Manager (For Agenda Items 4 and 6 only)
Helen McAleer	- Committee Officer
Nick Moys	- Principal Planning Officer (Major Projects) (Capita Symonds for Breckland Council)

Action By

25/10 MINUTES (AGENDA ITEM 1)

The minutes of the meeting held on 25 January 2010 were confirmed as a correct record and signed by the Chairman.

26/10 APOLOGIES (AGENDA ITEM 2)

Apologies for absence were received from Mr R Kemp and Mr M Spencer. Mrs Irving had also sent apologies as she would be arriving late (she arrived at 10.35).

**27/10 DECLARATION OF INTEREST AND OF REPRESENTATIONS
RECEIVED (AGENDA ITEM 3)**

Members and Officers were asked to declare any interest at the time the applications were introduced.

Members had received direct e-mail representation in respect of Schedule Item 5 (Attleborough).

Mr F Sharpe declared that he was 'predetermined' in Agenda Item 9 (Schedule Item 1 – Harling) by virtue of being a member of the LDF Task & Finish Group and he left the room whilst it was discussed.

Action By

Mr B Rose also declared that he was 'predetermined' in Agenda Item 9 (Schedule Item 1 – Harling) by virtue of being a member of the LDF Task & Finish Group, and he took no part in the discussion/vote.

28/10 CHAIRMAN'S ANNOUNCEMENTS (AGENDA ITEM 4)

The Chairman asked the Head of Legal Services to address the Committee.

The Head of Legal Services drew attention to the result of the Abbey Barns, Thetford inquiry (at Agenda Item 15) and said that since some of the officers had been subject to professional and personal criticism it was gratifying that the Council's views had been confirmed by the Secretary of State.

A Member agreed and said that the Abbey Barns applications had gone on for too long. He noted that all six appeal decisions noted on the Agenda had been won by the Council and he congratulated the Officers on their professionalism.

29/10 URGENT BUSINESS (AGENDA ITEM 6)

The Head of Legal Services updated Members on the situation with regard to the Ashwell's site at Kilverstone Park, Thetford which had been discussed at the Development Control Committee meeting held on 12 October 2009. At that meeting Members had authorised variations to the legal agreement.

Draft variation papers had been sent to Ashwells, but they had not responded and had subsequently gone into administration. The Company had since become Brookgate Development Management Limited. The Head of Legal Services had visited their Cambridge offices on 4 February 2010 and advised them that the financial obligation under the legal agreement was imposed on all owners of the land and that the Council was considering taking enforcement action to recover the money from Brookgate Development Management Limited.

In response they had written a letter dated 11 February 2010 (copies distributed to Members) asking that the Council desist from taking enforcement action for three months to allow the land to be sold and the financial contribution to be paid.

The Head of Legal Services advised Members that if the Council was to start proceedings they would take in excess of three months to conclude. The charge on the land would remain and could be pursued at any time. He believed that Brookgate was trying to market the land and honour the agreement.

Members sought clarification on the following points:

- would the charge on the land prevent its sale?
- might a successful sale mean that the developers would avoid payment? and
- where did the Council stand in respect to other Creditors?

In response the Head of Legal Services advised Members that:

Action By

- the charge should not prevent the sale of the land;
- the obligation would pass to the new owner if not paid off by the current owner; and
- as the legal agreement had been drawn up before the charge on the land the Council would be ahead of any banks that might also be creditors.

A Thetford Member was pleased with the strong stand taken and congratulated the Officers concerned.

RESOLVED to allow Brookgate Development Management Limited three months to market the land, and to authorise enforcement proceedings including an injunction if necessary, in three months time.

30/10 LOCAL DEVELOPMENT FRAMEWORK (AGENDA ITEM 7)

The Development Services Manager told Members that there had been a further meeting of the LDF Task & Finish Group at which the settlement boundaries of the parishes in the South East of the district had been discussed. There would be one further meeting on 25 February, following the Council meeting.

Recommendations from all the meetings would be presented to Cabinet for decision and then a six week consultation with all interested stakeholders would take place.

An Attleborough Member asked if the land for the proposed 4,000 houses in that town had been identified yet. The Development Services Manager advised him that the Attleborough Task Force would be dealing with that issue in their Area Action Plan. The Plan would follow a similar path to that of Thetford and would pass through the usual Committees.

31/10 HARLING: PROPOSED RESIDENTIAL DEVELOPMENT, LOPHAM ROAD FOR MR D TAYLOR: REFERENCE: 3PL/2009/1065/F (AGENDA ITEM 9)

The recommendation for this item was clarified. The report had the correct recommendation and the original schedule was wrong. (A replacement page for the schedule had been issued under a supplementary agenda.) This item was recommended for refusal.

The Solicitor explained that he had been asked if LDF Task & Finish Group members who had considered the allocation of this site for development, were pre-determined. He advised that as no permanent decision had been made by the Group it was up to individual Members to decide if they could come to this meeting with an open mind. If so they could take part.

Mr F Sharpe decided that as a member of the Group he had already pre-judged the suitability of this site. He left the room whilst it was discussed.

Mr B Rose also felt that he had made his mind up and said that he would not take part in the discussion. The Solicitor advised him that it was not necessary for him to leave the room.

The Principal Planning Officer (Major Projects) presented this application for the erection of 15 dwellings, an area of Public Open Space and the

Action By

construction of a new access/estate road. He explained that there were differences to a previous application for development on this site which had been refused and was subject to appeal which was to be heard at a public inquiry on 17 February 2010.

The layout had been changed to incorporate a central area of Open Space (previously this had been located to the rear of the site raising personal security concerns). The design was similar to that on the adjacent site.

It was noted that Harling Parish Council had objected as previously.

Officers were concerned that approval of this site would undermine the LDF Site Specifics process which had yet to be consulted on.

Mr Scott-Brown, agent, said that the Government required the Council to hold a five year housing land supply. He said this application should not be seen as taking away from the LDF provision, which covered a 20 year time frame and did not address short term supply. He said the site performed well in policy terms and he asked Members to support it.

Mr Taylor, applicant, said that a traffic study had been done the previous week and about 1800 vehicles used the junction daily, and no accidents had been recorded. With regard to trees there would be some dappled shading of amenity areas in the mornings only and a root protection scheme would be adhered to during construction. If the application was approved it would still leave 25 dwellings for the LDF allocation.

A Member was concerned that the LDF preferred site for development in Harling might never come forward. He said that Harling was a substantial village and that offers of development should be grasped to support the services existing in the village.

The Development Services Manager advised that Officers felt that this additional proposal would adversely affect the development of Harling as a whole. Under the LDF process there was one preferred site and three other reasonable alternatives (of which this site was one) and all would be put forward for public consultation.

Some Members were concerned that this application should not be approved in advance of the LDF decision. Another Member asked whether this application had to be considered as part of the allocation of 50 houses for Harling, or could it be considered separately to address the Council's housing land supply shortage.

The Principal Planning Officer (Major Projects) said that it was an issue of 'where to draw the line'. The five year housing land supply shortage applied to the whole district. It was a question of proportion and Officers had considered that allowing the site for ten dwellings was acceptable but that it would not be reasonable to allow more. These developments had always been considered as part of the LDF allocation. PPS3 did not suggest a free for all and gave clear criteria for including general planning policy and strategy in the decision making process.

RESOLVED to refuse the application on grounds of:

- (1) conflict with Policy DC2 of the adopted Core Strategy and failure to satisfy the requirements of national policy

Action By

- contained within PPS3;
- (2) impact on trees; and
- (3) highway issues.

32/10 HARLING: PROPOSED RESIDENTIAL DEVELOPMENT, LOPHAM ROAD FOR MR A TAYLOR/MR D TAYLOR: REFERENCE: 3PL/2009/1066/F (AGENDA ITEM 10)

The recommendation for this item was clarified. The report had the correct recommendation and the original schedule was wrong. (A replacement page for the schedule had been issued under a supplementary agenda.) This item was recommended for approval.

This application was for the demolition of existing commercial buildings, the erection of ten dwellings, provision of open space and the construction of a new access and estate road. A similar application (with a different layout and minus the open space) had been approved by Committee in January 2009.

The site was outside the Settlement Boundary and had been approved as it performed well against Planning Policy PPS3 in respect of sites assessed in light of the Council's five year housing supply shortage.

The current application had been updated to take account of Core Strategy Policy changes in respect of Open Space and affordable housing.

Mr Taylor, applicant, said that they were ready to proceed with development. All facilities were ready to be connected and contractors were on stand-by. The layout had been re-designed to provide an area of Open Space in the middle of the development and to accommodate proposals to develop the adjacent site. The two sites together would deliver ten affordable homes and two new areas of Open Space. There was a significant shortfall of houses in the area and over 300 people on the waiting list.

A Member was concerned that the new layout pushed the houses too far back in the site, leaving them with very small rear gardens and Mr Taylor advised that he had recently submitted an amended plan to address this issue.

Another Member asked why a mature tree was to be removed and what would replace it? It was to be removed to meet Highway safety requirements and would be replaced by several different trees.

Finally a Member felt that approval of both sites ahead of decisions under the LDF Site Specifics process would be unfair to people who had applied to have land included.

RESOLVED that the application be deferred and the officers authorised to grant approval, subject to conditions, on completion of the section 106 agreement referred to in the report.

33/10 WATTON: PROPOSED RESIDENTIAL DEVELOPMENT, 119 NORWICH ROAD FOR S & A JONES DEVELOPMENTS LTD: REFERENCES: 3PL/2009/1084/F (AGENDA ITEM 11)

This application proposed the erection of 14 dwellings, the construction of a

Action By

new access road and the provision of an area of Public Open Space. A previous submission for the erection of 29 dwellings and had been withdrawn because of objections in relation to policy matters and concerns about the overall scale of development.

This significantly reduced proposal was considered acceptable. The site was brownfield and did not extend into the countryside. It was close to facilities and performed well against PPS3 criteria in respect of the Council's housing land supply shortage.

The density was low but given the character of the area and the ample provision of smaller dwellings on other developments in Watton, this site would meet a need for larger properties. Due to the size of the houses it was proposed to provide a contribution to off-site provision of affordable housing to be secured through S106.

Mr Futter, agent, said that this relatively small development in LDF terms, met all the planning criteria, was consistent with the character of the area and filled a huge gap in Watton for larger properties. It was a well designed scheme with a sense of place.

A Member sought reassurance that the development could not be built without the roadway being provided and Mr Futter confirmed that a bank bond would be provided to Norfolk County Council under the terms of a Section 38 agreement.

A local Member supported the scheme which she considered to be well designed and spacious, reflecting the period houses around it.

RESOLVED that the application be deferred and the officers authorised to grant approval, subject to conditions, on completion of the section 106 agreement.

**34/10 PROPOSED ANAEROBIC DIGESTION UNIT ON LAND AT
ATTLEBOROUGH POULTRY FARMS OFF THE B1077**

Members had received direct e-mail representation in respect of this application.

The Principal Planning Officer (Major Projects) presented this full application for an on-farm anaerobic digestion unit including a combined heat and power plant (CHP), gas storage vessel and underground storage tanks, silage clamp and a lagoon for the storage of feedstock and digestate. A new access road was also proposed.

A similar application had been withdrawn last year following objections raised by the Environment Agency.

Since writing the report the comments of Great Ellingham Parish Council had been received and they were objecting to the application. The number of representations received had also risen to approximately 60.

The main issues to be considered were landscape impact and the effect on amenity.

Although the Environment Agency had raised strong objections to the previous application on grounds of smell, none had been raised this time as

Action By

they considered the matters could be dealt with by the permit requirements which could control all environmental effects and the day-to-day management of the unit.

Officers felt they had received conflicting advice which put them in a difficult position. Planning advice required any planning permissions to be complementary to permit requirements and more information had been requested from the Environment Agency on these requirements. This additional information had only recently been received.

In light of the above, the recommendation of refusal was amended and Members were asked to defer the application to allow an opportunity for detailed consideration and public consultation of the additional information.

Mr Irvine, objector, had concerns about pollution of groundwater, the effect on local jobs and the Environment Agency permit requirements. However, due to the time constraints he wished to focus on highway safety concerns. He said that the assessment submitted with the application contained errors and presented a false impression as figures had been gathered during the school holidays. There were three access points to be considered but only one visibility splay was to be conditioned and he was concerned about the access into the lay-by, which was frequented by HGVs.

Mr Stasiak, Ward Representative, thought that the application was flawed and should be refused. He raised the following concerns:

- highway safety issues as the B1077 was a very busy road;
- only one person would be required to look after the unit, but it might lead to the loss of 10-20 jobs;
- the fuel supply for the unit might have to be brought in from long distances in the future;
- land for the visibility splay was not in the ownership of the applicant; and
- odour would be a problem and the nearest dwelling was only 250m away.

Distances were clarified: the nearest dwelling was 250metres from the unit and the nearest public building (a veterinary practice) was 160metres. For a standard Environment Agency permit no public building should be within 250metres, but a bespoke permit could be issued.

Members discussed the potential for smell and also the risk of airborne spores from the rotting materials carrying disease. They were surprised that the applicant was not present to answer questions and one sought further clarification from the objector about his Environment Agency permit concerns.

Mr Irvine explained that the standard guidance was that no public building should be within 250metres. He believed that the nearest public buildings were in fact the adjacent turkey sheds, which were only 25metres from the unit and employed ten members of staff. These sheds were specialist breeding units and they would probably have to move if permission was granted, because of the smell, leading to the loss of ten local jobs.

The Solicitor advised Members that the Committee had powers to look at the wider context, but they needed sufficient information. On paper there was no objection from either the Environment Agency or the Highways Authority. Pollution, noise and traffic issues needed to be overcome and he

Action By

did not consider that the Committee had sufficient information to either approve or refuse the application.

After some further discussion a Member moved that the application be deferred and this was seconded by the Chairman.

RESOLVED to defer the application for additional clarification, and to request attendance by representatives of the Applicant, the Environment Agency and the Highways Authority, when the application returned to Committee.

35/10 SCHEDULE OF PLANNING APPLICATIONS (AGENDA ITEM 13)

RESOLVED that the applications be determined as follows:

- (a) Item 1: Harling: Land east of Lopham Road: Residential development – 15 units (re-submission of 3PL/2009/0589/F) for Mr David Taylor: Reference: 3PL/2009/1065/F

Refused, see Minute No 31/10.

- (b) Item 2: Harling: Land east of Lopham Road: Demolition of redundant industrial buildings and erection of 10 No houses (re-submission of 3PL/2008/0579/F) for A Taylor and D Taylor: Reference: 3PL/2009/1066/F

Approved, see Minute No 32/10.

- (c) Item 3: Watton: 119 Norwich Road: Demolition of existing bungalow and redevelopment of site with residential development and ancillary works for S & A Jones Developments Ltd: Reference: 3PL/2009/1084/F

Approved, see Minute No 33/10.

- (d) Item 4: Attleborough: Land to west of Stony Lane: Installation of on-farm electricity generator with anaerobic digestion plant, lagoon, access, balancing pond and storage for SS Agriservices & P J Southgate: Reference: 3PL/2009/1143/F

Deferred, see Minute No 34/10.

- (e) Item 5: Thetford: Land between Mundford Road and Thetford Bypass: Revised details for construction of roundabout to business park for The Crown Estate: Reference: 3PL/2009/1202/D

This application sought an amendment to reserved matters approval for the construction of a new roundabout. A reduction from 45 to 40 metre diameter was requested. The roundabout had been designed by the Highways Authority to provide good access and no objection had been received from either the Highways Authority or the Highways Agency.

Only sufficient hedgerow would be removed to provide access to the Enterprise Park and comprehensive landscaping requirements had been attached to the original outline approval.

Approved, as recommended.

Notes to the Schedule

<u>Item No</u>	<u>Speaker</u>
1	Mr Taylor – Applicant Mr Scott-Brown - Agent
2	Mr Taylor - Applicant
3	Mr Futter - Agent
4	Mr Stasiak – Ward Representative Mr Irvine - Objector

Written Representations taken into account

<u>Reference No</u>	<u>No of Representations</u>
3PL/2009/1065/F	1
3PL/2009/1066/F	1
3PL/2009/1084/F	3
3PL/2009/1143/F	128

**36/10 APPLICATIONS DETERMINED BY THE DEPUTY CHIEF EXECUTIVE
(AGENDA ITEM 14)**

This item was noted.

37/10 APPEAL DECISIONS (AGENDA ITEM 15)

This item was noted.

38/10 MEMBER BRIEFING

Councillor Candy Sheridan (North Norfolk District Council) was in attendance to give Members a short briefing on gypsies and travellers. She was a twice elected North Norfolk District Councillor and had served for seven years on their Planning Committee. She was also Chairman of the Broads Authority Planning Committee, Chairman of the Gypsy Council and an East of England Development Worker for the Gypsy Traveller Community.

She came from a long line of travellers, which were the largest ethnic group in Norfolk. It was a diverse group with many issues, quite different from 'new travellers' who were not the same. In planning terms, someone who lived 'on the road' for five years, qualified as a traveller, but they did not qualify in cultural terms.

She spent a lot of her time working with families, helping them to apply for land. Since the Local Authorities were no longer required to provide sites, travellers were being encouraged to purchase land for themselves. There were many problems associated with this, not least the fact that a proportion of the travelling community were unable to read or write. This led to problems with making applications and resulted in a lot of retrospective planning applications being required.

Time was also a constraint as most land that became available was sold at auction. Many related families wanted to stay together and this caused major problems with too mainly trailers on licensed pitches. There was a

Action By

need to build in capacity for family growth.

A Member asked about the problems of public perception and Candy acknowledged that there were two sides to every coin and there was a need to find some middle ground. She did not feel that there was a 'level playing field'. She felt that currently it was acceptable to exclude travellers and to treat them very differently from the settled community.

The Government had given the travelling community a 'slight advantage' but in many ways this had made it more difficult for them. She was working with families to ensure that they started things off on the right foot and she said it was important that they could have confidence in Local Authorities. She asked Members to treat each application honestly and offered to come back at any time to give advice if required.

The meeting closed at 12.35 pm

CHAIRMAN