

Minutes of a meeting of the **Planning Committee** held at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich on **Wednesday 19 December 2018** at **9.30am** when there were present:

Miss S Lawn – Chairman

Mr A D Adams  
Mr R R Foulger  
Mr R F Grady

Mrs L H Hempsall  
Mr K G Leggett  
Mrs B H Rix

Mr D C Ward  
Mr D B Willmott

Also in attendance were the Head of Planning, Area Planning Manager (MR) and the Senior Committee Officer.

### 57 DECLARATIONS OF INTEREST UNDER PROCEDURAL RULE NO 8

Member	Minute No & Heading	Nature of Interest
Mr Adams	60 (Church Lane, Honingham) and 61 (land west of Blind Lane, Honingham)	Acquainted with one of the speakers as a former Norfolk County Councillor. Had not discussed the application with him at any time.
Mr Foulger reminded the Committee that he was the Portfolio Holder for Housing & Wellbeing		

### 58 APOLOGIES FOR ABSENCE

Apologies for absence were received from Mr Everett, Mr Knowles, Mr Nurden (who was due to substitute for Mr Everett) and Mr J Ward.

### 59 MINUTES

The Minutes of the meeting held on 28 November 2018 were confirmed as a correct record and signed by the Chairman.

### 60 APPLICATION NUMBER 20181177 – DETAILS TO BE APPROVED UNDER LOCAL DEVELOPMENT ORDER CONDITION 2.20 – CHURCH LANE, HONINGHAM

The Committee considered an addendum report by the Head of Planning advising that, on 14 November 2018, the Council received a copy of an application made by Easton Parish Council to the High Court to bring a claim for Judicial Review seeking to quash four decisions relating to the Food Enterprise Park and the proposed milling facility. One of the four decisions being challenged was the Planning Committee's decision to approve the

scheme of highway improvements submitted under application number 20181177. Minute no: 37 of the meeting held on 3 October 2018 referred.

The application sought permission for the details to be approved under condition 2.20 of the Local Development Order (LDO) granted by the Council in October 2017 for a Food Enterprise Park (also known as the Food Hub) on land at Honingham. The LDO effectively granted planning permission for specified agri-tech developments on the site, subject to conditions and that vehicular access to and from the site accorded with the vehicular routing agreement set out in a Section 106 Agreement accompanying the LDO.

The routing agreement specified that all vehicles in excess of 7.5 tonnes visiting the site for the purposes of, and in connection with, the LDO development shall gain access along the permitted route, being Church Lane to the Easton roundabout at the A47. The routing agreement applied until vehicular access was provided between the LDO site and the A47 trunk road. Condition 2.20 of the LDO required details of the scheme of highways works to be submitted and agreed in writing by the Local Planning Authority in consultation with the Highway Authority and, where appropriate Highways England, prior to the commencement of development, including triggers for the implementation of each component of the works

The components of the scheme of works were:

- Realignment/change of priority at the junction of Dereham Road / Church Lane
- A right turn lane from Dereham Road into Church Lane
- A scheme of widening improvements to Church Lane
- Vehicular access to the LDO site either off Church Lane/Red Barn Lane or directly from the A47
- Enhanced footway and cycle facilities to connect with Dereham Road
- The closure of Blind Lane

In the intervening period and before a decision was formally issued for the highway scheme and condition 2.20 being effectively discharged, Easton Parish Council submitted a claim to the High Court to Judicially Review the decision. In light of this legal challenge and also new information submitted to the Council, it was considered necessary to bring the matter back before the Planning Committee.

The Committee had the following papers before it:

- Addendum report by Head of Planning

- Report and Supplementary Schedule from 3 October 2018 Planning Committee meeting
- Easton Parish Council's Statement of Facts and Grounds
- Supplementary Schedule for this meeting containing correspondence from Easton Parish Council and Bryan Robinson of 19 Aldryche Road

The Head of Planning also reported verbally on an update relating to the alignment of the trod. Members noted this was the interim solution for an enhanced footway and cycleway between the site and the Dereham Road junction but Easton Parish Council had objected to the fact that the trod merged with the passing bays. Having regard to these concerns, further work had therefore been undertaken and plans which were initially submitted to the County as part of the S278 submission showed the trod and the passing bays to be fully separated. To enable this to happen the trod crossed Church Lane and continued on the opposite side of the road to St Peters Church. Members' attention was drawn to the fact that this revision continued to respect the setting of the listed church.

The Committee noted the details of this change as part of the visual presentation which was then carried out by the Area Planning Manager.

The Head of Planning advised Members that the key issue before them was whether the submitted details were sufficient and acceptable, and accorded with condition 2.20 of the LDO. In coming to a decision, regard should be had to the NPPF, the National Planning Practice Guidance and development plan policies as well as the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Easton Neighbourhood Plan; with particular reference to whether the submitted details resulted in a detrimental impact upon the Grade I listed Church of St Peter in Easton.

In terms of the Judicial Review, Members noted the key points raised, together with the officer response as detailed in the committee report. In terms of the additional correspondence contained within the Supplementary Schedule, the Head of Planning appraised the Committee of the officer comments in response to the issues raised:

- Letter from Easton Parish Council

Page 1, paragraph 3 – the relevant papers had been served on the parish council

Page 2, paragraphs 1 and 2 – referred to the interim proposals again which had already been addressed

Page 2, paragraph 5 – the S278 was an agreement between the developer and the Highway Authority to allow them to carry out works on the highway and to ensure it was completed to the satisfaction of the Highway Authority. It was not a mechanism to control planning matters.

Regarding some of the other matters raised, it was noted that these related to the acceptability or otherwise of the highway scheme and the proposed trod and the Head of Planning reiterated that the Highway Authority maintained that the scheme was safe and satisfactory. In terms of point 12 concerning the parish council's concerns about forward visibility being reduced when an HGV was waiting at the entrance to the site, the Head of Planning advised that the Highway Authority did not seek to control temporary reductions in visibility splays, such as waiting vehicles. To do so would mean it would not be possible to provide any junction which was located on the inside of a bend. He added that it was the driver's responsibility to drive within their limits of their forward visibility. However, it was recognised that Church Lane narrowed to the west of the development access and so the Highway Authority would consider a "road narrows" warning sign for westbound traffic.

On the points made by Easton Parish Council referring to the previous plans presented to committee being out of date, the Head of Planning advised Members that they had been presented with the most recent set of plans. Although the parish council was requesting further consultation on these plans, it was considered that the latest plans were in response to its concerns regarding the alignment of the trod and as this presented a solution, there was no need to consult further.

- Letter from Bryan Robinson

The majority of the content on page 1 related to his view that condition 2.20 was effectively being changed and that the Planning Committee had no authority to vary the LDO. This view was not accepted by the Head of Planning who advised that he remained content that the Planning Committee could determine the matter.

With regard to page 2, the Head of Planning commented that he fully accepted the point being made in paragraph 3 and drew Members' attention to the correct wording for paragraph 3.5 of the committee report which should read "*three out of the six elements are included in the submitted scheme and the 4<sup>th</sup> bullet point of the trigger document is met in full.*"

Paragraph 5 stated that the condition required a full scheme to be agreed and this was disputed by the Council.

In conclusion, the Head of Planning advised Members that the committee could justifiably approve the submitted details and referred to a new plan number for the alignment of the road, should the committee be minded to approve the application.

The Committee then received the verbal views of Peter Milliken of Easton Parish Council and Bryan Robinson of 19 Aldryche Road objecting to the application and Paul Clarke of Brown & Co (the agent) at the meeting.

Having regard to all the points raised in the Judicial Review, the further correspondence and the amended road alignment, Members concluded that the proposed works were acceptable and would not have an adverse effect upon highway safety nor upon the functioning of the highway network. In addition, it was considered that the works had regard to preserving the setting of the Church of St Peter and this is consistent with the Planning (Listed Buildings and Conservation Areas) Act and Easton Neighbourhood Plan.

Accordingly, it was

### **RESOLVED:**

to approve the following details submitted under Condition 2.20 of the Local Development Order:

- (1) The development hereby permitted shall not be carried out otherwise than in accordance with the following plans and shall be brought into use prior to the first occupation of development on the LDO site:
  - Dwg. No. CL-1011 Rev. P3 – Details of junction for proposed estate road with Church Lane, received 13 July 2018
  - Dwg. No. CL-1010 Rev. P7 – General arrangement of proposed s.278 works on Church Lane, received 15 October 2018
  - Dwg. No. CL-1012 Rev. P3 – Typical construction details for proposed highway works (sheet 1), received 13 July 2018
  - Dwg. No. CL-1013 Rev. P1 – Typical construction details for proposed highway works (sheet 2), received 13 July 2018
  - Dwg. No. CL-1014 Rev. P1 – Typical construction details for proposed highway works (sheet 3), received 13 July 2018
  - Dwg. No. 141222 CL-1015 P9 General arrangement of proposed s.278 works on Church Lane – continuation sheet received 19 December 2018
- (2) Further details in respect of scaled plans are required to be submitted under Condition 2.20 of the LDO, to the Local Planning Authority and agreed, in consultation with the Highway Authority and, where appropriate Highways England, to identify:

- Realignment/change of priority at the junction of Dereham Road / Church Lane
- A right turn lane from Dereham Road into Church Lane
- A scheme of widening improvements to Church Lane
- Enhanced footway and cycle facilities to connect with Dereham Road, including a pedestrian island to the east of St Peters Church, Easton
- The closure of Blind Lane.

These works shall be carried out as approved and brought into use prior to completion of 10,000m<sup>2</sup> of development floorspace on the LDO, unless otherwise determined by the Local Planning Authority where appropriate circumstances apply including but not limited to, if a high traffic generator is proposed within the LDO or if direct access to the A47 can be achieved.

*The Committee adjourned at 10.23am and reconvened at 10.30am when all of the Members listed above were present with the exception of Mr Leggett.*

### **61 APPLICATION NUMBER 20181336 – INFILTRATION LAGOON TO SERVE FOOD ENTERPRISE PARK ON LAND WEST OF BLIND LANE, HONINGHAM**

The Committee considered an addendum report by the Head of Planning advising that, on 14 November 2018, the Council received a copy of an application made by Easton Parish Council to the High Court to bring a claim for Judicial Review seeking to quash four decisions relating to the Food Enterprise Park and the proposed milling facility. One of the four decisions being challenged was the Planning Committee's decision to approve a strategic foul and surface water disposal system submitted under application number 20181336. The application proposed the construction of a new infiltration lagoon and swale to the west of the LDO site which would ultimately collect surface water and the outfall from a private treatment plant which was to be installed in the FEP. Minute no: 39 of the meeting held on 3 October 2018 referred.

In the intervening period and before a decision was formally issued and condition 2.25 being effectively discharged, Easton Parish Council submitted a claim to the High Court to Judicially Review the decision. In light of this legal challenge and also new information submitted to the Council, it was considered necessary to bring the matter back before the Planning Committee.

The Committee had the following papers before it:

- Addendum report by Head of Planning
- Report and Supplementary Schedule from 3 October 2018 Planning Committee meeting
- Easton Parish Council's Statement of Facts and Grounds
- Email exchange with the Lead Local Flood Authority; Anglian Water and the Environment Agency
- Further comments received since the meeting of 3 October 2018 comprising: a joint letter from Easton and Marlingford & Colton Parish Councils; letter from Easton Parish Council; letter on behalf of Wensum Valley Alliance and three letters from Bryan Robinson of 19 Aldryche Road
- Supplementary Schedule for this meeting containing correspondence from Easton Parish Council and Bryan Robinson of 19 Aldryche Road

The Head of Planning drew Members' attention to a change in the line of the swale which had been revised to pull it away from nearby trees and hedging and the Conservation Officer (Arboriculture & Landscape) had considered this to be acceptable (page 95 of the agenda papers referred).

The Committee noted the details of this change as part of the visual presentation which was then carried out by the Area Planning Manager.

The Head of Planning advised Members that the key issues before them were whether the proposed development would result in a significant detrimental impact upon the character and appearance of the surrounding area; drainage issues; highways issues; residential amenity; trees; archaeology and biodiversity, having regard to the NPPF, the National Planning Practice Guidance and development plan policies.

In summary, officers considered that the benefits associated with the proposed development were that it would provide a sustainable drainage solution for the surface water arising from the Food Enterprise Park as well as an acceptable, interim solution for the foul water disposal for up to 20,000sq metres of floorspace. Furthermore, the proposal would allow the Food Enterprise Park to be developed which had significant economic and public benefits as it would allow employment, business growth and associated revenue. Finally, it was the officers' view that the lagoon and swale would not have any adverse impact upon nearby trees and hedges and there would be no significant adverse impact upon the landscape or visual amenity of the

area.

With regard to the quality of the water discharging from the treatment plant it was noted that the Environment Agency would require a permit application and this would assess the volume of effluent and the nature of the environment it is being discharged to. Therefore, the potential risk of pollution would be controlled by the permit regime and there was no need to duplicate these controls as part of the planning process.

In terms of the Judicial Review, Members noted the key points raised, together with the officer response as detailed in the committee report. The Head of Planning drew Members' attention to the specific points as outlined below:

- Para 3.4 on page 74 - concern was expressed regarding how the arisings from the excavation of the lagoon would be dispersed. Members noted that the applicant had confirmed that these would be spread across the adjoining field. This led to a supplementary point which Easton Parish Council and others had made which was that further permission was required for the spreading of soil. This matter had been checked with the QC advising the Council and she had advised that no further permission was required under the planning regime because the soil was not contaminated.
- Para 3.6 - the ownership and maintenance arrangements had been confirmed as required by condition 2.25.
- Paras 3.7 and 3.8 - a response was given to the claim that condition 2.25 did not allow for an interim scheme and that there was an obligation to agree a strategic drainage scheme. As stated earlier it was considered that a strategic scheme had been submitted, notably that the owner intended to connect to the main sewer after 20,000sq metres. However, that did not preclude an interim solution being submitted and agreed as well.

In terms of the additional correspondence contained within the Supplementary Schedule, the Head of Planning appraised the Committee of the officer comments in response to the issues raised:

- Letter from Easton Parish Council

Page 1, para 2 – the parish council had now received all the relevant papers.



Para 3 – in response to the argument that the lagoon was an extension to the LDO or a new LDO, this was disputed and officers were content that this matter could be considered as a planning application by the Planning Committee.

Regarding the reference to the EIA regulations and the way in which an authority considered (or screened) whether a development was EIA development or not, officers recognised that the lagoon did not naturally fall into an urban development project but nor did it easily fit into any other category in the regulations. Ultimately the proposal was considered against the criteria under schedule 3 of the regulations and the assessment was set out in para 9.15 of the report on page 91. This assessment was still considered reasonable.

In response to the point raised about the Environmental Health Officer's request for more evidence to show that no odour would arise from the treatment plant discharge, this point was noted by officers but it was also considered to take into account the control which would be exercised through the Environment Agency permit, the temporary nature of the treatment plant solution and the fact that any odour arising from the lagoon could be controlled as a statutory nuisance. Therefore, officers considered that the absence of this evidence should not prevent the grant of permission for the lagoon.

It was noted that the majority of the remaining paragraphs in the parish council's letter related to the argument that the spreading of soil was effectively the disposal of waste but Members noted that the QC advising the Council disputed this point, as referred to earlier.

- Letter from Bryan Robinson

It was noted that the first few paragraphs argued that the grant of planning permission could not be a discharge of condition. Again, this point was disputed.

The penultimate para on page 141 argued against an interim drainage solution but this point had already been addressed.

Regarding the other issues raised, such as the application forms, the ownership of the land, the soil arisings and the definition of the lagoon under urban development projects when it was considered under the EIA regulations, it was noted that these issues had either been addressed already or did not go to the heart of the proposal.

In terms of Mr Robinson's argument that the lagoon was part of the LDO and therefore this proposal was a revision to the LDO which could

not be considered by Planning Committee, again this point was disputed.

The final paragraphs on page 144 argued that ground conditions and percolation tests were required to properly consider the lagoon. The Head of Planning reminded Members that the Lead Local Flood Authority was content with the design of the lagoon and its size. Therefore, it was considered unnecessary to require further tests to be carried out.

Finally, the Head of Planning advised Members that yesterday afternoon a further letter was received from residents in another nearby property called Red Barn Cottage. This letter was received after the deadline for receiving such correspondence but, for the sake of completeness, the Head of Planning advised the Committee that the residents had raised concerns about contamination of drinking water. However, officers remained satisfied that this issue fell under the remit of the Environment Agency's permitting regime.

In conclusion, the Head of Planning advised Members that the committee could justifiably approve the submitted details as per the original recommendation to the Planning Committee on 3 October 2018. He added that, for the sake of completeness, the approval of this application also represented the approval of a strategic scheme for the drainage of surface water and foul water in accordance with condition 2.25 of the LDO.

The Committee then received the verbal views of Dr Boswell on behalf of Easton Parish Council and Bryan Robinson of 19 Aldryche Road both objecting to the proposals and Paul Clarke of Brown & Co (the agent) at the meeting.

Having regard to all the issues raised in the Judicial Review, together with the subsequent correspondence, and having received assurances by the Head of Planning regarding the controls exercised by the Environment Agency, Members concurred with the officers' appraisal that the proposal would generate economic benefits, such as the development of the FEZ site, generation of employment, business growth etc and would not result in any significant or demonstrable harm. Accordingly, it was

### **RESOLVED:**

to approve application number 20181336 and the details submitted under condition 2.25 of the Local Development Order subject to the following conditions:

- (1) The development to which this permission relates must be begun not later than THREE years beginning with the date on which this permission is granted.

- (2) The development hereby permitted shall not be carried out otherwise than in accordance with the plans and documents listed below.
  - (3) No work shall commence on the formation of the infiltration lagoon until details of the culvert required across Blind Lane for the off-site surface water drainage system have been submitted and approved in writing by the Local Planning Authority. The culvert shall be constructed to the approved specification.
  - (4)
    - (A) No formation of the infiltration lagoon shall take place until an archaeological written scheme of investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and (1) The programme and methodology of site investigation and recording, (2) The programme for post investigation assessment, (3) Provision to be made for analysis of the site investigation and recording, (4) Provision to be made for publication and dissemination of the analysis and records of the site investigation, (5) Provision to be made for archive deposition of the analysis and records of the site investigation and (6) Nomination of a competent person or persons / organisation to undertake the works set out within the written scheme of investigation, and;
    - (B) No development shall take place other than in accordance with the written scheme of investigation approved under condition (A), and;
    - (C) The development shall not be operated until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological written scheme of investigation approved under condition (A) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.
- In this case the programme of archaeological mitigatory work will consist of an archaeological excavation. A brief for the archaeological work can be obtained from Norfolk County Council Historic Environment Service.
- (5) Prior to the commencement of the formation of the infiltration lagoon a scheme for the protection of the retained trees that complies with the relevant sections of British Standard 5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations shall be agreed in writing with the Local Planning Authority (LPA). A plan shall

be submitted to a scale and level of accuracy appropriate to the proposal that shows:

- a) the position and Root Protection Areas (RPAs) of every retained tree on site and on neighbouring ground to the site in relation to the approved plans.
- b) the details and positions of the Tree Protection Barriers. Barriers should be fit for the purpose of excluding construction activity and storage of materials within RPAs appropriate to the degree and proximity of work taking place around the retained trees.
- c) the details and positions of the Ground Protection Zones. Ground protection over RPAs should consist of scaffold boards placed on top of 100-150mm layer of woodchip which is underlain by ground sheets.

No works should take place until the Tree Protection Barriers and Ground Protection are installed.

In the event that any tree(s) become damaged during construction, the LPA shall be notified and remedial action agreed and implemented. In the event that any tree(s) dies or is removed without the prior approval of the LPA, it shall be replaced within the first available planting season, in accordance with details to be agreed with the LPA.

Reasons:

- (1) The time limit is imposed in compliance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- (2) For the avoidance of doubt and to ensure the satisfactory development of the site in accordance with the specified approved plans and documents.
- (3) To ensure the satisfactory development of the site in accordance with Policy GC4 of the Development Management DPD 2015.
- (4) To enable the archaeological value of the site to be properly recorded before development commences in accordance with Policy EN2 of the Development Management DPD 2015.
- (5) To ensure the appropriate protection of landscape features adjacent to the site in accordance with Policies GC4 and EN2 of the Development Management DPD 2015.

### Plans and documents:

Dwg. No.18/094/01 rev. B – Proposed Location Plan, received 24 September 2018

Dwg. No. CL-1030 rev. P4 – Red line Boundary, received 24 September 2018

Dwg. No. CL-5001 rev. P3 – Detailed Design Drainage Strategy, received 24 September 2018

Dwg. No. CL-4003 rev. P2 - Drainage Construction (sheet 3 of 3), received 19 September 2018

Dwg. No. CL-1025 rev. P3 received 24 September 2018

Foul Water Drainage Strategy received 17 September 2018

### Informatives:

- (1) The Local Planning Authority has taken a positive and proactive approach to reach this decision in accordance with the requirements of paragraph 38 of the National Planning Policy Framework.
- (2) The applicant is advised that separate licence approval for these works will be required in addition to the planning permission.

*The meeting closed at 11:25am*