

## **DEVELOPMENT MANAGEMENT COMMITTEE**

### **Minutes of the Meeting held**

Wednesday, 21st November, 2018, 2.00 pm

**Councillors:** Sally Davis (Chair), Rob Appleyard, Paul Crossley, Matthew Davies, Eleanor Jackson, Les Kew, Bryan Organ, Will Sandry (Reserve) (in place of Caroline Roberts), Brian Simmons (Reserve) (in place of Jasper Becker) and David Veale

#### **65 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the emergency evacuation procedure.

#### **66 ELECTION OF VICE CHAIRMAN (IF DESIRED)**

A Vice Chairman was not required on this occasion.

#### **67 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were received from:

Cllr Jasper Becker – substitute Cllr Brian Simmons

Cllr Caroline Roberts – substitute Cllr Will Sandry

#### **68 DECLARATIONS OF INTEREST**

There were no declarations of interest.

#### **69 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN**

There was no urgent business.

#### **70 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.

#### **71 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS**

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

#### **72 MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 24 October 2018 were confirmed and signed as a correct record.

73 **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 item 1 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 No. 1**

**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 also drew members' attention to the wording of the s106 agreement relating to this application. She confirmed that the walking distance from the new development to the Mama Bear's Nursery was between 9 and 15 minutes.

The applicant spoke in favour of the application.

Officers then responded to questions as follows:

- The Legal Advisor explained the effect of the planning obligations to members. In answer to a question from Cllr Kew, the Legal Advisor confirmed that the relevant obligations in the s106 agreement related to early years' provision and not primary school places. The Legal Advisor gave advice about various provisions of the s106 agreement.
- Cllr Crossley asked at what point the decision had been taken to discharge the planning obligations in the s106 agreement and who had been consulted. The Chair confirmed that she had not been consulted. The Legal Advisor stated that the agreement had been drafted on instructions following the Committee's decision to delegate to permit planning permission.
- Cllr Jackson felt that the Committee was placed in a difficult position when planning obligations were discharged without members being informed. She asked at what point it was determined that the parcel of land allocated for community benefit could be converted into housing. She felt that the area should become a play area or allotments if it was no longer required for an early years' facility.
- The Team Manager, Development Management, explained that the parcel of land was never allocated for general community use and had been earmarked solely for early years' provision. When the existing nursery was opened in

Whitchurch, the need for this particular use fell away. There was no planning justification for providing two such facilities and the s106 agreement had been drafted to contain flexibility to take account of changing future circumstances. He also pointed out that there was already provision for open space and allotments within the s106 agreement.

- The Case Officer confirmed that the distance to the nursery was 785m.
- Cllr Matthew Davies stated that it was his understanding that the nursery should be provided on the site or nearby. He did not feel that the Mama Bear's nursery fitted the definition of "nearby". He queried whether the Core Strategy policy RA5 or the s106 agreement wording took precedence. The Legal Advisor confirmed that the s106 agreement took precedence as it was a legal document.
- Cllr Appleyard noted that on the original application there was provision for a new nursery for residents of the development and queried why officers had apparently removed this requirement.
- Cllr Jackson asked about the clean air data for Whitchurch as she believed the air quality in this area was poor. She also drew attention to the Whitchurch Village Neighbourhood Plan and queried how much weight should be given to this. The Team Manager, Development Management, stated that, whilst the Neighbourhood Plan was important, in this particular case the Committee should refer to the legal agreement. There was no evidence of need for a community use on the site.

Cllr Crossley noted that a major part of the S106 agreement had been discharged and felt that the Committee would have disagreed with this had members been consulted. The road on which the early years' provision was located was very busy and polluted. It would be a long walk to the existing site which was not sustainable. The site identified in the original application was more suitable and the removal of a significant obligation should, in future, at least be considered by the Committee Chair. He then moved that the application be refused for the following reasons:

- The alternative early years' provision does not meet the needs of the community.
- The alternative early years' provision does not take into account the need for community sustainability within the new development and the existing early years' nursery in Whitchurch was too far away and along a busy road.
- The removal of the early years' provision was contrary to the masterplan for the wider (former) horseworld site.

Cllr Organ seconded the motion. He felt that the original planning obligations should not have been discharged as the distance from the new development to the existing facility was too far and the pavements would not be improved.

Cllr Kew was not happy with the current position, however, he noted the officer advice that the Council's decision to discharge the planning obligations was legally binding.

The Team Manager, Development Management, explained that the Whitchurch area had been identified as having insufficient childcare provision in 2016. The original s106 agreement was based on the information available at the time and had provided two options (i) to construct an early years' facility on the application site or

(ii) if the early years' facility that had been granted planning permission in Whitchurch had been opened, to rely on that facility and not build a new one on site. As the early years' facility was now open in Whitchurch there was no clear reason to refuse the application and members were strongly advised not to do so, otherwise the Council could be vulnerable to incurring costs at appeal. As option (ii) had occurred, the legal agreement had been discharged.

Cllr Appleyard did not feel the need for an early years' facility had been met as the existing facility had not yet received an Ofsted inspection. He stressed the importance of a local facility to enable community cohesion within the new development.

Cllr Jackson stated that she did not think the existing nursery was economically viable and that if it were to close, there would be no possibility of an alternative. She also felt that the facility could not be classed as being "nearby". She stressed the importance of taking the Neighbourhood Plan into account.

The Team Manager, Development Management, pointed out that the early years' facility had not been earmarked solely for the new development but for the whole of Whitchurch Village. This particular development only created about half of the need for an early years' facility.

The motion was then put to the vote and it was RESOLVED by 5 votes in favour and 5 abstentions to REFUSE the application for the following reasons:

- The alternative early years' provision does not meet the needs of the community.
- The alternative early years' provision does not take into account the need for community sustainability within the new development and the existing early years' nursery in Whitchurch was too far away and along a busy road.
- The removal of the early years' provision was contrary to the masterplan for the wider (former) horseworld site.

## **Item No. 2**

### **Application No. 18/01999/FUL**

**Site Location: 40 Bloomfield Park, Bloomfield, Bath, BA2 2BX – Erection of 8 apartments with associated parking and landscaping following demolition of existing detached house and garage (Resubmission)**

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

A local resident spoke against the application.

The agent spoke in favour of the application.

Cllr Mark Shelford, local ward member, spoke against the application. He raised issues regarding loss of light to the neighbouring property, inadequate parking provision and non-compliance with the Council's waste disposal policy.

The Case Officer then responded to questions as follows:

- Part of the building would be built of ashlar stone and part of rubble stone.
- The Highways Officer confirmed that the minimum number of spaces required for the development was 12; however, the developer was proposing to provide 15 spaces. This was fully compliant with the Placemaking Plan. Tandem parking spaces would be provided for the three larger flats.
- An assessment had been carried out regarding the removal of trees on the site and the effect had been found to be neutral. A contribution towards off-site replacement trees would be secured by a S106 agreement. A pre-commencement drainage strategy would be required by condition.
- The height of the proposed building would be the same as set out in the previous application and the landscaped terrace would be 0.5m closer than the previous application.
- The Case Officer clarified how the boundary of the development related to the neighbouring bungalow.
- The residents could either transport wheelie bins using the ramp or via the lift and main entrance of the building.
- A management company was proposed for the flats but this was not secured by legal agreement.

Cllr Kew understood the concerns of local residents but explained that the Committee could only consider the application put before it. The neighbouring bungalow had been constructed very close to the boundary. The parking requirements for the development had been met. The comments of the Planning Inspector indicated that there were now no reasons to refuse the application. He moved the officer recommendation to delegate to permit. This was seconded by Cllr Organ.

Cllr Crossley felt that this was an unsuitable scheme and that the parking obligations had not been met. Tandem spaces were not appropriate and meant that people were more likely to park on the street. He also had concerns about the loss of a mature walnut tree. He felt that the application would have a detrimental impact on the neighbouring property.

Cllr Sandry was surprised by the scale and bulk of the building.

Cllr Jackson felt that the loss of mature trees and potential drainage problems which could result was not acceptable.

Cllr Appleyard stated that, on balance, there were still problems with the application. The management of waste would impact on the community. The proximity of the development to the boundary would adversely affect the amenity of the neighbouring property. The application represented overdevelopment of the site in this area.

The motion was put to the vote and it was RESOLVED by 6 votes in favour and 4 votes against to DELEGATE TO PERMIT the application subject to conditions and the completion of a S106 agreement as set out in the report.

**Item No. 3**

**Application No. 18/04233/FUL**

**Site Location: 14 The Beeches, Odd Down, Bath, BA2 2UX – Installation of rear and side dormer windows with two front roof lights (Resubmission)**

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

The applicant spoke in favour of the application.

Cllr Steve Hedges, local ward member, spoke in favour of the application. He pointed out that the proposed extension would be in line with the current footprint of the dwelling. There were already some properties with large extensions and dormer windows in the street. He also pointed out that there were student flats in the area.

In response to a question from Cllr Jackson the Case Officer confirmed that the proposed development would not have any impact on the setting of the listed Red Lion pub.

Cllr Appleyard stated that he did not see a problem with the application, he pointed out that the neighbouring property already had a large extension and that there were a number of dormer windows in the street. The proposal would enable a local family to remain living in the area. He then moved that the Committee delegate to permit the application.

Cllr Crossley seconded the motion. He felt that the dormer windows would fit in with the roofscape in this area and noted that there were already some large student blocks nearby. He did not feel that the application would be detrimental to the neighbourhood.

Cllr Kew stated that he would prefer to view the site to fully consider the effect of the dormer windows on the street scene.

Cllr Jackson did not feel that the proposal would be detrimental to the area.

Cllr Sandry did not see an issue with the application and stated that it would have no effect on the Bath World Heritage Site.

The motion was put to the vote and it was RESOLVED by 7 votes in favour, 2 votes against and 1 abstention to DELEGATE TO PERMIT the application subject to conditions.

**74 QUARTERLY PERFORMANCE REPORT - JULY TO SEPTEMBER 2018**

The Committee considered the quarterly performance report – July to September 2018.

Cllr Crossley stated that it was helpful to see details of costs awarded for and against the Council. He thanked officers for their hard work and congratulated them on the excellent performance figures.

Cllr Kew expressed concern at the large number of enforcement cases that remained outstanding. He stressed the importance of carrying out enforcement

action where required.

The Team Manager, Development Management, informed members that there were 3 or 4 officers who carried out enforcement work and explained that this could be a lengthy process.

Cllr Jackson commended the enforcement team for their hard work and their proactive approach.

RESOLVED: To note the report.

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

The Committee considered the appeals report.

The Team Manager, Development Management, drew the Committee's attention to the successful appeal in relation to Flat 35, High Street, Upper Weston. The Inspector had raised concerns regarding the Council's policy to refuse an application for an HMO if it would lead to a property being sandwiched between two HMOs. Officers would consider the implications of this finding.

RESOLVED to note the report.

The meeting ended at 4.15 pm

Chair .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**