

SOUTHERN AREA PLANNING COMMITTEE

MINUTES OF THE SOUTHERN AREA PLANNING COMMITTEE MEETING HELD ON 19 SEPTEMBER 2019 AT ALAMEIN SUITE, CITY HALL, MALTHOUSE LANE, SALISBURY, SP2 7TU.

Present:

Cllr Fred Westmoreland (Chairman), Cllr Richard Britton (Vice-Chairman), Cllr Christopher Devine, Cllr Jose Green, Cllr Mike Hewitt, Cllr Leo Randall, Cllr Sven Hocking, Cllr George Jeans, Cllr Ian McLennan, Cllr Trevor Carbin (Substitute) and Cllr Robert Yuill (Substitute)

Also Present:

Cllr Tony Deane

34 Apologies

Apologies were received from:

- Cllr Brian Dalton who was substituted by Cllr Trevor Carbin
- Cllr John Smale who was substituted by Cllr Robert Yuill

35 Minutes of the Previous Meeting

The minutes of the meeting held on Thursday 30th May 2019 were presented.

Resolved:

To approve as a correct record and sign the minutes.

36 Declarations of Interest

Cllr George Jeans declared a non-pecuniary interest in item 6 – Mere Footpath No. 78 – Definitive Map and Statement, due to his local involvement and for item 6 Cllr Jeans opted to sit with the public during the public representations, and nominated Cllr Tony Deane to read his statement as Local Member. During debate and for the vote on this item, Cllr Jeans chose to leave the room, although he was aware that this was not a required procedure.

37 Chairman's Announcements

The Chairman explained the meeting procedure to the members of the public.

38 **Public Participation**

The committee noted the rules on public participation.

39 **Mere Path No. 78 - Definitive Map and Statement Modification Order 2019**

Public participation

Graham Sams spoke in objection to the recommendation.

Mrs Seward spoke in objection to the recommendation.

Adrienne Howell spoke in objection to the recommendation

Clive Hazzard spoke on behalf of the Mere Town Council

Due to his declared interest, Cllr George Jeans removed himself from the committee table to sit with the public.

Craig Harlow, Definitive Map Officer presented the Wiltshire Council Mere Path No.78 Definitive Map and Statement Modification Order 2019 made under Section 53 of the Wildlife and Countryside Act 1981, as detailed in his report attached to the agenda.

He noted that on 24 April 2018 Wiltshire Council received an application for an Order to record a public footpath over land north of The Square, Mere in the parish of Mere.

The claimed route led from The Square, Mere north through an archway and across a private car park to North Street, Mere, having a length of approximately 57 metres.

This application was supported by 26 representations, with 21 meeting the criteria as valid claims.

The iron gates depicted were still in place, however the wooden gates were no longer in place. Photographs of the wooden gates in place during 2006/7 and 2009 were shown to Committee.

The statements of use were in conflict with the evidence given by the landowner, who had stated that the gates were closed and padlocked during some periods, but was unsure of exact dates of some of those occurrences.

A letter was sent to users asking for their awareness pre- 1970s, asking for any knowledge of locked gates. At that stage some evidence was withdrawn and other statements were changed to reflect lesser use than was originally stated.

Officers believed that the gate was blocked during 2007, which would alter the continual 20-year period of use.

As objections have been received to the Modification Order it must now be referred to the Secretary of State for a public enquiry.

The Officer recommendation was that the Order should be determined by SoSEFRA with Wiltshire Council taking a neutral stance.

The options available to the Committee were provided in the report.

The Officer drew attention to the late correspondence which was circulated at the meeting, as supplement 1, which detailed a photograph showing the gates open in 1928, and an email from a business owner in Mere stating the continual use of the path during 2007.

The Committee then had the opportunity to ask technical questions of the Officer, where it was clarified that the time of continual use looked for was a period of 20 years and the application for a Modification Order had been made by a Member of the Public where the test was a lower test - 'reasonable allegation' – however the test to confirm the Order was a higher test being the 'balance of probabilities'. Due to conflicts in the evidence submitted to the Council, the Order must be referred to the Secretary of State.

The report mentioned that there were three routes from the square to North Street, it was noted that of the other two routes available, the road to the west did not have a pavement and that to the east had a barrier, with a limited width, which brought difficulties for users with pushchairs.

Members of the public then had the opportunity to state their case as detailed above. Some of the main points included that the gate had recently been locked and only some local residents had a key. Access was now restricted and other routes were considered dangerous due to the use of heavy farm machinery along the road, which had no pavement for pedestrians.

The members of the public speaking at the Committee as long-time residents declared that they had never known a period when the route had been restricted.

Mere Town Council had considered the Order at its meeting on 13th May, where it agreed to support the Modification Order.

Cllr Tony Deane read a statement from Cllr George Jeans.

The main points were that the walkway was not unlike many seen in other towns and villages, where a gap was seen as a safer or quicker option.

There had been other walkways in Mere that had started to develop, but had been completely extinguished by the land owners.

Having lived in Mere for 67 years, Cllr Jeans had no memory of being approached by owners or users regarding any problems with this route and he had been involved with many of the planning applications for the old Walton site.

Cllr Jeans was approached by a resident in late 2017 about the locking of the gate. A form to seek local views was circulated and replies were included in the report. After receiving communication from numerous people objecting to the locking of the gates, Cllr Jeans approached Wiltshire Rights of Way department, who informed him that an official form was required.

He supplied one to the previous owner of the land the arch was situated on. He had considered locking the gates when he owned the land, however his tenant at the time wanted them left open. Due to strong opposition, he did not make any efforts to stop the public access.

Previous owners have stated that the gates were not locked for periods of time. Previous employees of the nursery confirm that access had always been available.

As a child he remembers a stamp machine in the alley and a post room further along. Waltons was a large retailer and many used this gate and other entrances.

Cllr Jeans' statement recalled several occasions when people remembered the arch was open and in use.

He felt that an Inspector would have a complex task to decide if Mere Path 78 should be on the definitive map or not. At an inquiry the landowners would almost certainly have a barrister and other test cases may well be referred to that have complex or even unexpected judgements.

The facts of this case from the user's side need to be professionally presented to an Inspector. Those using the route would have no expertise without a barrister and would probably in some cases be intimidated without equal defence.

The photographs produced by Lipscombe Developments for the period of their and Mr Bob Finan's ownership show gates and doors, however I ask, would they been sufficiently blocked to stop the path being deemed public, if you the committee consider no based on the arguments given to me as read out, plus other information given to you, I hope you will support this path.

Cllr Deane asked the committee to put the statement forward with the support of the committee, rather than the officer recommendation that it go forward with a neutral stance.

Cllr Westmoreland reminded the Committee that when asked to determine these matters, desired need, and health and safety were not relevant considerations.

Cllr Westmoreland moved the motion in support of Officer Recommendation. This was seconded by Cllr Richard Britton.

A discussion then ensued where it was noted that going to the Inspector, would give the opportunity for both sides to put their case forward whether legally represented or not.

The Officer confirmed that the gate did not have to remain open during investigation as there were no public rights recorded.

The Officer confirmed that he had considered all of the evidence as it had been received, and due to the conflicts was unable to make a judgement so the matter would be forwarded to the Secretary of State with the Council taking a neutral stance.

The Inspectors were used to dealing with Applicants not represented by Counsel and if the evidence was strong Counsel would not necessary.

The Committee had no powers to cross examine the evidence from either party.

Looking ahead to the hearing, if the Council went away from Officer's recommendation it would make it harder to put the Council's case, whereas if the Council remains neutral, the Officer would be able to attend the public inquiry and answer any questions from the Inspector.

The Committee then voted on the motion to put the Order forward with a neutral stance.

Resolved:

That "The Wiltshire Council Mere Path No.78 Definitive Map and Statement Modification Order 2019" should be determined by SoSEFRA with Wiltshire Council taking a neutral stance

40 **Planning Appeals and Updates**

The committee received details of the appeal decisions as detailed in the agenda.

Resolved

The Committee noted the Appeals update for the period of 17th May 2019 to 6th September 2019.

41 **Planning Applications**

42 **APPLICATION NUMBER: 19/05178/FUL - Rowdens Farm, Bunny Lane, Sherfield English, Romsey, Wiltshire SO516FT**

Public Participation

Whiteparish Parish Council – Trevor King

For clarity, Cllr Leo Randall noted that he was a member of Whiteparish PC, however was not in attendance at the parish meeting when the matter was discussed.

The Senior Planning Officer Becky Jones presented the application to demolish the black barn and rebuild using brick and cladding to create an annexe within the curtilage of Rowdens Farm house. The application was recommended for approval with conditions.

It was noted that the barn on the left was agricultural and was excluded from the red line area as it was still currently in use.

The barn was of a fairly historic construction, however, was not of concern to the Conservation Officer.

An application originally came in for a change of use, however this was withdrawn due to the domestic storage underneath. The application for consideration today was then submitted.

The design was approximately 30cm taller than the existing barn, and included a dormer and balcony on the roof. The footprint had not changed and the proposal included 2 bedrooms, each with ensembles. Appendix 4 detailed personal reasons why that arrangement was needed.

The main dwelling was for agricultural workers. Any occupant of the annex would also need to be a dependent or relative of the agricultural dwelling occupants.

The Officer drew attention to the other case laws which had been included in the report for guidance.

The Panel were then able to ask technical questions of the Officer, where it was clarified that condition 4 set out the restriction on the sale of the annex as a separate dwelling.

Members of the public were then given the opportunity to present their views as detailed below.

Trevor King spoke on behalf of Whiteparish parish council. He urged the committee to refuse the application. The parish council did not believe the proposed development was an annex in any way, as it was 17.5m away from main dwelling.

He queried the statement in the report which suggested there was insufficient room to extend Rowdens Farm house, noting that there was plenty of room for an extension.

The condition is understood very well, however there were ways to get around them, as in 5/6 years' time, he suggested that the applicant would come back to the committee for a certificate of lawfulness, and then the condition would be

removed. At that point, would it also remove the condition from Rowdens farm house? The Parish was seeing annexes being sold away from the main dwellings with land registry.

The Division Member, Councillor Richard Britton then spoke in objection to the application, noting that Core Policy (CP) 48 was not engaged because it referred to a conversion and to existing buildings, yet the proposed development was accepted as a new build. He queried how then they could continue to argue that CP24 applied. He suggested that the development was not an extension or an addition to a building, therefore CP24 was not engaged.

The report argued that H33 could be used to support occupancy for dependents, yet none of the characteristics of H33 applied in this instance. This was not a conversion of an existing building so H33 could not apply in support of this.

This is a new building at a considerable distance to the farm building it claims to be annexed to. It is a new build in open countryside, and falls foul to all of the policies identified. Because of this, the application should be refused.

Cllr Britton moved the motion of refusal against Officers recommendation. This was seconded by Cllr Leo Randall.

Cllr Randall noted that the application was from the Head Brothers, he asked who the annex was for? The Officer noted that appendix 4 to the report stated the annex was for the parents of Mr Head's wife.

There was no suggestion that the new house was required because of any medical issues with the family, it seemed that it was wanted because of a financial matter and they want somewhere to live. This was not required to assist a relative's medical issues and therefore there was no justification.

This annex was in the same curtilage, so could be considered an annex, and there are conditions to ensure it would not be separated.

Class Q and Class C, not in the AONB but there is a big move to support rural life and this was one way of doing it. Farming was a changing face and the domestic storage use, that has come about by default rather than necessity.

The Officer clarified that class Q was quite complex. She noted that it was in use for domestic storage, though they would struggle that the use had not changed. Class Q application would require them to prove it could be converted, which may be a struggle. There are buildings there that could more easily be considered for class Q, but then they would be on the open market, and the applicant wanted an annex.

If the owners could not convert a barn on their farm to house elderly parents then what can we do. At some time in the future they may have medical issues, and at that point it would be better that their children were around to look after them.

The Committee could not determine what could happen in the future.

This was not about the reuse of redundant farm buildings. There was no case being made for the medical needs of parents. It was purely financial.

The Committee voted on the motion of refusal against Officers recommendation.

This motion was not carried.

Councillor Mike Hewitt then moved the motion of approval, in line with Officer recommendation. This was seconded by Councillor Sven Hocking.

Resolved

That application 19/05178/FUL – Rowdend Farm, Bunny Lane, Sherfield English, Romsey, be approved subject to conditions:

- 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. The development hereby permitted shall be carried out in accordance with the following approved plans listed in schedule:**

Proposed Elevations Dwg No C dated 20/5/19

Proposed Ground Floor with footprint of Existing Barn Dwg No AA dated 20/5/19

Proposed First Floor Plan Dwg No B dated 20/5/19

Barn conversion to Dwelling Plan 2 dated 6/11/18

Site Location Plan (red line) at 1:1250 scale

Planning Statement from M. Head received 5/7/19

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be in accordance with the details submitted, namely red brick (to match Rowden's Farm house) and timber cladding for the walls and slate for the roof.**

REASON: In the interests of visual amenity and the character and appearance of the area.

- 4. The annexed accommodation hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the main agricultural worker's dwelling, known as Rowdens Farm house and it shall remain within the same planning**

unit as the main dwelling. The annexe shall not be sold or let separately from the main dwelling.

REASON: The additional accommodation is sited 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 a wholly separate dwelling. The main dwelling, known as Rowden's Farm house is subject to a restrictive condition under 73/EY/478 which restricts the occupiers to a person solely, or mainly employed or last employed in the locality in agriculture (as defined) or in forestry (including any dependents of such a person residing with him) or a widow or widower of such a person). The occupation of the annexe, being ancillary to the main dwelling, would be available only to such dependents/persons.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additional insertion of any doors or entrances in the west elevation of the annexe hereby approved.

REASON: To ensure that the annexe retains its entrance within the curtilage of the main house.

6. The annexe hereby permitted shall not be occupied until the proposed sewage and surface water disposal drainage works set out on the statement from M. Head received 5/7/19 and Plan 2 have been completed in accordance with the details hereby approved.

REASON: To ensure that the development is provided with a satisfactory means of drainage before occupation.

7. If, during development, any evidence of historic contamination or likely contamination is found, the developer shall cease work immediately and contact the Local Planning Authority to identify what additional site investigation may be necessary. The development shall be implemented in accordance with any scheme of remediation works to be subsequently agreed in writing.

Reason: In the interests of future amenities of the occupiers.

8. The demolition works hereby approved shall be overseen by a licenced bat ecologist who will be present on site on the day the demolition works commence to undertake a detailed inspection of the internal and external parts of the building to identify any areas that hold potential for bats (a bat scoping survey). The works will only proceed in accordance with any subsequent written advice issued by the ecologist.

REASON: To ensure harm to bats is avoided in accordance with the Habitats Regulations 2010

Informative

The applicant is advised that all British bat species are protected under The Conservation of Habitats and Species Regulations 2010 (as amended), which implements the EC Directive 92/43/EEC in the United Kingdom, and the Wildlife and Countryside Act 1981 (as amended). Please note that this consent does not override the statutory protection afforded to any such species. If bats are discovered, all works should stop immediately and Natural England should be contacted for advice on any special precautions before continuing (including the need for a derogation licence)

Councillor Richard Britton requested his dissent be recorded, stating that the decision was flying in the face of the policies.

43 **Urgent Items**

There were no urgent items

(Duration of meeting: 3.00 - 4.55 pm)

The Officer who has produced these minutes is Lisa Moore of Democratic Services, direct line (01722) 434560, e-mail lisa.moore@wiltshire.gov.uk

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