

PLANNING COMMITTEE

Minutes of the Meeting held

Wednesday, 6th May, 2020, 2.00 pm

Councillors: Matt McCabe (Chair), Sally Davis (Vice-Chair), Rob Appleyard (Reserve) (in place of Sue Craig), Vic Clarke, Lucy Hodge, Duncan Hounsell, Eleanor Jackson, Hal MacFie, Manda Rigby and Brian Simmons

103 WELCOME AND INTRODUCTION

The Chair welcomed all councillors, officers and members of the public viewing on YouTube to this first virtual meeting of the Planning Committee. He confirmed the presence of all members and officers in attendance at the meeting.

He explained that the meeting was being held under The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. The Council has agreed a protocol to cover virtual meetings and he confirmed that the meeting would operate in line with that protocol. The meeting has the same status and validity as a meeting held in the Guildhall.

The Council did not currently have the facilities to allow members of the public and ward councillors to present statements directly to the Committee. Some members of the public and ward councillors had submitted written statements in advance to the Committee. These had been circulated to Committee members and would be read out by the Chair before the item to which they relate. The contents of these statements would be taken into consideration when decisions were made.

104 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Cllr Sue Craig – substitute Cllr Rob Appleyard.

105 DECLARATIONS OF INTEREST

There were no declarations of interest.

106 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN

There was no urgent business.

107 ITEMS FROM THE PUBLIC - TO RECEIVE WRITTEN STATEMENTS, PETITIONS OR QUESTIONS

The Chair informed the meeting that there were a number of people who had submitted written statements on planning applications and that he would read out these statements when these items were discussed.

There was also a general statement from Caroline Kay, Chief Executive of the Bath Preservation Trust, which the Chair read out at this point. The statement marked the historic moment of this first virtual meeting of the Planning Committee and pointed out that, however difficult it currently is to interact directly with the local community, constituents and consultees they are still here and wish to work together as a community for the benefit of the local area.

108 **MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 11 March 2020 were confirmed and signed as a correct record.

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

The Committee considered:

- A report by the Head of Planning on various planning applications.
- An update report by the Head of Planning on attached as *Appendix 1* to these minutes.
- Written statements submitted by members of the public and representatives. A copy of the public participants' 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. 19/05508/LBA and 19/05507/FUL

Site Location: Old House, Northend, Batheaston, Bath – External alterations for the erection of a parking area gate mechanism, boundary pier and replacement walling. (Regularisation). Erection of a parking area gate mechanism, boundary pier and replacement walling (Retrospective).

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

The Chair then read out the two written public statements that had been submitted:

- Objection to the application from the Bath Preservation Trust.
- In support of the application from the applicant.

The Case Officer and Planning Team Manager then responded to questions as follows:

- The property referred to in the public statement submitted by the applicant, Valley View, is located approximately half a mile north of the site and is not visible along the lane from Old House. Valley View does not adjoin Old House and the two properties cannot be seen in the context of each other.

- Old House is located outside of the main part of the settlement of the village of Northend. The majority of the properties in the village are located in a cluster, then properties become more sporadic. The property in question is outside of the Housing Development Area.

Cllr Jackson moved the officer recommendations to refuse. She stated that the virtual site visit, consisting of a video taken by the Planning Team Manager, had been very helpful. She noted that a historic wall had been lost and that the development had made an adverse impact on a listed building. The development made the property appear too suburban in this location and she felt that the rural nature of the area should be maintained.

Cllr Rigby seconded the motion for the reasons set out in the officer's report.

Cllr Davis stated that she had found the virtual site visit very helpful and would support the motion.

The motion was put to the vote and it was RESOLVED by 9 votes in favour to REFUSE planning permission and listed building consent for the reasons set out in the report.

(Note: Cllr Duncan Hounsell lost connection to the meeting during part of this item and was therefore unable to vote).

Item No. 3

Application No. 19/04797/FUL

Site Location: 3 Scumbrum Lane, High Littleton, BS39 6JN – Erection of a single and two storey rear extension.

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

The Chair read out the three written public statements that had been submitted:

- Objection to the application from neighbours.
- In support of the application from the applicants.
- Objection to the application from Cllr Ryan Wills, Local Ward Member.

The Case Officer and Planning Team Manager then responded to questions as follows:

- Cllr Appleyard asked for clarification as to whether the neighbouring property would lose part of its garden due to the proposed development. The Case Officer explained that the path runs along the rear of the properties and that No. 1 Scumbrum Lane is at the end of the terrace. The path is shared between the properties in the terrace.
- The Case Officer clarified the location of the patio area of No. 2 Scumbrum Lane. She explained that there is already a legal right of way over their property and that the proposed development would not cause a great deal of detriment to the amenity.
- The property is not in a Conservation Area and the legal position is that the path is a "free right of way in common" which only serves the properties in the

terrace.

- The Planning Team Manager explained that a public right of way is a legally sanctioned footpath. A private right of way, such as this, is traditionally for rear access to particular properties and diversion orders for this type of path are not subject to the same legal process as for public rights of way.
- Any issues relating to the footpath would be a civil matter which does not form part of the planning process. Planning permission cannot be refused on the basis of a third-party civil matter.
- Cllr Hodge stated that this was a difficult decision due to the lack of a site layout plan and stated that this was contrary to Section 5 of the B&NES drawing standard. She queried whether this affected the application process. She also noted that a disabled person lived at No. 1 Scumbrum Lane and queried whether this should be taken into consideration. The Planning Team Manager stated that the drawings submitted with the application are legible and show the scale of the proposed development. There is no requirement to show the full floor plans, although this can be helpful. Therefore, this is a valid application.
- Cllr MacFie queried what would happen if planning permission was granted and permission to gain access was then refused by the owners of the neighbouring property. He suggested that the path could be made narrower so that all the development was on land belonging to No. 3 Scumbrum Lane.
- The Planning Team Manager stated that it is not uncommon to propose development on the party line. If necessary, the applicant would have to apply for a variation to the application. This was an issue that neighbours would have to resolve between themselves. Practical implications of construction should not be a reason for refusal.
- Cllr Simmons queried whether the Council could be held liable under the Disability Discrimination Act by not allowing a wide enough pathway around the properties. He also queried whether making the path wider could be included as a condition. The Legal Advisor stated that private disputes between neighbours is not a planning consideration and that the owner would have to come to some agreement with their neighbours.
- The Case Officer informed the Committee that the rear gardens are approximately 42m long.
- The access to the path is fairly level and there is a gate on the boundary. The path ends at no. 3 Scumbrum Lane.

The Chair stated that he was unclear about the potential implications of the Disabilities Act. The Planning Team Manager explained that the Council has a public sector equality duty. The Legal Advisor stated that he would require more information to make a definitive assessment on this matter.

On balance the Committee members felt that they required more information before they were able to make a decision on this application.

Cllr Rigby moved that consideration of the application be deferred pending a site visit. This was seconded by Cllr Clarke.

The motion was put to the vote and it was RESOLVED by 8 votes in favour and 1 abstention to DEFER consideration of the application pending a SITE VISIT.

(Note: Cllr Duncan Hounsell lost connection to the meeting during part of this item and was therefore unable to vote).

110 **ENFORCEMENT REPORT - MARSH LANE, CLUTTON**

The Case Officer presented his report and his recommendation to seek an injunction.

The Chair read out a written statement, in support of enforcement action, that had been submitted by Clutton Parish Council.

Cllr Davis, local ward member, stated that the breach of planning control had been going on for some time at the site. It was causing a problem and the site owner had not engaged with the Council to remedy the situation. The statement submitted by Clutton Parish Council sums up the frustration felt by local residents. Cllr Davis supported the return of the site to agricultural land.

In response to a question from the Chair, the Planning Team Manager stated that the seeking of an injunction is an extreme measure, however, in this case the breach has failed to be remedied. He explained that, although injunctions were not cheap this would be funded by a government grant and there would be the potential for recovery of costs. Therefore, the action should ultimately be cost-neutral.

Cllr Simmons asked about the potential for land contamination arising from the breaking up of vehicles on the site. The Case Officer explained that the metal is recycled from the vehicles and that the area is used as a storage site rather than for carrying out work on the vehicles. Cllr Jackson pointed out that any decontamination required would be the responsibility of the landowner.

She then moved the officer recommendation to seek an injunction as set out in the report. This was seconded by Cllr Appleyard.

The motion was put to the vote and it was RESOLVED by 9 votes in favour to seek an injunction from the Court, under Section 187B of the Town and Country Planning Act 1990 to restrain the breaches of planning control on the land subject of the enforcement notice and for a breach of condition 2 of planning application no. 08/03492/FUL.

(Note: Cllr Duncan Hounsell lost connection to the meeting during part of this item and was therefore unable to vote).

111 **QUARTERLY PERFORMANCE REPORT - JANUARY TO MARCH 2020**

The Committee considered the quarterly performance report from January to March 2020.

In response to questions from Cllr Hodge the Planning Team Manager explained that the doubling of planning contravention notices this quarter was not particularly unusual and could be the result of a lag in this work. He stated that it was difficult to obtain benchmarking data because Local Authorities carried out the triage process in different ways. If required, however, he could provide a comparison against the national figure.

The Planning Team Manager also explained that the high figure for “other work” carried out between April and June could simply be due to a spike in this type of work and that he could provide a breakdown if required.

RESOLVED to NOTE the report.

112 **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 3.45 pm

Chair

Date Confirmed and Signed

Prepared by Democratic Services