

## MEETING PAPER

Subject: Normanston Allotments

Meeting: Full Council

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Date: 25 June 2019

NOT CONFIDENTIAL

### Background

On 1 April 2017, land used by Waveney District Council for allotments, transferred to Lowestoft Town Council under Regulation 9 of the Local Government (Parishes and Parish Councils) (England) Regulations 2008. We were informed that the sites, which are all managed by the Lowestoft and District Allotments Ltd (LDAL), include Normanston Allotments (as shown below), although the writers of the Order did not list the site specifically:



Not only did Waveney District Council omit to list Normanston allotments within the Order area, but when we queried this transfer, they looked into producing a plan of the allotment to designate the transferring area but found, as per the map above, that the land they thought was all allotment, actually included an access track which was solely used for access to the allotments but would not ordinarily be classed as 'allotment land' (edged green on the map) and an area of hedge/verge (edged blue on the map). Waveney District Council concluded that they wanted to transfer that access land 'to avoid any issues with access going forwards'. To provide a written record of the position with the transferring land (given that the site was omitted from the original list in the Order) and to confirm the extent of the transfer to include the access track, this matter was taken as an item to their Cabinet on 11 April 2018 (see link to the report here (items 11): <https://www.eastsuffolk.gov.uk/yourcouncil/council-meetings-and-decisions/calendar-agendas-reports-and-minutes-of-council-meetings/agendas-reports-and-minutes-index/waveney-district-council-meetings/2018-meetings/april-2018-meetings/wdc-cabinet-11-april-2018/>). Minutes available through their June Cabinet meeting: <https://www.eastsuffolk.gov.uk/assets/Your-Council/WDC-Council-Meetings/2018/June/Cabinet-13-06-18/Item-03-Minutes-from-110418.pdf>.

Within the report and minutes it can be seen that, although they have confirmed the transfer of allotments and special provision is made within legislation for allotments to transfer, they state that that it was 'intended' the site transferred and that the 'red outlined area may have occurred' through the 2008 Regulations, so there is room for doubt. To clarify this, owing to the omission in the Order but also to cover the two areas of land edged blue and green, they proposed a freehold interest in the entire site including all three parts would be effected. A briefing note from their officer is provided but the report and minutes give a better understanding of the full situation.

The Council considered the Normanston Allotments proposal in June 2018 and agreed that it would accept a transfer of the area marked in green but not the area marked in blue, which latter area it considered would attract too many liabilities as it was along a tarmacked access route, outside of the allotment boundary. The District Council were 'confused by this decision' and considered that the Council should have made a decision which aligned with their direction in the briefing note. They did not wish to have the difficulty of a creating a transfer document which did not contain all three coloured areas, to match the demise of the lease to the LDAL, not least as it would mean the creation of two separate leases. They offered reassurance that the verge was maintained by the LDAL and so no liability would attach for LTC. However, you will wish to be aware that LDAL has indicated that they struggle with maintenance costs and, for example, they and Waveney District Council have not covered the costs of waste and asbestos disposal across various sites and which are now a problem being presented to LTC for resolution. None of this is a problem of LTC's making and it is within the capacity of the new East Suffolk Council to progress two leases for LTC's consideration should it so wish. LTC has continued to deal with the red edged area of the site but to date has not taken on ownership of the green and blue edged parts.

A resident who intends to attend the Council meeting, has taken images of the site, which have been passed to LTC, via Cllr Pearce, for consideration. These are included within the covering email.

## **Details**

LTC's Planning and Environment Committee were consulted by the planning authority about an application from the LDAL for creation of vehicular access and a car park within the west side of the allotments. The application reference, dated 12 October 2017, is DC/17/4398/FUL, was provided with the proposed site plan 2200A.17.1 (attached). LTC, as the owners of the site had not been contacted at all about the plans to develop the site. The planned development would draw in more allotment users through Parkside Road on the west side of the site, where currently they might enter through the gate Robin Hill entrance on the east. It is known that some residents on the east are upset by allotment users parking on the road outside

of their houses (there is no car park that side) but it should be noted that they have no exclusive residential parking rights along that road.

LDAL are not permitted under their lease with LTC to progress these significant changes without LTC's permission. So, this means they need both the approval of the planning authority for the works they plan to undertake plus separate permission from LTC, as the owners of the site.

The Planning and Environment Committee were concerned that LTC's agreement had not been sought prior to the submission of the application. This meant that LTC had no opportunity to influence or comment on the plans before this stage, which discussions might have been helpful in reaching a mutually agreeable conclusion.

This is the decision made by the Planning and Environment Committee on 1 November 2017:

<b>Number</b>	<b>Address and Description</b>	<b>Ward</b>
DC/17/4398/FUL	Normanston Allotments Off, Normanston Road, Lowestoft Creation of vehicular access and car park for allotment users	Normanston

It was agreed to recommend that the application is rejected as this is a premature application given that Lowestoft Town Council as owner of the site wish to work with the Lowestoft & District Allotments Association to discuss any issues at the site and try and resolve them suitably.  
Proposed: Cllr Barron; Seconded: Cllr Eastwood.

The District Council planning authority refused the application. However, an appeal to the Planning Inspectorate resulted in permission being granted (appeal decision attached along with the LDAL appeal statement). Conditions were applied, including on controls over the hours over which construction could take place. Subject to the conditions, the site plans as submitted on appeal were agreed (2200A.17.1A, attached, and 2200A.17.2, the latter which we have not been able to access). The Inspectorate was dismissive of the planning authority's insistence that the access should be widened to 4.5 metres (as per 2200A.17.1B attached). 2200A.17.2A is also attached but, like 2200A.17.1B is not the plan referred to by the Planning Inspectorate and, on that basis, should not be given further regard by councillors. They also dismissed concerns that there would be appreciable nuisance to neighbours caused by implementation of the plans.

Without prior discussion, the Council received a grant application from the LDAL which was considered at its Finance and Governance Committee on 22 May 2018, and this was the decision:

### **273. Public Forum**

Cllr Patience addressed the Committee. He believes the grant application from Lowestoft and District Allotments Ltd (item 280.civ) should not be approved at this stage, as it is prior to the planning permission for the site being granted.

280.civ Lowestoft and District Allotments Ltd – No planning permission has been granted yet so this Grant Application was considered premature. Also, no permission has been sought from Lowestoft Town Council as landowners for this work to be carried out.

The Clerk will be writing to Lowestoft and District Allotments Ltd at the request of the AID Committee, and this will include the decision regarding the Grant Application and reasoning behind it.

Cllr Taylor proposed refusal of the Grant Application of £500 from Lowestoft and District Allotments Ltd; seconded by Cllr Graham; all in favour.

There have been various meetings, including on site, which have covered a variety of issues including asbestos disposal across many of the sites, the liaison mechanisms for the two parties and the specifics of the access/car park at Normanston allotments, culminating on the LDAL being encouraged to put the question of whether they could progress the latter plans to the new Council post-election 2019. The recent letter to LTC from the LDAL is attached.

Among the considerations and concerns that have been raised to LTC are the following:

- The benefit the proposals might bring in providing bespoke car parking for all.
- The benefit that the LDAL proposals would bring in enabling better access to disabled to allotments; this is probably a moral argument rather one of strict legal obligation to provide a car park where none is usually provided, but this can be checked if the Council wishes to refuse permission.
- The concerns of nuisance to neighbours. However, the Planning Inspectorate opinion is that there would not be appreciable nuisance or safety concerns caused by the proposed plans and that issues, such as drainage, were suitably covered by the proposals.

It should be noted that the LDAL are not only seeking permission but are also likely to access funds from LTC, so it is not without cost, and LDAL have already advised that they will not increase fees to cover the full maintenance needs for the site, which has created a problem for which LTC is in the process of considering the best solution. One of the reasons LTC has tenants is because under the lease there is an expectation that they will manage the sites in return for the benefit accruing to users.

## **Recommendations**

1. To agree that the Clerk approach East Suffolk Council to request that they a) resolve the land transfer questions by producing freehold transfer documents for the red and green edged areas jointly and b) liaise as required with LDAL and LTC as part of the process of them drafting two leases for agreement; this to support the Council's decision to accept transfer of the green edged area along with the red edged allotment area.
2. To note that LTC is the apparent owner of at least the allotment area of the site and that it must make its decisions based on its own interests and those of the wider taxpayer, taking into account but not driven by a small vocal minority, of existing users or residents, on either side of the debate.
3. To note that planning permission has been issued on the basis specified in the Planning Appeal Decision and that any owner permission which specifies different conditions or design requirements might trigger a need for a new planning application. If LTC has questions about specifics such as whether the gate would be 'in-keeping' these could be discussed with LDAL and the planning authority to ensure that suitable and lawful plans proceed.
4. To decide whether to accept the principle of development of the west side of the site, subject to prior discussions and agreement on how this is effected in practice, and to decide how this matter should be delegated to ensure it is progressed.
5. To ensure regular liaison with the LDAL is progressed with the aim of maximising the productiveness of that relationship and ensuring that landlord and tenant responsibilities are both properly executed.