

## **Committee Report**

**Item 7C**

**Reference:** DC/19/03191

**Case Officer:** Mahsa Kavyani

**Ward:** Eye.

**Ward Member/s:** Cllr Peter Gould.

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## **RECOMMENDATION –REFUSE PLANNING PERMISSION**

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### **Description of Development**

Planning Application - Erection of 1no. dwelling (following demolition of existing outbuilding, railings and walls)

### **Location**

6 Church Street, Eye, Suffolk, IP23 7BD

**Expiry Date:** 13/12/2019

**Application Type:** FUL - Full Planning Application

**Development Type:** Minor Dwellings

**Applicant:** Ms H Bowen

**Agent:** Gorniak & Mckechnie Ltd Architects And Designers

**Parish:** Eye

**Density of Development:** N/A

**Details of Previous Committee / Resolutions and any member site visit:** None

**Has a Committee Call In request been received from a Council Member (Appendix 1):** Yes

**Has the application been subject to Pre-Application Advice:** Yes (DC/19/02255)

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## **PART ONE – REASON FOR REFERENCE TO COMMITTEE**

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The application is referred to committee for the following reason/s:

The only proposed access to the site is through public car park owned by MSDC and also there is a presumption regarding the encroachment/overhang/projection of the proposed dwelling onto MSDC land. In the interest of openness and transparency the application is represented to the committee for deliberation.

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## **PART TWO – POLICIES AND CONSULTATION SUMMARY**

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### **Summary of Policies**

SB02 - Development appropriate to its setting

HB01 - Protection of historic buildings

HB08 - Safeguarding the character of conservation areas

NPPF - National Planning Policy Framework

FC01 - Presumption In Favour Of Sustainable Development  
FC01\_1 - Mid Suffolk Approach To Delivering Sustainable Development  
CS01 - Settlement Hierarchy  
CS05 - Mid Suffolk's Environment  
GP01 - Design and layout of development  
H13 - Design and layout of housing development  
H15 - Development to reflect local characteristics  
H16 - Protecting existing residential amenity  
H17 - Keeping residential development away from pollution  
CL08 - Protecting wildlife habitats  
T09 - Parking Standards  
T10 - Highway Considerations in Development  
CS09 - Density and Mix

### **Neighbourhood Plan Status**

The Eye neighbourhood plan is in post examination stage and as such will have a significant weight.

### **Consultations and Representations**

During the course of the application Consultation and Representations from third parties have been received. These are summarised below.

#### **A: Summary of Consultations**

##### **Environmental Health - Land Contamination**

The applicant has failed to submit the required information to demonstrate that the site is suitable for the proposed end use. For a development of this nature, an envirocheck type report and a completed land contamination questionnaire would be required. Without both documents, the suggested recommendation is to refuse on the ground of insufficient evidence.

##### **SCC - Highways**

The County Council as Highway Authority recommends that any permission which that Planning Authority may give should include the conditions shown below:

Condition: Before the development is commenced, details of the areas to be provided for secure cycle storage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.

Reason: To promote the use of sustainable travelling alternatives.

Condition: Before the development is occupied details of the areas to be provided for storage and presentation of Refuse/Recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.

Reason: To ensure that refuse recycling bins are not stored on the highway causing obstruction and dangers for other users.

##### **Strategic Asset Management**

No comment.

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No comment.

## **Environmental Health - Land Contamination**

No comment.

## **Heritage Team (Amended Comment)**

The Heritage Team have taken note of the red line and certificate being revised.

No further comments.

## **Heritage Team**

The proposal would cause no harm to a designated heritage asset because the approach to design respects the context of the site.

## **SCC - Archaeological Service**

The proposed housing development lies in an area of archaeological interest, as recorded in the County Historic Environment Record. The site is located within the historic core of Eye, on a historic street in the vicinity of the castle. The proposed works would cause significant ground disturbance that has potential to damage any archaeological deposits and below ground heritages assets that exist. Any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

## **Strategic Asset Management**

Objections are hereby lodged on the following grounds:

1. The applicant has had no dialogue or consultation with the BMSDC as land owner.
2. The proposal will certain encroach onto private land.
3. The proposed structure overhangs BMSDC car park
4. In addition, the access road in question is quite narrow and visibility as vehicles pull out of this access road is limited.

In these circumstances, it is considered that the proposed development in its present state is unsuitable given its proximity to period buildings, some of which are listed.

## **Town/Parish Council (Appendix 3)**

### **Eye Town Council**

No comments.

Note: Officers are unclear as to the nature of this second comment as it could be read as no comments or no further comments to add given the earlier comment reported below. Officers are seeking clarification to be reported verbally.

### **Eye Town Council**

ETC opposes this application.

The Clerk recognises that a new development in modern materials can make a positive contribution to the built environment of a conservation area but considers this not the case with this particular design. Furthermore, the proposal does not overcome the practical difficulties of building any residential dwelling on this site; there are concerns regarding loss of light to the flat above the florist and the limited and potentially dangerous access to the dwelling.

## **National Consultee (Appendix 4)**

None

## **County Council Responses (Appendix 5)**

### **SCC - Highways**

No objections subject to condition

### **SCC - Archaeological Service**

No comment

## **Internal Consultee Responses (Appendix 6)**

### **Heritage Team**

No objections

### **Environmental Health**

Recommendation is to refuse on the ground of insufficient evidence.

## **B: Representations**

At the time of writing this report at least 12 letters/emails/online comments have been received. It is the officer opinion that this represents 9 objections, 3 support. A verbal update shall be provided as necessary.

Views are summarised below: -

- Incongruous design
- Noise/disturbance from turntable
- Issues with access through public carpark
- Loss of light
- Loss of privacy
- Harmful to the conservation area

(Note: All individual representations are counted and considered. Repeated and/or additional communication from a single individual will be counted as one representation.)

## **PLANNING HISTORY**

<b>REF:</b> 0196/14	Erection of new dwelling - Land to the rear of 6 Church Street, Eye	<b>DECISION:</b> WDN 25.09.2015
<b>REF:</b> 3556/12	Proposed new dwelling.	<b>DECISION:</b> REC
<b>REF:</b> 0739/87	Erection of two storey side extension to shop to provide office, toilet and store with first floor of existing shop and extension as self contained flat	<b>DECISION:</b> GTD 10.09.1987
<b>REF:</b> 0385/87/OL	Erection of two dwellings.	<b>DECISION:</b> REF 18.07.1988

<b>REF:</b> 0008/00/CAC	DEMOLITION OF CORRUGATED SHEET BUILDING.	<b>DECISION:</b> WDN 16.05.2001
<b>REF:</b> 0092/00/OL	USE OF LAND FOR ERECTION OF ONE DWELLING USING EXISTING VEHICULAR ACCESS OFF ADJOINING PUBLIC CAR PARK.	<b>DECISION:</b> REF 04.05.2001 (Subject to appeal allowed and details in bundle)
<b>REF:</b> 0793/89/	ERECTION OF HOUSE AND GARAGE WITH NEW VEHICULAR ACCESS, STORE EXTENSION TO EXISTING SHOP AND DEMOLITION OF EXISTING CORRUGATED IRON STORE SHED WITH PARKING SPACE FOR EXISTING FLAT OVER SHOP	<b>DECISION:</b> GTD 31.10.1989
<b>REF:</b> 0019/89/CAC	ERECTION OF HOUSE AND GARAGE WITH NEW VEHICULAR ACCESS, STORE EXTENSION TO EXISTING SHOP AND DEMOLITION OF EXISTING CORRUGATED IRON STORE SHED WITH PARKING SPACE FOR EXISTING FLAT OVER SHOP	<b>DECISION:</b> GTD 31.10.1989

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## **PART THREE – ASSESSMENT OF APPLICATION**

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### **1. The Site and Surroundings**

1.1. The proposal is situated within the conservation Area of Eye and adjacent to Nos 2&4, which are both Grade II listed. There are a number of GII listed properties within the locality of the site. GII\* is also observed to the corner of Church Street and Buckshorn Lane.

1.2. The proposed site is a very small and restricted parcel of land to the rear of No.6 Church Street. To the south of the site is a public Car Park (Mid Suffolk Owned) and the only access to the site would be through one way system to the car park.

### **2. The Proposal**

2.1. Planning permission has been sought in relation to erection of a 2-storey dwelling in centre of Eye. The application site is situated within the Conservation Area of Eye.

2.2. Floorspace created, approx.55sqm

2.3. Parking / garaging arrangements and numbers: 1

2.4. Density (Net): 73 dwellings per ha

2.5. Scale of buildings / heights: Two storey

2.8. Summary of materials

2.9. Site Area: approx. 0.013ha

### **3. The Principle Of Development**

3.1. The starting point for determination of any planning application is the development plan, as identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004. Determination of any application must be made in accordance with the plan unless material considerations indicate otherwise. A key material consideration regarding the principle of development is the National Planning Policy Framework (NPPF). The NPPF identifies in paragraph 213 that the weight attributed to policies should be according to their degree of consistency with the NPPF. The closer the aims of the policy are to the NPPF the greater the weight that can be attributed to them.

3.2. The NPPF also identifies that planning decisions should apply the presumption in favour of sustainable development (paragraph 11): “For decision-taking this means: c) approving development proposals that accord with an up-to-date development plan without delay; or d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

3.3. Footnote 7 of the NPPF identifies out-of-date includes the situation where the local planning authority cannot demonstrate a five year supply of deliverable housing sites or where the Housing Delivery Test indicates that the delivery of housing was less than 75% of the housing requirement over the previous three years. In this instance the Council is able to demonstrate a five year housing land supply.

Notwithstanding the Council’s current housing land supply position, for Mid Suffolk many of the development plan policies most important for determining residential applications are considered to be out-of-date as a result of not being entirely consistent with the aims of the NPPF and, therefore, are accorded less weight and the extent of consistent and/or conflict need to be explored on a case by case basis with appropriate assessment of the planning balance and weight to be given.

3.4. Finally, in considering the principle of development the planning history of the site is a material consideration. An Outline application Ref 0092/00/OL for one dwelling was refused by the Council on this site and allowed at appeal. Accordingly, the principle of a dwelling on site at this location has been granted before and under the same Local Plan provision at least, but this was over fifteen years ago and the weight that should be given to all aspects of that decision needs to be considered carefully as part of this assessment.

### **4. Site Access, Parking And Highway Safety Considerations**

4.1. By way of the proposed access and parking provision, the proposal engages highways considerations. In respect of Policies T09 and T10, development should provide adequate parking provision and safe access without comprising highways safety. The LPA consulted SCC Highways, who raised no objection subject to conditions on access, visibility and parking.

4.2. However, the Suffolk Parking Guidance for parking requires dwellings of two bedroom to provide a minimum of 2 parking spaces. The proposal includes one parking space, suitability of which will be further explored. The applicant has also provided that “There is an existing single vehicular access to the site from the car park with associated right of way to the public highway. Vehicular parking and turning are provided by a flush fitting electrically operated vehicular turntable so that a car can leave the site in forward gear. Visitors will be able to use the adjacent public car park.”

4.3. The development fails to meet current standards for occupiers of the development. A public car park is available and may be considered a reason to reduce expected up to date parking standards (the most recent being May 2019), but it is unclear if long term residential parking is available on the adjacent car park to rely upon.(as it is in the control of a 3<sup>rd</sup> party). In addition, this parking requirement would otherwise replace public parking that serves the economic interests of the town. In comparison to a more significant town that has access to rail and more extensive bus networks, where some parking requirements may be reduced (with justification), Eye does not have the same provision. Therefore, requirements for parking are considered to have full weight and should be upheld.

4.4. Suffolk Guidance for Parking also provides a minimum requirement for parking space. The proposal appears to feature what resembles a bay parking and turning, in form of a 'turntable', even if this is assessed as a bay, this doesn't meet the minimum requirement (which is 5.0m x 2.5m. Therefore, the proposal fails to provide any adequate parking for the future occupiers of the resultant dwelling, as such, the proposal is considered contrary to the local development plan policies T9, T10, Suffolk Guidance for Parking and the guidance contained within the NPPF.

4.5. Notwithstanding the amended redline boundary which also outlines the proposed access, it is unclear how this can be achieved. The only way (one way system) to access the site is through privately owned land (in this case a Council owned land/carpark). While any ownership/rights-of-way matter is a civil matter (not a planning matter), given the Council as landowner in this case, it is considered appropriate to note this point. This is not considered a reliable long term solution or a suitable access to the site. Presently there is a set of gates to the west side of the site, behind an existing Council owned sign. It should also be noted that as far as our records reveal, the subject gate has never been used as a vehicle access.

## **5. Design And Layout [Impact On Street Scene and Conservation Area]**

5.1. Local Plan Policy SB2 requires development not to adversely affect the character and appearance of the settlement or the privacy and amenity of neighbouring properties. Policies HB1 and HB8 seek to protect the setting of listed buildings and the character and appearance of conservation areas. Housing developments in towns are to protect the character of the settlement under Policy H2, namely landscape setting of the town and Policy H13 lists criteria against which proposals will, be judged, such as "design should complement the scale, form and materials of traditional building in the area". Policy H16, H17 and H13 state that the Council will refuse developments that unduly reduce the amenity and privacy of adjacent dwellings.

5.2. The application site is presently occupied by a corrugated iron shed, the remaining land being rough grass. The subject site is situated within the Conservation Area of Eye and adjacent to two Grade II listed buildings on either side, (Nos2 & 4).

5.3. Notwithstanding that the Heritage Team has not raised objections to the proposal, Officers are concerned that the proposal would result in detrimental visual impact upon the character of the conservation area in Eye given previous considerations on development in this location. Outline permission was allowed at appeal for this site(0092/00/OL) for one dwelling, design and scale did not form part of that approval and so the permission does not serve as a direct template for acceptable development on this site. Instead, the inspector did consider what would be acceptable on this site. The inspector specifically made following comments with regards to an acceptable scheme:

*"However, PPG3 states at paragraph 56 that housing development of whatever scale should not be viewed in isolation, its design should have regard to the neighbouring buildings and townscape. In the case of the appeal site, location within the Eye Conservation Area and the proximity of a listed building at 2 and 4 Church Street are additional considerations. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the*

*desirability of preserving or enhancing the character or appearance of the conservation area. Section 66(1) requires me to have special regard to the desirability of preserving the setting of the listed buildings.”*

Adding later reference to the importance of good design where he stated:

*“I consider that it would be possible to design and site a single two-storey dwelling with a pitched roof that would not cause unacceptable overshadowing or loss of sunlight.”*

Here the inspector emphasises on the importance of having a design that responds to its setting and respect the characteristic of the locality, given its location in the conservation area and proximity to number of Grade II buildings and this is drawn out through the appeal document. The proposed design is of very modern/contemporary design/style, and features flat roof, not pitched. As such it is considered that the appearance fails to appear harmonious in this historic setting, contrary to local development plan policies, Eye Neighbourhood Plan and the guidance contained within the NPPF and conflicts with the Appeal decision that is of an age but has material weight.

5.4. Furthermore, the wall the proposal is seeking to remove and replace, is an attractive flint boundary wall which surrounds the carpark, this wall is almost a continuous ribbon which forms part of the conservation area and contributes positively to its character.(with reference to policy Eye16, part b of the Eye Neighbourhood Plan). The undue removal of this feature is not considered justified and in direct conflict with Policy Eye 16 of the neighbourhood plan. The proposal fails to respect and preserve the character of the conservation area and street scape contrary to the development plan policies and the NPPF.

5.5. The proposal would result in creation of a two-storey residential dwelling to the rear of Nos.6 & 6a, which is a Florist on the ground level and a residential Flat on the first floor, the subject site sits higher than the ground level by approxi.0.5m. A small section of the proposed dwelling would project/overhang onto the carpark. As mentioned previously, the proposed dwelling is modern/contemporary design and does not feature any traditional/Suffolk vernacular features. The application site has a very limited area, approximately 0.013ha, to the rear of No.6, however the Buckshorn Lane car park, to the south and east of the application site, provides an open space within this tight-knit area, additionally given the gradient nature of the land in this part of Eye (the site sits on higher grounds), the proposed dwelling would bear far reaching visibility within the public realm.(please note photographic evidence). The proposed dwelling fails to blend in well with the prevailing character of its surrounding, immediate and wider locality of the site and it would appear extremely harmful to the character of the immediate and wider locality.

5.6. In terms of design and visual impact, the proposed design is completely unrelated and out of place in this historic setting. It could be argued that there are existing features/outbuildings to the rear of No.4 & No.2 that don't contribute positively to the street scene and the conservation area; however, these outbuildings/extensions are ancillary to the main buildings, and don't exist independently, therefore these built forms are not in the same context as the proposal. The resultant dwelling would create a rather confused feature which fails to contribute to 'feel of the place' and would appear extremely out of keeping in this locality. The resultant harm is not limited to the immediate setting of the dwelling, as mentioned previously the resultant dwelling would have far reaching views within the wider locality of the site, particularly within Buckshorn Lane and Church Street.

5.7. POLICY EYE 16 of Eye Neighbourhood plan makes direct reference regarding development within the settlement boundary and states:

*Proposals should address the following criteria:*

*a. high quality materials should be used that contribute positively to the Conservation Area or any area located outside it and should respect the local setting;*

*b. retention of traditional heritage features such as flint walls, the Hoxne half round Banham Bricks and the black-boarded outbuildings;*

*d. ensure that designated heritage assets and their settings are preserved and where possible, enhanced;*

*e. colour schemes of buildings should be in keeping with those of the surrounding area;*

5.8. The proposal does not adhere to any of the criteria in the aforementioned Policy Eye16, which has a significant material weight in this assessment. Based on the above assessment, the proposal is not considered to comply with the development plan policies, and harm to the conservation area is not justified when weighed against the resultant harm. Therefore, although the proposal is in a sustainable location, the design, style and positioning of the resultant dwelling would be such that would be significantly harmful to the immediate and wider locality of the site.

5.9. Examining the proposal further, the site is considered to be very restrictive to accommodate for a detached two-storey residential dwelling, an extension to the rear business/flower shop, as well as residential flat on the first floor. Overall the site would appear likely not to provision a suitable amenity area, overly cramped and with limited functionality. This is considered in direct conflict with the local development policies, Eye Neighbourhood Plan, and the design requirements contained within the NPPF.

## **6. Landscape Impact, Trees, Ecology, Biodiversity And Protected Species**

6.1. No significant issues in terms of harm, but no opportunities available to support green spaces or biodiversity given the restrictive limitations of the site.

## **7. Land Contamination, Flood Risk, Drainage and Waste**

7.1. No significant impact raised.

## **9. Impact On Residential Amenity**

9.1. In regard to the Local Plan Policies H16 and H17 and Paragraph 127 of the NPPF, it is crucial that development does not detrimentally affect residential amenity in order to achieve and maintain well-designed places.

9.2. The application site would be situated to the rear of Nos.6 &6a. At No.6, there is a residential flat on the first floor (No.6a) and a flower shop on the ground level. The proposal is not considered to cater adequate/suitable amenity space for the future occupiers of the resultant dwelling, with only a small area as a courtyard allocated to amenity and the addition of a balcony on the first floor, overlooking the carpark. The proposal is also assessed to have detrimental impact upon the resident of Flat at No.6. in terms of overlooking and loss of privacy. It is noted that the proposal features a 'green wall' (northern boundary of the site) to provide screening, however as the LPA would not have control over retention of this feature, it is not considered a permanent/reliable solution to the issues of overlooking and loss of privacy and would in general be oppressive to all interested parties. As outlined previously, the application site sits at a higher ground by more than 0.5m and residents at No6a would be directly overlooking the resultant dwelling. Furthermore it would also be in close proximity to the business on the ground floor and considered to be detrimental to amenity of both residents/owners at Nos 6 & 6a and the future occupiers of the resultant dwelling. It should be noted, the adverse impact on the amenity is not solely concerns with the existing neighbours, but the future occupiers of the resultant dwelling would also unnecessarily/unduly have a poor quality of amenity.

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9.3. Based on the above assessment, it is not considered that the proposal can offer suitable/adequate amenity space to the future occupier of the resultant dwelling, additionally by way of siting/positioning, orientation, scale and design, the proposal would have a detrimental impact upon amenity of the neighbours, especially No.6 by way of overlooking and loss of amenity due to siting and design.

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## **PART FOUR – CONCLUSION**

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### **10. Planning Balance and Conclusion**

10.1. The proposal would result in significant harm that would outweigh any benefit of a single dwelling and would also cause a burden from current local parking arrangements. There would be detrimental effect on the character and appearance of the surrounding area as the proposal would introduce an alien feature in this locality. The proposal would also result in undue loss of privacy and amenity to nearby neighbouring properties. The proposal fails to accord with relevant development plan policies and national planning guidance.

### **RECOMMENDATION**

That the application is REFUSED planning permission for the following reasons: -

- Significant adverse visual impact upon the character of the conservation area in Eye and street scene
- Detrimental impact upon the amenity of future occupiers of resultant dwelling and neighbouring properties
- Fails to meet parking standards
- Contrary to NPPF, Eye Neighbourhood Plan and MSDC Local Plan