

PLANNING COMMITTEE

Minutes of the Meeting held

Wednesday, 25th September, 2019, 2.00 pm

Councillors: Matt McCabe (Chair), Sally Davis (Vice-Chair), Vic Clarke, Sue Craig, Michael Evans (Reserve) (in place of Brian Simmons), Lucy Hodge, Duncan Hounsell, Eleanor Jackson, Manda Rigby and Ryan Wills (Reserve) (in place of Hal MacFie)

43 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the emergency evacuation procedure.

44 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from:

Cllr Hal MacFie – substitute Cllr Ryan Wills
Cllr Brian Simmons – substitute Cllr Michael Evans

45 DECLARATIONS OF INTEREST

Cllr Lucy Hodge declared an interest in application no. 19/01596/FUL. Cllr Hodge stated that she would be speaking against the application as local ward member and would therefore not take part in the debate or vote on the application.

Cllr Sue Craig declared an interest in application nos. 19/03455/LBA and 19/03454/AR. Cllr Craig stated that she would be speaking in favour of the applications as local ward member and would therefore not take part in the debate or vote on the applications.

46 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN

There was no urgent business.

47 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

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.

48 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 28 August 2019 were confirmed and signed as a correct record.

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

The Committee considered:

- A report by the Head of Planning on various planning applications.
- An update report by the Head of Planning on items 2 and 4 attached as *Appendix 1* to these minutes.
- Oral statements by members of the public and representatives. A copy of the speakers' list is attached as *Appendix 2* to these minutes.

RESOLVED that in accordance with the delegated powers, the applications be determined as set out in the decisions list attached as *Appendix 3* to these minutes.

Item No.1

Application No. 19/01596/FUL

Site Location: The Cottage, Northfields, Lansdown, Bath – Erection of 3 dwellings following removal of existing properties

The Case Officer reported on the application and her recommendation to permit. She clarified the position of the neighbouring conservatory as this had been incorrectly described in the report.

Two local residents spoke against the application.

The agent spoke in favour of the application.

Cllr Lucy Hodge, local ward member, spoke against the application. She expressed concerns regarding the scale and design of the development. She felt that the proposal would lead to overdevelopment of the site due to height, scale and mass which would be detrimental to the residential amenity of the area. The three modern houses that are proposed would be too dominant. The development would also lead to loss of habitat for wildlife.

Cllr Mark Elliott, local ward member, spoke against the development. He felt that the tall dominant houses would be out of proportion in this area and would be out of keeping with the surroundings. He also had concerns about the detrimental impact on no. 7 Northfields and the resultant loss of light to the property. There would also be a detrimental impact on the Conservation Area. He also pointed out that there has been no support for the development from local residents.

(Note: Cllr Hodge then left the meeting having declared an interest in the application due to her opposition to the development).

Officers then responded to questions as follows:

- There are trees on the application site which would be removed. However, the conditions include a landscaping scheme which will secure appropriate replacements.

- The access will be shared between the three properties and this will be a management issue.
- There would be a reduction in green space but the landscape officer feels that this would be acceptable in a suburban environment.
- With regard to the tests under the Habitats Regulations, it would be for Natural England to consider those tests in detail when determining any application for a European Protected Species Licence. The Committee should only refuse permission on this basis if members concluded that it was unlikely that Natural England would grant a licence.
- There may be some loss of light to no. 7 Northfields but this is not considered to be significant enough to justify refusal of the application.

Cllr Davis noted that the proposed materials are environmentally friendly and attempts have been made by the applicant to mitigate concerns raised through the application process.

Cllr Craig was concerned at the loss of green space and queried whether the proposed properties would be in keeping with the area due to their size.

Cllr Hounsell expressed concern at the loss of amenity to the neighbouring property (no. 7). He felt that there would be a loss of light. He also stated that the new properties would be overbearing and inappropriate in this location due to their height and dominance.

Cllr Rigby appreciated the need for more housing in the B&NES area but queried whether this was the right type of housing. She expressed concern at the loss of ecology and amenity pointing out that development in a Conservation Area must conserve or enhance the area.

Cllr Clarke also felt that the proposal constituted overdevelopment of the site.

Cllr Jackson was concerned at the height of the proposed development and also the ecological issues caused by a back garden development. She did not feel that the design is appropriate for a Conservation Area.

The Principal Planning Officer advised that there was no requirement for the Committee to justify a need for housing in this location as the site is within the Housing Development Boundary. He informed the Committee that the test in the policy relating to amenity (Policy D6) states that a development “must cause significant harm”. He also pointed out that the Council’s Ecology Officer has not objected to the proposal. If members felt there would be harm to the Conservation Area then they should also consider whether there are any over-riding public benefits of the proposed development.

Cllr Rigby then moved that the application be refused for the following reasons:

- Inappropriate design which would cause harm to the Conservation Area which would not be outweighed by any public benefits.
- Overdevelopment of the site due to size and scale.
- Loss of residential amenity and, in particular, loss of light to No. 7 Northfields.
- Loss of green space and harm to ecology in the area.

Cllr Wills seconded the motion stating that the proposal did not enhance the Conservation Area.

The motion was put to the vote and it was RESOLVED by 6 votes in favour and 3 against to REFUSE the application for the reasons set out above.

(Note: Cllr Lucy Hodge then returned to the meeting).

Item No. 2

Application No. 19/03166/FUL

Site Location: 13 Entry Hill, Combe Down, Bath, BA2 5LZ – Erection of detached dwelling in rear garden of 13 Entry Hill (Resubmission)

The Case Officer reported on the application and her recommendation to refuse. She informed members that the fourth reason for refusal set out in the report should be removed as the tree is not considered worthy of a Tree Preservation Order and, therefore, this would not be a reasonable reason for refusal.

A local resident spoke against the application.

The agent spoke in favour of the application.

Cllr Winston Duguid, Local Ward Member, spoke against the application. He highlighted risks relating to the geology of the area which could result in slippage on Wellsway. He also stated that the proposal would cause harm to the street scene and would be a threat to the amenity of the area. He expressed concern regarding construction and access issues.

Officers then responded to questions as follows:

- A pre-commencement condition relating to a tree situated in a neighbouring property could be imposed; however, the test is whether there is a reasonable likelihood that it could be complied with.
- The applicant has certified that all the land on the application site falls into his ownership. Where a site is affected by land stability problems then the onus is on the developer to resolve any issues that may arise.
- The wall referred to in the report is in a Conservation Area but is not otherwise specifically protected. Any previous decisions relating to the wall on the other side of Wellsway should be given little weight.
- The costs of removing the tree would be a civil matter for negotiation between neighbours.

Cllr Davis then moved the officer recommendation to refuse the application for the reasons set out in the report. This was seconded by Cllr Clarke.

Cllr Jackson stated that the proposed materials were also unsuitable.

The motion was put to the vote and it was RESOLVED unanimously to REFUSE the application for reasons (1) to (3) set out in the report.

Item Nos. 3 and 4

Application Nos. 19/03455/LBA and 19/03454/AR

Site Location: The Pig and Fiddle, 2 Saracen Street, Bath – External alterations to include installation of painted ghost sign to rendered north elevation gable end (Retrospective).

The Case Officer reported on the applications and her recommendation to refuse. She advised that section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 does not apply either to the listed building consent application or the advertisement consent application. This is because s66 concerns the effect upon listed buildings of granting planning permission, whereas in this case the committee must determine applications for listed building consent and advertisement consent to which the statutory duty does not apply.

The agent spoke in favour of the applications.

Cllr Sue Craig, local ward member, spoke in favour of the applications. She felt that this particular location is acceptable for the sign. The gable end wall is unattractive and it is the gateway to the Walcot area of Bath which comprises of an eclectic mix of buildings. The ghost sign enhances the appearance of the wall, is not garish and is well placed in the street scape.

(Note: Cllr Craig then left the meeting having declared an interest in the application due to her support for the development).

The Case Officer confirmed that the measurements of the ghost sign are 5.6m x 3.2m.

Cllr Jackson stated that the sign appears to be disproportionate compared to other ghost signs in the area and felt that it is overbearing.

Cllr Rigby also felt that the sign is out of proportion.

Cllr Hounsell queried whether the sign is really street advertising. He noted that it is positioned on a listed building and could set a precedent.

Cllr Clarke did not support the proposal as he felt it could lead an increase in these types of signs in the area.

Cllr Davis moved the officer recommendation to refuse the applications for the reasons set out in the report. She felt that the sign is too large and too bold in this location. This was seconded by Cllr Clarke.

Cllr Evans felt that the sign enhances a dull wall and did not think it creates an overly strong impact.

The motion was put to the vote and it was RESOLVED by 8 votes in favour and 1 against to REFUSE both applications for the reasons set out in the reports.

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

The Committee considered the appeals report.

RESOLVED to NOTE the report.

The meeting ended at 3.45 pm

Chair

Date Confirmed and Signed

Prepared by Democratic Services

BATH AND NORTH EAST SOMERSET COUNCIL

Planning Committee

25th September 2019

**OBSERVATIONS RECEIVED SINCE THE PREPARATION OF THE MAIN
AGENDA**

ITEMS FOR PLANNING PERMISSION

Item No.	Application No.	Address
4	19/03454/AR	The Pig & Fiddle 2 Saracen Street City Centre BA1 5BR

The report was amended to remove reference to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 from the policy section and main body of the report. The statutory section 66 duty does not apply to advertisement consent applications and is only applicable in the corresponding application for Listed Building Consent.

Item No.	Application No.	Address
2	19/03166/FUL	13 Entry Hill Combe Down Bath BA2 5LZ

Harm has been identified to the conservation area and the setting of the grade II listed terrace. Members are advised that there is a (rebuttable) presumption against granting planning permission for development which will cause harm to a designated heritage asset and that members should attach considerable importance and weight to the conservation of the heritage assets. Members are advised to follow the approach in the NPPF which states that:

193. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

196. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

The first reason for refusal should also include the harm to the setting of the listed terrace and should read:

Due to the siting, spacing, layout and design of the proposed development it will result in the over development of the site and will detract from the character and appearance of this part of the Conservation Area and the setting of the adjacent grade II listed terrace, contrary to policy CP6 of the adopted Core Strategy (2014), Policies HE1, D2, D3, D4 and D5 of the Bath and North East Somerset Placemaking Plan (2017) and the provisions of the National Planning Policy Framework (2019).

BATH AND NORTH EAST SOMERSET COUNCIL

MEMBERS OF THE PUBLIC AND REPRESENTATIVES WISHING TO MAKE A STATEMENT AT THE MEETING OF THE PLANNING COMMITTEE ON WEDNESDAY 25 SEPTEMBER 2019

MAIN PLANS LIST			
ITEM NO.	SITE NAME	SPEAKER	FOR/AGAINST
1	The Cottage, Northfields, Lansdown, Bath	Esmeralda Meunier	Against (To share 3 minutes)
		Robert Clarke	
		John White (Agent)	For
		Cllr Mark Elliott (Local Ward Member)	Against
		Cllr Lucy Hodge (Local Ward Member)	Against
2	13 Entry Hill, Combe Down, Bath, BA2 5LZ	Ian Oxford	Against
		Duncan Lawrence (Agent)	For
		Cllr Winston Duguid (Local Ward Member)	Against
3 & 4	The Pig and Fiddle, 2 Saracen Street, Bath	Simon Millett (Agent)	For (6 minutes)
		Cllr Sue Craig (Local Ward Member)	For

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BATH AND NORTH EAST SOMERSET COUNCIL
PLANNING COMMITTEE
25th September 2019
DECISIONS

Item No:	01	
Application No:	19/01596/FUL	
Site Location:	The Cottage, Northfields, Lansdown, Bath	
Ward: Lansdown	Parish: N/A	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Erection of 3no dwellings following removal of existing properties	
Constraints:	Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Policy CP9 Affordable Housing Zones, MOD Safeguarded Areas, Policy NE2A Landscapes and the green set, SSSI - Impact Risk Zones,	
Applicant:	Mr John Baxter	
Expiry Date:	27th September 2019	
Case Officer:	Tessa Hampden	

DECISION REFUSE

1 The development is considered to be of an inappropriate design, and due to the excessive size and scale of the development is considered to represent the overdevelopment of the site. The development would therefore have a detrimental impact upon the character and appearance of this part of the City of Bath Conservation Area. The harm to the Conservation Area is not considered to be outweighed by any public benefits. The development is therefore considered to be contrary to Placemaking Plan policies HE1, BD1, D1,D2, D5,D7 and Core Strategy Policy CP6.

2 The development due to the inappropriate siting and scale of the development will have an unacceptable detrimental impact upon the residential amenity of No.7 Northfields, particularly due to the loss of light. The development is therefore considered to be contrary to policy D6 of the Bath and North East Somerset Placemaking Plan.

3 The development will result in the loss of trees and green spaces which have the potential to be of wildlife value. The development therefore is considered to have an adverse impact upon species, habitats and features of biodiversity value. It has not been demonstrated that this harm is unavoidable. The development is therefore considered to be contrary to Bath and North East Somerset Placemaking Plan policies D5 and NE3.

PLANS LIST:

12 Sep 2019 AP(0)01 G SITE PLAN
12 Sep 2019 AP(0)21 B UNIT 01 ELEVATIONS
12 Sep 2019 AP(0)22 B UNIT 02 ELEVATIONS

12 Sep 2019 AP(0)23 E UNIT 03 ELEVATIONS
23 Aug 2019 10F PROPOSED BASEMENT FLOOR PLANS
23 Aug 2019 11L PROPOSED GROUND FLOOR PLANS
23 Aug 2019 12I PROPOSED FIRST FLOOR PLANS
23 Aug 2019 13H PROPOSED SECOND FLOOR PLANS
19 Jul 2019 AS(0)01 EXISTING SITE LOCATION PLAN
19 Jul 2019 AS(0)02 A EXISTING TOPOGRAPHIC SURVEY
19 Jul 2019 AS(0)03 EXISTING SITE SECTIONS

Community Infrastructure Levy

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. **Before** commencing any development on site you should ensure you are familiar with the CIL process. If the development approved by this permission is CIL liable there are requirements to assume liability and notify the Council before development commences, failure to comply with the regulations can result in surcharges and additional payments. Full details about the CIL Charge including, amount and process for payment will be sent out in a CIL Liability Notice which you will receive shortly. Further details are available here: www.bathnes.gov.uk/cil

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework.

Condition Categories

The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

Compliance - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

Pre-occupation - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

Where approval of further information is required you will need to submit an application to Discharge Conditions and pay the relevant fee via the Planning Portal at www.planningportal.co.uk or post to Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

Item No:	02
Application No:	19/03166/FUL
Site Location:	13 Entry Hill, Combe Down, Bath, Bath And North East Somerset
Ward: Widcombe And Lyncombe	Parish: N/A LB Grade: N/A
Application Type:	Full Application
Proposal:	Erection of detached dwelling in rear garden of 13 Entry Hill (Resubmission)
Constraints:	Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Policy CP9 Affordable Housing Zones, MOD Safeguarded Areas, Policy NE2A Landscapes and the green set, SSSI - Impact Risk Zones,
Applicant:	Mr Clyde Waite
Expiry Date:	26th September 2019
Case Officer:	Chloe Buckingham

DECISION REFUSE

1 Due to the siting, spacing, layout and design of the proposed development it will result in the over development of the site and will detract from the character and appearance of this part of the Conservation Area and the setting of the grade II listed terrace (199-205 Wellsway) contrary to policy CP6 of the adopted Core Strategy (2014), Policies HE1, D2, D3, D4 and D5 of the Bath and North East Somerset Placemaking Plan (2017) and the provisions of the National Planning Policy Framework (2019).

2 Given the design and siting of the proposed development on a steep incline the proposal is considered to cause significant harm to the amenities of nearby residents by overlooking, loss of privacy and an overbearing impact. The proposal is therefore contrary to policy D6 of the Bath and North East Somerset Placemaking Plan (2017) and the provisions of the National Planning Policy Framework (2019).

3 The scheme does not propose any off-street car parking provision contrary to policy ST7 of the Bath and North East Somerset Placemaking Plan (2017).

PLANS LIST:

This decision relates to plan references;

1394/P2/01 P1, 1394/P2/01 P1, 1394/P2/02 P1, 1394/P2/03 P1, 1394/P2/04 P1, 1394/P2/05 P1, 1394/P2/06 P1 and 1394/P2/LOC P1 received 15th July 2019.

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant chose not to withdraw the

application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

Community Infrastructure Levy

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority please note that CIL applies to all relevant planning permissions granted on or after this date. Thus any successful appeal against this decision may become subject to CIL. Full details are available on the Council's website www.bathnes.gov.uk/cil

Item No:	03	
Application No:	19/03455/LBA	
Site Location:	The Pig & Fiddle , 2 Saracen Street, City Centre, Bath	
Ward: Kingsmead	Parish: N/A	LB Grade: II
Application Type:	Listed Building Consent (Alts/exts)	
Proposal:	External alterations to include installation of painted ghost sign to rendered north elevation gable end (Retrospective).	
Constraints:	Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 3b,4,5, Air Quality Management Area, Policy B2 Central Area Strategic Policy, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Policy CP12 Bath City Centre Boundary, Policy CP9 Affordable Housing Zones, Policy CR3 Primary Shopping Areas, Policy CR3 Primary Shopping Frontages, Listed Building, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, River Avon and Kennet & Avon Canal, SSSI - Impact Risk Zones,	
Applicant:	Butcombe Brewing Co.	
Expiry Date:	26th September 2019	
Case Officer:	Emily Smithers	

DECISION REFUSE

1 The painted sign, by reason of its excessive size and prominent location, creates a significant adverse impact on the character and appearance of the streetscene and fails to preserve the significance of the listed building, setting of neighbouring listed buildings or preserve the character of the surrounding conservation area and world heritage site. There are no public benefits as a result of the proposal which would outweigh the harm identified to the significance of the designated heritage assets. The proposal is contrary to policy HE1 of the Bath and North East Somerset Placemaking Plan (2017) and Section 16 of the National Planning Policy Framework.

PLANS LIST:

Drawing 01 Aug 2019 BLOCK PLAN
Drawing 01 Aug 2019 3278-09-04 PROPOSED SIGNAGE GABLE END NORTH
OS Extract 01 Aug 2019 LOCATION PLAN

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the reasons outlined above and the applicant was advised that the application was to be recommended for refusal unless amendments to the scheme were supplied. The applicant was unable to submit revisions in a timely manner, and did not choose to withdraw the application. Having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.

Item No:	04	
Application No:	19/03454/AR	
Site Location:	The Pig & Fiddle , 2 Saracen Street, City Centre, Bath	
Ward: Kingsmead	Parish: N/A	LB Grade: II
Application Type:	Advertisement Consent	
Proposal:	Painted sign to rendered north elevation gable end. (Retrospective)	
Constraints:	Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 3b,4,5, Air Quality Management Area, Policy B2 Central Area Strategic Policy, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Policy CP12 Bath City Centre Boundary, Policy CP9 Affordable Housing Zones, Policy CR3 Primary Shopping Areas, Policy CR3 Primary Shopping Frontages, Listed Building, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, River Avon and Kennet & Avon Canal, SSSI - Impact Risk Zones,	
Applicant:	Butcombe Brewing Co	
Expiry Date:	26th September 2019	
Case Officer:	Emily Smithers	

DECISION REFUSE

1 The painted sign, by reason of its excessive size and prominent location, creates a significant adverse impact on the character and appearance of the streetscene and visual amenity. It fails to preserve the significance of the subject site, setting of neighbouring listed buildings or preserve the character of the surrounding conservation area and world heritage site. There are no public benefits as a result of the proposal which would outweigh the harm identified to the significance of the designated heritage assets. The proposal is contrary to policies D2, D4, D9 and HE1 of the Bath and North East Somerset Placemaking Plan (2017) and Section 16 of the National Planning Policy Framework.

PLANS LIST:

For the avoidance of doubt, this decision relates to the following drawings;

Drawing 01 Aug 2019 BLOCK PLAN

Drawing 01 Aug 2019 3278-09-04 PROPOSED SIGNAGE GABLE END NORTH

OS Extract 01 Aug 2019 LOCATION PLAN

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the reasons outlined above and the applicant was advised that the application was to be recommended for refusal unless amendments to the scheme were supplied. The applicant was unable to submit revisions in a timely manner, and did not choose to withdraw the application. Having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.