

DRAFT MINUTES PENDING CONFIRMATION AT THE NEXT MEETING

BATH AND NORTH EAST SOMERSET

MINUTES OF DEVELOPMENT CONTROL COMMITTEE

Wednesday, 9th May, 2012

Present:- Councillor Gerry Curran in the Chair
Councillors Neil Butters, Nicholas Coombes, Liz Hardman, Eleanor Jackson, Les Kew, David Martin, Douglas Nicol, Bryan Organ, Martin Veal, David Veale and Brian Webber

Also in attendance: Councillors Patrick Anketell-Jones and Malcolm Lees

165 EMERGENCY EVACUATION PROCEDURE

The Senior Democratic Services Officer read out the procedure

166 ELECTION OF VICE CHAIR (IF DESIRED)

A Vice Chair was not required

167 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There was none

168 DECLARATIONS OF INTEREST

The Chair declared a personal but non-prejudicial interest in the planning application at 40 Audley Park Road, Bath (Item 3, Report 12) as he was previously acquainted with the objector. He would therefore still speak and vote on the matter.

Later in the meeting and immediately before the Committee considered the application at 40 Audley Park Road, Councillors Nicholas Coombes and Doug Nicol declared personal but non-prejudicial interests on this item for similar reasons and they would therefore speak and vote on the application.

169 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none

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

The Senior Democratic Services Officer informed the meeting that there were members of the public etc wishing to make statements on the Tree Preservation Orders and former Fullers Earthworks reports and that they would be able to do so when reaching those items on the Agenda. There were also various people wishing to speak on the planning applications in Report 12 and they would be able to do so when reaching their respective items in that Report.

171 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

There was none

172 MINUTES: 30TH MARCH AND 11TH APRIL 2012

The Minutes of the meetings held on Friday 30th March and 11th April 2012 were approved by Members as correct records and were signed by the Chair (Note: Councillor Martin Veal abstained from voting)

173 MAJOR DEVELOPMENTS

The Senior Professional – Major Development updated the Committee on developments at (i) the University of Bath by stating that a revised Master Plan was anticipated to be made public later this month; and (ii) the former Cadbury's site, Somerdale, Keynsham, informing that the developers, Taylor Wimpey, were holding stakeholder workshops and that a Master Plan would be drafted before the end of this month when he would advise Members accordingly.

Members asked questions about the Bath University development to which the Officer responded.

The Committee noted the update report.

174 TREE PRESERVATION ORDER - GAIA, WIDCOMBE HILL, WIDCOMBE, BATH

Referring to the Site Visit made on 30th April 2012, the Committee considered the report of the Senior Arboricultural Officer which (1) referred to a Tree Preservation Order provisionally made on 15th December 2011 to protect a group of trees on land at Gaia, Widcombe Hill, Bath, as they made a significant contribution to the landscape and amenity of the area; (2) advised that an objection to the Order had been made by the owners of the property; (3) informed that a number of local residents supported the Tree Preservation Order; and (4) considered the objection and recommended that the Order be confirmed without modification.

The Senior Arboricultural Officer reported on the matter by means of a power point presentation. She emphasised that the amenity value of the trees was on the basis that they were a group. Members asked questions about the matter to which the Officer responded. In particular, some Members queried whether the Committee could modify the Order so that it only applied to 2 of the 3 trees. The Senior Legal Advisor advised that, whilst it was possible for the Committee to do that, Members should bear in mind that the amenity value of the trees had been assessed on the basis of their value as a group. The owner of the property made a statement against the Order being confirmed.

On the basis of the significance of the trees on the streetscene, Councillor Eleanor Jackson moved that the Officer recommendation be approved which was seconded by Councillor Les Kew. Members asked further questions to which the Senior Arboricultural Officer responded accordingly. She informed the Committee that, even with the Order being confirmed, work could still be undertaken to the trees in the future by applying for the necessary consent.

RESOLVED to confirm the Tree Preservation Order entitled “Bath and North East Somerset Council (Gaia, Widcombe Hill, Bath No 268) Tree Preservation Order 2011” without modification.

(Voting: 7 in favour and 3 against with 2 abstentions)

175 TREE PRESERVATION ORDER - 108 BLOOMFIELD ROAD, LYNCOMBE, BATH

The Committee considered the report of the Senior Arboricultural Officer which (1) referred to a Tree Preservation Order provisionally made on 5th January 2012 to protect a Pine tree in the garden of 108 Bloomfield Road, Bath, as it made a significant contribution to the landscape and amenity of the area; (2) advised that an objection to the Order had been made by the owner of the property; and (3) considered the objection and recommended that the Order be confirmed without modification.

The Senior Arboricultural Officer reported on the matter by means of a power point presentation. The owner of the property made a statement against the Order being confirmed. Members asked questions about the tree to which the Officer responded accordingly.

On the basis that the tree was not considered worthy of preservation as it did not add to the amenity of the area, Councillor Bryan Organ moved that the Order not be confirmed which was seconded by Councillor Martin Veal. Members debated the motion. The Committee were divided on the matter with some Members considering that the tree added to the landscape and amenity of the area and others considering that it was not significant enough to warrant retention. The motion was put to the vote. Voting: 5 in favour and 7 against. Motion lost.

It was therefore moved by Councillor Nicholas Coombes and seconded by Councillor Doug Nicol and **RESOLVED** to confirm the Tree Preservation Order entitled “Bath and North East Somerset Council (108 Bloomfield Road, Bath No 269) Tree Preservation Order 2012” without modification.

(Voting: 7 in favour and 5 against)

176 PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE

The Committee considered

- A report by the Development Manager on various applications for planning permission etc
- Oral statements by members of the public etc on Item Nos 1-6, the Speakers List being attached as *Appendix 1* to these Minutes
- An Update Report by the Development Manager on Item Nos. 1, 2, 4 and 5, a copy of which report is attached as *Appendix 2* to these Minutes

RESOLVED that, in accordance with their delegated powers, the applications be determined as set out in the Decisions List attached as *Appendix 3* to these Minutes

Items 1&2 Cranwell House, Weston Park East, Upper Weston, Bath – Erection of a building adjacent to listed building following demolition of classroom units and outbuildings and refurbishment and alterations to listed building with associated landscape and engineering works including new retaining wall (Ref 12/00277/FUL & 12/00278/LBA) – The Planning Officer and the Senior Conservation Officer reported on these applications for planning permission and listed building consent respectively and their recommendations to (1) Authorise the Development Manager to Permit subject to conditions and the securing of the £10,000 contribution through a legal agreement; and (2) Delegate to Consent subject to appropriate conditions. The Update Report (i) provided further information on the planning application and revised the highway conditions numbered 2) – 7) in the Main Agenda; and (ii) recommended conditions on the listed building application. The Planning Officer reported the receipt of a letter of support from the Ward Councillor Colin Barrett on the proposals. He also advised Members that a signed Unilateral Undertaking had recently been received from the applicants and his recommendation was accordingly modified to Delegate to Permit subject to the Council approving the Unilateral Undertaking.

Various members of the public etc made statements on the applications which were followed by a statement by the Ward Councillor Malcolm Lees who raised concerns about the proposals. The Chair read out a letter of support received from the other Ward Councillor Colin Barrett. The Ward Member for the adjoining Ward of Lansdown, Councillor Patrick Anketell-Jones, made a statement supporting the proposals. The Chair made some general comments about the proposals for Members to bear in mind when considering the applications.

Councillor Les Kew fully supported the proposals and moved the Officers' recommendations to Delegate to Permit/Consent with conditions etc. This was seconded by Councillor Eleanor Jackson. Members debated the motions. Most Members were supportive of the proposals. The Team Leader – Development Management drew Members' attention to the revised highway conditions in the Update Report. The motions were put to the vote. Voting on planning application (Ref 12/00277/FUL): Unanimously in favour. Voting on listed building application (Ref 12/00278/LBA): 11 in favour and 0 against with 1 abstention.

Item 3 No 40 Audley Park Road, Lower Weston, Bath – Erection of balcony, rendering of garage and utility and alterations to 2 storey side extension (Retrospective)(Ref 12/00488/FUL) – The Case Officer reported on this application and her recommendation to Permit with conditions. (Councillors Coombes and Nicol declared personal interests at this point). The applicant then made a statement in support of the application.

Councillor Doug Nicol supported the application and therefore moved that the Officer recommendation to Permit with conditions be approved. This was seconded by Councillor Bryan Organ. The motion was briefly debated after which it was put to the vote. Voting: Unanimously in favour.

(Note: Following this decision at 4.12pm, the Committee adjourned for a comfort break for approximately 15 minutes)

Item 4 Summerfield School, Lime Grove Gardens, Bathwick, Bath – Erection of 13 dwellings with associated parking and landscaping following demolition of existing school buildings (Resubmission)(Ref 12/00980/FUL) – The Case Officer reported on this application and her recommendation to (A) Authorise the Planning and Environmental Law Manager to prepare a Section 106 Agreement to secure contributions of £68,357.20 for school places and youth provision, £18,000 for improvements to pedestrian facilities; and for the Developers to fund a Traffic Regulation Order to prevent parking on the new access road; and (B) authorise the Development Manager to Permit subject to conditions. The Update Report reported on further consultation responses and provided an Officer assessment. It also varied the Recommendation to add a further contribution of £78,433.80 for parks and open space provision and added a further condition regarding implementation of the mitigation measures detailed in the Acoustic Report. The public speaker then made a statement raising concerns about the proposal.

Councillor Nicholas Coombes opened the debate. He considered that the proposals were flawed and were contrary to numerous policies in the Local Plan. He outlined the policies and the reasons why the proposals were contrary to them. He added that the adjoining Kennet and Avon Canal was found to be leaking and therefore any housing built on the land would need to be fully waterproofed. The motion was seconded by Councillor David Martin.

Members debated the motion and asked questions to which the Case Officer responded. Most Members considered that the proposal was acceptable despite the reduction in the area of the site which brought it below that where provision of affordable housing could be requested. A Member pointed out that, in the Officer's report, there were numerous references to "no objections" by consultees against the proposals. It was also stated by a Member that, should permission be granted, it should be subject to a Construction Management Plan and must ensure that contractor's vehicles were only parked on site. The Case Officer stated that the recommended Condition 12 covered these issues. The Team Leader – Development Management advised Members that a similar application for 18 houses had been refused permission last October and that the reasons at that time did not include those raised in the motion. If the applicants appealed against a refusal on these grounds, costs may be awarded to the applicants. The motion was then put to the vote. Voting: 3 in favour and a substantial majority against. Motion lost.

It was therefore moved by Councillor Les Kew and seconded by Councillor Bryan Organ to approve the Officer recommendation to Delegate to Permit etc but with adequate conditions to prevent contractors' vehicles parking on-street. Councillor Nicholas Coombes felt that a condition should be added regarding noise attenuation for habitable rooms. This was not accepted by Councillor Kew. The motion was then put to the vote. Voting: 9 in favour and 3 against. Motion carried.

Item 5 No 53 Minster Way, Bathwick, Bath – Erection of new detached dwelling in the grounds of the existing house and associated new vehicular access and hardstanding (Ref 12/00292/FUL) – The Case Officer reported on this application and her recommendation to Permit with conditions. The Update Report referred to a further letter of objection being received which did not affect the recommendation. The public speakers made their statements on the proposal.

Councillor Nicholas Coombes did not support the application and therefore moved Refusal as it was contrary to numerous policies in the Local Plan, namely: D.2(b) not of high quality design; D.2(f) would cause harm to the amenities of residential properties by overlooking to the gardens of No 53 and increase enclosure to the garden of No 55; D.4(a) does not respond to local context in terms of appearance, siting, spacing and layout; GB.2 would be visually detrimental to the adjacent Green Belt; NE.9 may be of harm to the adjacent area of nature conservation (no consideration had been submitted); BH.1 would be harmful to the World Heritage site; BH.6 does not preserve or enhance the character and appearance of the Conservation Area in terms of size, form or position; BH.6(i) does not retain existing street patterns, historic grain or building lines; and BH.6(iv) does not retain the relationship of buildings to open space. The motion was seconded by Councillor David Martin.

Members debated the motion. Some Members supported the motion considering that the proposal would be detrimental to the amenities of local residents and impact on the appearance of the estate. Other Members felt that the proposal was acceptable and would complement the streetscene and preserve the character of this part of the Conservation Area. The motion was put to the vote. Voting: 6 in favour and 6 against. The Chair decided to exercise his casting vote in favour of the motion to Refuse and therefore voting was 7 in favour and 6 against. Motion carried.

Item 6 Leaning Pines, Thrubwell Lane, Nempnett Thrubwell – Erection of single storey dwelling following demolition of existing dwelling and associated outbuildings (Ref 11/05320/FUL) – The Planning Officer reported on this application and the recommendation to Refuse permission. She reported that the Arboricultural Officer would like to see conditions added regarding trees if the Committee decided to grant permission. The report also set out highway conditions to be added should permission be granted. The applicant made a statement in support of her application.

Councillor Les Kew considered that this was a huge improvement on the design of the previous proposal. With regard to Green Belt policy, he queried whether the basement area, which was not habitable accommodation but housed equipment/installations for renewable energy, should be included in the volume calculation. He felt that the proposal was sustainable because it incorporated renewable energy features and it would not affect the openness of the Green Belt. Councillor Kew therefore moved that permission be granted. The motion was seconded by Councillor Martin Veal.

The Senior Legal Adviser gave advice regarding Green Belt policy. He stated that it was correct for Officers to take account of the basement because the proposal had to be assessed on the basis of its volume - as such, it was inappropriate development in the Green Belt. However, there were a number of factors which Members should consider when deciding whether there were very special circumstances. In particular, he drew Members' attention to an extract from the National Planning Policy Framework regarding renewable energy proposals in the Green Belt. If Members were minded to grant permission, he recommended that the motion be Delegate to Permit subject to appropriate conditions, including a condition to secure the implementation of the renewable energy measures detailed in the application.

Members generally supported the proposal due to the fact that it did not affect residential amenity, it provided a package of renewable energy and was supported by the Parish Council. The Chair pointed out that the basement area was included in the Green Belt calculation and therefore it was still inappropriate development even though it could not be seen. Councillor Les Kew, with the seconder's agreement, amended his motion to Delegate to Permit with appropriate conditions on the grounds that there were very special circumstances which outweighed any potential harm to the Green Belt, namely, there was already an extant permission for a similar proposal and the current proposal was of a superior design, there would be no adverse effect on the openness of the Green Belt as the increase in volume was largely due to a bigger basement, there were benefits to replacing the current derelict building, and the basement would contain renewable energy plant which Members considered was in line with Government policy on renewable energy. The Team Leader – Development Management stated that conditions should include the removal of permitted development rights and establishing a new hedgerow on the boundary as well as conditions recommended by Highways and Arboricultural Officers.

The motion was put to the vote. Voting: 11 in favour and 1 against. Motion carried.

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

Councillor Eleanor Jackson congratulated the Officers on the success rate in appeals being dismissed.

The Committee noted the report.

178 LAND AT FORMER FULLERS EARTHWORKS, FOSSEWAY, COMBE HAY, BATH

The Committee considered a joint report by the Divisional Director of Planning and Transport Development and the Planning and Environmental Law Manager regarding this site and which (1) referred to the decision of the Special meeting of this Committee held on 30th March 2012 at which it was requested that a further report be submitted to this meeting regarding the possibility of taking enforcement action against alleged unauthorised activities on the site; and (2) recommended that enforcement action be authorised against the uses outlined in the report. An Update Report provided further information on the matter and slightly amended the recommendation. The Chair introduced this item. Councillor Martin Veal stated that a complaint had been lodged against him as regards his comments about the issues on the site. He therefore felt it appropriate to withdraw from the meeting for its consideration which he proceeded to do.

Mr Harwood, the Council's Planning Consultant, reported on the matter by means of a power point presentation and took the Committee through aerial photographs taken over recent years and some taken at the recent Site Visit attended by Members on 19th March this year. Mr Herbert, the Council's Waste and Minerals Consultant, reported by means of a power point presentation on the pre-application proposals that had been submitted by the owner. These had been considered by the Development Team who found them to be unacceptable for various reasons but that, with revisions, they could be satisfactory.

The public speakers made their statements on the matter. The Chair then stated that there were 3 issues for consideration, namely, whether or not to accept the Officer recommendation to take enforcement action, the expediency of taking enforcement action, and, if so, the period of compliance with the enforcement notice. He then opened the matter up for debate.

Councillor Les Kew stated that the activities on the site needed to be regularised and that enforcement action could be taken at the same time as negotiations were continuing on the proposal for a Residual Waste Facility on the site. He considered therefore that enforcement action should be taken immediately and before the end of this month to avoid possible immunity from such action being taken by the Council. Councillor Bryan Organ also considered that enforcement action should not be delayed and moved the Officer recommendation to authorise enforcement action but that such action be taken immediately and before 31st May 2012. This was seconded by Councillor Neil Butters. The Planning and Environmental Law Manager gave advice to Members regarding taking enforcement action and the expediency of doing so. She considered that there was a conflict of wording in the motion by including both “immediately” and “before 31st May 2012”. Councillor Organ therefore altered his motion by removing the word “immediately”.

Members debated the motion as amended. The issue of the period of compliance with the Enforcement Notice was raised. Some Members felt 12 months was sufficient whereas other Members considered that 18 months was better. The Planning and Environmental Law Manager responded to questions raised by Members. Councillor Bryan Organ considered that 18 months compliance was better and with the seconder’s agreement included this in his motion. The motion was then put to the vote which was agreed unanimously.

RESOLVED to (1) delegate authority to the Divisional Director of Planning and Transport Development, in consultation with the Planning and Environmental Law Manager, to serve the necessary enforcement notice(s) on behalf of the Local Planning Authority before 31st May 2012 in respect of the alleged planning contraventions outlined in the report by exercising the powers and duties (as applicable) under Parts VII and VIII of the Town and Country Planning Act 1990 (including any amendments to or re-enactments of the Act or Regulations or Orders made under the Act) in respect of the above land; (2) give an 18 month period of compliance with such Enforcement Notice(s).

General Note

This specific delegated authority will, in addition to being the subject of subsequent report back to Members in the event of enforcement action being taken, not being taken or subsequently proving unnecessary as appropriate, be subject to:

- (a) all action being taken on behalf of the Council and in the Council’s name;*
- (b) all action being subject to statutory requirements and any aspects of the Council’s strategy and programme;*
- (c) consultation with the appropriate professional or technical Officer of the Council in respect of matters not within the competence of the Divisional Director of Planning and Transport Development; and*
- (d) maintenance of a proper record of action taken.*

The meeting ended at 6.45 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services