

WESTERN AREA PLANNING COMMITTEE

MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 18 DECEMBER 2019 AT COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Christopher Newbury (Chairman), Cllr Jonathon Seed (Vice-Chairman), Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Andrew Davis, Cllr Peter Fuller, Cllr Sarah Gibson, Cllr Edward Kirk, Cllr Stewart Palmen, Cllr Pip Ridout and Cllr Suzanne Wickham

Also Present:

Cllr Gordon King and Cllr Carole King

73 Apologies

There were no apologies for absence.

74 Minutes of the Previous Meeting

The minutes of the previous meeting were presented.

Resolved:

To approve as a correct record and sign the minutes of the meeting held on 20 November 2019.

75 Declarations of Interest

Cllr Ernie Clark declared a pecuniary interest as he was the applicant regarding Application No. 19/07428/LBC: Timbrell Street, Trowbridge (Minute No 79b below refers). He would address the meeting as a member of the public and then withdraw from the meeting.

Cllr Edward Kirk declared a non-pecuniary interest as he was a personal friend of Cllr Ernie Clark. He would not take part in the debate regarding Application No. 19/07428/LBC and withdraw from the meeting during consideration of this application.

76 **Chairman's Announcements**

The Chairman made the following announcements:

- He welcomed Cllr Suzanne Wickham on her first attendance as a member of this Committee and hoped that she would find the work interesting and rewarding.
- He also announced the recent passing of former Cllr Roy While and paid tribute to the excellent and valuable contribution Cllr While had made to the work of both this Council and the former West Wiltshire District Council. Other members of this Committee echoed these sentiments with several additional tributes being made after which, members and officers stood for a minute's silent tribute.

77 **Public Participation**

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.

78 **Planning Appeals and Updates**

An update on planning appeals and decisions for the period 8 November to 6 December 2019 was received.

Resolved:

To note the contents of the update.

79 **Planning Applications**

The Committee considered the following applications:

79a 19/06790/FUL - Land at Unit 8 Atworth Business Park

Public Participation

Mr John Polhill, a local resident, who spoke in opposition to the application.
Ms Karen Skeates, a local resident, who spoke in opposition to the application.
Mr Michael Fayers, a local resident, who spoke in opposition to the application.
Ms Claire Durbin, the agent, who spoke in support of the application.

The Committee received a presentation from David Cox, as Case Officer who set out the main issues in respect of the application. Having assessed the merits of the proposed development and tested it against the policies of the Development Plan and other material considerations, members were advised of the recommendation to defer and delegate an approval subject to planning conditions and following variations being made to a Section 106 Agreement to

specifically delete clause 2a, to vary clause 2b (to become clause 2a) and to vary the appended s106 site plan to accurately define the business park boundary (and to correct various typographical errors).

The Case Officer referred to an earlier application regarding Unit 8 at this site for an extension to the existing building (Use Class B8), an extension to the service road, landscaping and associated works. This earlier application was refused and the subsequent appeal was dismissed by the Planning Inspector. A copy of the appeal decision was attached to the report currently before members.

Members then had the opportunity to ask technical questions after which they heard statements from members of the public as detailed above.

Members then heard the written views of Cllr Phil Alford, the local Member, which were read out by Cllr Jonathon Seed. The committee heard that Cllr Alford had concern regarding the impact the proposed development would have on the surrounding area, with adjacent dwellings, the environment and considered that the proposal would contravene the policy provisions set out within CP34. Cllr Alford also argued that there was considerable public interest in this application due to the previous refusal and dismissed appeal. Cllr Alford also considered that it was appropriate to have the application determined by committee members after hearing from members of the public and to reach an open and fair decision.

During discussion, Cllr Jonathon Seed stated that, he had sympathy with the views of those members of the public who lived in close proximity to the site and had raised objections to the proposal. However, on balance he felt that taking into account the decision of the Planning Inspector regarding the previous application on the same site, it would not be possible to defend a decision to refuse permission and on his proposal which was seconded by Cllr Peter Fuller,

Resolved:

Through taking into account all the material planning considerations outlined in the report, to delegate and defer authority to the Head of Development Management to grant planning permission subject to the planning conditions and informatives listed below and also the following variations required to the 1994 legal agreement being completed:-

- 1. Clause 2a be deleted from the agreement as it has never been implemented and not considered necessary in planning terms.**
- 2. The B8 use is included within clause 2b (to become clause 2a).**
- 3. The site plan is amended to accurately define the business park boundary.**

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:

Planning Design and Access Statement, Landscape and Visual Impact Assessment, Drainage Strategy Statement, Ecology Report (April 2018), Extended Ecology Survey (June 2018), Access and Highway Assessment, Site Location Plan, Existing Site Plan, Proposed Site Plan, Existing Ground Floor Plan, Proposed Ground Floor Plan, Proposed Elevation Plan, Proposed Drainage Strategy Plan, Proposed Drainage Porous paving attenuation arrangement plan, Porous Paving design system - all received 15 July 2019 and; the Updated Ecology Report (September 2019) received on 11 September 2019 and Additional Ecology Letter-received 24 October 2019.

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

3. No development shall commence on site, including vegetation clearance, site clearance, boundary treatment works, building conversion and/or any demolition works, until a finalised Great crested newt mitigation strategy shall be submitted to, and approved in writing by the local planning authority. The strategy shall include and expand upon all the recommendations and measures stipulated in the Discussion and Conclusions section of the Extended Phase 1 Ecological Survey (Stark Ecology, September 2019). The strategy shall include comprehensive and final details of all mitigation, compensation and enhancement measures to be implemented to avoid/mitigate and compensate for potential direct and indirect effects on Great crested newts; and this shall be illustrated on an accompanying site plan(s). The site plan shall clearly show the proposed receptor area in relation to the exclusion area; and shall illustrate appropriate locations for the proposed hibernacula. The strategy shall include a schedule of activities indicating the order and approximate timing of mitigation works and stipulate when capture and translocation will take place i.e. the period comprising the active season; and will specify the timeframe for creation of hibernacula in advance of the translocation exercise. The finalised strategy shall propose a minimum trapping night period; and shall clearly specify when supervision by and/or input from a suitably licensed, qualified and experienced ecological consultant will be undertaken and required.

Thereafter, development shall be carried out in strict accordance with the approved strategy, unless superseded by the required European Protected Species Mitigation Licence, and with supervision and input from a suitably licensed,

qualified and experienced professional ecological consultant and maintained as such at all times thereafter.

REASON: To ensure compliance with the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended), and the NPPF 2019 and Core Policy 50 of the Wiltshire Core Strategy (Adopted January 2015); and to ensure appropriate and adequate mitigation and compensation to safeguard Great crested newts.

4. No development shall commence on site including vegetation clearance, site clearance, boundary treatment works, building conversion and/or any demolition works, a Landscape and Ecology Management Plan (LEMP) shall be submitted to the local planning authority for approval in writing. The LEMP shall include, but not be limited to including, the following:

- a) Comprehensive finalised details of landscaping, planting including tree planting and grass seed sowing, together with a planting schedule and specification, an accompanying landscape plan(s) and details of ongoing management;**
- b) Details of the 5 year landscape maintenance schedule cited in the Landscape and Visual Impact Assessment (Prepared by Brian Wooding CMLI, August 2019).**
- c) Details of all proposed ecological enhancement features including bird nesting provision and habitat for Great crested newts and reptiles, with the proposed number and location of features shown on a plan; together with details of the maintenance and monitoring arrangements for these features;**
- d) Details of the proposed maintenance and management of the site and the mechanism for securing the implementation of these activities.**

Thereafter, the development shall be completed in accordance with the approved details and the site shall be managed and maintained in accordance with the measures set out in the approved LEMP in perpetuity unless otherwise agreed in writing with the local planning authority.

REASON: To ensure that the proposed landscaping and tree planting is appropriate to the locality, will be accommodated within the scheme layout and will serve a function for ecology and landscape; and to ensure the appropriate maintenance and management of habitats that provide a function in terms of landscape and biodiversity, and incorporation of features within the scheme design and layout that will contribute to delivering biodiversity gain at the application site in accordance with the NPPF 2019, Core Policy 50 of the Wiltshire Core Strategy (Adopted January 2015) and Section 40 of the NERC Act 2006.

5. The development shall be undertaken in strict accordance with the Discussion and Conclusions section of the Extended Phase 1 Ecological Survey (Stark Ecology, September 2019), the Landscape and Visual Impact Assessment (Prepared by Brian Wooding CMLI,

August 2019) and Site Layout Plan (Drawing no. VL.2019/10/06, Rev. 19 August 2019).

The development shall also be undertaken in strict accordance with the pending finalised Great crested newt mitigation strategy and Landscape and Ecology Management Plan once submitted to and approved in writing by the local planning authority.

The development shall be undertaken with liaison with, and supervision by a suitably licensed, qualified and experienced professional ecological consultant.

REASON: To ensure that appropriate and adequate protection, mitigation and compensation for ecological receptors including protected and priority species and their habitats, is implemented in accordance with the NPPF 2019 and Core Policy 50 of the Wiltshire Core Strategy (Adopted January 2015), and to ensure compliance with the Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 (as amended) and Section 41 of the NERC Act (2006).

6. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match in material, colour and texture those used in the existing building.

REASON: In the interests of visual amenity

7. The hereby permitted extension to Unit 8 shall not be brought into use until the bund as shown on the proposed site plan and on page 18 of the Landscape Assessment, has been fully completed on site.

REASON: In the interests of visual amenity

8. All soft landscaping (comprised in the approved details of condition 4a) shall be carried out in the first planting and seeding season following the completion of the bund; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority .

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

9. No demolition, site clearance or development shall commence on site, and; no equipment, machinery or materials shall be brought on to site for the purpose of development, until a hedge/thicket Protection Plan and their protective fencing in accordance with British Standard 5837: 2012: 'Trees in Relation to Design, Demolition and Construction -

Recommendations"; has been submitted to and approved in writing by the Local Planning Authority, and;

The protective fencing shall be erected in accordance with the approved details. The protective fencing shall remain in place for the entire development phase and until all equipment, machinery and surplus materials have been removed from the site. Such fencing shall not be removed or breached during construction operations.

No retained hedgerow shall be removed, uprooted or destroyed, nor shall any retained hedgerow be topped or lopped other than in accordance with the approved plans and particulars. Any topping or lopping approval shall be carried out in accordance British Standard 3998: 2010 "Tree Work - Recommendations" or arboricultural techniques where it can be demonstrated to be in the interest of good arboricultural practise.

If any retained tree/hedgerow is removed, uprooted, destroyed or dies, another tree shall be planted at the same place, at a size and species and planted at such time, that must be agreed in writing with the Local Planning Authority.

No fires shall be lit within 15 metres of the furthest extent of the canopy of any retained trees or hedgerows or adjoining land and no concrete, oil, cement, bitumen or other chemicals shall be mixed or stored within 10 metres of the trunk of any tree or group of trees to be retained on the site or adjoining land.

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs above shall have effect until the expiration of five years from the first occupation or the completion of the development, whichever is the later].

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to enable the Local Planning Authority to ensure the retention of trees on the site in the interests of visual amenity.

10. 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), Unit 8 shall be used solely for purposes within Class 88 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).

REASON: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use, other than a use within the same class(es), having regard to the circumstances of the case.

11. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Professionals: Guidance Notes for the Reduction of Obtrusive Light GN01:2011; have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of protecting protected species and the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

12. 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), no windows, doors or other form of openings other than those shown on the approved plans, shall be inserted in the northern or western end elevation(s) of the development hereby permitted.

REASON: In the interests of residential amenity.

13. No materials, goods, plant, machinery, equipment, finished or unfinished products/parts of any description, skips, crates, containers, waste or any other item whatsoever shall be placed, stacked, deposited or stored outside of Unit 8.

REASON: In the interests of the appearance of the site and neighbouring amenity.

Informatives to Applicant:

The applicant is advised that the acquisition of a mitigation licence for Great crested newts from Natural England is essential in order to allow this development to proceed lawfully, and that planning permission does not override the statutory instruments in place that afford legal protection to the aforementioned European Protected Species. It should also be noted that it will be the applicant's responsibility to ensure compliance with the mitigation licence and to arrange an application for any modifications to the licence, where applicable.

The applicant is advised that all British birds (while nesting, building nests and sitting on eggs), their nests and eggs (with certain limited exceptions) are protected under the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. Planning permission for a development does not provide a defence against prosecution under these Acts. Therefore, removal of hedgerows, trees, shrubs and scrub (including bramble), or works to or demolition of buildings or structures that may be used by breeding birds should take place outside the breeding

season, unless a suitably qualified and experienced professional ecological consultant has undertaken a careful, detailed check for active bird's nests immediately prior to clearance of vegetation and confirmed absence. The breeding season is generally accepted to comprise the period between 1st March and 31st August, however some species are known to breed outside this period.

79b 19/07428/LBC: 2d Timbrell Street, Trowbridge

The Committee received a presentation from Russell Brown, as Case Officer, Case Officer who set out the main issues in respect of the application. The purpose of the report was to assess the merits of the proposal against the policies of the Development Plan, national guidance and other material considerations and to consider the recommendation that the application be refused.

Members then had the opportunity to ask technical questions after which they heard a statement from Cllr Ernie Clark, the applicant who thereupon left the meeting. Cllr Edward Kirk also left the Chamber.

Members then heard the views of Cllr Stuart Palmen, who spoke on behalf of Cllr Edward Kirk, the local Member. He drew attention to the views of the Trowbridge Town Council who objected to the application on the grounds that windows in PVC would be unsuitable in a listed building and that only hardwood would be acceptable. It was noted that following publicity no third-party comments had been received.

Cllr Stuart Palmen proposed that the application be refused on the grounds that the replacement windows should be more suitable for a listed building. Officers explained that the application was not supported with detailed plans, despite officer requests; and in considering this omission, a motion to defer making a decision was put forward to allow officers to engage with the applicant to secure the necessary plans. Before going to a vote, an amendment was put forward by Cllr Seed (which was seconded by Cllr Suzanne Wickham) requesting that the committee should also take a vote on asking officers to suspend enforcement proceedings for all the other properties in the terrace that are known to have unauthorised uPVC windows. Kenny Green, as Area Team Leader advised against issuing such an instruction and argued that the facts of the other properties were not known to the committee or indeed to officers present at the meeting. It was not known whether the unauthorised windows involved a loss of historic fabric and members were advised that the other properties in the terrace should continue to be subject that their own investigations. On being put to the vote, the Motion (with the amendment) was lost.

During the following discussion, several Members expressed the view that the windows that needed being replaced were not original and that sash and case uPVC replacement windows or even aluminium windows may be acceptable for this particular property. Members heard again from officers that the application lacked detailed plans and argued that members should consider deferring the application if they wanted officers to engage with the applicant again to secure detailed plans.

Thereafter, Cllr Stuart Palmen proposed that the application should be deferred for further information, including detailed plans which was seconded by Cllr Suzanne Wickham.

The Motion was put to the vote and it was

Resolved:

To defer consideration of the application pending receipt detailed plans.

80 **Urgent Items**

There were no Urgent Items.

(Duration of meeting: 3.00 pm - 5.15 pm)

The Officer who has produced these minutes is Roger Bishton of Democratic Services, direct line 01225 713035, e-mail roger.bishton@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115