

DRAFT MINUTES PENDING CONFIRMATION AT THE NEXT MEETING

BATH AND NORTH EAST SOMERSET

MINUTES OF DEVELOPMENT CONTROL COMMITTEE

Wednesday, 13th February, 2013

Present:- Councillor Gerry Curran in the Chair

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

Also in attendance: Councillor Sally Davis

124 EMERGENCY EVACUATION PROCEDURE

The Senior Democratic Services Officer read out the procedure

125 ELECTION OF VICE CHAIR (IF DESIRED)

A Vice Chair was not required

126 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was received from Councillor Neil Butters whose substitute was Councillor Jeremy Sparks

127 DECLARATIONS OF INTEREST

Councillor Eleanor Jackson referred to the planning application at The Fir Tree Inn, 140 Frome Road, Radstock, as the applicant had undertaken some work at her house a few years ago. However, she did not consider that this amounted to an interest and therefore she would speak and vote on the item.

128 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There were no items of Urgent Business

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

The Senior Democratic Services Officer informed the meeting that there a few speakers on the Enforcement Reports who would be able to speak for up to 3 minutes each when reaching those Reports on the Agenda. There were also a few speakers on the 3 planning applications at Hinton Organics which would be considered together and therefore they would be able to speak for up to 9 minutes in total when reaching those applications in Report 10.

130 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

There were no items

131 MINUTES: 16TH JANUARY 2013

The Minutes of the previous meeting held on 16th January 2013 were approved as a correct record and signed by the Chair

132 MAJOR DEVELOPMENTS

The Senior Professional – Major Development updated the Committee on various developments as follows:

K2, Keynsham – Work had commenced for development of 285 dwellings plus shops and extension to the Primary School

Bath University, Claverton Down, Bath – As part of the University Master Plan, permission had been granted for development of 708 units of student accommodation

Bath Western Riverside – Work was to be undertaken to the 2 bridges, a redesign of Victoria Bridge and the Destructor Bridge to be made two-way. Some public consultation would be undertaken in association with the Museum of Bath Work.

MoD sites – Preliminary discussions had been held regarding redevelopment of the Ensleigh and Warminster road sites.

Somerdale, Keynsham – Archaeology had not yet been finalised but there was a preliminary design for the 1st Phase of approximately 200 dwellings. A planning application was anticipated in April/May.

After the Officer had responded to Members' queries about some of these developments, the Committee noted the update.

133 PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC

The Committee considered

- The report of the Development Manager on various applications for planning permission etc
- An Update Report by the Development Manager on Item Nos. 1-4, a copy of the Update being attached as *Appendix 1* to these Minutes
- Oral statements by members of the public etc on Item Nos. 1-3, the Speakers List being 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 Hinton Organics Ltd, Charlton Field Lane, Queen Charlton – (1) Variation of Conditions 13 and 16 of planning permission Ref 97/02626/MINW dated 2nd December 1998 to allow permanent recycling of cardboard waste and increase in truck movements; and (2) increase size of concrete storage area and variation of Condition 13 of planning permission Ref 97/02626/MINW to accept wood waste; and Item 3 Parcel 5319, Charlton Field Lane, Queen Charlton – Variation of Conditions 13, 16 and 19 of planning permission Ref 97/02626/MINW to extend composting operations, increase vehicle movements and permit cardboard and wood recycling (Temporary use of land for 10 years for manufacture of organic green compost as amended by revised drawings received 14th April 1998 at land formerly Queen Charlton Quarry) – The Case Officer reported on these applications and her recommendations to refuse permission on the grounds that the applications are for EIA development and should have been accompanied by an Environmental Statement. The information submitted in support of the applications was not considered to constitute an Environmental Statement within the terms of Regulation 2 of the Town and Country Planning (Environmental Impact etc.) Regulations 1999 in particular because it fails to address the risk of pollution of the NVZ, fails to give information on restoration of the site and fails to include a Non-Technical Summary. Therefore, in accordance with Regulation 3 of the Town and Country Planning (Environmental Impact etc.) Regulations 1999, the applications must be refused.

She referred to the Update Report which comprised further representations, corrected a date in the report and attached the Legal Opinion on the issue of an Environmental Statement not being submitted. The Officer responded to queries by the Chair.

The public speakers made their statements against and in favour of the applications which was followed by a statement by the Ward Councillor Sally Davis.

Members asked various questions for clarification to which Officers responded. In particular, Councillor Les Kew enquired how long the applicants might need in order to submit an Environmental Statement which met the requirements of the legislation and whether the Council had received any letters supporting the development. The Case Officer replied that the Council had received letters of support from approximately 16 people, several of whom had written 3 letters (one for each application). In her view, it would not take the applicants long to rectify the Environmental Statement although she was unable to give a timescale for the provision of the outstanding ecological information.

Councillor Bryan Organ noted that the Parish Council had not yet been in a position to make detailed comments. He considered that there were a number of benefits from the recycling operation and supported a deferral for 2 months to give the applicants a final opportunity to submit an Environmental Statement and for the Council to then consult upon the new information. He therefore moved accordingly on all 3 applications. The motions were seconded by Councillor Doug Nicol.

A number of Members spoke in favour of the motion to defer. Councillor Les Kew asked the Case Officer whether 2 months was a reasonable amount of time for an Environmental Statement to be submitted and consulted upon. The Case Officer replied that, in her view, the process could take longer than 2 months and suggested that 3 months might be more realistic. Councillor Kew therefore suggested to the

mover and seconder that the motions be amended to a 3 month deferral. This was accepted by the mover and seconder.

Members debated the motions. It was generally accepted that a deferral was the best course of action. The Chair summed up the debate. Councillor Doug Nicol queried whether a Site Visit would be useful for those Members who hadn't seen the site. The Chair stated that a Pre-Committee Site Visit could be arranged.

The motions to defer as above were put to the vote and were carried, 11 voting in favour and 2 against.

Item 4 The Fir Tree Inn, 140 Frome Road, Radstock – Erection of 2 residential dwellings with associated amenity space and parking – The Case Officer reported on this application and her revised recommendation to Delegate authority to the Development Manager to Permit subject to no new objections being received by 21st February 2013 and subject to the conditions set out in the Report with the Agenda.

Councillor Eleanor Jackson spoke in favour of the proposal and the various reasons why it should be permitted. She therefore moved the Officer recommendation which was seconded by Councillor Les Kew.

Members briefly debated the motion after which it was put to the vote and was carried unanimously.

134 ENFORCEMENT REPORT - RED HILL HOUSE, RED HILL, CAMERTON

The Committee considered (1) a report by the Development Manager recommending that enforcement action be authorised to require the cessation of the unauthorised use of the above property for business purposes, yoga classes and weekend retreats; and (2) oral statements by members of the public etc speaking in favour and against proposed enforcement action.

The Enforcement Officer reported that a blanket Tree Preservation Order had recently been issued to protect trees at the property and that an application had been received for consent to fell 2 trees – sycamore and cherry - adjoining the entrance to the property.

Councillor Les Kew considered that there was conflicting information and that, before considering any enforcement action, it would be useful if Members could view the site with particular regard to the highway, the access and trees. He therefore moved that consideration be deferred for a Site Visit which was seconded by Councillor Martin Veal.

Members debated the motion and asked questions to which the Officer responded. Councillor Eleanor Jackson requested that the Highways Officer's report be made available to Members when a report on this matter is resubmitted.

RESOLVED to defer consideration to enable a Site Visit to be held

(Note: Prior to consideration of this matter, Councillor Bryan Organ had declared an interest in the item as the Parish Council representative speaking in favour of

enforcement was a personal friend and he therefore left the meeting for its consideration.)

135 ENFORCEMENT REPORT - PARCEL 5319, CHARLTON FIELDS LANE, QUEEN CHARLTON

In view of the decisions to defer consideration of related planning applications considered earlier in the meeting, this Report was withdrawn from the Agenda.

136 UPDATE ON FORMER FULLERS EARTHWORKS, COMBE HAY, BATH

The Chair varied the order of business to enable the following item to be considered next as a decision was required.

Referring to the Minutes of the meeting held on 9th May 2012, the Committee considered the report of the Development Manager which updated Members following a Preliminary Hearing by the Inspector into Enforcement Notice Appeals at this site.

The Planning and Environmental Law Manager submitted an Update Report (see *Appendix 4* attached to these Minutes) updating Members on the situation since the despatch of the Agenda papers and on the papers that had been received. She also informed the Committee that there was a further report containing Leading Counsel's advice which needed their consideration and should be taken in Exempt Session.

The Development Manager referred to the Public Local Inquiry held recently where the Inspector held the Preliminary Hearing on the Appellants' submissions on a point of law ("res judicata") and the interpretation of the Secretary of State's decision on the 2003 "call-in" Public Inquiry on the extent of the B2 fall-back position. The Inspector's Ruling had now been received and was before Members for information and from which the Committee could see that the Inspector found in favour of the Council and the Rule 6 parties on both the "res judicata" point and on the interpretation of the 2003 Secretary of State's decision. Due to the Preliminary Hearing, the Inspector had put forward a revised timetable. The time for the Council to consider receipt of late information by the Appellants was 1st March. The Committee's attention was also drawn to the Inspector's concerns regarding the wording of Notice 1 and Members were advised that further consideration was being given to this to take on board those concerns.

After Officers responded to some queries by Members, the Committee noted the Reports.

The Committee considered the proposal to move into Exempt Session for the further report. After a short debate, the following Resolution was agreed:

That, having been satisfied that the public interest would be better served by not disclosing relevant information, and in accordance with the provisions of Section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business because of the likely disclosure of exempt information as defined in Paragraph 5 (Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings) and Paragraph 6 (Information which reveals that the authority proposes (a) to give under any

enactment a notice under or by virtue of which requirements are imposed on a person, or (b) to make an order or direction under any enactment) of Part 1 of Schedule 12A of the Act as amended (Voting: 11 in favour and 1 against and 1 abstention.)

The Committee considered further information relating to issuing “second bite notices” under Section 171B (4) (b). A date at the end of the penultimate paragraph was amended from 2012 to read 2013.

RESOLVED to authorise the Divisional Director for Planning and Transport Development, in consultation with the Planning and Environmental Law Manager, to exercise the powers and duties (as applicable) under Part VII of the Town and Country Planning Act 1990 (including any amendments to or re-enactments of the Act) to issue an enforcement notice or enforcement notices under Section 171B (4) (b) within 4 years of the purported enforcement action (the 2009 enforcement notices). The Committee further resolved that the “second bite” notice or notices should therefore be issued by the Council on or before 24th February 2013.

(Note: At this point, the Committee returned into Open Session to consider the remaining business)

137 QUARTERLY PERFORMANCE REPORT - OCTOBER TO DECEMBER 2012

The Committee considered the report of the Development Manager on performance information across a range of activities within the Development Management function for the period 1st October to 31st December 2012.

After some queries by Members, the Committee noted the report and extended their thanks to Officers for their hard work and endeavours.

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

The Committee considered the report of the Development Manager on planning appeals.

Members raised various queries about appeals to which the Development Manager and the Chair responded. Councillor Martin Veal raised the issue of “expediency” required for Officers to take action which he found frustrating at times and considered that the public should be better informed on such issues. The Development Manager replied that the term was used in the appropriate legislation and therefore had to be used by Officers; however, she would see if the Revised Enforcement Policy could be better worded on this particular issue. Councillor Martin Veal requested that it be worded in plain language so that it could be easily understood.

The Committee noted the report.

The meeting ended at 4.45 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services