

DRAFT MINUTES PENDING CONFIRMATION AT THE NEXT MEETING

BATH AND NORTH EAST SOMERSET

MINUTES OF DEVELOPMENT CONTROL COMMITTEE

Wednesday, 30th July, 2014

Present:- Councillor Gerry Curran in the Chair

Councillors Rob Appleyard, Neil Butters, Sally Davis (In place of David Veale), Ian Gilchrist, Les Kew, Dave Laming, Malcolm Lees, Bryan Organ, Vic Pritchard, Manda Rigby, Martin Veal and Tim Warren (In place of Patrick Anketell-Jones)

Also in attendance: Councillors Doug Nicol, Roger Symonds and Brian Webber

24 EMERGENCY EVACUATION PROCEDURE

The Senior Democratic Services Officer read out the procedure

25 ELECTION OF VICE CHAIR (IF DESIRED)

A Vice Chair was not required

26 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were apologies for absence from Councillors Patrick Anketell-Jones and David Veale whose substitutes were Councillors Tim Warren and Sally Davis respectively

27 DECLARATIONS OF INTEREST

There was none

28 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none

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

The Senior Democratic Services Officer informed the meeting that there were numerous people wishing to make statements on planning applications in Reports 9 and 10 and that they would be able to do so when reaching those items on the Agenda. The Chair stated that timings had been extended for applications on the Bath Recreation Ground and St James' Surgery, Northampton Buildings, Bath. He requested that the time also be extended for the Fosseyway Environment Park to which the Committee concurred (see Speakers List attached as *Appendix 1* to these Minutes).

30 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

There was none

31 MINUTES: 2ND JULY 2014

The Minutes of 2nd July 2014 were approved as a correct record and signed by the Chair

32 SITE VISIT LIST - APPLICATION FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE

The Committee considered

- The report of the Group Manager – Development Management on a planning application by Bath Rugby Ltd on the Bath Recreation Ground
- Oral statements by members of the public etc., the Speakers List being attached at *Appendix 1* to these Minutes
- An Update Report by the Group Manager on this application, which Report is attached as *Appendix 2* 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 3* to these Minutes

Recreation Ground, Pulteney Mews, Bath – Retention and/or replacement of, and extensions to, the existing temporary spectator stands along the north, west and eastern sides of the retained playing field (as approved under permission references 09/01319/FUL, 10/01609/FUL, 10/01608/FUL, and 10/01611/FUL), provision of new hospitality boxes to either side of retained south stand, new control room and associated works and ancillary facilities comprising toilets and food and bar facilities (temporary application for period of up to 2 years) – The Case Officer reported on this application and his recommendation to grant permission subject to conditions. The Update Report contained references to further representations and Officer's observations.

The public speakers made their statements against and in favour of the application. The Chair responded to some of the issues raised by Steve Osgood in his statement.

Councillor Tim Warren stated that he was a season ticket holder of Bath Rugby Club and queried whether this amounted to an interest that he needed to declare. The Senior Legal Adviser stated that it was a matter for Councillor Warren's judgement in accord with Members' Code of Practice to consider whether his participation in the item was reasonable as it may be an interest but not a disclosable pecuniary interest.

The Chair referred to a letter sent to Members and Officers by the Friends of the Bath Residents' Recreation Ground alleging, amongst other matters, that a decision by the Committee would be illegal. The Senior Legal Adviser stated that these issues were of a property nature and not planning – if permission were granted, it would be for the Recreation Ground Trust to consider these issues. He responded to some aspects raised by Councillor Malcolm Lees regarding the possibility of Members being charged and held liable for any possible wrongdoing in determining the application. The Chair summed up the advice given. However, Councillor Lees

considered that, without a guarantee that Members would be indemnified from prosecution etc., consideration of the application should be deferred, and he so moved. The motion was seconded by Councillor Dave Laming. Members briefly debated the motion. Councillor Manda Rigby (Ward Member on the Committee) considered that a decision should be taken today but that a definitive legal statement was required to differentiate between property and planning matters and that one did not have a bearing on the other. The motion was then put to the vote which was lost, only 2 Members voting in favour and a substantial majority against.

The Ward Councillor Brian Webber then made a statement in support of the proposal.

Councillor Manda Rigby expressed some concerns regarding the North Stand being raised to 9m and additional hospitality boxes which would impair some of the views. There would also be an increase in the number of fans attending and this was an Air Quality Management Area so there was a requirement to mitigate the impact. The Officers responded to some of the issues raised. Councillor Martin Veal considered these issues and decided to move the Officer's recommendation to grant permission with conditions which was seconded by Councillor Bryan Organ.

Members debated the motion. The Chair commented on the application. There was an incremental increase in size and the Rugby Club would need to resolve any issues. The Rec was an important site but there was good tree cover, particularly in the summer, and the application proposed a temporary period of just 2 years. The site was close to existing transport links, although a park and ride facility on the east side of Bath was desirable for visitors from Wiltshire. He personally supported the proposal.

The motion was put to the vote and was carried, 10 voting in favour and 0 against with 3 abstentions (Note: Councillor Tim Warren did not take part in the debate and abstained from voting).

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

The Committee considered

- The report of the Group Manager – Development Management on various applications for planning permission etc.
- Oral statements by members of the public etc., the Speakers List being attached as *Appendix 1* to these Minutes
- An Update Report by the Group Manager on Item 8, a copy of which Report is attached as *Appendix 2* to these Minutes

RESOLVED that, in accordance with their delegated powers, the applications be determined as set out in the Decisions List attached as *Appendix 4* to these Minutes

W T Burden Ltd, Bath Road, Farmborough – Demolition of existing building and redevelopment of site with up to 14 dwellings with associated means of access, access roads, car parking, boundary treatments and landscaping, conversion (Including recladding) of retained building to provide

office/workshop accommodation (Class B1) with associated car parking – The Senior Planning Officer reported on the application and the recommendation to refuse permission which had been overturned by the Committee at its previous meeting on 2nd July. At that meeting, as the decision was contrary to Green Belt policy and Officer advice, the Team Manager – Development Management had decided to exercise his discretion under Paragraph 7 of the Committee Protocol which rendered the decision of no effect until the application was reconsidered by the Committee at a subsequent meeting when it could make such decision as it saw fit.

The public speaker made his statement in support of the application.

Councillor Sally Davis (the Ward Councillor on the Committee for this meeting) considered that this was an exception to Green Belt Policy as stipulated in Paragraph 89 of the NPPF as this was complete redevelopment of a previously developed brownfield site which she considered as infilling. She considered that there would not be any impact on the openness of the Green Belt and the existing commercial uses would be far more detrimental to the amenities of local residents. It would be an advantage, however, if the 30mph speed limit could be extended across the site frontage. On this basis, she moved that permission be granted. The Group Manager – Development Management advised that Green Belt tests had been applied and this was inappropriate development which by definition was harmful. Paragraph 89 provided guidance that excluded temporary buildings and there was only 1 permanent building which would be demolished. Openness meant the absence of development. The key test was whether the proposed development would have a greater impact on openness than the existing permanent development at the site. In this case, Officers considered that replacing one permanent building with 14 dwellings would have a materially greater impact on openness. There was a risk if not complying with the NPPF and a legal challenge to the decision without full discernable grounds if permission was given. The motion was then seconded by Councillor Bryan Organ.

Members debated the motion. It was considered that the situation had not changed since the previous meeting when Members would have given permission, No precedent would be set from granting permission and there would a benefit from having housing on the site which would add vitality to the village. The issue of flooding was raised by one Member. The Senior Development Control Engineer commented on the speed limit on the road which was not likely to change. The Group Manager advised the Members that very special circumstances needed to be demonstrated to justify the proposal and referred to financial contributions that would need to be included in a S106 Agreement to cover the issues of improved pedestrian provision at the junction with Tilley Lane and towards Education, namely, provision of primary and secondary school places as set out in the report. The motion would therefore need to be amended to delegate to permit with the S106 Agreement and appropriate conditions. Members considered that the former use of the site would have been harmful to openness and to neighbouring amenity and the redevelopment of the site would improve its appearance which amounted to the very special circumstances required to approve the application. The amended motion was accepted by the mover and seconder and it was then put to the vote. Voting: 12 in favour and 0 against with 1 abstention. Motion carried.

Item 2 Fosseway Environment Park, Fosseway, Bath – Proposed erection of residual waste facility including a materials recovery facility, anaerobic digestion plant, reception building, weighbridge, outdoor storage areas and other ancillary development (Outline development with access to be determined all other matters reserved) – The Case Officer reported on this application and his recommendation to grant permission subject to conditions.

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

Councillor Sally Davis read out a statement provided by the Ward Councillor David Veale who could not attend the meeting.

A Member queried whether the application should be deferred pending the outcome of enforcement proceedings on the site. The Group Manager – Development Management stated that this was not necessary as they were two separate issues and it was appropriate to determine the application today. He further advised that, in the event of permission being granted, an updated report regarding the enforcement matters at the site would be brought before the Members to a subsequent meeting of this Committee. Members discussed the Joint Waste Core Strategy (JWCS) and the Council-run facility in Pixash Lane, Keynsham, which Officers stated was not material to this consideration. Councillor Les Kew referred to the long history of this industrial site and the opportunity to regularise the situation bringing the site under planning control. The JWCS had been adopted and it has been demonstrated that very special circumstances had been identified, one of which was the adoption of the JWCS. He therefore moved the Officer recommendation to grant permission with conditions which was seconded by Councillor Ian Gilchrist.

The Chair commented on the proposal which he supported and then put the motion to the vote. Voting: 10 in favour and 2 against with 1 abstention. Motion carried.

Item 3 Former Rockery Tea Gardens, North Road, Combe Down, Bath – Erection of a detached single storey dwelling (Revised proposal) – The Case Officer reported on this application and her recommendation to authorise the Group Manager, in consultation with the Planning and Environmental Law Manager, to enter into a S106 Agreement to secure various provisos; and (B) on completion of an acceptable S106 legal agreement, grant permission subject to various conditions. She updated Members on the representations that had been received.

The public speaker made her statement against the application which was followed by a statement by the Ward Councillor Roger Symonds who supported objections to the proposal.

After a short discussion, Councillor Malcolm Lees moved that consideration be deferred for a site visit to view the site in the context of its surroundings which was seconded by Councillor Neil Butters. The motion was out to the vote and was carried unanimously.

(Note: Councillor Roger Symonds requested that Members particularly view the site from properties in St Winifred's Drive).

Item 4 Parcel 2866 Woolley Lane, Charlcombe – Erection of 2 mobile field shelters – The Case Officer reported on this application and his recommendation to grant permission subject to conditions.

The Chairman of Charlcombe Parish Council made a statement against the application.

Councillor Martin Veal, Ward Member on the Committee, read out a statement provided by his fellow Ward Councillor Geoff Ward. He submitted his own comments on the proposal by stating that this was a stunning location which could be viewed from many locations. He referred to Paragraphs 79 and 88 of the NPPF with reference to proposals that were harmful to the Green Belt. He considered that the poultry business was probably unviable and stated that the Article 4 Direction removed agricultural permitted development rights over a large part of Swainswick Valley. On the basis that it was development in the AONB/Green Belt, the potential visual impact of the proposal, and that no very special circumstances had been provided, he moved that permission be refused. The motion was seconded by Councillor Neil Butters.

Members debated the motion. The issues of whether planning permission was required and whether the units were legal were raised by Members to which Officers responded. The Chair summed up the situation regarding this site and the proposal and put the motion to the vote. Voting: 7 in favour and 4 against with 2 abstentions. Motion carried.

(Note: After this decision at 5pm, the Committee adjourned for a Tea break and reconvened at 5.22pm).

Item 5 The Somerset Inn, Bath Road, Paulton – Change of use of public house (Use Class A4) to form a single dwelling (Use Class C3) and associated works (Resubmission) – This application was withdrawn at the applicants' request and was not considered

Item 6 Whiteways, White Cross, Hallatrow – Erection of 2 holiday cottages to expand existing B&B business following the demolition of existing outbuildings (Resubmission) – The Case Officer reported on this application and his recommendation to refuse permission. The application included the offer of a S106 legal deed to tie the holiday cottages to the existing bed and breakfast business so that they could not be operated as a separate business or occupied by the same occupant for longer than 3 months. This would prevent the cottages being occupied as permanent dwellings.

The applicant's agent made a statement in support of the application.

Councillor Les Kew, Ward Member on the Committee, considered that small developments in the rural area needed to be supported. This site was not in open countryside, it being surrounded by a number of mainly residential properties. Local facilities were available in Hallatrow and it was an ideal site for passing trade on the busy A37. In addition, there were no objections lodged against the application. Based on the above, he moved that the Officer recommendation be overturned and that Officers be delegated to grant permission subject to appropriate conditions. This would include a S106 legal deed to tie the use of the holiday cottages to the existing

B&B business as offered by the applicant. The motion was seconded by Councillor Bryan Organ.

Members debated the motion. Members generally supported the application as it was in a good location and not isolated from other properties or distant from local facilities. It was also felt that there was a demand for holiday accommodation. The Group Manager – Development Management advised the Committee that the motion was contrary to the Committee's previous decision to refuse a similar application. He also outlined Officers' concerns regarding the policy position of permitting this proposal outside of a recognised settlement.

The motion was put to the vote and was carried, 12 voting in favour and 0 against with 1 abstention.

Item 7 Bathway House, 144 London Road West, Bath – Erection of 2 detached dwellings and associated landscape works – The Case Officer reported on this application and his recommendation to refuse permission. He stated that the highways objection had been withdrawn and therefore the second reason for refusal could be deleted from the recommendation. The Senior Development Control Engineer commented on the highways aspects of the application.

The applicant made a statement in support of the proposal.

Councillor Les Kew considered that the application was satisfactory and with the highways objection removed, it was a good use of the site for residential development. He therefore moved that permission be delegated to Officers, with appropriate conditions, which was seconded by Councillor Gerry Curran.

Members debated the motion. Councillor Dave Laming raised the issue of drainage (Sustainable Urban Drainage) as the site was close to the river and the flood plain. He requested that this be taken into account in possible conditions. The motion was put to the vote and was carried, 11 voting in favour and 1 against with 1 abstention.

Item 8 St James' Surgery, 8/9 Northampton Buildings, Bath – Variation of Condition 6 of application 08/04692/FUL (Erection of a new surgery annexe(Use Class D1) and first floor apartment (Use Class C3) following demolition of garages) – The Chair realised that he was acquainted with one of the public speakers. He therefore declared an interest which he considered was not significant to prejudice his participation in the item and therefore he would speak and vote on the application. The Planning Officer reported on this application and the recommendation to grant permission with conditions. The Update Report commented further on the application and amended conditions in the recommendation.

The public speakers made their statements against and in favour of the application which was followed by a statement by the Ward Councillor Doug Nicol against the proposal.

The Chair informed the meeting that the vicinity of the site had been viewed at the recent Site Visits tour. Councillor Manda Rigby stated that the pharmacy was not located in the Surgery but in a separate building something substantially different to the current permission and therefore was not ancillary to it. The proposal would

threaten the business of another local pharmacy and put one community asset against another. Councillor Malcolm Lees referred to the narrowness of the road with little parking available. The proposal would create more problems for the area with additional customers using the facility for medical products as well as prescriptions. For these reasons, he moved that the Officer's recommendation be overturned and that permission be refused. The motion was seconded by Councillor Dave Laming.

Members debated the motion. Councillor Manda Rigby suggested that additional reasons for refusal could be that the building was not ancillary to the existing use creating a new retail outlet; the removal of choice from vulnerable people in the community due to the impact on other retailers; and the resulting increased car journeys which would impact on narrow streets in the locality. The mover and seconder agreed to this amendment. The Chair summed up the issues and stated that a school also used the road for access. He then put the motion to the vote. Voting: 11 in favour and 0 against with 2 abstentions. Motion carried.

Item 9 No 135 Englishcombe Lane, Bath – Erection of a new dwelling – The Case Officer reported on this application and her recommendation to refuse permission.

The applicant's agent made a statement in support of the proposal.

Councillor Rob Appleyard stated that the proposal was of very poor design in a bad location. He therefore moved the recommendation to refuse permission which was seconded by Councillor Bryan Organ.

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

Item 10 Charnwood House, Rankers Lane, Compton Dando – Erection of extension to garage to form car ports and store – The Case Officer reported on this application and his recommendation to refuse permission.

Councillor Sally Davis supported the application. There was no overlooking as there were no properties nearby. Councillor Tim Warren agreed and on this basis moved that the Officer recommendation be overturned and that permission be granted. The motion was seconded by Councillor Martin Veal.

Members debated the motion. There was discussion regarding the percentage increase and the number of car ports which one Member considered was too many. The Group Manager - Development Management advised that a third of the volume of the original house was usually acceptable. He stated, however, that this was a disproportionate addition and impacted on the openness of the Green Belt – no very special circumstances had been demonstrated. Members discussed this. There was the aspect of security as a footpath ran close to the property which was in an isolated position; equipment was needed to maintain the grounds; and the accuracy of the percentage increase was challenged. It was considered that there was no adverse impact on the openness of the Green Belt from the single storey proposal and open-fronted design in keeping with the existing property. Members considered that these were sufficient reasons to support the application and therefore very special circumstances had been demonstrated.

The motion was therefore put to the vote which was carried, 11 voting in favour and 1 against with 1 abstention.

Items 11 and 12 No 3 High Street, Wellow – (1) Erection of rear single storey extension, attic conversion and roof alterations with conservation lights Ref 14/02319/FUL); and (2) internal and external alterations to include the erection of a single storey rear extension, attic conversion, alterations to roof. Installation of conservation lights; removal of internal wall and lining wall, reposition of modern staircase to first floor and installation of new staircase to roof space (Ref 14/02384/LBA) – The Case Officer reported on these applications and his recommendations to grant permission/consent with conditions.

The Chair allowed the applicant to make a statement in his personal capacity as the applicant.

Councillor Neil Butters supported the proposal and moved that the Officer recommendations be approved which was seconded by Councillor Bryan Organ.

The motions were put to the vote and were carried unanimously.

Items 13 and 14 Land and buildings to the rear of 1-7 High Street, Wellow – (1) Conversion of former farm buildings to form 1 dwelling with associated works (Resubmission with revisions of 13/02812/FUL)(Ref 14/01866/FUL); and (2) internal and external alterations to facilitate conversion of former farm buildings to 1 dwelling (Resubmission with revisions of 13/02813/LBA)(Ref 14/01867/LBA) – The Case Officer reported on these applications and his recommendations to grant permission/consent with conditions.

The Chair allowed the applicant to make a statement in his personal capacity as the applicant.

Councillor Neil Butters supported the applications and moved that the Officer's recommendations be approved which was seconded by Councillor Les Kew.

After a brief discussion, the motions were put to the vote and were approved unanimously.

34 TREE PRESERVATION ORDER: 63 BLOOMFIELD ROAD, BATH

The Committee considered the report of the Senior Arboricultural Officer which (1) referred to an objection being received to the making of a Tree Preservation Order to protect a Cedar at No 63 Bloomfield Road which makes a contribution to the landscape and visual amenity of the Bath Conservation Area; and (2) recommended that the Order be confirmed without modification.

It was stated that the Ward Councillor David Bellotti supported the confirmation of the Tree Preservation Order.

Members discussed the condition of the tree, its roots, the canopy, and the possible effect on adjoining properties. The Officer responded to queries raised.

It was generally felt that the tree did not contribute to the landscape and visual amenity of the area. Councillor Vic Pritchard felt that it did contribute and therefore moved the Officer recommendation to confirm the Order without modification. This was seconded by Councillor Gerry Curran. The motion was put to the vote. Voting: 4 in favour and 7 against with 2 abstentions. Motion lost.

Members considered that work could be undertaken on the tree whenever it was required (subject to Bath Conservation Area control) and that it was not worthwhile to confirm the Order in the interest of amenity. It was therefore moved by Councillor Bryan Organ and seconded by Councillor Tim Warren that the Order not be confirmed. Voting: 7 in favour and 4 against with 2 abstentions. Motion carried.

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

The report was noted

The meeting ended at 7.42 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services