

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

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

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

Wednesday, 31st July, 2013

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

Councillors Sally Davis (In place of Les Kew), Ian Gilchrist, Liz Hardman, Eleanor Jackson, Malcolm Lees, Douglas Nicol, Bryan Organ, Manda Rigby, Caroline Roberts, Martin Veal, David Veale and Brian Webber

Also in attendance: Councillors Sarah Bevan, Nathan Hartley, David Martin and Ben Stevens

#### **32 EMERGENCY EVACUATION PROCEDURE**

The Senior Democratic Services Officer read out the procedure

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

A Vice Chair was not desired

#### **34 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There was an apology from Councillor Les Kew and his substitute was Councillor Sally Davis

#### **35 DECLARATIONS OF INTEREST**

There were no declarations of interest

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

There were no items of urgent business

#### **37 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 Sustainable Construction Retrofitting SPD (Report 13) and Former Fullers Earthworks (Item 16) and that they would be able to do so when reaching those Items on the Agenda. There were various people wishing to make statements on planning applications in Reports 10 and 11 and they would be able to do so when reaching their respective items in those Reports. The Chair had agreed to extend the speaking time from 3 minutes to 6 minutes on Item 2 in view of the number of speakers on this controversial application.

## 38 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

There were no items from Councillors

## 39 MINUTES: 3RD JULY 2013

The Minutes of the meeting held on 3<sup>rd</sup> July 2013 were approved as a correct record and were signed by the Chair

## 40 MAJOR DEVELOPMENTS

The Team Leader – Development Management informed the meeting that there was no update report for this meeting as the Major Developments Officer had left the Council and his workload had been redistributed amongst Officers in the Planning Team. The Chair requested the Committee to consider whether this item needed to remain as a standard item on the Agenda.

After some discussion, the Committee decided that the item could be deleted as a standard item from future Agendas.

## 41 SITE VISIT LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE

The Committee considered

- The report of the Development Manager on 2 applications for planning permission etc
- An Update Report by the Development Manager on Item No 2, a copy of which is attached as *Appendix 1* to these Minutes
- Oral statements by members of the public etc on Items 1 and 2, 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

**Item 1 No 169 Newbridge Hill, Bath – Erection of an 11 bed care home to the rear of the existing care home and associated works** – The Case Officer reported on this application and her recommendation to Permit with conditions. She referred to a further representation received and the receipt from the applicant of a Transport Survey.

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

Councillor Eleanor Jackson, although querying the protection of trees, considered that it was an acceptable plan and moved the Officer recommendation. This was seconded by Councillor Bryan Organ. The Case Officer stated that Condition 10 would cover the issue of tree protection.

Members debated the motion. Most Members supported the proposal as the design was acceptable and would not be detrimental to the appearance of the Conservation

Area. The impact on adjoining residents would be minimal. The issue of parking was raised by some Members as none was provided on the site and this would have an effect on the highways with more parking around the area. Councillor Caroline Roberts, as Ward Member, commented on the impact on adjoining properties, construction work and the effect on trees on the site – there would be an overbearing impact on the residents of Yomede Park. She felt a condition should be added regarding installation of obscured glass. The Case Officer responded to comments raised by stating that the site was in a sustainable location with good public transport. The windows referred to were south facing and mainly bedrooms and therefore it would be inappropriate to make them obscured glass. The Team Leader – Development Management informed Members that there was a Tree Preservation Order to protect trees that were of significant amenity value. There was a Condition to provide a Travel Statement which would inform visitors to the Care Home on how to travel to the site on public transport.

The motion was put to the vote. Voting: 9 in favour and 4 against. Motion carried.

**Item 2 No 54 High Street, Saltford – Erection of a detached two storey dwelling and a new double garage for use by No 54, modification works to retaining walls to create wider entrance and associated works following demolition of existing single garage and stone retaining wall** – The Case Officer reported on this application and his recommendation to Permit with conditions. He recommended imposing an additional condition regarding provision of a Construction Management Plan.

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

Councillor Martin Veal queried the additional condition and how it would be monitored. The Case Officer and the Team Leader – Development Management responded that action could be taken against a breach of the Condition and Enforcement Officers would take the necessary action when appropriate. Councillor Bryan Organ commented on the narrow lane and the loss of stone wall on the lane. He moved that the application be deferred for consideration of the Ecological Report and the Construction Management Plan. The motion was seconded by Councillor Martin Veal.

The Members debated the motion. It was considered that this was a beautiful site but which could accommodate the development and there would be tree protection. The positives of the development outweighed the negatives. The Team Leader – Development Management stated that the conditions requiring an Ecological Assessment and a Construction Method Statement would provide the necessary control. The motion was put to the vote. Voting: 2 in favour and a substantial number against. Motion lost.

Councillor Ian Gilchrist moved the Officer recommendation to Permit with conditions which was seconded by Councillor Liz Hardman. Members debated the motion. It was queried whether Permitted Development rights should be removed to which the Chair stated that this was covered in Conditions 8 and 9. A Member considered that it would be a shame to lose the garden in which the existing house was set and the potential loss of privacy; however, these would probably not be sufficient reasons to withstand any appeal.

The motion was put to the vote. Voting: 9 in favour and 4 against. Motion carried.

## **42 MAIN 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 1 and 2, a copy of which is attached as *Appendix 1* to these Minutes
- Oral statements by members of the public etc on Item Nos 1, 2, 4 and 5, 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 4* to these Minutes

**Item 1 The Old Colliery Yard, Wick Lane, Pensford – Use of land for 12 pitches for Gypsy and Traveller use with associated works – 12 dayrooms and hardstanding (Resubmission)** – The Case Officer reported on this application and his recommendation to refuse permission.

The public speakers made their statements against the proposal. This was followed by a statement by the Ward Councillor Jeremy Sparks who supported refusal of permission.

The Chair commented on some points raised by one of the objectors. Councillor Eleanor Jackson moved the Officer recommendation which was seconded by Councillor Martin Veal. She considered the site to be inappropriate for this development and was too remote. The proposal failed on all counts as outlined in the report. Councillor Veal in supporting the motion referred to various issues including land contamination and the impact on the Green Belt with no special circumstances being identified to outweigh the harm to the appearance of the area. He felt that the development would overwhelm this small village.

Members discussed the proposal. It was generally considered that this was the wrong site for the proposed development.

The motion was put to the vote and was carried unanimously.

**Item 2 Land between Hillside View and Bath Road, Greenlands Road, Peasedown – Erection of 89 dwellings (72 houses/17 flats) and 288 sq metres of Class B1 floorspace. Provision of public open space (including allotments) and landscaping. Two vehicular accesses from Greenlands Road. Undergrounding of existing overhead lines** – The Case Officer reported on this application and her recommendation to Permit with conditions. She referred to the Update Report which provided an Officer Assessment on further representations from the Highways Development Officer and amended the Recommendation with regard to the terms of the S106 Agreement relating to Highways.

The public speakers made their statements against and in favour of the proposal. The Ward Councillors Sarah Bevan and Nathan Hartley made statements against the proposal.

The Chair posed some queries regarding S106 contributions relating to education, health facilities and highways to which the Case Officer responded.

Councillor Martin Veal opened the debate. He was acquainted with the site and couldn't accept the Environment Agency's view that there was no drainage problem. It was outside the housing development boundary and would create a danger to school children walking to school. In addition, the Medical Centre would not be able to cope with the increased population that would result from this development. He therefore moved that permission be refused on the grounds of the adverse impact and permanent serious harm to the landscape. The motion was seconded by Councillor Liz Hardman. Councillor Eleanor Jackson suggested additional reasons for refusal, namely, unsustainable location by virtue of the lack of school places and the pressure on the existing health facilities. The mover and seconder agreed to these being added.

Members debated the motion. Concern was expressed on the impact on the landscape and the possible problems regarding education and health provision. The Team Leader – Development Management responded to these points and drew Members' attention to the relevant passages of the Report, in particular that the Officers took a different view on the effect on the landscape; considered that the existing school could be extended or pupils bussed to other nearby schools; and that there was no evidence that Dr's Surgeries could not cope with increased numbers. Regarding housing provision, he referred to the NPPF which took precedence over the Local Plan and there was a presumption in favour of sustainable development and permission should be granted unless there were any adverse impacts of doing so which would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. He advised that the Officer view was that there was not adequate evidence to support refusal of the application given that the presumption in favour of sustainable development applied in this case.

Members discussed the issue. It was considered that good reasons were needed to defend the refusal if there was an appeal. The Chair queried the advice that monies from highway improvements would not go to the site but to the Bath Package to which the Highways Development Control Team Leader responded.

The Chair summed up the debate and then put the motion to refuse permission to the vote. Voting: 7 in favour and 3 against with 3 abstentions. Motion carried.

(Note: After this decision, at 4.45pm, there was a natural break for 10 minutes.)

**Item 3 Trident Works, Marsh Lane, Clutton – Erection of 2 storey extension to provide new rest room and office including new roof over existing rear stores –**  
The Case Officer reported on this application and her recommendation to Permit with conditions.

Councillor Bryan Organ moved the Officer recommendation which was seconded by Councillor Eleanor Jackson. The motion was put to the vote and it was carried unanimously.

**Item 4 Cutting Edge, 7 North Parade Passage, Bath – Change of use of ground floor level only from Hairdressers (Use Class A1) to Tea Shop (Use Class A3) –** The Case Officer reported on this application and her recommendation to refuse permission.

The applicant made a statement in support of the proposal.

Councillor Brian Webber, as Ward Member, opened the debate. He referred to the protected retail frontage policy. However, there was an example of a similar property in the Passage being allowed a change of use on appeal in 2010. He considered that there would be no changes to the building or impact on the street scene.

Councillor Ben Stevens made a statement in support of the proposal.

Members discussed the proposal. Various points were raised as regards fragmenting the shopping frontage, the weight given to the example where permission was granted on appeal, the demand for A1 use etc. The Case Officer and the Team Leader – Development Management responded to some of the issues raised. Councillor Manda Rigby, as the other Ward Member, commented on the proposal which she considered would still provide an active street frontage – she therefore supported the proposal.

Councillor Brian Webber moved that the recommendation be overturned and that permission be granted on the basis that the proposal would add to the vitality of the centre and it would not alter the general character of the street. The motion was seconded by Councillor Manda Rigby. The Team Leader advised that the motion would need to be altered to Delegate to Permit so that the application could be advertised as a Departure from the Development Plan. The mover and seconder agreed. The motion was put to the vote. Voting: 6 in favour and 6 against with 1 abstention. The Chair used his second and casting vote against the motion which was therefore 7 against. Motion lost.

It was therefore moved by Councillor Eleanor Jackson and seconded by Councillor Doug Nicol to accept the Officer recommendation to refuse permission. Voting: 7 in favour and 5 against with 1 abstention. Motion carried.

**Item 5 No 4 Lime Grove, Bathwick, Bath – Conversion of student lets into 2 maisonettes and 1 self-contained apartment with first floor extension at the rear (Resubmission of 12/01925/FUL) –** The Case Officer reported on this application and her recommendation to grant permission subject to conditions.

The public speakers made their statements against and in favour of the proposal. The Ward Councillor David Martin made a statement and considered that permission should be refused or a Site Visit be held so that Members could assess the impact of the development on the adjoining property.

It was moved by Councillor Ian Gilchrist and seconded by Councillor Doug Nicol to defer consideration for a Site Visit accordingly. The motion was put to the vote and was carried unanimously.

(Note: Councillor Martin Veal left the meeting prior to consideration of this application.)

#### **43 PLANNING PERFORMANCE AND THE PLANNING GUARANTEE**

The Team Leader – Development Management submitted a report which (1) referred to procedural changes announced by the Government to the way in which major planning applications may be handled; (2) informed that the Government had published, in November 2012, a consultation on “Planning Performance and the Planning Guarantee”, the consultation being in support of Clause 1 in the Growth and Infrastructure Bill that was before Parliament at that time and which would allow planning applications to be submitted directly to the Secretary of State if a local planning authority was designated on the basis of poor performance; and (3) stated that the Bill had received Royal Assent in April this year with relevant provisions contained in Section 1 and Schedule 1 to the Growth and Infrastructure Act 2013.

The Team Leader outlined the report and referred to the major developments performance measure being split between District and County Matter applications. The Council had processed one major County Matter application during the period which was not determined within target time. Therefore, although the Council had only dealt with one such application and this was a very small sample size, it was likely that the Council may be so designated in respect of County Matter applications. Applicants for County Matter applications may therefore apply directly to the Planning Inspectorate for determination if the Council was designated which would be decided in October this year. The Council may need to put a case to the Communities and Local Government Department to argue that it shouldn't be so designated. He gave performance figures on major planning appeals which placed the Authority below the 20% target of being “poor”.

The Chair disagreed with the statement in paragraph 1.2 of the report where it stated that “the measures were intended to allow decisions to be made more quickly in order to support growth and provide greater certainty for local communities.” He considered that there could be more uncertainty and that Members would need to be particularly mindful of reasons for refusal on major applications.

**RESOLVED** to note the report and its contents

(Note: Councillor Brian Webber had left the meeting prior to consideration of this matter; and Councillor Caroline Roberts was not present when this matter was considered.)

#### **44 SUSTAINABLE CONSTRUCTION AND RETROFITTING SPD**

The Committee considered

- The report of the Conservation Officer on this SPD adopted last February which (1) had been produced to accord with and respond to the issues of climate change and the emerging energy deficit and the desire to improve the

energy efficiency of new buildings and the existing building stock; (2) would comply with the National Planning Policy Framework which recommended that Local Planning Authorities adopt proactive policies and strategies to mitigate and adapt to climate change; (3) informed that the accompanying appendix relating to the retrofitting of listed buildings and undesignated historic buildings was omitted pending further discussions but that English Heritage had indicated their support for the current document; and (4) recommended that the guidance be noted prior to its consideration and adoption by the Cabinet

- Statements by representatives of the Local Council's Association and the Bath Preservation Trust
- A statement by Councillor David Martin supporting the guidance and considering that it should be submitted to the Planning, Transportation and Environment Scrutiny Panel.

Members considered the report and the attached guidance which was generally supported. The Chairman summarised the debate, in particular the use of the wording "no detrimental impact" in the Guidance. He considered it was appropriate and consistent with the aims of architectural preservation conservation, the primary legislation and national planning policy relating to heritage protection, particularly in the context of the City of Bath as a World Heritage Site.

**RESOLVED** to note the guidance and its contents prior to consideration and adoption by the Cabinet

#### **45 QUARTERLY PERFORMANCE REPORT - APRIL TO JUNE 2013**

The Committee considered the report of the Development Manager which provided Members with performance information across a range of activities within the Development Management function.

Members commented on the performance figures. Concern was expressed on the low number of major applications determined within the target period. It was pointed out that the amount of work that Officers put into planning applications that were subsequently withdrawn was not really accounted for. The Chair and the Team Leader – Development Management responded to these queries.

The Committee noted the report.

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

The Committee noted the report

#### **47 UPDATE ON FORMER FULLERS EARTHWORKS, COMBE HAY**

The Chair requested the public speakers to make their statements. Representatives of the Local Councils Association and the Bath Preservation Trust made their statements accordingly (see Speakers List attached as *Appendix 2* to these Minutes).



The Principal Solicitor reported that there was little on which to update the Committee. An application for a Certificate for Lawful Established Use had been made. Proceedings for Judicial Review were still in progress and a decision from the High Court was awaited. Pre-application discussions had been recommended and a meeting had been scheduled to take place in mid-July. As regards the Enforcement Notices, the Council's position was protected and the appeals lodged by Waste Recycling Bath Ltd and Mr Barry Williams which were currently awaiting directions from PINS and may be held in abeyance pending the outcome of Judicial Review proceedings. He stated that a report, which would address the points raised by the 2 speakers and the e-mail sent to Members by Mr Matthew Kendrick/Waste Recycling Bath, should be ready for the October meeting.

The Chair requested that a full report be submitted to the meeting on 25<sup>th</sup> September.

The Committee noted.

**48 DATE OF NEXT MEETING**

The Committee noted that the next meeting would be held on Wednesday 4<sup>th</sup> September 2013 (instead of 28<sup>th</sup> August) with the Site Inspections still being held on Monday 19<sup>th</sup> August. (Note: The Chair's Briefing Meeting would therefore be held on Tuesday 3<sup>rd</sup> September.)

The meeting ended at 6.30 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**