

## **DRAFT MINUTES PENDING CONFIRMATION AT THE NEXT MEETING**

### **BATH AND NORTH EAST SOMERSET**

#### **MINUTES OF DEVELOPMENT CONTROL COMMITTEE**

Wednesday, 1st August, 2012

**Present:-** Councillor Gerry Curran in the Chair

Councillors Nicholas Coombes, Sally Davis (In place of David Veale), Liz Hardman, Eleanor Jackson, Les Kew, Malcolm Lees, David Martin, Douglas Nicol, Bryan Organ, Vic Pritchard (In place of Martin Veal), Jeremy Sparks (In place of Neil Butters) and Brian Webber

Also in attendance: Councillors John Bull, Dave Laming, Dine Romero and Caroline Roberts

#### **25 EMERGENCY EVACUATION PROCEDURE**

The Senior Democratic Services Officer read out the procedure

#### **26 ELECTION OF VICE CHAIR (IF DESIRED)**

A Vice Chair was not required

#### **27 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were received from Councillors Neil Butters, Martin Veal and David Veale and their respective substitutes were Councillors Jeremy Sparks, Vic Pritchard and Sally Davis

#### **28 DECLARATIONS OF INTEREST**

Councillor Nicholas Coombes declared a non-pecuniary interest in the planning application at Paulton Engine, Hanham Lane, Paulton (Report 10) by virtue of previously having worked with the applicants. Having considered the matter, he would remain and vote on the Item. Councillor Les Kew declared an interest in the application at Clutton Industrial Estate, King Lane, Clutton (Item 5, Report 11) as he was related to one of the Directors of the applicant Company – he would therefore leave the meeting for its consideration.

#### **29 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There were no items of urgent business

#### **30 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 wishing to make statements on the Tree Preservation Order at 29 Flatwoods Road, Claverton Down, Bath (Report 12) and on the former Fullers

Earthworks, Combe Hay, Bath (Report 14) and they would be able to do so when reaching those Reports on the Agenda. There were also various people wishing to make statements on planning applications in Reports 10 and 11 and they would be able to do so when reaching those items on the Agenda.

### **31 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS**

There were no items

### **32 MINUTES: WEDNESDAY 4TH JULY 2012**

The Minutes of the meeting held on Wednesday 4<sup>th</sup> July 2012 were approved as a correct record and signed by the Chair

### **33 MAJOR DEVELOPMENTS**

The Committee noted the update report of the Senior Professional – Major Development on the progress of the archaeological survey in preparation for development at the former Cadbury site, Somerdale, Keynsham

### **34 SITE VISIT LIST - APPLICATION FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE**

The Committee considered

- A report by the Development Manager on an application for planning permission at Paulton Engine, Hanham Lane, Paulton
- Oral statements by members of the public etc, the Speakers List being attached as *Appendix 1* to these Minutes

**RESOLVED** that, in accordance with their delegated powers, the application be determined as set out in the Decision List attached as *Appendix 2* to these Minutes.

**Paulton Engine, Hanham Lane, Paulton – Extension and alteration of existing 3 bed house to provide 2 further bedrooms and dining room and demolition of 1960s single storey bathroom extension; reconstruction of roofless outbuilding to provide garage, workshop and studio over; erection of a pair of semi-detached 2 bed holiday cottages; repair of derelict pigsties to provide potting sheds with bat loft; rebuilding of derelict stable; roofing and repair of 2 walls as open woodshed; lean-to greenhouse to replace kennels; rubbish clearance within site and landscape improvements** – The Case Officer reported on this application and his recommendation to refuse permission. He referred to late representations received from residents of Hanham Lane. There was also further information submitted by the applicant relating to the bats on the site as a result of which Officers were now satisfied that Natural England were likely to grant a bat licence. Accordingly, the recommended Refusal Reason 6 could be deleted. An archaeological report had also been submitted which included works of mitigation and therefore Refusal Reason 5 could be deleted. The applicants had also submitted further financial details in support of their claim that the holiday cottages were required in order to make the restoration of the historic site viable. However, the Case Officer advised Members that no detailed breakdown of costs had been

provided and there was no reliable evidence to suggest a financial need for the holiday cottages.

The public speakers made their statements against and in favour of the proposals. The Ward Councillor John Bull then made a statement supporting the scheme in principle but with reservations.

The matter was opened up for debate. Councillor Liz Hardman supported the proposals in principle as they would restore a derelict site, preserve industrial heritage and enhance the area. However, she could not see the justification for the holiday cottages which were outside of the development boundary.

Councillor Nicholas Coombes referred to his interest in the application declared earlier in the meeting. He stated that, due to his previous work with the applicants, he was not open-minded because he considered that the applicants had good credentials for undertaking this type of scheme and would do it very well. At this point, the Chair expressed some concern that Councillor Coombes might have given the impression that he had pre-determined the application and asked the Senior legal Adviser to advise. The Senior Legal Adviser advised that, in view of his statement that he did not have an open mind, it was advisable for Councillor Coombes to leave the meeting for the consideration of this Item because there was a risk of a perception of pre-determination. After some discussion, Councillor Coombes left the meeting for the consideration of this application.

Councillor Bryan Organ supported the scheme which would preserve these buildings and therefore moved that the recommendation be overturned and that authority be delegated to Officers to grant permission subject to appropriate conditions, including the use of the holiday cottages to make the scheme viable. The motion was seconded by Councillor David Martin.

Members debated the motion. Most Members considered that the scheme was of a good design meeting environmental standards and restored our industrial heritage. It was located a relatively short distance from a bus route and with the holiday cottages and restored buildings, it could provide a form of tourist attraction in the area. Some Members however expressed concern regarding possible commercial use and the car park providing spaces for numerous cars. One Member felt the development would spoil the tranquil nature of this rural location in the Conservation Area.

The Senior Professional – Major Development informed the Committee of some procedural requirements of the motion. Reasons had to be provided for overturning the Recommendation and granting permission, the holiday cottages should be tied to the development so that they could not be sold off separately and there was an issue as to whether this should be done by an operational statement, condition or a S106 Agreement. He advised that conditions might include operational statements in respect of the holiday cottages and the studio. In addition, as the proposal was contrary to the Local Plan, if permitted, it would need to be advertised as a Departure for any further representations to be submitted. Councillor Bryan Organ stated that, in terms of reasons, the development would improve and enhance the appearance of the site and this part of the Conservation Area, it was legitimate for the applicants to rely on income generated by the holiday cottages to fund the scheme, and the site was not remote because it was within walking distance of Paulton village. He queried whether a S106 Agreement was necessary to tie in the holiday cottages and felt that

a Condition was all that was required. Following advice from the Senior Professional, it was agreed that a S106 Agreement was probably the best way of securing the future use of the holiday cottages; however, ultimately, it was a decision for Officers. Authority was also delegated to Officers to impose appropriate conditions.

The Chair summed up the discussion and put the amended motion to the vote. Voting: 9 in favour and 3 against. Motion carried.

(Notes: (1) Councillor Nicholas Coombes was not present to vote; and (2) after the vote, there followed a short natural break)

### **35 MAIN 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. 4 and 6-9, the Speakers List being attached as *Appendix 1* to these Minutes
- An Update Report by the Development Manager on Item Nos. 1,4, 5 and 7, which is attached as *Appendix 3* 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 4* to these Minutes.

**Items 1-3 Nos. 14 – 16 Monmouth Place, Upper Bristol Road, Bath – (1) Erection of 7 three storey plus basement 3 bed houses following demolition of existing vacant shop units (Ref 12/01730/FUL); (2) demolition of existing vacant shop units (Ref 12/01731/CA); and (3) erection of 7 three storey plus basement 3 bed houses following demolition of existing vacant shop units (Ref 12/01741/LBA)** – The Case Officers reported on these applications for planning permission, conservation area consent and listed building consent and their recommendations (1) to (A) authorise the Planning and Environmental Law Manager to enter into a S106 Agreement to cover (i) £6,000 for the improvement of local public transport infrastructure; (ii) £28,430.13 for education provision in accordance with the advice of the Education Officer; (iii) works to upgrade the paving in front of the site to match the adjoining pavements to a specification agreed in writing with the local planning authority in consultation with the Highway Authority; and (iv) a contribution £17,360.50 toward off-site open space provision/improvement; and (B) subject to the prior completion of the above Agreement, authorise the Divisional Director of Planning and Transport Development to Permit subject to conditions; (2) grant conservation area consent subject to conditions; and (3) grant listed building consent subject to conditions.

Councillor Les Kew considered that that this was a good proposal which gave consideration to light issues for the existing buildings situated at the rear of the site. He therefore moved the Officer's' recommendation for the planning application which was seconded by Councillor Doug Nicol.

Councillor Nicholas Coombes declared a non-pecuniary interest as he had worked with the applicants. He would remain and vote on the application.

Members debated the motion. The proposals were supported as they improved the street scene and provided much needed housing. It was noted that there would be loss of views for some flats at the rear of the site and some loss of light due to the height of the proposed development.

The Chair summed up the debate and put the matter to the vote. Voting: unanimously in favour.

Councillor Les Kew moved the applications for conservation area consent and listed building consent as per the Officers' recommendations. These were seconded by Councillor Doug Nicol. The motions were voted on separately and approved unanimously.

**Item 4 Land rear of 79 London Road West, Bailbrook Lane, Bath – Erection of 4 detached dwellings** – The Team Leader – Development Management reported on this application and the recommendation to (A) authorise the Planning and Environmental Law Manager to prepare an Agreement under S106 of the Town and Country Planning Act 1990 to secure a contribution of £10,849.72 for Highways and £34,268.87 towards education provision; and (B) upon completion of the Agreement, authorise the Development Manager to Permit subject to satisfactory comments being received from the Council's Ecologist and Urban Designer and to conditions.

The public speakers made their statements against and in favour of the proposals. The Officer commented on late objections received. The Update Report referred to representations from the Ecological Officer and Urban Designer and covered the issue of Ecology which culminated in the recommendation of a further Condition. He also commented that the proposed development was on a sloping site with no significant impact on the Conservation Area. The Senior Professional – Major Development acknowledged that there were no comments from the Conservation Officer; however, Officers were satisfied that there was already sufficient information in the Report concerning the impact on the Conservation Area. The Ward Councillor Dave Laming made a statement expressing concerns about the development.

Members discussed the proposals. One Member felt that the site was being overdeveloped and that the design did not match existing houses in the area whereas another Member considered that it was underdeveloped as the report stated that it could accommodate around 15 houses. Councillor Brian Webber did not support the proposals and therefore moved that the recommendation be overturned and that permission be refused on the basis that it was creeping suburbanisation that did not preserve or enhance the Conservation Area, and that the increased use of Bailbrook Lane - which is narrow and used as a rat-run - by further vehicular movements would create a hazard to pedestrians, cyclists and other car users. The motion was seconded by Councillor Vic Pritchard.

Members debated the motion. Various issues were discussed including density, the size of the site being 0.49 ha putting it just outside the scope for the Council to request that some affordable housing be included, design, topography of the site and water drainage. The Senior Professional – Major Development gave advice to the Committee regarding the proposals for the site and recommended that Members

have a site visit (if they were minded to refuse the application) to familiarise themselves with the site and its location in case there was an appeal against a refusal. The Officer commented that the application had been considered in the light of the recent National Planning Policy Framework but that this did not raise any issues of concern.

The motion to Refuse was then put to the vote and was carried, 8 voting in favour and 5 against.

(Notes: (1) After the vote at 4.25pm, there was a 10 minute adjournment for a natural break; and (2) Councillor Les Kew left the meeting in view of his declared interest on the following application)

**Item 5 Clutton Hill Industrial Estate, King Lane, Clutton – Approval of Reserved Matters with regard to Outline application 08/01709/ OUT (infill development of part of existing site with 6 small industrial buildings and revised access)** – The Case Officer reported on this application for approval of Reserved Matters and his recommendation to Approve subject to conditions. He referred to late objections received and to the Update Report which gave Reasons for Approval.

Councillor Eleanor Jackson supported the application and moved the recommendation to Approve which was seconded by Councillor Liz Hardman.

Members debated the motion. Councillor Jeremy Sparks raised various concerns about alleged unauthorised uses of the site and stated that he would abstain from voting on the application. He felt that hours of operation should be considered as delivery times tended to disturb local residents. The Senior Professional – Major Development stated that this would have needed to have been considered when the outline application had been submitted.

The motion was put to the vote. Voting: 10 in favour and 1 against with 1 abstention. Motion carried.

(Note: Councillor Les Kew was not present for this application)

**Item 6 Fairash Poultry Farm, Compton Martin Road, West Harptree – Erection of 3 dwellings following demolition of existing poultry farm (Revised submission)** – The Case Officer reported on this application and her recommendation to refuse permission. She reported the receipt of a late letter of support.

The public speakers made their statements against and in favour of the proposals.

Councillor Nicholas Coombes reported the views of the Ward Councillor Tim Warren who was unable to attend the meeting. Councillor Vic Pritchard considered that the reasons for refusing the previous application to develop the site still applied to this proposal. It was in an isolated position and at a dangerous cross roads and he therefore moved the Officer recommendation to refuse permission. This was seconded by Councillor Les Kew.

After a brief discussion, the motion was put to the vote and was carried unanimously.

**Item 7 Former Little Chef, Bristol Road, Farrington Gurney, Bristol – Change of use from restaurant (A3) to restaurant and takeaway (A3 and A5) –** The Case Officer reported on this application and his recommendation to (A) authorise the Planning and Environmental Law Manager to agree with the applicant the submission of a Unilateral Undertaking to secure a financial contribution to the Council of £10,000 towards the cost of off-site transportation measures; and (B) on completion of the Unilateral Undertaking, authorise the Development Manager to Permit subject to conditions. He reported that late objections had been received relating to health issues and the nearby school. The recommendation included a contribution from the applicant of £10,000 towards the cost of transportation measures such as speed restrictions. The Update Report referred to the objections received from local residents and consideration of the National Planning Policy Framework as regards this application. The public speakers made their statements against the proposal.

Councillor Les Kew opened the debate. He raised various concerns about the proposal including noise, litter, impact on local residents, wrong location in a village, and a lot of objections with no one supporting. He therefore moved that permission be refused on the grounds of 1) sustainability, the proposed development being located outside of the town centre and the requirement for access would require excessive motor vehicle movements; 2) noise and disturbance to neighbouring properties; 3) objections by the Parish Council and over 200 residents of Farrington Gurney; 4) highway safety as the site is located on a busy A road often congested with a lack of pedestrian access from the village and no controlled crossing on the A37 together with poor visibility from the north; and 5) the inability to control the environmental impact of litter and noise through the inability to police these matters away from the premises eg local playing fields and parks. The motion was seconded by Councillor Vic Pritchard.

Members debated the motion. Members discussed various issues and concerns including access, the hours of operation and whether these could be amended, the exclusion zone around schools for takeaways, whether a refusal of permission on these grounds could be defended on appeal. The Senior Professional – Major Development responded to some of these issues by stating that hours of operation could be negotiated with the applicants - other matters could be dealt with by conditions or an operational statement. In his view, it would probably be difficult to defend on appeal.

Members continued to discuss their concerns regarding the application. There was a lot of objection by local residents being a fair percentage of the village. It was considered by Members that some of the issues could not be resolved by way of conditions or an operational statement. The Senior Professional considered that some of the reasons for refusal suggested by objectors in reason for refusal 3) were not valid reasons and could not be defended at an appeal. The Senior Legal Adviser emphasised the need for Members to be clear on the reasons for refusal. With the agreement of the seconder, Councillor Les Kew therefore deleted reason 3). The revised motion was put to the vote. Voting: 10 in favour and 3 against.

Councillor Brian Webber left the meeting. There followed a short adjournment after which the Chair informed the meeting that the reasons for refusal needed to be revisited in that, by deleting reason 3), the healthy eating issues had also been deleted which was not the mover's intention. This aspect was therefore reinstated

and the vote retaken. Voting: 8 in favour and 3 against with 1 abstention. Motion carried.

**Item 8 Land south of 73 Englishcombe Lane, Bath – Erection of a new dwelling**  
– The Case Officer reported on this application and her recommendation to Permit with conditions. She reported on a further condition to be added to the recommendation as regards the inclusion of an obscure glazed screen for the balcony.

The public speakers made their statements against and in favour of the proposal. Councillor Dine Romero made a statement expressing concerns about various issues and considered that a site visit would be advantageous.

Councillor Nicholas Coombes supported the proposal and considered that the building had a pleasing appearance. Some of the concerns raised were covered by condition and others would come under Building Regulation control. He therefore moved the Officer recommendation which was seconded by Councillor Vic Pritchard. The Team Leader - Highway Development Control gave advice regarding access and turning circle requirements. The motion was then put to the vote. Voting: 10 in favour and 0 against with 2 abstentions. Motion carried.

**Item 9 No 27 West Lea Road, Lower Weston, Bath – Provision of loft conversion and side and rear dormers (Resubmission)** – The Case Officer reported on this application and her recommendation to refuse permission. The Ward Councillor Caroline Roberts informed the Committee that the owners' Architect had not informed them of the facility of speaking at the meeting and therefore enquired whether one of the owners could do so as he was present. The Committee decided to allow the owner to speak on this occasion.

The owner then made his statement in support of the proposal which was followed by a statement by the Ward Councillor Caroline Roberts who also supported the application.

Councillor Malcolm Lees supported the application and considered that the recommendation should be overturned. He therefore moved that the application be granted permission which was seconded by Councillor Liz Hardman.

Members debated the motion. Some Members felt that the Officer's assessment was correct as the dormer would be detrimental to the host building by virtue of its scale and design. Other Members considered that these issues were not significant enough to warrant refusing permission in this location a good distance away from the heritage part of the City. Also, dormers could be considered to be an economic use of space within a building.

Councillor Lees gave his reasons for overturning the recommendation, namely, the scale and design of the dormer would be subservient to the host building and would not be detrimental to the street scene. The motion to Permit was then put to the vote. Voting: 6 in favour and 5 against with 1 abstention. Motion carried.

(Note: At this point in the proceedings (6.40pm), the Committee adjourned for 20 minutes for Tea)

**36 TREE PRESERVATION ORDER - 29 FLATWOODS ROAD, CLAVERTON DOWN, BATH**

Referring to the Minutes of the meeting held on 18<sup>th</sup> January 2012, the Senior Arboricultural Officer submitted a report on a new Tree Preservation Order at 29 Flatwoods Road which (1) informed of an objection to the inclusion of one tree within this group of beech; and (2) recommended that the Order be confirmed without modification.

The Senior Arboricultural Officer reported on the matter by means of a power point presentation. The owners of the property nearest the tree made their statements against the inclusion of the tree in the Order. The Officer responded to Members' queries.

Members debated the matter. Councillor Eleanor Jackson considered this to be a beautiful row of trees and felt that, as long the tree was not hollow or diseased, it should be fairly healthy. She therefore moved the Officer recommendation which was seconded by Councillor David Martin.

Members debated the motion. Various issues were discussed. There were some concerns regarding the roots affecting drains and foundations. However, some Members considered that the tree added to the appearance of the row of trees and also the owners could seek consent for any work to the tree that may be required in the future. The Chair summed up the debate and put the motion to the vote.

**RESOLVED** to confirm without modification the Tree Preservation Order entitled "Bath and North East Somerset Council (29 Flatwoods Road, Claverton Down, Bath No 267A) Tree Preservation Order 2012"  
(Voting: 7 in favour and 5 against)

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

To note the report

**38 UPDATE ON FORMER FULLERS EARTHWORKS, COMBE HAY, BATH**

Referring to the Minutes of the meeting held on 9<sup>th</sup> May 2012, the Committee considered the joint report of the Divisional Director of Planning and Transport Development and the Planning and Environmental Law Manager which (i) informed Members of appeals lodged against the Enforcement Notices that had been served on 30<sup>th</sup> May and which Notices were therefore now held in abeyance; (ii) attached a Timetable provided by the owner's Agents for progression of an application for a Residual Waste Facility (RWF) on the site through to its implementation; (iii) stated that the owners had asked whether the Council would make a joint application to the Planning Inspectorate for the appeals to be held in abeyance pending the Council's consideration of the application for a RWF in accordance with the Timetable; (iv) set out the Officers' comments on the request; and (v) recommended that, in the circumstances, the Committee agree to making such a joint application to the Planning Inspectorate with the Council reserving the right to reinstate the appeals if there was any failure on the owner's part to comply with the Timetable for implementation of a RWF or the outline planning application was refused.

The Planning and Environmental Law Manager reported on the issues in the Report stating that, if the Timetable set out in Annex A of the Report was adhered to, the unauthorised development on the site would be resolved sooner than if the appeals were to go ahead. The Council would have a RWF on the land fulfilling the Council's allocation in the Joint Waste Core Strategy (JWCS). She referred to representations received from the owner's Agents, a local resident and from Harrison Grant, Solicitors acting on behalf of Protect Bath. The public speakers made their statements on the matter.

Councillor Bryan Organ considered that there should be no further delays in taking action and therefore moved that the request for the appeals to be held in abeyance be refused. There followed some questions and discussion by Members after which Councillor Nicholas Coombes seconded the motion.

Members debated the motion. There were differing views as to whether to agree to the request to hold the enforcement appeals in abeyance. Reference was made to the site being allocated for a RWF in accordance with the JWCS and concerns were expressed that there was no guarantee that permission would be granted. It was queried why the appeals and the application for a RWF could not be progressed at the same time ie in tandem. However, this was not on offer. The Divisional Director emphasised that the enforcement action was not being revisited and that the appeals would only be held in abeyance pending the Council's determination of the planning application. The recommended action was an opportunity to deliver a RWF on the site, which is the Council's policy, and to achieve compliance with planning issues earlier than originally anticipated.

Some Members felt that the enforcement appeals should not be held in abeyance and that there should be no further delays. Councillor Coombes said that he felt the appeals would result in a certain outcome as opposed to an uncertain outcome if the appeals were held in abeyance. Other Members felt that agreeing to the suggested Timetable was a measured way forward and would save time and money for both parties and result in a RWF being provided in accordance with the JWCS which would resolve the situation at an earlier date. Councillor Les Kew considered that it would be useful to have regular reports to the Committee on progress.

The Divisional Director and the Planning and Environmental Law Manager reported on the issues and responded to Members' queries. The Chair summed up the discussion.

The motion to refuse the request to hold the appeals in abeyance was put to the vote. Voting: 4 in favour and 7 against. Motion lost.

Councillor Les Kew moved the Officer recommendation but with the additional requirement that a monthly report go to the Committee on progress. This was seconded by Councillor Doug Nicol and put to the vote.

**RESOLVED** that (1) the Council make a joint application to the Planning Inspectorate that the appeals be held in abeyance pending the Council's consideration of the planning application in accordance within the Timetable, with the Council reserving the right to reinstate the appeals if (i) there is any failure on the owner's part to comply with the Timetable for implementation of the Residual Waste

Facility as set out in the Annex to the report; or (ii) the Outline planning application is refused; and (2) monthly progress reports be submitted to the Committee.  
(Voting: 7 in favour and 4 against)

The meeting ended at 8.25 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**