

Western Area Planning Committee

MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 5 JUNE 2024 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Christopher Newbury (Chairman), Cllr Bill Parks (Vice-Chairman), Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Andrew Davis, Cllr Stewart Palmen, Cllr Horace Prickett, Cllr Pip Ridout, Cllr David Vigar, Cllr Suzanne Wickham and Cllr Mike Sankey (Substitute)

Also Present:

Cllr Johnny Kidney

32 **Apologies**

An apology for absence was received from Cllr Jonathon Seed, who was substituted by Cllr Mike Sankey.

33 **Minutes of the Previous Meeting**

The minutes of the meeting held on 8 May 2024 were presented for consideration, and it was,

Resolved:

To approve as a correct record and sign the minutes of the meeting held on 8 May 2024.

34 **Declarations of Interest**

There were no declarations.

35 **Chairman's Announcements**

There were no specific announcements.

36 **Public Participation**

The rules on public participation was noted.

37 **Planning Appeals and Updates**

Planning Appeals

The Planning Appeals update report was received. Attention was drawn to application PL/2023/00859 at Elmleaze Farm, Keevil, change of use of a 2 bed

holiday let to a dwelling, which was permitted on appeal for temporary personal permission.

Resolved:

To note the Planning Appeals update report.

Planning Update

A report was then presented by Kenny Green, Area Development Team Leader, regarding application PL/2021/09777 at Star Ground, Station Road, Holt. At its last meeting the Committee had requested an update regarding the consented application for ten affordable rental dwellings. This was in relation to the council's Allocations Policy, with the provider required to advertise the properties via the councils choice based lettings scheme, Homes4Wiltshire.

Details were provided as set out in the report in relation to the s.106 agreement, and discussions between officers and the provider, regarding the site being a rural exception site and that applications must have a local connection to the parish.

Cllr Trevor Carbin, as the local member, welcomed the update, noting concerns that the policy was not being adhered to appropriately. It was then,

Resolved:

To note the update.

38 **Northfield Playing Field, Winsley - Application no.2021/01TVG**

Public Participation

Murali Bandaru spoke in objection to the application to register a town or village green.

Duncan Sparrowhawk spoke in support of the application to register a town or village green.

John Strike spoke in support of the application to register a town or village green.

Kerry Kemp spoke in support of the application to register a town or village green.

Cllr Linda Ladner, Winsley Parish Council, spoke in support of the application to register a town or village green.

Janice Green, Senior Definitive Map Officer, introduced the report on the application to register a town or village green at Northfield Playing Field, Winsley under Sections 15(1) and (2) of the Commons Act 2006. It was recommended that the council as the Commons Registration Authority (CRA), appoint an independent Inspector to preside over a non-statutory public inquiry to consider the evidence and to produce an advisory report and recommendation on determination of the application, to the CRA.

Details were provided of the location and description of the application site, the legislative requirements for registration of a town or village green, the history of the application submitted by Winsley Parish Council, the parties providing evidence in support of the application and the objections which had been submitted.

The process for determination of the application in a manner fair and reasonable to all parties was set out, along with an explanation of planning trigger and terminating events which the Planning Authorities had confirmed were not a consideration in this case. Other matters set out included the identification of the relevant locality or neighbourhood within a locality required for the application under the legislation, and the extent of registered highway land which, if the application were approved, would need to be excluded from the registration. It was emphasised that evidence was key in these cases and in order for an application to be successful, each part of the legal test set out at sub-section 15(2) of the Commons Act 2006 must be satisfied. The burden of proof lay with the Applicant and the standard of proof would be the balance of probabilities.

The grounds for objection as set out in the report were also summarised, along with the requirement to follow procedures according with principles of natural justice, and to provide legally valid reasons supported by evidence in the event the application were to be determined at the meeting as opposed to establishing a non-statutory inquiry to further test the evidence on both sides.

Members of the Committee then had the opportunity ask technical questions of the officer. Details were sought on the circumstances in which a non-statutory inquiry would be considered appropriate. Clarity was sought on the reasons for objection which had been submitted, with a judgement to be made as to whether these amounted to a serious dispute of fact. Questions were raised as to the definition of a neighbourhood within a locality which had been identified within the registration application. Information was also sought on historic holding of the land by the council as the highway authority, and that this had elapsed in the early 1990s with full control of the land returned to the landowner, with queries relating to whether this affected the period of use associated with the application, and whether use during the relevant period was non-qualifying use 'by right' or qualifying use 'as of right'. In response to questions, it was stated there was no formal guidance on interpretation of what would constitute a serious dispute of fact for the purposes of holding a non-statutory public inquiry, and the legal avenues of appeal or challenge for the landowner in the event of registration were set out.

Other questions related to the registration application identifying an area slightly distinct from the spatial information settlement boundary as set out within the Wiltshire Core Strategy document, whether the previous landowner had sought to prevent use on the site or been aware of use, the consideration of the totality of the evidence, records of public maintenance of the site, the process in the event an inquiry was arranged, and further details of the objection material which had been submitted.

Members of the Public then had the opportunity to address the Committee with their views, as detailed above.

Cllr Johnny Kidney, as the local Unitary Division Member, then spoke in support of the application. He stated there had been unrestricted access and use of the land in the required manner before, during, and up to the period of registration. He noted the lack of other green space recreation in the nearby area. In response to the objections which had been raised, it was argued these were not substantive in nature and the fact of the use of the site in the required period was not seriously contested. The neighbourhood identified was the area considered by residents to be the village community, inclusive of areas just outside the settlement boundary, and this was considered to be a meaningful description capable of being understood.

Cllr Kidney further pointed to the lack of action from the previous landowner to address the activity taking place on the land, and argued the evidence was clear in the use by the community, and that only a very few supporting statements had been raised as having any inconsistencies. On that basis, it was argued a non-statutory public inquiry was not required in the circumstances given the very strong evidence in support of the application.

A motion to approve the option set out at paragraph 47(i) of the report, to register the application land as a town or village green, excluding the area of registered highway land at the south-west corner, was then moved by Cllr Trevor Carbin, seconded by Cllr Stewart Palmen.

During debate, it was argued that the evidence in support of the registration application was both strong and clear, whilst the objections did not rise to the level of raising serious dispute of facts requiring the depth of testing from a non-statutory inquiry. The objection based on very few of the supportive statements was argued to not be significantly material in light of the prevailing and persuasive counterevidence, and there was felt to be no serious dispute over use of the land as of right, with the previous landowner not preventing the use of the land nor giving permission. In relation to identifying a neighbourhood within a locality which was recognisable or capable of meaningful description, this was summarised by officers assessing the application in the report as the neighbourhood of Winsley settlement within the locality of Winsley Parish.

A comment was also made that if the registration application were approved without a non-statutory inquiry this could be challenged, at greater cost, by the landowners. It was also confirmed that if the registration were confirmed access to the site, which had been obstructed following purchase by new landowners after the initial registration application, would be required to be restored.

At the conclusion of debate, it was,

Resolved:

Based on the available evidence, to register the land known as Northfield Playing Field, Winsley as a Town or Village Green, as it is considered that

the legal tests for registration, as set out under Sections 15(1) and (2) of the Commons Act 2006, have been met in full over the application land, excluding the area of recorded highway located at the south-west corner.

Cllr Ernie Clark requested that his vote in opposition to the resolution be recorded.

39 **Urgent Items**

There were no urgent items.

(Duration of meeting: 3.00 - 5.00 pm)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

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