

# REPORT

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**PLANNING APPLICATION S/2004/0586: FULL APPLICATION – CHANGE OF USE OF LAND FROM ALLOTMENTS (DISUSED) TO RECREATION AND PUBLIC AMENITY GROUND – PART OF VILLAGE ALLOTMENT SITE OFF ANGEL LANE, HINDON, SALISBURY, SP3 6DW – FOR HINDON RECREATION TRUST**

**Reasons for Report:**

The purpose of this report is to provide an update of the information that has been received in respect of the above planning application following the resolution of the Planning and Regulatory Committee to defer the application at its' meeting held on 23<sup>rd</sup> November 2004 for a period of 3 months to request the submission of further detailed plans for the application site and to seek clarification from the Parish Council on its intended use of the land.

The minute requires referral back to Western Area committee in the first instance.

**Background:**

The planning application was recommended to the Western Area Committee at its' meeting held on 4<sup>th</sup> November 2004 for refusal on the following grounds:

- (a) the proposal would result in the loss of an existing allotment site without the provision of an alternative site of equal quality or sufficient evidence to demonstrate that there is no longer demand for the allotments contrary to Policy R20 of the Adopted Replacement Salisbury District Local Plan (June 2003); and
- (b) the proposal would give rise to an intensification in the number of pedestrian movements along the path leading to Angel Lane where there are no footways or street lighting and where visibility is poor to the detriment of highway safety and would also generate increased movements along footpaths 11 and 13 that would cause deterioration of their surfaces that are already in a poor condition.

Following a site visit held earlier that day, the Western Area Committee considered the previously circulated report of the Head of Development Services (attached at [Appendix A](#)), together with the schedule of late correspondence circulated at the meeting on 4<sup>th</sup> November 2004. The Western Area Committee resolved to recommend the planning application to the Planning and Regulatory Committee for approval for the reasons and subject to the conditions as set out in the previous report to the Planning and Regulatory Committee (see attached at [Appendix B](#)) and for the following reasons:

- (a) Due to a current shortfall in recreation provision in Hindon, there is a need for the proposed additional facilities;
- (b) The proposal leaves more than sufficient land for allotments; and
- (c) The site is accessible by public footpaths from the village.

The planning application was subsequently brought before the Planning and Regulatory Committee at its' meeting held on 23<sup>rd</sup> November 2004 because the Western Area Committee's recommendation was considered to be a material departure from the policies in the Local Plan. Further to the site visit

held earlier that day, the Planning and Regulatory Committee considered the previously circulated report of the Head of Development Services and resolved that the application be deferred so that:

- (a) The Officers may request further detailed plans for the site from the applicant, to be submitted within three months; and
- (b) Clarification may be sought from the Parish Council on its intended use of the land.

The relevant Committee minute is attached at Appendix C.

#### **Update on Additional Information Received:**

##### **• Information Received from Applicant**

The applicant's agent has submitted a letter that provides a response to the request of the Planning and Regulatory Committee for the submission of more detailed proposals and also provides clarification to other matters raised by the Planning and Regulatory Committee during its meeting held on 23<sup>rd</sup> November 2004. This letter is copied in full at Appendix D.

The main points raised in this letter, however, are as follows:

- The application scheme is a community initiative, entirely dependent on money raised from village fund raising and whilst Hindon Recreation Trust would ideally like to be able to provide more detailed information, to do so would require additional expenditure beyond that authorised by the Trust or the Parish Council. Furthermore, the Local Planning Authority is able to exercise future control over matters such as the erection of equipment and fencing on the site and ground level changes by the imposition of appropriate conditions.
- The Parish Council and the Trust are agreed on the allocation of land to be retained as a revised allotment area and that considered to be surplus and therefore available to be used as a recreation ground. To this end, the extent of the application site has been reduced, the illustrative site layout plan AL2 has been formally withdrawn and it is requested that the proposal is determined on the basis of the indicative proposals shown on the illustrative site layout plan AL1 that fit comfortably within the revised application site.
- Amended plans are awaited which show a reduced site area edged red to reflect the above.
- There will be no provision for vehicular parking on or adjacent to the proposed recreation ground. Given the location of the site and the comparatively small size of the village all users of the amenity ground are expected to access the site on foot or by bicycle.
- The new facility will not incorporate any exterior lighting or buildings.
- The Village Design Statement will not be considering alternatives to the current application site.

##### **• Information Received from the Parish Council**

In response to the request of the Planning and Regulatory Committee for clarification from the Parish Council on its intended use of the existing allotment site, Hindon Parish Council has submitted a copy of its report that outlines the stance of the Parish Council in respect of this matter. A copy of this report is attached at Appendix E.

The key points raised in this report are highlighted below:

- Hindon Parish Council and Hindon Recreation Trust are formally agreed on the allocation of land between a revised allotment area and that available to be used as a recreation ground. The extent

of the application site in the original submission is significantly greater than the area shown as being required in both of the submitted illustrative site layout plans. The illustrative site layout plan AL1 requires only half of the extent of the original application site and this allocation of land for the recreation ground has been agreed. The cultivated allotment area observed by the Members of the Planning and Regulatory Committee at its' site visit does not overlap the area required by the site layout plan AL1 and addresses the "contradiction" previously observed.

- The Parish Council supports the proposed change of use in the context of these revised boundaries. However, the legislation concerning allotments is complex and the Parish Council's position is subject to two provisos:
  - (a) Following correspondence with Wiltshire County Council, the Parish Council considers that the legal status of this allotment land is not yet resolved to its satisfaction; and
  - (b) An assertion has been made that, if the revised available ground were to become fully occupied, the Parish Council would have a statutory duty to meet more demand if six additional electors petitioned the Parish Council. The Parish Council is in the process of taking advice in respect of this matter.
- This is the last remaining area of allotments in the Parish. Its tenancy declined over several years to a point where much of it has appeared to be derelict. Public involvement with fund raising and discussion of the recreation facilities for the site prompted little interest in the allotments as such at the time. Any interest appeared to be conditional on such facilities as running water that the Parish Council was neither able nor willing to fund.
- Within the last year, the situation has changed significantly. The Parish Council and volunteers have taken various actions to encourage the take-up of allotments. A group of villagers has formed the Hindon Allotment and Conservation Association and expects to seek funding to assist regeneration of the area. The revised area for allotments provides capacity for 20-25 tenants and there are currently 12 tenants. This is double the number a year ago but this rate of increase is unlikely to continue given the small size of Hindon. The Parish Council therefore considers the revised space provides sufficient capacity for the foreseeable needs of the community for allotment gardens.
- The Allotment Association and individuals have informally indicated their interest in taking on a formal conservation role on uncultivated allotment plots. However, while this interest is encouraging for the future of the area, this interest is not considered by the Parish Council to be a demonstration of demand relevant to the statutory duty to provide allotment gardens.
- The organisers of the Village Design Statement stated at the outset that a VDS was not a means to identify potential development land or alternatives to this proposal. Consultation in public meetings in the village showed a preference to locate a recreation facility for older youths away from the existing children's playground for a variety of reasons.

#### **Representations Received Since Previous Planning and Regulatory Committee Meeting:**

Two further letters have been received in response to the proposed development from a local resident.

The first of these letters provides notification that the Hindon Allotment and Conservation Association was formed on the 5<sup>th</sup> January 2005. This letter also states that it has been pursuing a programme to increase interest in the allotments, that has increased over the last year, and that it is considered that if the land can be brought into a workable condition more of the remaining allotments will be taken up.

The second letter makes reference to the lease between Wiltshire County Council and Hindon Parish Council that states that the land was acquired by the County Council for the purpose of leasing it to the Parish Council for the provision of allotments pursuant to Section 17 of the Land Settlement (Facilities) Act 1919. It is stated that as the land was acquired for allotments it is statutory.

A further letter has been received from the Hindon Allotment and Conservation Allotment that makes a request for the imposition of conditions. These conditions are as follows:

- Provision of fencing to all remaining allotments by the applicants;
- Upgrading of all the remaining allotment sites to a usable standard including the provision of a water supply by the applicants;
- Provision by the applicants of proper access to all the remaining allotment sites and of footpaths to them; and
- Provision of an equivalent area of suitable land for allotment use by the applicants within 1 mile of the present site to restore the Parishes ability to fulfil its statutory obligation to provide allotments which arises if six or more separate additional applications are received.

### **Consultations Received Since Previous Planning and Regulatory Committee Meeting:**

The Rural Estate Manager of Wiltshire County Council has provided clarification to the question of whether the existing allotments are classified as statutory allotments. It is stated that the County's Legal Section has advised the following:

- It seems that although the lease to the Hindon Parish Council recites that the land was acquired 'for the purpose of leasing it to the Parish Council for the provision of allotments pursuant to Section 17 of the Land Settlement (Facilities) Act 1919', this was not in fact the case.
- The original 1922 conveyance to the County Council and the Land Certificate of the registered title both state that the land was acquired under the 'Smallholdings and Allotments Act 1908 to 1919'. It seems that the question of whether the allotments were statutory allotments was first raised in 1959 when the advice of the Ministry of Agriculture, Fisheries and Food was sought.
- Their advice was that the land could not be regarded as statutory allotments "since it was not acquired specifically for leasing to the Parish Council for allotments under Section 17 of the Land Settlement (Facilities) Act 1919, notwithstanding the fact that it has been leased ever since for allotments. A copy of the letter that provides this advice is attached at Appendix F.

Given the above comments from Wiltshire County Council, no further statutory consultation in relation to allotments is necessary.

### **Considerations in Light of the Information Received:**

With regards to the additional information that has been submitted by both the applicant and Hindon Parish Council, despite the decision of the applicant not to provide more detailed proposals and to request that the application is determined on the basis of the illustrative site layout plan AL1 it is considered that the Local Planning Authority is still able to determine whether the principle of the proposed change of use is acceptable and can retain control over matters such as the erection of equipment and fencing on the site and ground level changes by the imposition of appropriate conditions so that a proper assessment of their potential visual impact can be undertaken.

The submitted information in conjunction with the revision to the red line that has reduced the extent of the application site has served to overcome the apparently contradictory position of the Parish Council that was previously observed due to the overlap of the freshly cultivated allotments and the application site as it was originally submitted. However, it is not considered that the submitted details provide any further conclusive evidence to support the applicant's contention that there is no longer any demand for the existing area of allotments that is deemed to be surplus to requirements and that forms the application site.

### **Conclusion:**

In light of the above considerations, it is not considered that the additional information submitted from the applicant and Hindon Parish Council provides reasonable justification to enable a different

recommendation from that previously made by officers to the Western Area Committee and to Planning and Regulatory Panel to now be made.

As such, the options available to the Western Area Committee are as follows:

- a) Refuse the application as** the officers' recommendation.
- b) Adhere to the original resolution** of the Western Area Committee at its meeting held on 4<sup>th</sup> November resolution to recommend the application to the Planning and Regulatory Committee that permission should be granted subject to conditions ,

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