

Eastern Area Planning Committee

MINUTES OF THE EASTERN AREA PLANNING COMMITTEE MEETING HELD ON 20 APRIL 2023 AT WESSEX ROOM - THE CORN EXCHANGE, MARKET PLACE, DEVIZES, SN10 1HS.

Present:

Cllr Paul Oatway QPM (Vice-Chairman), Cllr Dr Brian Mathew, Cllr Kelvin Nash, Cllr Iain Wallis, Cllr Stuart Wheeler and Cllr Jerry Kunkler (Substitute)

Also Present:

Cllr Dominic Muns and Cllr Philip Whitehead

11. **Apologies**

Apologies for absence were received from:

- Cllr Philip Whitehead, who attended in his capacity as a local member (substituted by Cllr Jerry Kunkler).
- Cllr Tony Pickernell
- Cllr Sam Pearce-Kearney

12. **Minutes of the Previous Meeting**

On the proposal of the Vice-Chairman, seconded by Cllr Dr Mathew, it was:

Resolved

To approve the minutes of the previous meeting, held on 23 February 2023, as a true and correct record.

13. **Declarations of Interest**

Cllr Wallis declared an additional interest in relation to Item 7, that he worked in the Department for Environment, Food, and Rural Affairs. The Secretary of State, who made the Order under the Wildlife and Countryside Act 1981 for Wiltshire Council to determine the application, was therefore, ultimately his employer. He clarified that his role in the Department for Environment Food and Rural Affairs had no connection with the department which dealt with Rights of Way, so he would still participate in the debate and vote on the application.

14. **Chairman's Announcements**

There were no announcements.

15. **Public Participation**

The Vice-Chairman detailed the procedure for the meeting and the procedures for public participation which were set out at Item 5 of the agenda.

16. **Planning Appeals and Updates**

On the proposal of the Vice-Chairman, seconded by Cllr Wallis, it was:

Resolved

To note the report on completed and ending appeals.

17. **Ramsbury 9B, 44, 71 and 72 and Mildenhall 16**

Public Participation

- Mr Alan Woodford – spoke in favour of the application
- Mr Peter Gallagher (The Ramblers' Association) – spoke in favour of the application

The Definitive Map and Highway Records Manager introduced a report recommending supporting confirmation of the Wiltshire Council Ramsbury 9b, 44, 71&72 and Mildenhall 16 Definitive Map and Statement Modification Order 2022. Under the proposals, the Order would be modified to correct the recording of the width of part of the route affecting Mildenhall path no.16 (points F to G on the Order plan).

The Manager outlined the background to the case, reporting that Wiltshire Council had received an application to modify the definitive map and statement in 2018. As they had not investigated within a year of receiving the application, they were directed by the Secretary of State for Environment Food and Rural Affairs to determine the application, which they did in April 2022. The Order was advertised in accordance with Schedule 15 of the 1981 Wildlife and Countryside Act (the Act).

The Manager explained that as objections had been received and the Order required modification, Wiltshire Council was required to send the Order to the Secretary of State for Environment, Food and Rural Affairs for determination. The legal test to be applied to confirm an Order is that it is shown on the balance of probability (i.e. it is more likely than not) that a public right subsists. She highlighted that there was a large volume of historical evidence dating back to 1717 and that all the available evidence had been included in the agenda pack.

She also clarified that there was an error in the proposal as listed on page 24 of the agenda pack and that the date of the Order should be listed as 2022, rather than 2023.

The Committee were then invited to consider two objections and three representations made under Section 53 of the Act to the Definitive Map

Statement and Modification Order, as detailed in the report. They were asked to decide whether to support, or object to the Order when it was sent to the Secretary of State.

Members of the Committee then had the opportunity to ask technical questions of the Manager.

Members of the public then had the opportunity to present their views, as detailed above.

So the Committee had something to debate, the Vice-Chairman, seconded by Cllr Wheeler, proposed that support be given to the Definitive Map and Statement Modification Order confirmation for the reasons outlined in the Manager's recommendations.

A debate followed where Members explained that they welcomed the proposal and that it promoted access to the countryside. In response to queries about whether bollards could be installed to prevent access by motor vehicles, the Manager confirmed that the Council had powers under Section 66 of the Highways Act 1980 to install bollards where necessary for the purpose of safeguarding persons using the byway. It was then:

Resolved

That The Wiltshire Council Ramsbury 9b, 44, 71 & 72 and Mildenhall 16 Definitive Map and Statement Modification Order 2022 is confirmed with the Order modified as follows with regards to widths:

Part 1 of Schedule:

Mildenhall 16 (part) "Width from F to G where bounded by two solid lines and ranging from 4.7 metres to 6.0 metres on the Ordnance Survey County Series 1:2500 map Sheet 29.15 printed in 1886 additionally where not bounded by solid lines on both sides width to be defined by the brown track colouring in Wiltshire Council's highway record.

Part 2 of Schedule:

Mildenhall 16 Width modified to "Width 0.3 to 2.4 metres except for Restricted Byway Section where ranging from 4.7 metres to 6.0 metres as delineated by two solid lines on the Ordnance Survey County Series 1:2500 map Sheet 29.15 printed in 1886 and where not bounded by two solid lines as defined by the brown track colouring in Wiltshire Council's highway record".

18. **PL/2022/00977 - Land at Horton Road, Devizes**

Public Participation

Dirk Foster – spoke in objection to the application
Gordon Currie – spoke in objection to the application
William Smith (Berkley Strategic) – spoke in support of the application

The Head of Development Management introduced a report which recommended that the application to grant outline planning application, with all matters reserved except access, for up to 25,000 sqm of use class B2 (General Industrial), B8 (Storage and Distribution) and E (Commercial, Business and Service) (g) (i-iii), with landscaping and associated infrastructure, be approved subject to prior completion of a Section 106 agreement.

He highlighted that, since the publication of the agenda, revised conditions had been circulated in Agenda Supplement 2. Changes to the technical conditions included a stipulation that the level of floorspace provided for Use Class B8 when not ancillary to B2 or E uses shall not exceed 80 percent of the gross floorspace of the development, or 10,000 square metres, whichever is the larger.

The Committee noted that that the site had been identified in Core Policy 2 of the Wiltshire Core Strategy as a strategically important site for economic and employment development. The application site also formed the majority of the site allocated in the Core Strategy for development for employment purposes in accordance with the need to meet employment needs as identified in Core Policy 12 of the Devizes Community Area Strategy.

It was stated by the Head of Development Management that the masterplan for the site illustrated how the development could be integrated with the adjoining Skid Pan site, should it come forward for employment development. Should both sites come forward together it was likely that access from the A361 could be provided. However, he underlined that this was not the application being considered and the Committee was being asked to decide the application outlined in the agenda pack. There were no technical objections from Council officers in terms of highway impacts or in terms of the impacts on neighbouring amenities, subject to conditions and planning obligations to the existing application identified in the report.

He reassured the Committee that conditions on the application would restrict activities late at night. Residential properties would be separated from the commercial units by an area of landscaped recreational space and that the units would largely 'face away' from the recreational areas to ensure that noise and light pollution was minimised.

The Head of Development Management concluded that the development would be in accordance with the development plan and that there were no sound planning reasons to object to the application.

Members of the Committee then had the opportunity to ask technical questions.

In response to questions about whether the access arrangements could be amended, the Head of Development Management explained that it was not possible for the Committee to amend the application. He clarified that he was not able to comment on a different application and the Committee must consider the application before it.

When asked about how the Committee could be assured that the height of the buildings would be in line with the figures indicated in the masterplan, the Head of Development Management explained that the plan set the parameters for outline permission so any future applications would be bound by these.

He also outlined the different classes of use for the site and confirmed that financial contributions would be set out in the Section 106 agreement.

Members of the public then had the opportunity to present their views to the Committee as detailed above.

The Unitary Division Member, Cllr Philip Whitehead, then spoke against the application, encouraging the Committee to refuse the application in line with Core Policy 2 and Core Policy 12. He explained that he was in favour of the principal of developing the site but raised a number of concerns about the access arrangements listed as part of the application. He also provided evidence of correspondence with the Office of the Police and Crime Commissioner explaining that Wiltshire Police, the owners of the adjoining Skid Pan site, had consented to an option agreement for a potential purchase.

In response to the issues raised during the public participation and Unitary Division Member statement the Head of Development Management explained that Core Policy 12 required that a masterplan for the allocated site be produced and reiterated that the proposals were acceptable in terms of highway safety and residential amenity. He did not believe that Core Policy 2 (delivery Strategy) based on integration with the gateway to the town and Core Policy 12 (spatial strategy) in relation to traffic, suggested by Cllr Whitehead as reasons for refusal, were sustainable reasons to refuse the application.

A Strategic Specialist in Major Transport and Development (Sustainable Transport) reported that the frontage of the application to the A361, approximately 50 metres, would be insufficient to install a roundabout. If the application had a wider frontage along the A361, it was likely that they would favour access via that route via a more extensive junction.

However, he highlighted that officers would struggle to refuse the current application on access grounds and that it would not have an adverse impact on the highway network. He stressed that Horton Road was almost seven metres wide and relatively high-capacity road, so extra traffic could be accommodated. He also noted that, if the application were to be approved, the Cannings Hill roundabout would be upgraded to provide better accommodate HGV usage.

The Senior Solicitor stated support for the advice given by officers in respect of the grounds for refusal and potential for appeal. She reiterated that the

Committee must make a decision on the merits of the application in front of it and should not be considering a hypothetical application which may or may not come forward.

So the Committee had something to debate, Cllr Dr Mathew, seconded by Cllr Wallis, proposed that the application be refused.

A debate followed where Members commented that they supported the principal of the land being developed for general industrial, storage, business and commercial use to benefit the local economy. However, safety concerns were raised about the access arrangements to the site via Horton Road, given that the development was expected to generate freight traffic on a road adjoining a residential area. The issue of air quality was also raised given the additional traffic expected on Horton Road and environmental concerns raised by local residents during the public participation. It was then:

Resolved

To REFUSE the application, contrary to officer recommendation.

Reasons

The planning application site forms part of a 'strategically important site' – named 'Land between A361 and Horton Road' – in Core Policies 2 (Delivery Strategy) and 12 (Spatial Strategy: Devizes Community Area) of the Wiltshire Core Strategy, and in a specific 'Development Template' for the strategically important site also in the Core Strategy. Core Policies 2 and 12 state that strategically important sites will be brought forward through a master-planning process agreed between the community, local planning authority and the developer. The Development Template adds that an assessment of the most appropriate points of access to the strategically important site should be included in the masterplan.

Core Policy 57 (Ensuring high quality design and place shaping) of the Wiltshire Core Strategy requires new development to create a strong sense of place through drawing in the local context and being complementary to the locality. More specifically, part (vi) of the policy expects new development to make a positive contribution by making efficient use of land whilst taking account of the characteristics of the site and the local context to deliver an appropriate development which relates effectively to the immediate setting and to the wider character of the area; part (vii) requires regard to the compatibility of adjoining buildings and uses and the impact on the amenities of existing occupants; and part (ix) requires assurances that the public realm, including new roads, are designed to create places of character which are legible, safe and accessible. Core Policy 65 (Movement of goods) seeks to achieve a sustainable freight distribution system, by (part (iv)) encouraging heavy goods vehicle (HGV) traffic to use those roads where a minimum of community and environmental impacts will occur.

The application is accompanied by a masterplan plan ('Illustrative Comprehensive Masterplan') which shows the points of access into the whole strategically important site. For vehicular access there is one point of access shown from Horton Road (inside the planning application site) and one point of access shown from the A361 (outside the planning application site). The shown access from the A361 coincides with an existing access which presently serves the Devizes Motorcycle Training Centre, and a link road would be required across the Centre's land from the access to the application site. This access and link road arrangement has not been assessed for either safety or capacity, and its sufficiency to accommodate any element of the strategically important site has not been established. The remainder of the strategically important site, being that which lies outside of the application site, may therefore be solely reliant upon vehicular access through the application site to Horton Road; this additional impact upon Horton Road has also not been assessed.

The A361 is an 'A' class main distributor road. Horton Road is a 'C' class secondary distributor road. Within the vicinity of the strategically important site the A361 is adjoined by mainly commercial developments or agricultural land, whereas Horton Road has a more mixed and residential character with housing to its south side. In the context of Core Policies 2 and 12 and the Development Template, Horton Road is not considered to be the most appropriate point of vehicular access to the strategically important site (with the planning application not adequately assessing this in the context of the requirements of the Development Template). In terms of Core Policy 57, Horton Road is considered less suited to taking traffic to the application site, particularly commercial traffic (HGVs, etc.), than the A361, and this in view of, firstly, its higher 'place status' (Manual for Streets) and lower classification and specification compared with the A361 which displays a high 'movement status' (Manual for Streets); and secondly, in view of the particular characteristics of the area through which the road passes, notably with residential neighbourhoods to its south side. The additional and characteristically different types of traffic that would use Horton Road to access the application site would have a detrimental impact on the character of the road and the neighbourhoods through which it passes, changing the dynamics of the neighbourhoods to the detriment of present circumstances and to the detriment of amenities of residents, and potentially to the detriment of highway safety (this relative to the impacts of such traffic on the A361). And in terms of Core Policy 65, the proposal fails to use a road where a minimum of community and environmental impact would be achieved.

Additionally, the proposal would result in additional traffic in the vicinity of the site in general, so exacerbating an existing area of poorer air quality.

The proposal is, therefore, contrary to Core Policies 2, 12, 55, 57 and 65 of the Wiltshire Core Strategy, together with the development template for

the site which also part of the Wiltshire Core Strategy; and paragraphs 8, 92, 110, 111, 126 and 130 of the National Planning Policy Framework.

19. **Urgent items**

There were no urgent items.

(Duration of meeting: 3.00 - 4.39 pm)

The Officer who has produced these minutes is Matt Hitch of Democratic Services, direct line 01225 718059, e-mail matthew.hitch@wiltshire.gov.uk

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