

Western Area Planning Committee

MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 9 MARCH 2022 AT COUNCIL CHAMBER – COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14.

Present:

Cllr Christopher Newbury (Chairman), Cllr Bill Parks (Vice-Chairman), Cllr Trevor Carbin, Cllr Andrew Davis, Cllr Edward Kirk, Cllr Stewart Palmen, Cllr Antonio Piazza, Cllr Pip Ridout, Cllr David Vigar and Cllr Suzanne Wickham

Also Present:

David Cox, Cllr Matthew Dean, Kenny Green, Ben Fielding, Sarah Marshall, Gary Tomsett and Steven Vellance.

21 Apologies

Apologies for absence were received from Cllr Ernie Clark.

22 Minutes of the Previous Meeting

The minutes of the previous meeting of the Western Area Planning Committee held on 16 February 2022 were considered. Cllr Trevor Carbin relayed feedback that he had received after the last meeting regarding the sound quality and requested that Members and officers made extra effort to speak clearly, especially if they were wearing masks.

Following which, it was:

Resolved

The Committee approved the minutes of the previous meeting of the Western Area Planning Committee held on 16 February 2022 as a true and correct record.

23 Declarations of Interest

Cllr Edward Kirk declared a non-pecuniary interest in Agenda Item 7b and stated that he would not participate in the debate or vote.

24 Chairman's Announcements

The Chairman made those in attendance aware of the COVID regulations that were in place for the meeting and asked that all phones were switched off or turned to silent mode to minimise any potential disturbances.

25 **Public Participation**

The Chairman explained the rules of public participation and the procedure to be followed at the meeting.

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

26 **Planning Appeals and Updates**

The Chairman invited Kenny Green, Development Management Team Leader, to update the Committee on any completed and pending appeals as per the appeals report included within the Agenda Pack.

Members were informed that two appeals had been determined, both of which were lost. It was noted that Application 20/11515/OUT, Land South of Sandhole Lane, Westbury, was well publicised and the appeal had gone to public enquiry at the end of 2021. The decision had been defended by the former Development Management Head of Service for Wiltshire Council, but the appeal was allowed with the Planning Inspector applying paragraph 11 of the National Planning Policy Framework (NPPF) and gave significant weight to the current housing land supply deficit. The result of the second appeal (Applications 21/02064/FUL & 21/03603/LBC, Manvers House, Bradford on Avon) was noted and it was explained that the Inspector had not agreed with the arguments citing heritage harm and neighbouring impacts. However, officers highlighted that neither appeal resulted in any costs against the Council.

Members raised concerns residential schemes being allowed at appeal on the basis of a lack of a land supply and questioned whether the issue should be raised to Cabinet. Officers shared the concern and advised members that the appeal decisions were very disappointing. It was further noted that officers were still awaiting the publication of the updated annual five-year land supply statement from the Spatial Planning team. Members expressed disappointment with the situation, and in particular, the Sandhole Lane appeal. The move away from assessing residential schemes against market areas towards assessing housing situations against Wiltshire as a whole was discussed and officers again reiterated that they were still awaiting publication of the updated housing supply statement.

Officers highlighted that a complaint could be submitted to the CEO of the Planning Inspectorate. It was noted that any judicial review would have had to been lodged within 6 weeks of the decision and it would have to demonstrate that the Inspector made an unlawful decision, not just one that Members/the Council disagreed with.

Members heard from Cllrs Gordon King and Matthew Dean who expressed great disappointment in the appeal decision at Sandhole Lane and volunteered

to assist in drafting any complaint letter. Members also heard that regular meetings were being held between the Leader and the Rt Hon Michael Gove MP alongside Andrew Murrison MP with respect to the Government policy on the five years housing land supply, and appeals being allowed against adopted local plans and made neighbourhood plans.

Kenny Green advised members that he had experience in making a complaint to the CEO of the Planning Inspectorate for previous appeal decision making and explained that the Council could send a complaint for the Sandhole appeal and invited Cllr King to submit his concerns in writing to be included within a formal letter of complaint that would carry the name of the service director.

Cllr Stewart Palmen moved that the Council should complain in writing to the CEO of the Planning Inspectorate through the route explained by officers with regard to the appeal decision for Application 20/11515/OUT, which Cllr David Vigar seconded.

Cllr Antonio Piazza suggested an amendment to the motion which included that the Secretary of State and local MP, Andrew Murrison, should be included within all correspondence for their awareness. Cllrs Palmen and Vigar as proposer and seconder agreed to the amendment. After this a vote was taken on the motion following which, it was:

Resolved

The Committee noted the appeals report for the period 4 February 2022 to 25 February 2022.

The Committee resolved that a formal complaint be written by Kenny Green, to the CEO of the Planning Inspectorate with regard to the appeal decision for 20/11515/OUT. It was agreed the letter would be based upon input received from Cllr Matthew Dean and Cllr Gordon King. Additionally, that both the Secretary of State and local MP, Andrew Murrison, be notified and included within the process.

27 **Planning Applications**

The Committee considered the following applications:

28 **20/10440/FUL - Kingdom Avenue, Westbury**

Public Participation

Ms Deanna de Roche, local resident, spoke in objection to the application.

Mr David Holtum, local business owner, spoke in objection to the application.

Mr Francis Morland, local resident, spoke in objection to the application.

Mr Alan Siviter, agent to the applicant, spoke in support of the application.

Cllr Gordon King, on behalf of Westbury Town Council, spoke in objection to the application.

David Cox, Senior Planning Officer, introduced the report which recommended that the Committee delegates authority to the Head of Development Management to grant planning permission, subject to planning conditions and informatives, following the completion of a s106 legal agreement pursuant to the Town and Country Planning Act 1990 to secure a £23,333.31 developer contribution to mitigate against the environmental air quality effects in Westbury.

Reference was made to the presentation slides (Agenda Supplement 1) and officers explained the site area and its location with respect to neighbouring businesses within the trading estate. Officers detailed the make-up of the proposal, namely; five gas engines, electrical substation, exhaust stack, gas kiosk and oil tank. The proposed elevations and plans were then clarified alongside pictures of the site and surrounding areas for further context. The Air Quality Management Area (AQMA) was shown, and officers displayed extracts from the Westbury Air Quality Management Plan (WAQMP), Air Quality Assessment and IQAM Guidance. It was noted that these slides alongside the report, concluded that the percentage change in concentration relative to Air Quality Assessment Level was moderate and at 'Level 2' in the WAQMP. Furthermore, it was explained that Wiltshire Council has sought a Counsel Opinion, a copy of which was included within the Agenda Pack, and officers went on to detail the headline bullet points. Officers highlighted that if Members were minded to approve the application, then the £23.3k developer contribution could be used to fund improvements to the A350 itself to help improve traffic flow through the town and to aid in the Council's commitment to achieve carbon neutrality by 2030.

Key issues highlighted included: principle of development; supporting energy supply; impact on climate change/carbon neutrality; environmental impacts (especially air quality); neighbouring impacts; highways impacts; impact upon the setting of a local Heritage Asset; flood risk; and ecology impacts.

Members of the Committee, the Local Unitary Member, Cllr Matthew Dean, and other Local Member, Cllr Gordon King, as invited by the Chairman, were given the opportunity to ask technical questions to the officer. The main points of focus included: the intention for each facet of the proposal eg: the oil tank; individual contribution of the development to NO₂ levels in AQMA, disparity between the application and Wiltshire Council's climate change pledge; the Counsel Opinion; site safety; a focus on traffic; employment losses; visual intrusion; and the £23.3k contribution.

In response, officers clarified that the individual contribution of the development to the NO₂ levels in the AQMA was predicted to be 0.04 µg/m³ and although this would be exceeding the AQS objective of an annual mean NO₂ set at 40 µg/m³, the increase was minimal and therefore Wiltshire Council Environmental Health Officers had no objections subject to s106 developer financial contributions to assist the Council in improving Air Quality within its Westbury AQMA. The climate change pledge to be "net-zero" by 2030 was discussed and officers noted that the Counsel was referred to the air quality supplementary document which would be subject to public consultation. With regard to site safety and concerns surrounding the storage of oil and gas near residential

areas and offices, officers noted that Dorset & Wiltshire Fire and Rescue Service had not been consulted, however it was highlighted that no objections had been received.

Officers further explained that the application was focused on analysing the impact of the application itself alongside the cumulative impact of the recent developments within the area, specifically applications 19/10947/FUL and 20/06775/WCM and as such, would have considered all point sources such as roads and railways. It was confirmed by officers that 6 jobs would be created by the development, but that they would not be on-site and would instead be remote based jobs. It was further explained that as the site had been used as a car park, this was not generating any jobs and as such should not be used as an argument towards going against officer recommendations as it had no basis in planning policy. Officer then reiterated the proposed elevations and highlighted that the application would be situated inside a trading estate and therefore visual aesthetics had not been considered a priority. Officers went on to explain the Community Infrastructure Levy (CIL) funding process and how it could be used for this application if approved. Finally, officers explained that the air quality impact on neighbouring residences was detailed in the report but highlighted that it was substantially low and as such, officers had not raised any objections.

Members of the public, as detailed above, had the opportunity to address the Committee and speak on the application. In response to points raised during the statements, officers reiterated that Members could only consider what was included within the application. Furthermore, officers noted that Wiltshire's closest gas-powered station was located in Bristol and as such, there was the potential that a local gas-powered station could result in high energy efficiency. Cllr Dean requested that his objection to the Planning Officer's comments was minuted as he felt that there was no basis for his claims with regard to planning policy. Officers further noted that the Queen's Counsel had accepted that the approach proposed was the best method moving forward.

Local Unitary Member, Cllr Matthew Dean, addressed the Committee and detailed his objections to the application, specifically: environmental impacts and the cumulative impact upon air quality within Westbury; the lack of any similar projects within the area and therefore no clear success record of implementing the Air Quality Supplementary Planning Document; the concerns of local businesses in the area alongside employment risks; and no guarantee of further funding on top of the £23.3k developer contribution.

Cllr Suzanne Wickham then moved to refuse the application against officer recommendations on the basis of concerns surrounding air quality and the cumulative effect that the application would have when combined with other recent developments within the area. Cllr David Vigar seconded the motion.

During the debate, officers drew attention to the fact that if Members were minded to refuse the application then officers would need to consider that a specialist may need to be outsourced if the application came to appeal. It was further reiterated that Members would be going against the professional views

of officers and noted that the Council's climate change pledge should not form part of the motion as the decision must be based only on planning policy. Members further discussed air quality concerns in the area with regard to the traffic generated on the A350 and the lack of a clear mitigation plan, and illnesses linked to poor air quality. Members again raised their concerns regarding employment on the area to which officers encouraged Members to not consider within the motion for the reasons explained during technical questions. Officers explained that if Members were minded to refuse then the motion should cite Core Policy 55.

At the conclusion of the debate a vote was taken on the motion to refuse the application against officer recommendations on the basis of the exacerbation of an area of existing poor air quality, therefore failing to protect public health, environmental quality and amenity contrary to Core Policy 55.

Following which, it was:

Resolved

The Committee REEFUSED the application against officer recommendations as the proposal, by reason of its scale and nature in proximity to the Westbury Air Quality Management Area, would exacerbate an area of existing poor air quality. The proposed mitigation measure would not, in practice, offset the nitrogen dioxide emissions effectively and would therefore fail to make a positive contribution to the aims of the Air Quality Management Strategy. The proposal would also, therefore, fail to protect public health, environmental quality and amenity contrary to adopted Wiltshire Core Strategy Core Policy 55.

29 **PL/2021/06752 - 6 Marshmead, Hilperton**

Steven Vellance, Planning Officer, introduced the report which recommended that the Committee approve the application, subject to conditions, for the removal of an existing garage/kitchen extension and erection of a three-bedroom end terrace dwelling.

Reference was made to the presentation slides (Agenda Supplement 1) and officers stated that they were satisfied that both properties would continue to have adequate garden space and that there would be a designated space between the two dwellings to access the garden from the front. It was further explained that the existing access point would be utilised, and off-road parking would be created on the application site to mitigate highways concerns. Proposed elevations and street scenes were then detailed, and it was noted that the proposed dwelling was designed to compliment the existing houses in the area and as such, officers were satisfied that there would be no overbuilding. The sewer pipe route was displayed, and officers explained that Wessex Water were consulted and had no objections to the application. Additionally, it was noted that the applicant was aware of the route and would do on-site water drainage.

Key issues highlighted were: principle of development; the impact on the character of the area; impacts on neighbouring amenity for existing and future occupiers; and highway safety.

Members of the Committee were then given the opportunity to ask technical questions to the officer. The main points of focus included: property valuations and if the development would lead to a loss in the value of neighbouring properties. Officers explained that property valuations were not a sincere planning policy and as such should have no impact on the decision.

Cllr Trevor Carbin moved to approve the application in line with officer recommendations, which was seconded by Cllr Christopher Newbury.

During the debate Members noted that they felt the development would improve the street scene rather than mar it.

At the conclusion of the debate a vote was taken on the motion to approve in line with officer recommendations.

Following which, it was:

Resolved

The Committee unanimously APPROVED the application subject to the following 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:

Existing ground floor plan & elevations received on 02.07.2021. Site location plan & block plan, proposed floor plans, proposed elevations received on 17.11.2021. Proposed street scene, proposed block plan with car parking received on 18.01.2022.

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

3. No development shall commence above ground floor slab level until details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no development within Schedule 2, Part 1, Class A, shall take place on the dwelling house hereby permitted or within their curtilage.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements.

5. No development shall commence above ground floor slab level until a scheme for the discharge of surface water from the site (including surface water from the access for the new dwelling), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained.

6. The development hereby approved shall not be brought into use until the requisite off-site foul water drainage connections have been secured and is ready for use.

REASON: To define the terms of this planning permission.

7. No development shall commence above ground floor slab level until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-

- location and current canopy spread of all existing trees on the land;
- full details of all existing trees to be retained, together with measures for their protection in the course of development;
- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- all means of enclosure;
- all hard and soft surfacing materials;

REASON: In order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

8. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; 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 part of the development hereby permitted shall be occupied until the access & parking spaces have been completed in accordance with the details shown on the approved plans. Thereafter, it shall be maintained for those purposes and kept free from obstruction.

REASON: In the interests of highway safety.

10 The development hereby permitted shall not be occupied until the first 5m of the access, measured from the edge of the carriageway has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

INFORMATIVES TO APPLICANT:

1. The applicant is advised that the development hereby approved represents chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due.

If an Additional Information Form has not been submitted, it should be submitted now so that the Council can determine the CIL liability.

The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website:

<https://www.wiltshire.gov.uk/dmcommunityinfrastructurelevy>

2. Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

3. The application may involve the need for a new dropped kerb. The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence will be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact our Vehicle Crossing Team on: vehicleaccess@wiltshire.gov.uk and/or 01225 713352.

4. The applicant is required to contact Wessex Water and to enter into a 'Sewer Build over Agreement' pursuant to the proposed development and existing underground sewer infrastructure.

30 Urgent Items

There were no urgent items.

(Duration of meeting: 3.00pm – 6.15pm)

The Officer who has produced these minutes is Ellen Ghey of Democratic Services, direct line 01225 718259 x18259, e-mail Ellen.ghey@wiltshire.gov.uk

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