

**Confirmed**



Minutes of a meeting of the **Planning Committee South** held in the Deben Conference Room, East Suffolk House, Melton, on **Tuesday, 22 August 2023** at **2.00pm**.

**Members of the Committee present:**

Councillor Tom Daly, Councillor Mike Deacon, Councillor John Fisher, Councillor Colin Hedgley, Councillor Debbie McCallum, Councillor Mike Ninnmey, Councillor Mark Packard, Councillor Rosie Smithson

**Other Members present:**

Councillor Ed Thompson

**Officers present:**

Sarah Davis (Democratic Services Officer (Scrutiny and Member Development)), Matt Makin (Democratic Services Officer (Regulatory)), Rachel Smith (Principal Planner), Dominic Starkey (Assistant Enforcement Officer (Development Management)), Ben Woolnough (Planning Manager (Development Management, Major Sites and Infrastructure)).

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**1 Apologies for Absence and Substitutions**

Apologies for absence were received from Councillor Katie Graham; Councillor Ed Thompson attended as her substitute.

**2 Declarations of Interest**

No declarations of interest were made.

**3 Declarations of Lobbying and Responses to Lobbying**

No declarations of lobbying were made.

**4 Minutes**

On the proposition of Councillor Hedgley, seconded by Councillor Deacon, it was by a unanimous vote

**RESOLVED**

That the minutes of the meeting held on 25 July 2023 be agreed as a correct record and signed by the Chair.

## **5 East Suffolk Enforcement Action - Case Update**

The Committee received report **ES/1626** of the Head of Planning and Coastal Management, which provided a summary of the status of all outstanding enforcement cases for the Council where enforcement action had been sanctioned under delegated powers up until 13 July 2023. At that time there were 19 such cases.

The Chair invited the Assistant Enforcement Officer (Development Management) to comment on the report. The Assistant Enforcement Officer noted that there had been successful action in relation to case D.1 (Land West of Guildhall Lane, Wrentham) where fines and costs of just over £5,000 had been issued, and case E.1 (Land at North Denes Caravan Park, The Ravine, Lowestoft) where compliance had been achieved.

The Assistant Enforcement Officer noted that an enforcement notice had been issued on a site at Chepstow Road, Felixstowe, relating to a high wall adjacent to the highway.

There were no questions to the officers; on the proposition of Councillor Hedgley, seconded by Councillor Daly, it was by a unanimous vote

### **RESOLVED**

That the outstanding enforcement matters up to 13 July 2023 be noted.

## **6 DC/22/4985/FUL - Hungarian Lodge, High Street, Ufford, IP13 6EL**

The Committee received report **ES/1627** of the Head of Planning and Coastal Management, which related to planning application DC/22/2985/FUL.

The application sought full planning permission for the erection of one dwelling on land at Hungarian Lodge, High Street, Ufford. The application was first presented to the Committee at its meeting on 25 July 2023, where its determination was deferred to allow the Committee to undertake a site visit; the site visit was undertaken on 17 August 2023.

The Committee received a presentation from the Principal Planner, who was the case officer for the application. The site's location was outlined and the Committee was shown photographs of the site that had been displayed at its previous meeting. The Principal Planner also displayed a photograph demonstrating a view from inside 11 Lodge Road through window 5, towards the application site.

The Committee was shown drawings that demonstrated the proposed dwelling would be approximately 1.7 metres from the shared boundary with 11 Lodge Road, and that window 5 was approximately 2.6 metres from the boundary.

The proposed elevations, floor plans and sections were displayed. The Principal Planner noted that the eaves height of the proposed dwelling would be 2.4 metres and the ridge height would be 4.5 metres.

The potential impact on daylight to 11 Lodge Road was outlined, with the Committee being reminded of the two windows on 11 Lodge Road (known as window 5 and window 7) that would be most impacted. The Principal Planner outlined the assessments received from light consultants instructed by both the applicant and objector, details of which had been included in the update sheet published on 21 August 2023.

The Committee was advised that it needed to consider if the impact on daylight impacted the residential amenity of 11 Lodge Road and the Principal Planner highlighted that "right to light" was a civil matter and not a material planning consideration.

Officers concluded that, on balance, given the separation, proposed eaves height and the design of the roof sloping away from 11 Lodge Road, there would not be sufficient impact to residential amenity to warrant refusal of the application.

The main considerations and key issues were summarised as the principle of development, highways, the design and appearance of the proposed dwelling, and the impact on the neighbour's residential amenity particularly in regards to light. The recommendation to approve the application, as set out in the report, was outlined to the Committee.

The Chair invited questions to the officers. Councillor Hedgley asked for an approximate distance between 11 Lodge Road and its existing neighbouring property; the Principal Planner estimated it was approximately one metre.

The Chair invited Mrs Leigh, who objected to the application, to address the Committee. Mrs Leigh, who lived at 11 Lodge Road, highlighted the back and forth between the consultants instructed by herself and the applicant and considered that it was now for the Committee to decide on if the loss of light was acceptable. Mrs Leigh was of the view that the "gymnastics" required by the applicant's consultant to arrive at their conclusion demonstrated that the development was unreasonable.

Mrs Leigh said she failed to understand how building a wall so close to her property would not have a negative impact and that the proposal had been designed to minimise loss of light to the host dwelling at her home's expense. Mrs Leigh queried the applicant's consultant's assertion that it was unreasonable to consider the open space currently enjoyed to be maintained, and considered this development would contribute to a wider concern about the loss of open space in Ufford.

Mrs Leigh urged the Committee to not be distracted into thinking that the loss of light was the only issue with the development, highlighting the local objections to poor use of space and design. Mrs Leigh strongly believed the application should be refused, and thanked the Committee for taking the time to visit the site.

The Chair invited questions to Mrs Leigh. When asked if there were any other aspects of the development that would impact her residential amenity, Mrs Leigh considered the loss of light to her reading room to be the principal issue.

The Chair invited Councillor Smith, representing Ufford Parish Council, to address the Committee. Councillor Smith advised that the Parish Council had observed, during the site visit, conversation regarding the closeness of the proposed dwelling to 11 Lodge Road and what would be in line with windows 5 and 7. Councillor Smith highlighted that the application site was in a natural depression and said it was unclear how the development's height would relate to 11 Lodge Road should the depression be built up.

Councillor Smith said that it was disappointing that the applicant's consultant considered the right to light should not be expected to be maintained and considered that the Committee would have observed that the room served by window 5 was already very gloomy during daylight hours. Councillor Smith said the Parish Council was of the view that the proposed development would impact on the enjoyment of that room and other rooms in the property that currently enjoyed access to sunlight.

Councillor Smith pointed out that there would be overlooking between the two dwellings which would impact residential amenity and suggested that the applicant had not considered the amenity of anyone occupying the proposed dwelling. Councillor Smith highlighted the remnants of historical farm buildings on the land and sought their protection should the application be approved. Councillor Smith concluded that a more equitable solution would be for the application to be refused and a similar application submitted with the proposed dwelling better separated from 11 Lodge Road.

The Chair invited questions to Councillor Smith. In response to Councillor Smithson, Councillor Smith said that moving the proposed dwelling further away from 11 Lodge Road would improve privacy and mitigate the impact on loss of daylight.

**NOTE:** the meeting was adjourned from 2.27pm to 2.30pm to allow Democratic Services to resolve a technical issue relating to the audio setup in the room.

The Chair invited Mr Jones, the applicant's agent, to address the Committee. Mr Jones, who was the applicant's right to light consultant, stated that all the relevant BRE light tests had been met and demonstrated that the development had passed the 25-degree "rule of thumb" test, which would normally be an end to the matter.

Mr Jones explained that the mirror image test had been applied to the development and discounted the allegations that this test should only be applied to historic city centres or urban high-rise areas, considering it to be applicable wherever a window close to a boundary received more than its fair share of light.

Mr Jones acknowledged that queries relating to the mirror image test and displayed the modelling used to administer the test. Mr Jones confirmed that window 5 just failed the conventional BRE test but passed the mirror test, and said there was evidence that window was taking more than its fair share of light. Mr Jones summarised that the development was fully compliant with BRE guidance, which the planning officers concurred with, and urged the Committee to approve the application.

There being no questions to Mr Jones, the Chair invited the Committee to debate the application that was before it. Councillor Hedgley opened the debate and noted the two different expert opinions received, considering there to be "room for

manoeuvre". Councillor Hedgley was not against development of the site but was concerned by the positioning of the dwelling within the site, querying why it had not been located further away from 11 Lodge Road.

Councillors Smithson and Deacon concurred with Councillor Hedgley's comments; Councillor Deacon said he had been undecided on the application prior to the site visit but having seen the site was shocked by the proposed close proximity. Councillor Deacon noted the darkness in the room serviced by window 5 and considered that lessening light to that window would negatively impact the residential amenity enjoyed by the property.

Councillor Daly acknowledged that residential amenity, unlike right to light, was a material planning consideration; he added that in addition to loss of light, loss of privacy would also negatively impact residential amenity and the close proximity of the two dwellings would reduce privacy for both households.

At the invitation of the Chair, the Planning Manager (Development Management, Major Sites and Infrastructure) advised the Committee that should it resolve to refuse the application on the grounds of residential amenity, it would need to give robust reasons for refusal against the relevant planning policies.

The Chair considered there was little light to window 5 at present and there was a need to consider the impact the proposed dwelling would have on the residential amenity of 11 Lodge Road.

Cllr Ninnmey concurred with points previously made during debate and considered the site visit to have been very useful; he was minded to vote to refuse the application on the grounds of the loss of residential amenity to 11 Lodge Road that would be caused.

Councillor McCallum echoed the Chair's comments and was uncertain if there would be a significant impact on light to the room serviced by window 5. Councillor McCallum was concerned that there was not a strong enough case to refuse the application and was minded to support its approval.

Councillor Fisher highlighted how beneficial the site visit had been and added that he had passed the site again the previous weekend whilst seated on the top deck of a double-decker bus. Councillor Fisher said that the site had not been seen in mid-winter, when a shadow would be cast on 11 Lodge Road by the proposed dwelling, and was of the view this could affect solar gain to 11 Lodge Road. Councillor Fisher pointed out that the 25-degree test did not factor the lay of the land in Ufford, where the sun only rose to a maximum of 14 degrees above the horizon, and considered that any shadow cast above the height of the boundary would be unacceptable. Councillor Fisher opined that the loss of amenity to 11 Lodge Road through lack of light would be substantial, particular in winter.

There being no further debate, the Chair sought a proposer and seconder for the recommendation to approve the application set out in the report; the recommendation was proposed by Councillor Packard and seconded by Councillor McCallum. The proposal was put to the vote and was **NOT CARRIED**.

The Chair sought an alternative recommendation for the determination of the planning application. Officers provided advice on policy SCLP11.2 of the Suffolk Coastal Local Plan, which related to residential amenity.

Following further debate, Councillor Hedgley proposed that the application be refused on the grounds it was contrary to policy SCLP11.2 of the Suffolk Coastal Local Plan as it would adversely impact the residential amenity of both 11 Lodge Road, Ufford and the proposed dwelling, and both the outlook and access to daylight/sunlight of 11 Lodge Road, Ufford. The proposal was seconded by Councillor Deacon.

The proposal was put to the vote and it was by a majority

**RESOLVED**

That the application be **REFUSED** on the grounds it is contrary to parts (a), (b), and (c) of policy SCLP11.2 of the Suffolk Coastal Local Plan as it would adversely impact the residential amenity of both 11 Lodge Road, Ufford and the proposed dwelling, and both the outlook and access to daylight/sunlight of 11 Lodge Road, Ufford.

The meeting concluded at 2.58pm.

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Chair