

WESTERN AREA PLANNING COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 16 DECEMBER 2015 IN THE COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Christopher Newbury (Chairman), Cllr John Knight (Vice-Chair), Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Andrew Davis, Cllr Dennis Drewett, Cllr Magnus Macdonald, Cllr Pip Ridout, Cllr Jonathon Seed, Cllr Roy While and Cllr Jerry Wickham

109 **Apologies for Absence**

Apologies for absence were received from Cllr Horace Prickett who was substituted by Cllr Jerry Wickham for this meeting only.

110 **Minutes of the Previous Meeting**

The minutes of the meeting held on 25 November 2015 were presented.

Resolved:

To approve as a correct record and sign the minutes of the meeting held on 25 November 2015.

111 **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

112 **Declarations of Interest**

Cllr Pip Ridout and Cllr Jonathan Seed both stated that they were acquainted with Col Linge, a speaker on item 8 – Footpath Diversion, but that this did not preclude them from participating in the consideration of the matter, and that they would do so with an open mind.

113 **Public Participation and Councillors' Questions**

No questions had been received from councillors or members of the public.

The Chairman welcomed all present. He then explained the rules of public participation and the procedure to be followed at the meeting.

114 **Planning Applications**

The Committee considered the following applications:

115 **14/01659/FUL - Haygrove Farm, Lower Westwood**

The Area Planning Team Leader outlined the report and recommended that the application be approved with conditions with no legal agreement and requested that members consider revising the committee resolution agreed at the area committee on 12 August 2015.

There were no speakers in the public forum.

Cllr Magnus MacDonald spoke as the local member.

Issues discussed in the course of the presentation and debate included: The officer describing the location and topography of the application site in relation to the settlement boundary; the green belt and conservation area status, the size of the proposed replacement building compared to the old agricultural buildings which would be demolished and the planning history of the site.

The officer reminded members that the committee resolution which was made in August was to grant permission subject to a s106 agreement; and the officer presentation largely focused on the use of planning conditions and the statutory tests which must be satisfied. The officer informed members that the s106 could not be fulfilled since officers had received confirmation from the applicant's mortgage lender that they would not be an agreeable party to such an agreement. Members were informed that the mortgage lender had a clear financial and legal stake in the property and that they would need to be party to any legal tie. Without their signature, the s106 could not be fulfilled. Members were reminded of the statutory tests to which all s106s must accord with. The officer informed members of the content of para 203 of the NPPF which directed decision makers to use planning conditions rather than legal agreements (where it is necessary to make developments acceptable). Reference was also made to updated government planning practice guidance.

The officer referenced the conditions which would restrict future occupancy in this case and cited two recent appeal decisions which the Council had successfully defended for cases which centred on the robustness of planning conditions restricting holiday let occupancy. Members were advised that, in officer's opinion, this case did not merit a legal agreement as planning conditions would robustly serve the function of restricting future occupancy, and that maintaining a requirement for a s106 could place the Council at risk for unreasonable behaviour, a likely non-determination appeal and potential costs application.

Cllr Magnus MacDonald moved, subsequently seconded by Cllr Roy While, that planning permission be granted in accordance with the Officer's recommendations as outlined in the report.

In questioning the Area Team Leader, the committee clarified that the mortgage lender was content with conditions to tie the property to a holiday let, but would not enter into any legal agreement; that there was evidence across the County where similar planning conditions had been used to restrict holiday let occupancy which had been challenged and successfully defended at appeal and that the recommended conditions are fully enforceable; and, to avoid an appeal in this case, and potential costs application, the committee were asked to determine the application for approval without a legal agreement.

Having been put to the vote, the meeting:

Resolved to grant permission (without a legal agreement) but subject to the following conditions as recommended:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 No development shall take place until samples/details of the materials to be used in the construction of all the external surfaces of the development hereby permitted (including the exact type and colour and manufacturer of the solar PV panels) have been made available to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.**

REASON: To ensure that the development harmonises with its historic setting and protected surroundings.

- 3 No building works pursuant to the construction of the holiday let accommodation shall commence until all three existing structures identified for demolition on the site have been permanently demolished and all the debris has been removed from the site/landholding.**

REASON: In order to define the terms of this permission and to ensure the site is redeveloped in an appropriate manner respectful to the protected surroundings and neighbours.

- 4 No person/s shall occupy the holiday accommodation for a continuous period of more than 1 month in any calendar year and**

it shall not be re-occupied by the same person/s within 28 days following the end of that period.

REASON: This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

- 5** Notwithstanding Class C3 of the Schedule to the Town and Country (Use Classes) Order 1987 (as amended) (or any order which revokes and re-enacts that Order with or without modification), the accommodation hereby permitted shall be used to provide holiday accommodation only, which shall not be occupied as permanent, unrestricted accommodation or as a primary place of residence. In addition, an up to date register of names and main home addresses of all occupiers shall be maintained and shall be made available at all reasonable times to the Local Planning Authority.

REASON: This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

- 6** No part of the development hereby permitted shall be first brought into use until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

- 7** All demolition/construction operations on site shall be restricted to the following hours:
Monday-Friday 08:00-18:00, Saturdays 08:00-13:00 and not at all on Sundays and/or bank Holidays.

REASON: In the interests of safeguarding local and residential amenity.

- 8** Should the solar PV panels become obsolete, they shall be removed from the property within 3 months from the date they cease to be used or function for the purposes of providing renewable energy; and that the roof shall be clad in material to match the northern roof plan hereby approved.

REASON: In order to define the terms of this permission.

INFORMATIVES TO APPLICANT:

- 1. The applicant/developer is advised to duly note that bats and their roosts are protected at all times by the Conservation of Habitats and Species Regulations 2010. Planning permission for any development does not provide a defence against prosecution under this legislation or substitute for the need to obtain a bat licence if an offence is likely. If bats or evidence of bats is found during the works, the applicant is advised to stop work and follow advice from an independent ecologist or to contact Natural England's Bat line on 0845 1300 228**
- 2. The adults, young, eggs and nests of all species of birds are protected by the Wildlife and Countryside Act 1981 (as amended) while they are breeding. The applicant is advised to check any structure or vegetation capable of supporting breeding birds and delay removing or altering such features until after young birds have fledged. Damage to extensive areas that could contain nests/breeding birds should be undertaken outside the breeding season. The season is usually taken to be the period between 1st March and 31st August but some species are known to breed outside these limits.**
- 3. The applicant/developer is encouraged to contact Wessex Water to agree connections to the water supply and mains sewer infrastructure.**
- 4. The applicant/developer is advised to contact the Wiltshire Fire & Rescue Service and to consider the installation / provision of residential sprinklers inside the new property. More information can be obtained from the Fire Authority through contacting them on tel. no: 01225 756500 or via email: planning@wiltshire.gov.uk**
- 5. The applicant is encouraged to arrange for appropriate literature to be provided to all future visitors to the holiday let accommodation to advise upon the directions to the site and also to raise awareness of the localised highway constraints and limited visibility.**
- 6. The applicant is advised that the development hereby approved is chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. A separate Community Infrastructure Levy Liability Notice will be issued by the Local Planning Authority. Should you require further information with regards to CIL please refer to the Council's Website: www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy**

116 **15/09224/FUL - 212 The Common, Holt**

The Senior Planning Officer outlined the report recommending that the application be approved with conditions.

Peter Auburn, Alexander Venables and Fiona Drysdale spoke in objection to the application. Dermot Tully, the applicant, and Peter Grist, the agent, spoke in support of the application.

Cllr Trevor Carbin spoke as the local member.

Issues discussed in the course of the presentation and debate included: The officer describing the location of the site and its relationship with neighbouring properties; the orientation of the properties and gardens; the footprint of the existing property in relation to the proposals; the vegetation existing on the site; the views of the neighbours; the size and scale of the proposals in relation to the existing and neighbouring buildings; the topography of the site; the size, location and glazing of the windows in the proposal; the materials proposed to be used; the view of the highways officer; how the proposal compared with other extended properties nearby; as well as outlining the potential impact of the proposals on the amenity of neighbours.

Cllr Trevor Carbin moved, subsequently seconded by Cllr Ernie Clark that consideration of the application be deferred to enable a site visit to take place.

Having been put to the vote, the meeting;

Resolved

To defer the consideration of the application to enable a site visit to take place.

117 **15/04674/FUL - Station Approach, Bradford-on-Avon**

The Senior Planning Officer outlined the report recommending that the application be approved with conditions. The officer also drew the meetings attention to a colour copy of a photomontage produced by the applicant to assist members, but advised that he had not been afforded the opportunity to check the veracity of the image. The officer also drew the member's attention to plans of previously approved proposals on the site.

Janet Repton and Martin Newman spoke in objection to the application. Warren Jones, the applicant, spoke in support of the application. Cllr Gwen Allison spoke on behalf of Bradford-on-Avon Town Council

Issues discussed in the course of the presentation and debate included: The officer describing the location of the site within Bradford on Avon's town centre

and conservation area and its relationship with listed buildings nearby, as well as identifying the size, scale and height of the proposed development. The officer also referenced the extant approved development for the site and drew members attention to some comparisons in terms of building size, scale and design; the planning history on the site was outlined, with particular attention drawn to the reasons for refusing the most recent application for 4 x 3-bed dwellinghouses; the officer outlined the differences between the current proposal compared to the previous applications; the materials proposed for the development; the amount of amenity land to be provided on the site as well as referencing the amount of communal amenity space afforded to a flatted development located nearby; the views of the highways officer and the issues of car parking; the impact of the proposals on the conversation area; the views of the Historic England and the Council's conservation officer; the viability of the site and the proposals; the access of the location to services and public transport; and the applicability of the current core strategy were also all discussed.

In questioning the Senior Planning Officer, the committee sought some clarification regarding the highways officer's reasoning for their views on the parking provision and specifically about their non-objection to a 4 house development having no parking provision; and that, in their opinion, it would be preferable for a Highway Officer to be present to explain their reasoning. Members also sought clarity on the height of the proposed new building in comparison to the extant and previous permissions; some discussion was also held about the loss of the taxi rank from the site, as well as seeking confirmation from officers that the associated noise impacts from the railway line and the nearby pub had been considered.

Members expressed great concern about the lack of parking for a 4 house development, the design of the building and the overdevelopment of the site.

Cllr Magnus MacDonald proposed, subsequently seconded by Cllr Jonathan Seed, that planning permission be refused.

Having been put to the vote, the meeting;

Resolved

That planning permission should be refused for the following reasons:

- 1. The proposal fails to provide adequate standards of amenity for its future occupiers contrary to Core Policy 57 of the adopted Wiltshire Core Strategy and Paragraph 17 of the NPPF.**
- 2. The proposal fails to provide adequate parking provision for the size and number of residential units proposed which would result in unacceptable parking pressure on the surrounding streets contrary to Core Policy 64 of the Wiltshire Core Strategy.**

- 3. The proposed design/detailing fails to respect the established architectural character of the Bradford-on-Avon Conservation Area, and the setting of the GWR railway station contrary to Core Policy 57 and 58 of the adopted Wiltshire Core Strategy and paragraph 132 of the NPPF.**
- 4. The proposal represents an inappropriate overdevelopment of the site which would not be in keeping with its immediate environs contrary to Core Policy CP57 of the adopted Wiltshire Core Strategy which requires development to create a strong sense of place which is complementary to the locality.**

118 Norton Bavant Path No.4 (Part) Diversion Order and Definitive Map; and Statement Modification Order 2015

The Rights of Way Officer presented the report which outlined the recommendation.

Francis Morland spoke in objection to the order. Col Nigel Linge, Graham Bennett, James Nevitt and Brian Micklam spoke in support of the recommendation.

Issues discussed in the course of the debate included: the location of the diversion, and its relationship to a scheduled ancient monument and site of scientific interest; the current use and access to the land; that a creation order has no objections to it but the diversion order did; the views of those making representations; the impact of the diversion on those using the existing paths; the views of Historic England; the relationship of the proposals to other roads; the topography of the site; the requirements for improved access and gating; the historical evidence of the access; the location of MOD property and ranges; and the impact of the existing route and the proposals on the current land.

In questioning the officer, the committee clarified; that the process for considering a representation as a formal objection was prescribed by regulation and strictly adhered to; the extent to which the current obstruction had affected access, that only one complaint had been received, and that officers had given this a low priority in relation to addressing obstructions in better used locations; the liability for maintenance of a footpath; that it was not within the scope of s.119 of the Highways Act 1980 to retain footpath rights over part of the bridleway route, but that there were other possible options for this subject to the agreement of both the landowner and Wiltshire Council; and what corrections had been brought to the officer's attention by the objector.

Cllr Newbury expressed concern as to whether the regulations with regard to considering a representation as a formal objection where being too rigorously applied.

Cllr Christopher Newbury proposed, subsequently seconded by Cllr Pip Ridout, that the officer's recommendation as set out in the report be approved with the additional recommendation that Mr Wright's representation be considered as a formal objection.

Having been put to the vote, the meeting unanimously:

Resolved

That The Wiltshire Council Parish of Norton Bavant Path No. 4 (part) Diversion Order and Definitive Map and Statement Modification Order 2015 be forwarded to the Secretary of State for Environment, Food and Rural Affairs with the recommendation that it be confirmed with the following modifications:

- (i) In paragraph 2 where referring to the rights of Scottish and Southern Energy replace the word "footpath" for "bridleway".**
- (ii) In Part 3 of the Schedule amend the width to read "4 metres from OS Grid ref. ST 90853 44042 to ST 91694 43539 the remainder to be 3.5 metres". Amend approximate length to be "1600 metres".**
- (iii) In the event that Order is confirmed, The Wiltshire Council Norton Bavant 10 (part) Creation and Definitive Map and Statement Modification Order, which has attracted no objections or representations, be confirmed.**
- (iv) That the representation of Mr A Wright be considered as a duly made objection.**

Reason for Decision:

Despite the objection received it is considered, for the reasons given in paragraphs 50 to 58 of the Decision report (please see Appendix D) that "The Wiltshire Council Parish of Norton Bavant Path No. 4 (part) Diversion Order and Definitive Map and Statement Modification Order 2015" continues to meet the legal tests for the making of a Diversion Order under Section 119 of the Highways Act 1980.

Additionally, the legal tests for the confirmation of a Public Path Diversion Order, as set out under Section 119 of the Highways Act 1980, appear capable of being satisfied and no new evidence has been submitted during the formal objection period which would lead Wiltshire Council to no longer support the making of the Order.

Minor errors in the Order may be corrected by the Secretary of State as modifications.

119 **Urgent Items**

There were no Urgent Items.

(Duration of meeting: 3.00 - 5.45 pm)

The Officer who has produced these minutes is Will Oulton, of Democratic Services, direct line 01225 718089, e-mail <mailto:Shirley.Agyeman@wiltshire.gov.uk>

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