

DRAFT MINUTES PENDING CONFIRMATION AT THE NEXT MEETING

BATH AND NORTH EAST SOMERSET

MINUTES OF DEVELOPMENT CONTROL COMMITTEE

Wednesday, 13th March, 2013

Present:- Councillor Gerry Curran in the Chair
Councillors Neil Butters, Nicholas Coombes, Sally Davis (In place of Martin Veal), Liz Hardman, Eleanor Jackson, Les Kew, David Martin, Bryan Organ, Manda Rigby (In place of Douglas Nicol), David Veale and Brian Webber

Also in attendance: Councillors Rob Appleyard, Barry Macrae, Robin Moss, Paul Myers, Vic Pritchard and Chris Watt

139 EMERGENCY EVACUATION PROCEDURE

The Senior Democratic Services Officer read out the procedure

140 ELECTION OF VICE CHAIR (IF DESIRED)

A Vice Chair was not desired

141 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillors Doug Nicol and Martin Veal and their respective substitutes were Councillors Manda Rigby and Sally Davis. There was also an apology from Councillor Malcolm Lees.

142 DECLARATIONS OF INTEREST

Councillor Eleanor Jackson declared a pecuniary interest in the planning application at St Peter's Factory, Wells Road, Westfield, Radstock (Item 3, Report 10), as she was a shareholder in the Radstock Co-op. She would therefore make a statement before leaving the meeting for its consideration. Councillor Brian Webber declared an interest in the applications at Bath Abbey (Items 1&2, Report 10) as he was on the Abbey Management Committee. He would therefore make a statement and leave the meeting for their consideration. Councillor Manda Rigby declared an interest in the Abbey applications as she had predetermined the applications and therefore she would also make a statement and then leave the meeting for their consideration.

143 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There were no items of Urgent Business

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

The Senior Democratic Services Officer informed the meeting that there were speakers on the Enforcement Report 11 relating to Red Hill House, Camerton, who would be able to make their statements when reaching that Item on the Agenda.

There were also a number of speakers on the planning applications in Report 10 and they would be able to do so when reaching those items in that Report.

145 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

There were no items from Councillors

146 MINUTES: 13TH FEBRUARY 2013

The Minutes of the previous meeting held on Wednesday 13th February 2013 were approved and signed by the Chair as a correct record

147 MAJOR DEVELOPMENTS

The Senior Professional – Major Development updated the Committee on the Victoria and Destructor Bridges off Upper Bristol Road, Bath. The refurbishment programmes were progressing and an exhibition would be held in the Museum of Bath at Work. Any queries could be directed to the Projects Team.

At Members' requests, the Senior Professional updated the Committee on (1) the plastic barriers in Dorchester Street, Bath, which would be removed in the next few weeks when the light-controlled pedestrian crossings were installed – the three crossings would line up with the pedestrian routes in and out of Southgate; (2) water ingress at the Units in Brunel Square - the source had been identified and a solution was in hand.

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

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. 2-7, a copy of which is attached as *Appendix 1* to these Minutes
- Oral statements by members of the public etc on Item Nos. 1-6, 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 Abbey Church of St Peter and St Paul, Abbey Churchyard, Bath – (1) Provision of improved public and ancillary support facilities to Bath Abbey; alterations to Nos. 8-13 Kingston Buildings, basement to Abbey Chambers, the 1920s Jackson Extension to Bath Abbey, the Clergy Vestry and adjoining vaults and cellars south of The Abbey; creation of newly excavated below ground spaces north of Kingston Buildings and below the Jackson Extension; associated landscape improvement works to the public realm and to the garden north of the Seventh Day Adventist Church (Ref 12/03335/FUL); and (2) Internal and external alterations for the provision of improved public and ancillary support facilities to Bath Abbey; alterations to Nos. 8-13 Kingston

Buildings, basement of Abbey Chambers, the 1920s Jackson Extension to Bath Abbey, the Clergy Vestry and adjoining vaults and cellars south of The Abbey; creation of newly excavated below ground spaces north of Kingston Buildings and below the Jackson Extension; associated landscape improvement works to the public realm and to the garden north of the Seventh Day Adventist Church (Ref 12/03336/LBA) – The Case Officer reported on these applications and the recommendations to authorise the Development Manager to grant permission/consent subject to various provisos including appropriate conditions. The Update Report corrected the Decision Making Statement for the listed building application. She drew attention to the fact that the Conservation Officer's views regarding the loss of residential use of Kingston Buildings were not specifically included in the report; however, they were summarised in Officer's comments. The Case Officer went on to inform Members that a large number of representations had been received but that the vast majority were supportive of the proposals. The Bath Preservation Trust and the Bath Heritage Watchdog had withdrawn their objections as had English Heritage but who maintained their concerns regarding the structural work proposed at Kingston Buildings. The Georgian Group still objected to the proposals.

The public speakers made their statements in support of the applications which were followed by a statement by Councillor Alan Hale who supported the proposals.

The Ward Councillor Brian Webber made a statement representing his constituents supporting the proposals and referred to the benefits of the proposals. Ward Councillor Manda Rigby echoed these sentiments. (Note: Both Councillors then left the meeting for consideration of the applications in view of their interests declared earlier in the meeting.)

Members asked questions about the proposals to which the Case Officer responded. The Team Leader – Development Management advised that the public use of The Abbey was a material consideration and that any harm to the building had to be balanced against the public benefits that would be provided. Councillor Bryan Organ could not see any reason to object to the proposals and moved the Officers' recommendations accordingly. These were seconded by Councillor Les Kew.

Members debated the motion. Councillor Eleanor Jackson felt that there would be loss of history and architecture and did not support the proposals. Most Members considered that the benefits outweighed the harm to the buildings. The Chair summed up the debate and put the motions to the vote. The (separate) voting on both applications was 9 in favour and 1 against.

Item 3 St Peter's Factory, Wells Road, Westfield, Radstock – Erection of food store and petrol filling station with associated development – The Case Officer reported on this application and her recommendation to refuse permission. She made reference to the Update Report which referred to various issues and recommended the deletion of reason for refusal 4 pertaining to highway contributions. Reference was made to another site at The Hollies, Midsomer Norton, which could be considered as a sequentially preferable site given its location and the fact that it accorded with various policies.

The public speakers made their statements against and in favour of the application. Councillor Barry Macrae (Midsomer Norton North) and Councillors Paul Myers and

Chris Watt (Midsomer Norton Redfield) made statements on various issues pertaining to this proposal.

Councillor Eleanor Jackson made a statement against the proposal and advised that, whilst there were no comments from Radstock Town Council in the Report,, they had in fact discussed the proposal and resolved to make an objection. She then left the meeting in view of her interest declared earlier in the meeting. Councillors Robin Moss and Rob Appleyard then made statements in favour of the application as Ward Councillors for the site. With regard to a statement about the Council benefiting from development of the South Road site as it was owned by the Council, the Chair pointed out that ownership was not a material consideration. The Officers supported this statement.

Councillor Nicholas Coombes opened the debate. He stated that policies determine sites and their planning applications and a supermarket was best located in a town centre. There were 3 sequentially preferable locations identified – South Road was a better site than Westfield. He went through the reasons for refusal (excluding No 4) each of which he supported. He therefore moved the Officer recommendation to refuse permission. This was seconded by Councillor David Martin.

Members supported the motion making reference to loss of jobs, local shops and the needs of Westfield. The Chair summed up the debate and put the motion to the vote. Voting: Unanimously in favour of refusal.

(Note: After this decision, there was a 10 minute adjournment until 4.27pm when the meeting resumed)

Item 4 Parcel 3567 Stitchings Shord Lane, Bishop Sutton – Erection of 35 dwellings and associated infrastructure – The Case Officer reported on this application and his recommendation to Authorise the Development Manager, in consultation with the Planning and Environmental Law Manager, to enter into a S106 Agreement as detailed in his report and, upon completion of the Agreement, authorise the Development Manager to permit the application subject to conditions. The Update Report amended Condition 4 of the recommendation relating to affordable housing in order to accord with revised Core Strategy policy agreed by Council recently, namely, 30%. However, the applicants were agreeable to 35%. He referred to the receipt of a further objection and the lodging of a Petition against the proposal.

The public speakers made their statements against and in favour of the proposal. The Ward Councillor Vic Pritchard made a statement against the application.

Councillor Les Kew opened the debate. He considered that the application was premature – it did not accord with the Core Strategy and the Place Making Plan had not been formulated. The site was outside the housing boundary and there were objections by the Parish Council and local residents. He therefore moved that the application be deferred until the Place Making Plan had been agreed so that there was proper control over housing development. The motion was seconded by Councillor David Veale.

Members debated the motion. It was considered that the Place Making Plan would not be provided for some time and there was a duty to determine this application.

There was still the Local Plan and the National Planning Policy Framework policies. The Team Leader – Development Management stated that the Core Strategy had been approved by Council for development control purposes and could be given some weight. It included policy RA1 regarding development in villages which met the listed criteria. This and another application on the Agenda exceeded the numbers required but it was broadly compliant with the strategy for the area. He referred to recent appeal decisions where the Council had not been able to demonstrate a 5 year land supply for housing. It was likely that, if the Committee deferred the application, there would be an appeal against non-determination.

Members continued to debate the motion. However, on hearing the views of other Members, Councillor Les Kew withdrew his motion and moved that the application be refused as it was premature to formulation of the Place Making Plan. Councillor David Veale seconded. Members felt that the grounds for refusal were not strong enough as there were other planning policies under which the application could be considered. The Officers felt that there were no technical reasons to refuse the application – there were no adverse effects from the development to outweigh the benefits. The 5 year land supply needed to be demonstrated. The grounds of prematurity would be difficult to defend on appeal. With the seconder's agreement, Councillor Les Kew amended his motion to Delegate to Officers to formulate reasons for refusal along the lines of premature to the Place Making Plan, the Core Strategy situation, outside the housing boundary, not supported by local residents and the Parish Council, number of houses too high etc. After a short debate, the amended motion was put to the vote. Voting: 5 in favour and 7 against. Motion lost.

Councillor Eleanor Jackson therefore moved the Officer recommendation on the basis that affordable housing be 35% which Officers had indicated that the applicants had agreed. The motion was seconded by Councillor Liz Hardman and put to the vote. Voting: 7 in favour and 4 against with 1 abstention. Motion carried.

Item 5 Parcel 9181 Wick Road, Bishop Sutton – Erection of 41 two, three, four and five bedroom dwellings including 14 affordable housing units along with the provision of informal public open space, vehicular access from the A368, landscaping and drainage – The Senior Planning Officer reported on this application and the recommendation to authorise the Development Manager, in consultation with the Planning and Environmental Law Manager, to enter into a S106 Agreement as detailed in the report and, upon completion of the Agreement, authorise the Development Manager to permit the application subject to conditions. The Update Report amended the recommendation so that the affordable housing was amended to accord with the Core Strategy approved by Council recently, namely, 30%, and also grant free housing with a maximum 75/25 split between Social Rent and Intermediate Market housing. He stated that 35% affordable housing was now being recommended. He reported the receipt of a further objection from a local resident. He referred to wildlife habitat and the area set aside for a detention pond.

The public speakers made their statements against and in favour of the development. This was followed by a statement by the Ward Councillor Vic Pritchard.

Councillor Eleanor Jackson made reference to an area set aside for flooding. She moved the Officer recommendation which was seconded by Councillor Liz Hardman to include flooding, rights of way and ecological issues for consideration.

Members debated the motion. This was a full application as opposed to outline as for the previous proposal in Bishop Sutton. One Member felt that the density was fine, another that it was too cramped. Members were not convinced on other issues of flooding, design, footpath and hedgerow maintenance arrangements. The Officers commented on some of the issues raised. The motion was put to the vote. Voting: 3 in favour and 7 against and 2 abstentions. Motion lost.

Councillor Les Kew therefore moved that the application be refused on the grounds of poor design, flooding, hedgerow maintenance difficulties, poor pedestrian access to the village, impact on the amenities of the adjoining neighbours, sustainability and contrary to Policy RA1 in the Draft Core Strategy which seeks to limit residential development in such settlements to around 50 houses. This was seconded by Councillor David Martin. On being put to the vote, the motion was carried, 7 voting in favour and 3 against with 2 abstentions.

Item 6 Pack Horse Farm, Old Midford Road, Midford – Change of use of land to equestrian, retention of 2 mobile stable units for current DIY livery business and conversion of existing outdoor turnout area/starvation paddock to an all-weather riding arena (Revised resubmission) – The Case Officer reported on this application and her recommendation to refuse permission. She slightly amended the wording in the reason for refusal. The Officer referred to the Update Report and a further objection received from a local resident and the South Stoke Parish Council.

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

Councillor Neil Butters opened the debate. He considered that this was inappropriate development in the Green Belt and the AONB with no special circumstances to support the proposal. He therefore moved the Officer recommendation, including enforcement action as soon as possible, which was seconded by Councillor Nicholas Coombes.

Members asked questions regarding the use of the site for horses and interpretation of the NPPF as regards Green Belt to which Officers responded. Some Members felt that the proposed equestrian use would be damaging to the openness of the Green Belt. Other Members considered that the alternative of agricultural use could be intensive and far worse than the proposal. Councillor Neil Butters queried why previous authorised enforcement action had not been taken. The Team Leader – Development Management responded that the starvation field was permitted development as part of the agricultural use of the site. The motion was then put to the vote. Voting: 5 in favour and 7 against. Motion lost.

Councillor Les Kew considered that there was no material change, it was small scale within the overall development of the site, the site had previously been used by horses for grazing and these were very special circumstances to justify the development in the Green Belt. He therefore moved that Officers be delegated to grant permission with appropriate conditions including the limiting of the number of

horses and events using the site. The motion was seconded by Councillor Bryan Organ.

Members debated the motion and asked questions to which Officers responded. The motion was put to the vote and was carried, 7 voting in favour and 3 against with 2 abstentions.

Item 7 City of Bath College, Avon Street, Bath – Installation of public sculpture and plinth – The Team Leader – Development Management reported on this application and the recommendation to Permit subject to conditions. He stated that a block plan had now been received and he referred to the Update Report which comprised an objection received from the Bath Preservation Trust.

It was moved by Councillor Manda Rigby and seconded by Councillor Brian Webber to approve the Officer recommendation. The motion was put to the vote and was carried unanimously.

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

Referring to the Minutes of the previous meeting, the Enforcement Officer presented her report on the unauthorised material change of use of this property to a mixed use of daily yoga classes, weekend retreats and associated business activities. She informed the meeting of further representations received and of the owner's consultation with the Council regarding removal of trees near the entrance to the property. The Enforcement Officer concluded that enforcement action was expedient and therefore recommended that such action be authorised. The public speakers made their statements for and against enforcement action.

Councillor David Veale, as Ward Councillor, sympathised with the owner but considered that enforcement action should be authorised and the owner given time to submit a planning application to ameliorate the situation as regards the access. Councillor Eleanor Jackson echoed the sentiment that time should be given for an application to be submitted but did not support enforcement action at this time. Councillor Nicholas Coombes considered that enforcement action should be authorised in order that the owner would have to submit an application to try to remedy the problems associated with the use and then the Planning Authority could consider the application on its merits. He therefore moved the Officer recommendation which was seconded by Councillor Les Kew.

After a short debate, the motion was put to the vote.

RESOLVED that delegated authority be granted to the Development Manager, in consultation with the Planning and Environmental Law Manager, to take any necessary enforcement action on behalf of the Local Planning Authority in respect of the alleged planning contravention outlined in the report by exercising the powers and duties of the Authority (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 this property.

General Note:

This specific delegated authority will, in addition to being the subject of a 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 Head of Planning Services; and*
- (d) Maintenance of a proper record of action being taken.*

Voting: 9 in favour and 0 against with 1 abstention (Note: Councillor Bryan Organ had left the meeting before consideration of this matter as he knew one of the objectors; and Councillor Liz Hardman was absent from the meeting for this item.)

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

Councillor David Martin drew attention to 3 appeals allowed by the Inspector for the installation of photovoltaic cells at farms in the District.

The Committee noted the report.

151 UPDATE ON FORMER FULLERS EARTHWORKS, COMBE HAY, BATH

The Principal Solicitor gave an update on the current situation at this site. The Inspector ruled on 2 Preliminary Issues at the opening of the Inquiry, namely, the "Fall back" B2 use and the "Res Judicata" point. However, the Appellant disagreed with this ruling and had made an application for Judicial review and/or a S289 challenge against this ruling and the Council had been named as an interested party in proceedings. He stated that the Council would like to make representations on the matter and bring certain documentation to the Court's attention through the Treasury Solicitor but there would be cost implications which may not be recoverable as the Council was not the defendant in the matter. Whilst he advised that the Committee would continue to have their monthly updates, he recommended that delegated authority be given to the appropriate Officer to take any necessary action to protect the Council's position should matters arise that cannot be brought to Committee for a decision.

The Principal Solicitor responded to Members' queries.

It was moved by Councillor Eleanor Jackson and seconded by Councillor Les Kew and **RESOLVED** that delegated authority be granted to the Divisional Director of Planning and Transport Development, in consultation with the lead Members of the political groups on the Committee, to take any necessary action that he considers necessary in order to protect the Council as local planning authority in respect of the claim made under Section 289 of the Town and Country Planning Act 1990 and/or for a Judicial Review of the Planning Inspector's Ruling dated 31st January 2013 in respect of the former Fuller's Earthworks, Fosseyway, Combe Hay, Bath.

The meeting ended at 7.45 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services