

DEVELOPMENT MANAGEMENT COMMITTEE

Minutes of the Meeting held

Wednesday, 26th September, 2018, 2.00 pm

Councillors: Sally Davis (Chair), Jasper Becker, Matthew Davies, Ian Gilchrist (Reserve) (in place of Rob Appleyard), Eleanor Jackson, Les Kew, Bryan Organ, Liz Richardson (Reserve) (in place of David Veale), Dine Romero (in place of Paul Crossley) and Will Sandry (Reserve) (in place of Caroline Roberts)

44 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the emergency evacuation procedure.

45 ELECTION OF VICE CHAIRMAN (IF DESIRED)

A Vice Chairman was not required on this occasion.

46 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from:

Cllr Rob Appleyard – substitute Cllr Ian Gilchrist
Cllr Paul Crossley – substitute Cllr Dine Romero
Cllr Caroline Roberts – substitute Cllr Will Sandry
Cllr David Veale – substitute Cllr Liz Richardson

47 DECLARATIONS OF INTEREST

There were no declarations of interest.

48 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN

There was no urgent business.

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

The Democratic Services Officer informed the meeting that there were a number of people wishing to make statements on planning applications and that they would be able to do so when these items were discussed.

50 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

There were no items from Councillors or Co-Opted Members.

51 **MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 29 August 2018 were confirmed and signed as a correct record.

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

The Committee considered:

- A report by the Group Manager (Development Management) on various planning applications.
- An update report by the Group Manager (Development Management) on items 1, 2, 3, and 4 attached as *Appendix 1* to these minutes.
- Oral statements by members of the public and representatives. A copy of the speakers' list is attached as *Appendix 2* to these minutes.

RESOLVED that in accordance with the delegated powers, the applications be determined as set out in the decisions list attached as *Appendix 3* to these minutes.

Item Nos. 1 and 2

Application Nos. 18/02499/FUL and 18/02500/LBA

Site Location: 32 – 33 Victoria Buildings, Westmoreland, Bath, BA2 3EH – Provision of new skittle alley, a new community room, provision of new accessible toilets, refurbishment of the public house and the provision of 9 apartments at the Belvoir Castle, Bath

The Case Officer reported on the applications and her recommendation for refusal. She outlined the reasons for refusal and emphasised that members should attach considerable importance to the identified harm to the heritage assets. The Case Officer advised that the ecology concerns had been resolved and this no longer was held as a reason for refusal.

Two local residents spoke against the applications.

The Agent spoke in favour of the applications.

Cllr Colin Blackburn, local ward member spoke in favour of the applications. He stated that starter homes were badly needed in this area. He also stressed the importance of retaining the Belvoir Castle pub as a heritage asset in this locality as it was a key facility in the centre of the community.

Cllr June Player, local ward member, spoke against the applications stating that she did not wish to lose the pub but felt that the current proposal would cause damage to the listed buildings at Park View. She was concerned that there was no parking provision which would add to the existing congestion problems in the area.

The Case Officer then responded to questions from members as follows:

- The pub toilets would be accessible but there would be stairs down to the skittle alley and garden.
- It would not be possible to restrict the occupancy of the apartments as this was not an affordable housing application.
- The Placemaking Plan set the parking level requirement for student accommodation at zero, however, this application was not for designated student accommodation, therefore the application did not meet minimum parking standards.
- Surrounding buildings were 4 storeys high which was above the height of the proposed building.
- The Highways Officer confirmed that Bath Spa Railway Station was 1.47km from the site and Oldfield Park Railway Station was 380m from the site. The relevant parking requirement discount had been applied.
- An assessment had to be made regarding overlooking, height and distance as there was nothing prescriptive in the policy or legislation. The overbearing nature of the development was the main issue.
- The skittle alley was constructed of bricks and rubble stone. It was not listed in its own right but as part of the pub building.
- The building was on a brownfield site but the protection of the heritage assets was the key consideration.
- The Team Manager, Development Management advised that ,as stated in paragraph 193 of the NPPF, great weight should be given to the conservation of a heritage asset and its significance must be taken into consideration. She explained that there was no connection delivered in the application between the refurbishment of the pub and the construction of the dwellings. Therefore the Committee should not give a great deal of weight to the pub refurbishment being supported by the sale of the apartments.
- The Team Manager, Development Management, advised that if there was a subsequent proposal to convert the pub into a dwelling then this would require a fresh planning application and be considered against relevant planning policies on its merits.
- In response to issues raised by members, the Legal Advisor stated that conditions which sought to alter the status of the proposed dwellings from the open market housing would be likely to be overturned on appeal.
- The Team Manager, Development Management, emphasised the need to consider the development as proposed and that any restrictions or substantive change to the proposal would require further discussions with the applicant.

Cllr Kew stated that these were difficult applications. It was important to retain the pub as a community asset. There was a great need for housing in Bath. He noted that the development could be considered overbearing. This was a central location with good local transport links. On balance he felt that this was an area of dereliction that required development. He moved that the Committee delegate to permit the applications, subject to conditions, for the following reasons:

- To secure the retention of the pub as a community asset, meeting place and public amenity.
- The existing building is in need of improvement and the proposal will complement the listed buildings.
- He did not think that the development would flood.

- The site is in a highly sustainable location.
- To improve the area.
- To provide housing.
- To secure important community facilities.
- The harm identified is considered to be less than substantial.

Cllr Matthew Davies seconded the motion.

Cllr Jackson stated that the loss of amenity to the properties in Park View was unacceptable and that the proposed development would dominate the houses. There was also no guarantee that the pub would be retained as a community and heritage asset.

Cllr Romero stated that she would support the housing if it were designated for key workers or starter homes. However she also noted that the development was very close to existing properties and could be overbearing for local residents.

Cllr Sandry stated that the size and scale of the proposed development and its relationship to existing houses in the area meant that he could not support the application. He noted there was no evidence that the pub was unviable and pointed out that there was a large amount of redevelopment in this area.

Cllr Gilchrist felt that the proposal was too high and was concerned about overlooking.

Cllr Organ was concerned at the number of pubs that were closing and supported the refurbishment of this business which would provide a facility for the community.

Cllr Becker was concerned that the building would be overbearing and would prefer to visit the site as he noted there were already some tall buildings in the vicinity.

Cllr Jackson was concerned that if permission were granted this would not be in accordance with current policies. The Legal Advisor explained that the Committee could decide to depart from policy if members concluded that the policy was outweighed by other material considerations. He stressed that great weight should be given to the harm to the heritage assets which created a presumption against granting planning permission. In order to grant permission the Committee would have to find that there were public benefits which outweighed the harm.

The Team Manager, Development Management, advised that if members were placing weight on the community benefits arising from the refurbishment of the pub, as the motion suggests is the case, then members should consider delegating to permit on the basis that the securing of those community benefits should be discussed with the applicant with a view to securing them by a condition or legal agreement as appropriate. It was further clarified that in the event that this could not be achieved the application would be brought back to the committee given the motion put forward. Cllr Kew confirmed that it was important to retain the pub and skittle alley as a community asset and meeting facility and agreed that the proposed improvements should be secured by condition or legal agreement.

On that basis the motion was put to the vote. Members voted on each application

separately and, in both cases, it was RESOLVED by 5 votes in favour, 4 votes against and 1 abstention to DELEGATE TO PERMIT both of the applications subject to conditions and/or a legal agreement as appropriate.

Item No. 3

Application No. 18/02831/FUL

Site Location: The Old Bakery, Jews Lane, Twerton, Bath, BA2 3DG – Demolition of existing building and redevelopment comprising erection of a student accommodation building (sui generis) and erection of a flexible employment building (Class B1)

The Case Officer reported on the application and her recommendation to permit. She advised the Committee that additional conditions were now proposed in relation to ecological matters as set out in the update report.

A local resident spoke against the application and Cllr June Player (local ward member) also read out two statements from local residents against the application.

The Agent spoke in favour of the application.

Cllr June Player, local ward member, spoke against the application. She stated that the height of the building would dominate adjacent dwellings. The density of the development would lead to more activity in the area and would lead to diminution of the amenities of local residents. She also pointed out the parking problems in this area which would increase with 63 additional residents and stated that parking could not be adequately monitored. She pointed out the large number of objections and noted that the quality of life of residents, particularly those in Albert Terrace, would diminish along with the community balance in the area.

The Case Officer then responded to questions from members as follows:

- The policy supports student accommodation in this location.
- The Highways officer confirmed that there was a toucan crossing close to the site.
- A CIL contribution would be made by the developer which could provide improved landscaping if necessary. There was a park nearby which could be used by residents as a recreational area.
- There was currently no service or lease agreement in place for the building.
- The parking measures would be enforceable as a condition as set out in the report.
- There would be some harm to 14 Albert Terrace as there would be a reduction in daylight. However this harm was not considered to be so significant as to warrant refusal of the application.
- The building would be 2m closer to existing dwellings than at present and would be 8m in height.

Cllr Organ moved the officer recommendation to permit the application. This was seconded by Cllr Kew.

Cllr Sandry stated that while this was not a bad application, the location was not ideal and it would have an adverse effect on neighbouring properties. The

provision of large amounts of student accommodation in the area was hollowing out communities. The shortage of parking spaces in this location was also a concern.

Cllr Jackson felt that the proposal would be intrusive for the residents of Albert Terrace. She also expressed concern regarding the quality of urban design and landscaping.

The motion was put to the vote and it was RESOLVED by 5 votes in favour, 3 votes against and 2 abstentions to DELEGATE TO PERMIT the application subject to conditions and the completion of a Section 106 Agreement as set out in the report.

Item No. 4

Application No. 18/02261/FUL

Site Location: 27 Rockliffe Avenue, Bathwick, Bath, BA2 6QP - Erection of replacement dwelling following demolition of existing (Resubmission of 16/02520/FUL)

The Case Officer reported on the application and her recommendation to permit. She explained that the scheme as now submitted seeks to address the concerns raised by the Planning Inspector following an appeal against the refusal of a previous application on the site. She also drew the Committee's attention to three additional conditions which were set out in the update report.

One neighbour and a representative from the Bathwick Estates Residents' Association spoke against the application.

The Agent spoke in favour of the application.

Cllr Richard Samuel, local ward member, spoke against the application. He made reference to the adverse impact on the Conservation Area, quality of the replacement dwelling and the impact of groundworks on the site. He asked the Committee to consider holding a site visit so that they could view the potential impact of the development on neighbouring properties.

Officers then responded to questions from members as follows:

- The roof form was the reason the appeal had been dismissed as it was felt that it harmed the outlook from a neighbouring property.
- Whilst the development would be in close proximity to the boundary the planning inspector had not raised any concerns about damage to the neighbouring property. The Case Officer had discussed the excavation works with one of the Building Inspectors who confirmed that the works should be able to be carried out without causing harm to the neighbouring properties. The onus was on the developer and applicant to ensure that work was carried out safely. The Team Manager, Development Management made reference to the adopted Land Stability Policy but identified that the preamble to the policy related it in the main to former mining areas. It was pointed out that, whilst land stability is a material planning consideration, measures to investigate risk should be proportionate. Here there was no particular evidence of out of the ordinary risk in this area. Damage during construction would be a civil matter between the parties rather than a planning issue. Matters of construction would be considered in detail through Building

Control.

- The materials used would be ashlar stone with a tiled roof.
- The street contained a mix of dwelling styles.
- The Case Officer was not aware of any flood risk in this location.
- In response to a question from a member the Legal Advisor stated that, in general, the Council did not have a legal duty of care in the discharge of its public functions. However, there were some exceptions, and it was possible for the Council to be liable in civil law if it permitted a development which was dangerous. However that did not appear to be the case here.
- In response to a further question from a member the Legal Advisor explained that the Committee was able to take a different view to the Planning Inspector but should give great weight to the Inspector's decision because it was a decision of the Secretary of State. Members would need to provide cogent reasons for taking a different view to the Planning Inspector.
- The Team Manager, Development Management, referred to the previous application and the Inspector's consideration and conclusions in respect of the demolition of the existing house and pointed out that if a further appeal was made the Inspector would be more than likely to conclude in a similar fashion.
- The Team Manager, Development Management, explained that if the piled foundation was less than 15m in depth (as was suggested to be the case) it would be unlikely to trigger an application pursuant to the County of Avon Act 1982.

Cllr Kew moved the officer recommendation to permit. He noted that the basement construction was a matter for the contractor who should ensure a safe construction. He felt that there was no risk of flooding and that the piled foundation was a routine exercise. The current dwelling did not make a particular contribution to the Conservation Area and the redesign addressed the issues raised by the Planning Inspector. He acknowledged the concern of local residents but felt that this was a good application.

Cllr Organ seconded the motion.

Cllr Sandry stated that he felt this application represented overdevelopment of the plot and did not add to or improve the Conservation Area.

Cllr Romero had concerns regarding the excavation of the basement as the work would take place very near to the neighbouring boundary. She also felt that the front of the building would not be in keeping with the street scene. She believed that a site visit would be advantageous.

Cllr Richardson felt that the new design provided more space and noted the eclectic mix of the existing street scene.

The motion was put to the vote and it was RESOLVED by 6 votes in favour, 3 votes against and 1 abstention to PERMIT the application subject to the conditions set out in the report.

Item No. 5

Application No. 18/02898/FUL

Site Location: Horseworld, Staunton Lane, Whitchurch – Erection of 5 residential units (including affordable housing) together with associated parking, highways and landscaping works

The Case Officer reported on the application and her recommendation to delegate to permit. She clarified that, following further discussions with the Conservation Officer, it had been confirmed that there was no adverse impact on the setting of the listed building and its curtilage farm complex.

A local resident spoke against the application.

The Agent spoke in favour of the application.

Cllr Paul May, local ward member, spoke against the application. He stated that the proposal to remove the “early years facility” from the development was premature. The off-site facility that would now provide this service was some distance from the development and could not be safely or easily accessed by foot. Parking and heavy traffic were also an issue in the location.

Officers then responded to questions as follows:

- The Team Manager, Development Management, informed members that Policy RA5 requires school contributions and also the policy states that “A new early years facility will need to be provided on site or nearby” and, if that provision is considered to be met, the policy does not provide for alternative uses to be provided instead.
- The Case Officer explained that nursery provision was not calculated in the same way as school place provision. There had been insufficient places but this need had now been met by the new facility.
- The Highways Officer explained that there was a zebra crossing from Staunton Lane and that a wider footway would be provided along the route to the nursery school.

Cllr Richardson queried why there were no precise figures regarding the need for an early years facility. She stated that more details were required such as how many spaces were available at the nursery and its current occupancy level. She also pointed out that the nursery was located on the A37 and that it was unlikely that many parents would walk this route with their children.

Cllr Jackson noted that there was no guarantee that the nursery would remain in operation and that, as yet, no OFSTED inspection had taken place. It therefore seemed premature to remove the requirement for land allocation for this purpose. She also requested further information regarding pollution levels along the walking route to the nursery.

Cllr Kew felt that a decision should be deferred because more detail was required regarding the need for nursery places in the area and the provision at the current facility. He moved that consideration of this application be deferred pending further details and a site visit. The motion was seconded by Cllr Sandry.

The motion was put to the vote and it was RESOLVED unanimously to DEFER consideration of the application pending further information and a site visit.

Item No. 6

Application No. 18/02637/FUL

Site Location: St Michael's Cottage, Townsend, East Harptree, BS40 6BH – Change of use of section of paddock to allow vehicular access to dwelling

The Case Officer reported on the application and her recommendation to refuse.

The Agent spoke in favour of the application.

Cllr Tim Warren, local ward member, spoke in favour of the application. He pointed out that the Parish Council supported the proposal which provided a safer access to and from the property.

The Case Officer then responded to questions from members as follows:

- No comments had been received from the local Church which was close to the site.
- The Highways Officer confirmed that the new access provided greater visibility and therefore improved highway safety.
- The speed limit in this area was 60mph.
- Policy NE2B of the Placemaking Plan was relevant to the change of use of a paddock to allow for the creation of a track for dwellings outside of the Housing Development Boundary.

Cllr Matthew Davies moved that the Committee delegate to permit the application as it provided a safer access to the property.

Cllr Jackson seconded the motion as the proposal improved highway safety which outweighed any potential harm to the AONB.

Cllr Richardson did not feel that the proposal represented significant harm to the AONB

Cllr Kew noted that the applicant had suggested the use of grasscrete to mitigate the impact of the development.

The motion was put to the vote and it was RESOLVED unanimously to DELEGATE TO PERMIT the application subject to conditions.

Item No. 7

Application No. 18/03786/FUL

Site Location: 7 Elm Grove, Bath, BA2 2HJ – Erection of single storey front porch and single storey flat roof rear extension

The Case Officer reported on the application and her recommendation to permit.

Cllr Sandry, Local Ward member, confirmed that he was not aware of any local

objection to the proposal.

Cllr Matthew Davies moved the officer recommendation to permit. This was seconded by Cllr Kew.

The motion was put to the vote and it was RESOLVED unanimously to PERMIT the application subject to conditions as set out in the report.

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

The Committee considered the appeals report.

RESOLVED to NOTE the report.

The meeting ended at 5.40 pm

Chair

Date Confirmed and Signed

Prepared by Democratic Services