

MINUTES OF THE MEETING OF THE BABERGH PLANNING COMMITTEE HELD IN
KING EDMUND CHAMBER - ENDEAVOUR HOUSE, 8 RUSSELL ROAD, IPSWICH ON
WEDNESDAY, 25 JULY 2018

PRESENT: Peter Beer - Chairman

Clive Arthey
Sue Burgoyne
Michael Creffield
Siân Dawson
Richard Kemp
Lee Parker
Ray Smith

Simon Barrett
David Busby
Luke Cresswell
Michael Holt
Adrian Osborne
Stephen Plumb

The following Members were unable to be present:- John Hinton, Jennie Jenkins and David Rose.

15 SUBSTITUTES

It was noted that in accordance with Committee and Sub-Committee Procedure Rule No 20, substitutes were in attendance as follows:-

Simon Barrett (substituting for Jennie Jenkins)
Siân Dawson (substituting for John Hinton)
Richard Kemp (substituting for David Rose)

16 DECLARATION OF INTERESTS

Councillor Siân Dawson stated that she lives near the site in Hadleigh which was the subject of Application No DC/17/04239 (Item 2 of Paper PL/18/6) and that in relation to Application No DC/17/00091 (Paper PL/18/7) she owns property in Boxford.

Councillor Dawson subsequently stated that she lives within 26m of the Hadleigh Hall site.

17 PL/18/4 TO CONFIRM THE MINUTES OF THE MEETING HELD ON 16 MAY 2018

It was RESOLVED

That the Minutes of the meeting held on 16 May 2018 be confirmed and signed as a correct record.

18 PL/18/5 TO CONFIRM THE MINUTES OF THE MEETING HELD ON 30 MAY 2018

It was RESOLVED

That the public Minutes of the meeting held on 30 May 2018 be confirmed and signed as a correct record.

19 TO CONFIRM THE MINUTES OF THE MEETING HELD ON 13 JUNE 2018

It was RESOLVED

That the Minutes of the meeting held on 13 June 2018 (circulated to Members prior to the day of the meeting) be confirmed and signed as a correct record.

20 TO RECEIVE NOTIFICATION OF PETITIONS IN ACCORDANCE WITH THE COUNCIL'S PETITION SCHEME

Linda Sheppard, Senior Governance Support Officer, reported that a petition dated 20 July was received by Committee Services on the afternoon of 24 July 2018. Receipt of the petition was reported to the Council meeting on the evening of 24 July.

The petition was signed by a total of some 872 people with 459 signatures on paper and 413 online, relating to Application No DC/18/00929 – The Slaughter House and Land adjacent, Cuckoo Hill Bures St Mary, which was before Members as Item 1 of Paper PL/18/6 – Minute No 22 refers.

The petition reads:

“We the undersigned ask that Babergh District Council does not ignore the obvious flagrant breach of planning permission, to the detriment of local residents in the Bures community. **Retrospective planning should not be granted** for properties on Cuckoo Hill that are nearly 3 metres higher than the original planning agreed. Dominating over and intruding on residents’ privacy in nearby homes and gardens, causing great distress.”

The petition was drawn to the Committee’s attention. Members would have regard to the petition when considering the application and subsequently determining it along with all other material planning considerations.

21 SITE INSPECTIONS

Further to the decision made at the meeting on 13 June for a site inspection to take place in respect of the Shotley Pier application in the event that it was referred to Committee for determination, Members were advised that the application would be considered at the meeting on 22 August in view of its controversial nature.

It was RESOLVED

- (1) That a site inspection be held on 22 August 2018 in respect of Application No DC/18/01384 – Alterations to the Pier including provision of two buildings for Community / Volunteer facility, Shotley Pier, Queen Victoria Drive.**

- (2) That a Panel comprising the following Members be appointed to inspect the site:-

Clive Arthey
Peter Beer
Sue Burgoyne
David Busby
Michael Creffield
Luke Cresswell
John Hinton

Michael Holt
Jennie Jenkins
Adrian Osborne
Lee Parker
Stephen Plumb
David Rose
Ray Smith

22 PL/18/6 PLANNING APPLICATIONS FOR DETERMINATION BY THE COMMITTEE

Members had before them an Addendum to Paper PL/18/6 (circulated to Members prior to the day of the meeting) summarising additional correspondence received since the publication of the agenda but before noon on the working day before the meeting, together with errata.

In accordance with the Council's arrangements for Public Speaking at Planning Committee, representations were made as detailed below relating to the items in Paper PL/18/6 and the speakers responded to questions put to them as provided for under those arrangements.

<u>Application No.</u>	<u>Representations from</u>
DC/18/00929	Gillian Jackson (Parish Council)
	Clare Frewin (Objector)
	Kevin Leigh (Barrister for Applicant)
DC/17/04239	Valerie Haines (Town Council)
	Susanne Angland (Objector)
	Neil Ward (Agent for Applicant)

It was RESOLVED

That subject to the imposition of conditions or reasons for refusal (whether additional or otherwise) in accordance with delegated powers under Council Minute No. 48(a) (dated 19 October 2004) decisions on the items referred to in Paper PL/18/6 be made as follows:-

a BURES ST MARY

Application No DC/18/00929/FUW Paper PL/18/6 – Item 1	Full Application Without Compliance of Condition – Application under Section 73 of the Town and Country Planning Act – erection of 6 two-storey dwellings, following demolition of existing commercial buildings and hard standing, construction of private access driveway (scheme to utilise
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	<p>existing vehicular access to public highway) – Variation of condition 2 of planning permission B/14/1103 as amplified by submission of covering letter from agent dated 26/3/18 and annotated Proposed Setting Out and Landscaping Plan (1471.21E) and Existing Site Survey Plan (1471.06) all received 26/3/18. As further amended by submission of revised layout plan 1471/21F and additional cross-section plan 1471/22, The Slaughter House and Land Adjacent, Cuckoo Hill.</p>
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The Case Officer, John Davies, had just started his introduction to this item, at which point Councillor Kemp arrived. The Chairman asked the Case Officer to return to the beginning of his introduction so that Councillor Kemp was present for the whole item, together with the other Committee Members.

The Case Officer included reference to the Addendum, which contained additional representations and amendments, and to the Petition as reported in Minute No 20 above. He took Members through the history of the site as set out in the report, and its relevance to the current position and the officer recommendation of refusal for the reasons given.

At the conclusion of the objector speaking and responding to Members' questions and prior to the Applicant's Barrister, Mr Kevin Leigh, addressing the Committee, Ian de Prez, Legal Adviser to the Committee, referred to the Opinion given by Mr Leigh which had been received late the previous day in the form of an email to the Chairman, Vice-Chairman and officers. The Opinion addressed various points including a request from the Applicant for consideration of the application to be deferred. Mr Leigh was present at the meeting to speak on behalf of the Applicant.

Mr de Prez informed Members that he had spoken to Mr Leigh briefly before the start of the meeting about the legal issues raised in the Opinion. Mr de Prez suggested that, with the consent of the Chairman, he would report key sentences from the email to the meeting. This was agreed by the parties and extracts were read out by Mr de Prez in which the following points were made.

- the officers have failed to identify the legal meaning of the planning permission and what it would permit. A court would look at the drawings and conditions. There are no slab height or finished ground level or ridge height conditions.
- [making reference to the Tables in the survey] The drawings are to be measured on their face. the underbuild should be excluded from the calculation of the ridge height because the site was sloping on several sides.
- Mr Leigh had dealt with a number of appeals on this topic and always won, including a number of them in Essex.
- the differences even on the Council's best case are, in the circumstances of this site, so marginal that Mr Leigh would be surprised if an Inspector found them harmful.

The Chairman advised Members that he and the Vice-Chairman of the Committee had considered the Applicant's request for deferral but concurred with the officer view that there was nothing new put forward and that there was sufficient information before Members to enable them to continue.

In response to a Member's question, Mr de Prez confirmed that he had considered whether reading from the Barrister's Opinion would give the Applicant an unreasonable advantage procedurally but had decided that it should be treated in the same way as other late written comments and that it was desirable that all Members as well as the Chairman and Vice-Chairman should be made aware of its contents.

Members then heard from Mr Leigh who referred to his suggested options for the Committee either to make a split decision and grant permission for Plots 1 – 4, or if minded to refuse, to defer for one month to enable the Applicant and the Council to agree the disputed measurements on site and avoid a possible appeal and the consequent delay in achieving a resolution of the issues.

After Members had questioned Mr Leigh and considered the relative merits of deferral or proceeding, a motion to defer was put forward, but was lost on being put to the vote. Following further discussion, the officer recommendation of refusal, having been proposed and seconded (with appropriate amendments to the recommendation to reflect the new NPPF document which had been published the previous day, as reported by Steven Stroud, Strategic Projects and Delivery Manager) was carried unanimously on being put to the vote.

It was RESOLVED

That authority be delegated to the Corporate Manager – Growth and Sustainable Planning to refuse the Section 73 Application for the following reasons, with appropriate amendments to reflect the new NPPF:-

In determining this planning application the Council has not only had regard to the NPPF and its own Adopted Core Strategy and Policies but has been able to experience its physical impacts by virtue of the fact that it has been largely constructed. The retrospective nature of the application has afforded the unusual opportunity to gauge such impacts not theoretically from drawings but from seeing the development 'as built' within the context of surrounding existing development.

In assessing that impact the Council has concluded that the application would not have been approved in the form it has now been built had a planning application for a development in this form been submitted ahead of construction.

In determining this application, the Council has noted and had full regard to the earlier planning permission [ref; B/14/14/01103] granted on 13 February 2015. That development was not implemented in accordance with the approved drawings and it is the current application that seeks to regularise that breach.

The Council finds the current application unacceptable and consequently refuses it for reasons that will now be explained.

In summary the two storey detached houses as built on plots 5 and 6 and as shown on drawing number 1471/21G and 1471.22 are unacceptable for the significant harm they cause to:

- (i) the residential amenity enjoyed by the property known as White Horse House immediately to the south; and**
- (ii) the character of the Conservation Area; and,**
- (iii) the setting of the adjacent Grade II listed building – ‘White Horse House’**

Specifically:

Harm to Residential Amenity

As a result of:

- (a) the ground level on plot 6 being raised beyond those previously approved; and,**
- (b) the consequent rise in finished floor level of the plot; and,**
- (c) the overall increase in height of the buildings on plots 5 and 6 beyond that previously approved.**

The house on Plot 6 as well as Plot 5 immediately to the east now have an unacceptably overbearing and over-scaled relationship with the adjacent modest-sized traditional vernacular property ‘White Horse House’. They now loom over White Horse House and result in a significant and unacceptable level of harm to the outlook experienced from the rear of that property and its associated private garden space. The increase in height of the position of first floor windows to the rear of the house on plot 6 now results in an unacceptable perception from White Horse House of being overlooked and of the privacy of its amenity space being infringed.

The unacceptable harm identified above is contrary to paragraphs 17, 56, 57 and 64 of the NPPF in so far as the houses on plots 5 and 6 as built [in the opinion of the Council]:

- does not secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings; does not contribute positively to making the place better (Paragraph 56)**
- has not achieved high quality (Paragraph 57)**
- does not establish a strong sense of place, streetscapes and building to create attractive, and comfortable places to live, work and visit (Paragraph 58);**
- does not respond to local character and history, and reflect the identity of local surroundings and materials (Paragraph 58)**

and therefore, as advised in Paragraph 64 the Council is refusing the development on the ground, inter alia, of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The development is considered to be contrary to saved policies CN01, CN06, CN08, HS28 of the Babergh Local Plan (Alteration No.2) 2006 and Policy CS15 of the Babergh Core Strategy and Policies (2014).

Failure to preserve or enhance the character of the Conservation Area

The house on plot 6 when viewed from Cuckoo Hill is unduly prominent within the street scene rising as it does above White Horse House which forms part of a charming group of properties within the heart of the Conservation Area. In addition, the houses on plots 5 and 6 will be even more prominent and intrusive during the autumn and winter months when the trees that in part currently soften its impact are bare. This level of visual dominance harms the character of the conservation area which currently can be defined as comprising predominantly small scale linear frontage development on Cuckoo Hill.

The unacceptable harm identified above is contrary to Paragraph 131 of the NPPF in so far as the houses on plots 5 and 6 as built in the opinion of the Council:

- do not sustain and enhance the significance of the heritage asset that is a Conservation Area; (Paragraph 131)
- do not make a positive contribution to local character and distinctiveness. (Paragraph 131)

In carrying out the balancing exercise under Paragraph 134 of the NPPF it is considered that the increased height and oppressive relationship of Plot 6 and Plot 5 to the street scene in Cuckoo Hill and wider area are such as to outweigh the public benefits of the development.

The development is considered to be contrary to saved policy CN08 of the Babergh Local Plan (Alteration No.2) 2006 and Policy CS15 of the Babergh Core Strategy and Policies (2014).

Harm to the Setting of the listed White Horse House

White Horse House is a 2 storey C17-C18 timber -framed house, formerly a public house, with an asymmetrical plain tile roof. The roof to the rear has a long raking sweep from the ridge reflecting the fact that it has its eaves over the single storey element.

The house on plot 6 has been constructed in ways described in (a) – (c) [incl.] above that have resulted in significant and unacceptable harm being caused to the setting of the adjacent listed building as a result of the new houses unduly overbearing scale and juxtaposition in relation to White Horse House. Whilst intimate relationships between buildings can be found in the

conservation area these tend to be visually harmonious. In this particular case the new house dwarfs the older listed building significantly detracting from its place in the street disturbing and disrupting the composition of the properties that line Rd in the heart of the Conservation Area. This dominance is something that would not have been an issue with the previously approved scheme where the relationship between it and its listed neighbour had been carefully considered when approving that scheme.

The unacceptable harm identified above is contrary to paragraphs 131 and 134 of the NPPF in so far as the house on plot 6 as built in the opinion of the Council:

- does not sustain and enhance the significance of the heritage asset that is the Grade II listed building – White Horse House (131)
- does not result in sufficient public benefits to the overall housing stock in Babergh District and the regeneration of a former commercial site to outweigh the less than substantial harm caused to the setting of the Grade II listed White Horse House particularly noting that considerable importance and weight should be given to the desirability of preserving the setting of a listed building when carrying out the balancing exercise.

The development is considered to be contrary to saved policy CN06 of the Babergh Local Plan (Alteration No.2) 2006 and Policy CS15 of the Babergh Core Strategy and Policies (2014).

b HADLEIGH

Application No DC/17/04239 Paper PL/18/6 – Item 2	Full Application – Erection of detached, two-and-a-half storey dwelling with detached cart lodge and storage building, construction of access and parking area and associated landscaping, land adjoining Hadleigh Hall, Pound Lane.
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The Case Officer, Gemma Walker (Area Planning Manager) in introducing this item, referred to the new NPPF and confirmed that, although the relevant paragraph numbers had changed, the recommendation was otherwise unaltered. Jonathan Duck, Heritage Officer, was present at the meeting to answer questions.

After the public speakers had addressed the Committee and responded to questions from Members, Councillor Siân Dawson spoke at length on the application, which she supported. Following a query from Councillor Luke Cresswell about pre-determination, the Chairman, Peter Beer, advised Councillor Dawson that in view of the comments she had expressed, she should not vote on this item. Councillor Dawson accepted this and she did not vote, nor did she take any further part in the debate.

At this point, the officer recommendation of refusal as set out in the report was proposed and seconded. During the course of the debate on this motion the Heritage Officer explained the importance of the wider setting of the Listed Buildings in historic, heritage and Conservation Area terms, a view which was supported by Historic England, and which did not solely relate to what could be seen in the immediate surroundings. A point of order was raised regarding the timing of the motion to refuse. Members were advised by the Chairman that it was acceptable to put forward a motion at any time, although it was generally best practice to do so at the end of the debate.

It was RESOLVED

That planning permission be refused for the following reasons:-

- 1. The proposal results in the loss of the site as an area of open space, forming part of the setting and contributing to the significance of the adjacent Grade I listed Church, Deanery Tower and Guildhall, as well as the Grade II* Deanery, Grade II Hadleigh Hall and the Conservation Area. The proposal would therefore fail to protect, preserve or enhance the character and appearance of the locality, landscape and the setting and significance of the surrounding heritage assets, with particular regards to the churchyard aspect, and listed buildings by virtue of failing to respect the townscape, historic environment, important spaces and historic views, which would result in a high level of harm of less than substantial harm to the setting and significance of the Listed Buildings and the Conservation Area, not outweighed by public benefit. As such the proposal would be contrary to the requirements of the NPPF including with regards to the environmental role of sustainable development and furthermore with particular respect to paragraphs 7, 14, 60, 61, 131, 132 and 134 of the NPPF, Policies CN01, CN03, CN06, CN08, HS01 and HS28 of the Babergh Local Plan (2006) and Policies CS1 and CS15 of the Babergh Core Strategy (2014).**
- 2. The proposal would further result in the imposition of a substantial domestic property into the setting of the Listed Buildings and Conservation Area. This would detrimentally affect the setting and significance of the Listed Buildings and Conservation Area, having particular regards to the dominance of the heritage assets compared to the smaller scale of properties in the wider setting. The proposal due to its size and significance would compete with this dominance, important to the significance of the heritage assets, and result in a proposal with a prominence inappropriate to the development and intruding upon the significance of the heritage assets and character of this area. This would result in a high level of harm of less than substantial harm to the setting and significance of the Listed Buildings and the Conservation Area, not outweighed by public benefit. As such the proposal would be contrary to the requirements of the NPPF including with regards to the environmental role of sustainable development and furthermore with particular respect to paragraphs 7, 14, 60, 61, 131, 132 and 134 of the NPPF, Policies CN01, CN03, CN06, CN08 of the Babergh Local Plan (2006) and Policies CS1 and CS15 of the Babergh Core Strategy (2014).**

23 EXCLUSION OF THE PUBLIC (WHICH TERM INCLUDES THE PRESS)

It was RESOLVED

That, pursuant to Part 1 of Schedule 12A of the Local Government Act 1972, the public be excluded from the meeting for the business specified below on the grounds that if the public were present during these items, it is likely that there would be the disclosure to them of exempt information as indicated against each item.

The Committee was also satisfied that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

24 PL/18/7 ADDITION OF TWO REASONS FOR REFUSAL TO PLANNING APPLICATION REFERENCE B/17/00091 (APPEAL REFERENCE APP/D3505/W/18/3197391) (Exempt information by virtue of Paragraphs 3 and 5 of Part 1)

The Minute relating to the above-mentioned item is excluded from the public record. A summary of the Minute made by the Proper Officer in accordance with sub-section 100(c) of the Local Government Act 1972 is set out below.

Vincent Pearce – Principal Planning Officer, Strategic Projects and Delivery presented Paper PL/18/7 which sought the Committee's ratification of action taken under delegated authority to include two new reasons for refusal in respect of Application No B/17/00091 [now at appeal].

After discussion of the issues covered by the report, it was proposed and seconded that the recommendation in paragraph 2.1 should not be accepted. There was an equality of votes at seven all, following which the Chairman exercised his casting vote in favour of the motion before the Committee.

25 PL/18/8 TO CONFIRM THE CONFIDENTIAL MINUTE OF 30 MAY 2018 MEETING (Exempt information by virtue of Paragraph 5 of Part 1)

It was RESOLVED

That Confidential Minute No 6 of the Planning Committee meeting held on 30 May 2018 (Paper PL/18/8) be confirmed and signed as a correct record.

Note: The meeting adjourned for refreshments between 11.50 a.m. and 12.10 p.m.

The business of the meeting was concluded at 1.55 p.m.

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Chairman