

Northern Area Planning Committee

MINUTES OF THE NORTHERN AREA PLANNING COMMITTEE MEETING HELD ON 23 AUGUST 2023 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER.

Present:

Cllr Tony Trotman (Chairman), Cllr Howard Greenman (Vice-Chairman), Cllr David Bowler, Cllr Steve Bucknell, Cllr Gavin Grant, Cllr Jacqui Lay, Cllr Martin Smith, Cllr Elizabeth Threlfall and Cllr Ruth Hopkinson (Substitute)

47 **Apologies**

Apologies were received from Councillors Chuck Berry, Nic Puntis, and Dr Brian Mathew. Councillor Dr Brian Mathew was substituted by Councillor Ruth Hopkinson.

48 **Minutes of the Previous Meeting**

Resolved:

To approve and sign as a true and correct record the minutes of the meeting held on 21 June 2023.

49 **Declarations of Interest**

There were no declarations of interest.

50 **Chairman's Announcements**

The Chairman noted the fire alarm procedure.

51 **Public Participation**

The Chairman noted that the Committee had received a question from a member of the public, which was published as a supplement to the agenda and was eligible for a verbal response from officers during the meeting. The Chairman explained that the questioner was unable to attend the, but that a written response would be available online as part of the minutes.

52 **Town and Country Planning Act 1990 - Sections 257 and 261 - Temporary Diversion of Footpath Compton Bassett 18 (part) and Compton Bassett Bridleway 5 (part)**

The Definitive Map Officer, Ali Roberts, explained that the application was made on behalf of Hills. She stated that planning permission had been granted in March 2022 for the extraction of minerals. The granted quarry was sited directly over the footpath and bridleway, therefore temporary diversions were required to preserve the connectivity of the rights of way network whilst mineral extraction works were undertaken.

The Officer described how the Countryside Access Officer had provided a detailed specification of installation works that would be required for these paths to be certified as temporary replacements. The footpath and bridleway would be reinstated along the original routes once the extraction area had been restored to a standard detailed in the Countryside Access Officer specification.

The Officer explained to the Committee that Condition 5 of the planning permission imposed a 70-metre stand-off distance requirement. With the decision on the 70-metre standoff, the temporary diversions were still required as only a short section of the Compton Bassett 5 would be excluded from the permitted extraction area, which would leave an unnecessary spur. The section of Compton Bassett 18 through the quarry site would be unaffected by the extended standoff distance. However, the 70-metre condition was essentially a mitigation measure aimed at reducing noise, dust and visual impacts on the cottages; it would not alter the boundary of the permitted mineral working. The boundary of the permission area was the site in its entirety, not the individual extraction areas. The boundary of the site was to be fenced for the health and safety of the public and operational needs.

The Officer explained that an Order was made on 4 June 2018 to temporarily divert Footpath Compton Bassett 18 and Bridleway Compton Bassett 5 which received 28 objections including Compton Bassett Parish Council and Calne Without Parish Council. An error was found in the Temporary Diversion Order dated 2018; therefore, a new Temporary Diversion Order was drawn up correcting the details regarding the planning permission that enabled the temporary diversion of the rights of way. Wiltshire Council made the corrected Order on 31 May 2023. Those who responded to the previous incorrect Order were contacted explaining that to follow due process and regulation they would need to resubmit their response for it to be a duly made representation or objection. In total four objections were resubmitted, with one additional objection received. Due to five objections, the diversion order was required to be put to the Committee. The Officer explained that were the Authority to proceed with the order, it should be submitted to the Secretary of State for Environment, Food and Rural Affairs.

The Officer stated that she considered the legal tests for making the Order had been met, as the granted quarry was sited directly over the legal line of Footpath 18 and Bridleway 5 Compton Bassett. The alternative routes around the fenced boundary of the site provided the continued connectivity of the Rights of Way network. The temporary diversion of the footpath and bridleway

would have effect on the date on which Wiltshire Council certified that the alternative highways for use as temporary replacements were provided as specified by the Countryside Access Officer. As per condition 1 of the planning permission, the extraction would cease within six years of the notified date of commencement, and per condition 31, within 12 months of the permanent cessation of mineral extraction the existing footpath and bridleway would be restored to the reasonable satisfaction of Wiltshire Council.

The officer explained that where an application is refused, Wiltshire Council must demonstrate that the development, for which a planning application has been granted, can be carried out without the need to divert the footpath and bridleway. She asserted that in this particular case, the planning application was granted in March 2022 with the quarry sited directly over the legal lines of the rights of way, therefore the development could not continue without the successful temporary diversion of the footpath and bridleway.

She stated that the options for the Committee to consider were to forward the diversion order to the Secretary of State for Environment, Food, and Rural Affairs with or without modification, or to abandon the order with reasons given. She concluded with a recommendation that the order be forward to Secretary of State as made.

The Committee then asked technical questions of the Definitive Map Officer. Councillors Martin Smith and Ruth Hopkinson sought clarity on the diagram in the report. Councillor Gavin Grant enquired as to whether the decision made concerning the original temporary diversion order in 2018 was at all material to their own deliberations. The Definitive Map Officer explained the nature of the administrative error that led to the order being abandoned, and Legal Officer Stephen James confirmed that the original decision regarding the 2018 order was immaterial to their own decision. Councillor Lay sought further information on who would be responsible for maintaining the diverted footpath, citing issues with diversions being unexpectedly extinguished in her ward in previous years. The Definitive Map Officer confirmed that extinguishments must be consulted upon as part of a legal process. The Officer clarified that Hills would be responsible for the installation of the alternative routes as per the Countryside Access Officer's specification and the temporary diversion order would not commence until these works had been certified by Wiltshire Council.

Oliver Laidler spoke on behalf of Land & Mineral Management in support of the application.

The Chairman read out a written statement from the Local Divisional Member, Councillor Ashley O'Neill, who was unable to attend in person. Councillor O'Neill accepted the need for some kind of diversion but advocated for a deferral of the order until more information had been acquired regarding whether the diversions were still required as previously specified.

The Chairman then opened the item up for debate. Councillor Howard Greenman moved that the temporary diversion order be forwarded to the Secretary of State for Environment, Food, and Rural Affairs without modification

as per the officer recommendation. Councillor Gavin Grant seconded the motion.

Councillor Greenman stated that this issue was discussed at some length at the relevant Strategic Planning Committee meeting he chaired. He described how the Committee resolved that they would accept planning permission for the site subject to the 70-metre bund, rather than the 16-metre bund that was initially proposed and was deemed essentially useless. It was also discussed at the time that a diversion order would be necessary. Councillor Greenman urged that the diversion be made, suggesting the whole application would be thrown into disarray otherwise. He stated that he did not accept Councillor O'Neill's argument towards deferral as he believed it would not achieve anything other than to delay matters.

Councillor Elizabeth Threlfall asserted that if the whole site was indeed to be fenced, then a diversion was necessary if the footpath network was to be preserved. Councillor Lay added that it was vitally important that sites like the quarry were fenced, but also adding that it was crucial that any alternative routes were well-maintained so that the public were still able to make use of the Rights of Way in the area. She stated that the diversion order was unfortunate but necessary and so supported Councillor Greenman's motion.

Councillor Smith echoed his support for the motion, adding that the only approach in which one would be significantly disadvantaged by the diversion order was from A to D on the report diagram.

Councillor Hopkinson also saw no option but to forward the diversion order, seeing no sense in Councillor O'Neill's request for deferral. She posited that the five objections received were essentially delaying tactics against the quarry itself rather than the Rights of Way diversions.

Councillor Grant noted that permission for mineral extraction had already been granted, and that the impact of abandoning the temporary diversion order would be severe, with no alternative available. He considered it perverse to reverse an earlier decision, given that the Committee was only discussing the order due to understandable human error. He also expressed scepticism as to whether Councillor O'Neill's points were material to their decision making.

Councillor Steve Bucknell shared Councillor Hopkinson's view that the objections received were likely an either deliberate or accidental concatenation of objections to the quarry with objections to the diversion order.

Resolved:

That the temporary diversion order be forwarded to the Secretary of State for Environment, Food, and Rural Affairs without modification.

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Urgent Items

There were no urgent items.

(Duration of meeting: 2:00 - 2:55 pm)

The Officer who has produced these minutes is Cameron Osborn of Democratic Services, direct line 01225 718224, e-mail cameron.osborn@wiltshire.gov.uk

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Wiltshire Council

Northern Area Planning Committee

Wednesday 23 August 2023

Item 5 – Public Participation

From Caroline White, Broad Town Parish Clerk

Question (N23-01)

What action can be taken or what are the ramifications if a planning applicant knowingly lies or withholds pertinent facts on a planning application which is subsequently approved? Who is responsible for ensuring that the planning application states the facts fully and accurately?

Response:

What action can be taken or what are the ramifications if a planning applicant knowingly lies or withholds pertinent facts on a planning application which is subsequently approved?

Once a planning application is approved it is the final decision of the Council unless a judicial review is lodged. In certain circumstances Section 97 of the Town and Country Planning Act 1990 (“the TCPA”) allows councils to revoke or modify a planning consent “to such extent as they consider expedient” with regard to the development plan and any other material considerations. If incorrect information is present on plans, then enforcement action can be taken if the proposal is not built in accordance with the approved plans.

Who is responsible for ensuring that the planning application states the facts fully and accurately?

The onus is on the applicant to ensure that the information presented in the planning application is accurate. If the planning officer believes something to be inaccurate or misleading, they can challenge the applicant for evidence to ensure the information is accurate and if it is material in the determination of the application, they can take the appropriate course of action.

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