

PLANNING COMMITTEE

Minutes of the Meeting held

Wednesday, 10th April, 2024, 11.00 am

Councillors: Duncan Hounsell (Chair), Ian Halsall (Vice-Chair), Paul Crossley, Fiona Gourley, Lucy Hodge, Hal MacFie, Shaun Hughes, Dr Eleanor Jackson, Tim Warren CBE and Ruth Malloy

103 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the emergency evacuation procedure.

104 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence had been received from Cllr Toby Simon. Cllr Ruth Malloy was in attendance as substitute.

105 DECLARATIONS OF INTEREST

It was noted that Cllr Fiona Gourley would withdraw from the Committee for consideration of items (4) 24/00196/LBA - 31 James Street West, City Centre, Bath and (5) 22/02169/EOUT – Parcel 4234, Combe Hay Lane, Combe Hay, Bath and address the Committee during consideration of item (5) as ward Councillor.

Cllr Hal MacFie declared an interest in item (4) 24/00196/LBA - 31 James Street West, City Centre, Bath and withdrew from the meeting during consideration of this item.

Cllr Paul Crossley declared an interest in item (5) 22/02169/EOUT – Parcel 4234, Combe Hay Lane, Combe Hay, Bath as a Council representative on Cotswolds AONB Conservation Board. He stated that he had reconsidered his position since the previous meeting where the application was discussed and decided that he should withdraw from the meeting during consideration of the item.

Cllr Lucy Hodge stated that item (1) 23/03610/FUL - 9 Van Diemen's Lane, Lansdown, Bath was in her ward but did not declare an interest and participated in the debate on that item.

106 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was no urgent business.

107 ITEMS FROM THE PUBLIC

The Democratic Services Officer informed the meeting that there were a number of people wishing to make statements on planning applications and that they would be able to do so when these items were discussed.

108 **MINUTES OF THE PREVIOUS MEETING**

It was moved by Cllr Eleanor Jackson seconded by Cllr Tim Warren and:

RESOLVED that the minutes of the meeting held on Wednesday 13 March 2024 be confirmed as a correct record for signing by the Chair.

109 **SITE VISIT LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE**

There were no site visit applications for consideration.

110 **MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE**

The Committee considered:

A report and update report by the Head of Planning on the applications under the main applications list.

RESOLVED that in accordance with the delegated powers, the applications be determined as set out in the main applications decisions list attached as Appendix 2 to these minutes.

(1) **23/03610/FUL - 9 Van Diemen's Lane, Lansdown, Bath**

The Planning Case Officer introduced the report which considered an application for engineering and landscaping works to the rear garden of a 2-storey detached property to provide multiple levels, including the use of gabion retaining walls.

He gave a verbal update to confirm it was a retrospective application and the fifth paragraph under the title of "Residential Amenity" in the report had been included in error as the vegetation mentioned had been removed.

He confirmed the officers' recommendation that permission be refused for the reasons set out in the report.

The following public representations were received:

1. Nick Ruxton objecting to the application.
2. Richard Hayes, supporting the application.

Cllr Mark Elliott, local member, was unable to attend and asked for a statement to be read out in his absence summarised as follows:

1. He supported the officer's recommendation to refuse the application.
2. The garden was visible from the surrounding countryside and there would be an impact of the gabion wall on the green belt and Area of Outstanding Natural Beauty (AONB).
3. There would also be a detrimental impact on the residential amenity of the residents of a neighbouring property.

In response to Members' questions, it was confirmed:

1. A part of the garden was in the green belt and AONB. There were no very exceptional circumstances put forward to justify development in the green belt.
2. Officers were not aware of any problems relating to subsidence at the site.
3. The plans showed that the height of the gabion wall would remain at the existing height.
4. The land beyond the gabion wall was not in the ownership of the applicant and therefore it would not be possible to add a landscaping condition in relation to this land. Any planting would need to be in the boundary of the application site.
5. The retention of the hedgerow had been conditioned by a previous application but as it was outside the ownership of the applicant, this was not enforceable.
6. The garden level would be higher as a result of the development. The site was particularly visible when compared with other nearby properties.

Cllr Lucy Hodge opened the debate as Ward Councillor. She stated that she agreed with the officer recommendation to refuse the application on the grounds of the impact on the AONB and green belt, but also suggested there were further reasons for refusal as the application would have a detrimental impact on the neighbouring property due to overlooking and a further impact on ecology as a result of the removal of the hedgerow. The Case Officer advised that the ecological reason for refusal was not appropriate due to the hedgerow being outside the boundaries of the application site. Cllr Lucy Hodge moved that the application be refused due to the reasons set out in the report and an additional reason relating to the detrimental impact on the neighbouring property due to overlooking. This was seconded by Cllr Ian Halsall.

Cllr Tim Warren stated that he was not convinced that the application would result in harm to the green belt and AONB and did not support the motion.

Cllr Paul Crossley spoke in support of the motion in view of the obligation of the Council to protect the green belt.

On being put to the vote the motion was CARRIED (9 in favour, 0 against, 1 abstention)

RESOLVED that the application be refused for the reasons set out in the report relating to the harm to the green belt and Area of Outstanding Natural Beauty and an additional reason that the development would have a detrimental impact on residential amenity due to overlooking of the neighbouring property.

(2) 23/04499/FUL - 88 Whiteway Road, Whiteway, Bath

The Planning Case Officer introduced the report which considered an application for the demolition of an existing dwelling and erection of 2 semi-detached 3-bedroom dwellings. He confirmed the officer's recommendation that the application be permitted subject to the conditions set out in the report.

The following public representations were received:

1. Matthew Turner objecting to the application.
2. Holly Wilding, applicant, supporting the application.

In response to Members' questions, it was confirmed:

1. It had been recognised that the existing wall was an important feature of the street scene and a low boundary wall would be retained as part of the development.
2. The design had been amended to minimise impact to the neighbouring property in terms of loss of light. The roof dormers would not cause unacceptable harm in terms of overlooking neighbouring properties.
3. The maximum height of the development would be taller than neighbouring properties but the eaves were lower. The height range was similar to surrounding houses.
4. An electric charging point was a building regulations issue. The proposed parking spaces were a standard size and there was no policy requirement for visitor parking.

Cllr Paul Crossley opened the debate as Ward Councillor. He expressed the view that the application constituted overdevelopment of a small site and proposed that the application be refused. Cllr Eleanor Jackson seconded the motion and stated that there would be a loss of amenity to neighbouring properties. She also expressed concern at the loss of a bungalow although it was noted that there was no Council policy that bungalows should be preserved.

Cllr Ian Halsall spoke in support of the application, stating that it was an eco-friendly design and a good use of the land.

Cllr Tim Warren also spoke in support of the application and noted the benefit in creating an additional home.,

Cllr Fiona Gourley stated that the design reflected the opposite terrace of houses, and she would also support the application.

On being put to the vote the motion was NOT CARRIED (2 in favour, 8 against)

Cllr Lucy Hodge stated that she would support the application subject to the boundary wall being a "cock and hen" style in keeping with the character of the area and the wall being retained for the lifetime of the development. She therefore proposed that officers be delegated to permit the application subject to additional conditions relating to the design and retention of the wall. This was seconded by Cllr Ian Halsall.

On being put to the vote the motion was CARRIED (8 in favour, 2 against)

RESOLVED that officers be given delegated authority to permit the application subject to the conditions set out in the report and additional conditions to secure the design of the wall in keeping with the character of the local area and the retention of the wall for the lifetime of the development.

(3) 23/03554/FUL - Greenways, Stoneage Lane, Tunley, Bath

The Planning Case Officer introduced the report which considered an application for a 2-storey dwelling to replace an existing bungalow.

He gave a verbal update to confirm that the word "not" was missing from the last

paragraph relating to principle of development in the green belt and so it should read "As such, these measures are not Very Special Circumstances."

He confirmed the officers' recommendation that permission be refused for the reason set out in the report that the proposal would result in inappropriate development in the green belt.

The following public representations were received:

1. Alex Manning supporting the application.

Cllr Matt McCabe was in attendance to speak as ward Councillor and he also reported the comments of the Parish Council as follows:

1. There was strong support for the application from the Parish Council and local neighbours who agreed it would be an improvement to demolish a poorly built, ageing bungalow and replace it with an improved dwelling which would be a better design and more energy efficient. There was a fall-back position as a result of the Certificate of Lawfulness and it was the view of the Parish Council that the proposal was an improvement to the fall-back position.
2. He supported the view of the Parish Council and local residents in supporting the application and took the view that a 23% increase did not constitute a material larger property and that any harm to the openness of the green belt was minimal. The proposed building would be built to a high standard.

He asked the Committee to permit the development.

In response to Members' questions, it was confirmed:

1. The officer's conclusion was that the proposal had a greater impact on the green belt than the fall-back position in terms of the openness of the green belt. The increase in height and massing was more visual and prominent when viewed from the main road.
2. The proposal was 23% larger than the original building.
3. The Certificate of Lawfulness was not a test of acceptability in planning terms.

Cllr Fiona Gourley opened the debate as ward Councillor and confirmed that the Parish Council and neighbours supported the application. She stated her view that the scheme was an improvement on the existing and fallback position and made a better use of space and she did not consider there was an impact on the openness of the green belt as it was surrounded by other properties. She proposed that the application be permitted for these reasons. This was seconded by Cllr Shaun Hughes.

Cllr Ian Halsall spoke in support of the motion and stated the benefit of a new dwelling which would be eco efficient.

Cllr Paul Crossley spoke in support of the motion but made a general comment about whether there should be a policy relating to the retention of bungalows to allow for a mix of housing within Bath and North East Somerset.

Cllr Eleanor Jackson also suggested it would be useful for the committee to have training on Certificates of Lawful Use.

On being put to the vote the motion was CARRIED (10 in favour, 0 against)

RESOLVED that the application be permitted subject to suitable conditions for the following reason:

The development was considered to be appropriate in the green belt, it was surrounded by other properties and would not cause substantial harm to the openness of the green belt.

(4) 24/00196/LBA - 31 James Street West, City Centre, Bath

Cllr Hal MacFie withdrew from the meeting during the consideration of this item.

Cllr Fiona Gourley withdrew as a member of the Committee for the remainder of the meeting.

The Planning Case Officer introduced the report which considered a listed building application for replacement lead gutter, roofing felt and battens. She confirmed the officer's recommendation that the consent be granted subject to the conditions set out in the report.

There were no public speakers in relation to the application.

Cllr Tim Warren moved the officer recommendation that consent be granted. This was seconded by Cllr Eleanor Jackson.

On being put to the vote the motion was CARRIED (7 in favour, 0 against and 1 abstention)

RESOLVED that consent be granted subject to the conditions set out in the report.

(5) 22/02169/EOUT – Parcel 4234, Combe Hay Lane, Combe Hay, Bath

The Planning Case Officer introduced the report which considered a hybrid application as follows:

1. An outline application for Phases 3 and 4 for up to 290 dwellings; landscaping; drainage; open space; allotments; footpaths and emergency access; all matters reserved, except access from Combe Hay Lane via the approved Phase 1 spine road.
2. Detailed application for the continuation of the spine road (from Phase 1), to and through Sulis Manor and associated works comprising: the demolition of existing dilapidated buildings and tree removal; drainage; landscaping; lighting; boundary treatment; and the erection of 4 x Bat Night Roosts; to enable construction of the spine road; with the ecologic mitigation on Derrymans and the field known as 30Acres.

He gave a verbal update to confirm:

1. There had been a further letter from Combe Hay and South Stoke Parish Councils in relation to the update report.
2. There had been changes in national policy since the November meeting including duty under section 85 of the Countryside and Rights of Way Act 2000 to seek to further the purposes of the Area of Outstanding Natural Beauty (AONB) and a new version of the National Planning Policy Framework (NPPF).

He confirmed that the updates did not change the recommendations of officers.

He drew attention to issues raised in relation to the application and responded as follows:

1. Number of dwellings for both phases was 461 which was higher than the 300 allocation – the figure of 300 in the Core Strategy was not a cap, the number could be greater if the placemaking principles of the allocation could be met.
2. The Masterplan was not comprehensive – the masterplan did cover the full extent of the allocation with sufficient level of detail of what was proposed.
3. The allocation was for mixed use and the application was for residential - the requirement for mixed and community use covered the whole allocation and there were other uses outside of this application.
4. Highways impact – further assessments had been undertaken since the last meeting by the applicant and third parties. The applicant's assessment demonstrated there had not been a significant change since the previous assessment. The third party assessment showed an increase in cars queueing for an additional 2 minutes on the park and ride roundabout during the morning peak time as a result of the use of pedestrian crossing during this time. The evidence from drone footage and traffic surveys had been analysed by officers and there was not found to be sufficient evidence of rat running. The policy test as set out in paragraph 115 of the National Planning Policy Framework was that impact needed to be severe, and there was guidance and case law to demonstrate that driver queueing was not in itself a reason, there had to be a consequence of the queueing such as impact on emergency vehicles/public transport network. The view of officers was that there would not be a severe impact.
5. Loss of trees due to the spine road – there would be a loss of trees and this was regrettable. Other options to access the site were not considered to be viable. The impact on trees was minimalised and there would be replacement planting. A large number of the trees were Ash and would need to be replaced with or without the development due to Ash dieback disease.
6. AONB exceptional circumstances were not met – officers considered there to be exceptional circumstances due to the housing need. This was found to be the case in 2014 when the site was originally allocated, and the allocation was brought forward as part of the Local Plan Partial Update (LPPU) and so it was an up-to-date allocation.
7. Brownfield sites should be used for development before greenfield sites – there was no requirement to deliver on brownfield sites first, both greenfield and brownfield sites were required to deliver on housing needs, including affordable housing. Brownfield sites were often more difficult to deliver affordable housing.
8. Affordable housing. The scheme consisted of 40% affordable housing.
9. Wansdyke Crossing/alternative route. Scheduled monument consent was outside the control of the Council and applicant. The applicant was required to use reasonable endeavours to secure this, and consent had now been granted for an archaeological investigation.

He confirmed the recommendation that officers be delegated to permit the application subject to:

- (1) Authorising the Head of Legal and Democratic Services to enter into a Section 106 Agreement to cover the heads of terms detailed within the report.
- (2) the conditions set out in the report (or such conditions as may be

appropriate).

Cllr Paul Crossley withdrew from the meeting at this point.

The following public representations were received:

1. Malcolm Austwick, Combe Hay Parish Council objecting to the application.
2. Paul Beazley-Long, South Stoke Parish Council objecting to the application.
3. Dr Ned Garnett (South of Bath Alliance) and Alex Sherman (Bath Preservation Trust) objecting to the application.
4. Peter Frampton, Frampton Town Planning, supporting the application.

Cllr Joel Hirst addressed the Committee as adjacent ward member and raised the following issues:

1. The report overstated the benefits and understated the harms of the proposed development.
2. The Cotswold AONB had taken the view that exceptional circumstances had not been demonstrated.
3. The site was not mixed use and residents would be isolated with no community facilities.
4. There was a lot of local concern about traffic issues including rat running and driver behaviour near roundabouts.
5. The development would cause harm to Sulis Manor.
6. Too little had been done to secure the Wansdyke Crossing.
7. 40% affordable housing should not be the reason to outweigh the harm of developing in the AONB.

He asked the Committee to refuse the application.

Cllr Fiona Gourley addressed the Committee as ward Councillor and raised the following issues:

1. There had been an increase in the number of dwellings compared with the original allocation – what were the exceptional circumstances to justify this increase?
2. Although affordable homes were important, there was a history of developers not fulfilling this commitment. This could not be considered an exceptional circumstance.
3. There was a new statutory duty in relation to the AONB. The development risked the AONB status of the plateau.
4. The ecological mitigations were not enough.
5. Progress was slow in securing the Wansdyke crossing.
6. The loss of public transport meant that more people were dependent on using cars to access Bath. The additional traffic from 460 homes would have an impact and there were not enough developer contributions for traffic mitigations.

She urged the Committee to refuse the application.

In response to Members' questions, it was confirmed:

1. The 2014 allocation was still valid as the allocation had been brought forward as part of the LPPU. The LPPU would have been an opportunity to review this allocation, but that did not happen and so it was part of the up-to-date development plan. Therefore, the principle of development on the site was established and should be given considerable weight.
2. B&NES currently had a 6.14 year supply of housing, and while that was good,

- there was no room for complacency. The new NPPF still required local authorities to meet the housing delivery test.
3. Only very limited weight could be given to the new Local Plan options document as the number of homes had not yet been set and the options set out may not come to fruition.
 4. The number of houses was in the acceptable policy range for density.
 5. It was not possible to confirm if the target of affordable housing could be met if this development did not go ahead but the Housing Team was satisfied with the rate of delivery of affordable housing as part of phase 1 of the development and supported this application.
 6. There was no allocation for the agricultural land, and this was still located within the green belt.
 7. The spine road would still be required even if the development was for 129 homes as it was the only feasible access.
 8. In terms of impact on highways the term “severe” was not defined within the NPPF but there was case law which established that delays/traffic queueing did not equate to a “severe” impact, there needed to be a consequence such as a diversion, impact on other junctions and gridlock, delays to emergency vehicles or public transport and risk to safety.
 9. Combe Hay Lane had been examined in detail in terms of rat running as this was the particular area of concern raised by objectors.
 10. The VISSIM model had not been used as it was 10 years old, pre-Covid and the range of assumptions had now been superseded.
 11. No objections had been received from Avon and Somerset Police or the Fire and Rescue Service.
 12. The number of vehicle trips from the phase 1 development was 23% lower than expected.
 13. In terms of mixed developments, the policy was not specific on what should be included. It was not in the developer’s gift to provide a shop on site.
 14. The site was within walking distance from a number of schools, a supermarket and the Park and Ride bus service.
 15. Wansdyke monument consent was outside the control of the Council and applicant, and it was not possible to comment on timescales in securing consent.

Cllr Shaun Hughes stated that while there were positives about the development including the 40% affordable housing and the relatively sustainable location, there were also concerns including the number of proposed dwellings and the lack of community space and facilities. Cllr Tim Warren concurred with this view.

Cllr Ian Halsall stated that while it was an allocated site, he was concerned about the harm to the AONB and that the density of housing without community facilities could lead to social isolation. He expressed the view that employment benefits would be short term and that the Council could deliver affordable housing without the scheme.

Cllr Lucy Hodge expressed concern that there was not the right infrastructure to make it a sustainable place to live and stated that the application was not compliant with placemaking principles P1 and P7. Cllr Eleanor Jackson agreed and raised further concerns about the loss of trees.

Cllr Duncan Hounsell stated the land had been allocated for housing in 2014 and this had remained in the LPPU and that advice from officers was that the highway

implications would not be severe. He stated that it was a sustainable development and that the benefits would outweigh the harm.

Cllr Ruth Malloy questioned whether the shared pathway across the Wansdyke was achievable. She also expressed concerns about the harm to the Bath World Heritage site and Great Spa Towns of Europe Heritage site and Sulis Manor non designated heritage asset.

Cllr Tim Warren moved that the application be refused for the reasons outlined by Members relating to harm to AONB, impact on World Heritage/Great Spa Towns or Europe/Sulis Manor, lack of mixed facilities and uncertainty of securing the Wansdyke Crossing to ensure a sustainable development and the loss of trees. This was seconded by Cllr Lucy Hodge.

On being put to the vote the motion was CARRIED (7 in favour, 1 against)

RESOLVED that the application be refused for the following reasons:

1. AONB – the proposal represented a major development in the Cotswolds Area of Outstanding Natural Beauty and exceptional circumstances had not been demonstrated. There would be an adverse impact of the AONB which had not been avoided or minimised.
2. Heritage - the proposal would harm the Outstanding Universal Values of the City of Bath World Heritage Site and Great Spa Towns of Europe Heritage site as well as the Sulis Manor non-designated heritage asset.
3. Placemaking Principles – Sustainable community – due to the lack of Scheduled Monument Consent for a shared use crossing of the Wansdyke monument, the proposed development failed to provide an active travel link and the failure to provide a mix of uses would not create a sustainable community.
4. Trees and woodland - the proposed development would adversely impact on a large number of trees with significant value.

111 **NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES**

The Committee considered the appeals report.

RESOLVED that the report be noted.

The meeting ended at 5.41 pm

Chair

Date Confirmed and Signed

Prepared by Democratic Services