

## Western Area Planning Committee

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### MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 6 NOVEMBER 2024 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

#### **Present:**

Cllr Christopher Newbury (Chairman), Cllr Bill Parks (Vice-Chairman), Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Andrew Davis, Cllr Stewart Palmen, Cllr Horace Prickett, Cllr Pip Ridout, Cllr Jonathon Seed, Cllr Suzanne Wickham, and Cllr Gordon King (Substitute)

#### **Also Present:**

Cllr David Vigar and Cllr Tony Jackson

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#### 75 **Apologies**

Apologies for absence were received from:

- Councillor David Vigar, who was substituted by Councillor Gordon King

#### 76 **Minutes of the Previous Meeting**

The minutes of the previous meeting held on 9 October 2024 were considered. Following which, it was:

#### **Resolved:**

**The Committee approved and signed the minutes of the previous meeting held on 9 October 2024 as a true and correct record.**

#### 77 **Declarations of Interest**

There were no declarations of interest.

#### 78 **Chairman's Announcements**

There were no specific Chairman's announcements.

79 **Public Participation**

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

There were no questions or statements submitted by Councillors or members of the public.

80 **Planning Appeals and Updates**

The Chairman invited Kenny Green, as the Planning Manager for Development Management, to update the Committee on the pending and determined appeals as per the appeals report included within the Agenda Pack.

The reported determined appeal was explained to Members pursuant to a Listed Building Consent application that had been refused under PL/2024/01084 for the widening of a door opening within and alterations to a masonry wall. It was explained that the Planning Inspector concluded that the proposal would not result in the loss of any historic fabric due to the development being conducted mainly internally which would not affect the significance of the listed building.

Members were then informed of a subsequent appeal decision at Siennas Valley Farm for the erection of a two storey dwelling located off Huntenhull Lane that had been issued after the agenda had been published, and which was of some material relevance to the consideration of Agenda Item 8: PL/2024/04800: Land South of 92 High Street, Chapmanslade, BA13 4AN. Members were informed that the Siennas Valley appeal was allowed despite a series of previous refusals and a dismissed appeal for a single storey dwelling, with Members being further informed that the decision included some irrational commentary which appeared to merit a letter being sent to the Planning Inspectorate to highlight specific concerns about the inconsistent decision making and the planning assessment made by the appointed Planning Inspector.

In response, Members expressed their dismay on the inconsistency of the Planning Inspectorate decisions relating to the appeal site and gave unanimous support to the officer in terms of drafting a letter to send onto the Planning Inspectorate.

On a separate matter, a query was raised on the procedure for arranging of Committee site visits. The Chairman again invited Kenny Green to explain the procedures followed with due reference given to Protocol 4 and Schedule 1 to Protocol of the Constitution.

It was explained that in the past, officers had always sought to arrange Member site visits for the scheduled day of the Committee meeting, but that two recent cases had merited site visits being scheduled for a different day. Officers also noted that all such officer requests were raised and agreed with the Chairman

and Vice-Chairman prior to any invitations being sent to Members by the Democratic Services Team.

In response, Members formally requested that officers organise Member site visits directly prior to a Committee meeting, where possible.

Following which, it was:

**Resolved:**

- **The Committee noted the appeals report for the period 27 September 2024 to 25 October 2024.**
- **The Committee endorsed the submission of a letter to the Planning Inspectorate by Kenny Green, Development Management Team Leader.**

81 **Southwick Court Fields: Southwick and North Bradley - Application No. 2020/02TVG**

Public Participation

- Mr Francis Morland spoke in objection to the recommendation.
- Mr Geoff Whiffen spoke objection to the recommendation.
- Councillor Graham Hill, on behalf of Trowbridge Town Council, spoke in objection to the recommendation.

The Senior Definitive Map Officer, Janice Green, presented the report considering the Counsel's Advice as requested by the Western Area Planning Committee on 10 April 2024, to assist in its determination of an application made under S.15(1) and (2) of the Commons Act 2006 to register land as a Town or Village Green (TVG), and which recommended that the Inspector's Advisory Report be accepted in part, and that the application be rejected on the ground that all of the criteria for registration laid down in S.15(2) of the Commons Act 2006 had not been satisfied, for the reasons set out in the Inspector's Advisory Report dated 9 February 2024.

Officers including Sally Madgwick (Definitive Map and Highway Records Manager), Claire Lovelock (Principal Legal Executive), and Trevor Slack (Solicitor), explained the background to the application including planning trigger and terminating events which extinguish the right to apply to register land as a TVG; the legislation which governs applications; the accepted application plan; and the previous referral to the Committee on 10 April 2024 which resulted in a deferral to seek Counsel's Opinion on the question of whether the Draft Wiltshire Housing Sites Allocation Plan (WHSAP) formed a valid trigger event at the time of application.

The Counsel's Advice, as prepared by Douglas Edwards KC of Francis Taylor Building, was summarised, and officers explained that whilst it was not open to

the Inspector to consider the application dated 13 January 2020 in his Advisory Report, the Inspector's conclusions as to the merits of the application would be the same for the period ending 30 November 2020, and therefore the Inspector's recommendation can be relied upon by the Commons Registration Authority (CRA) in determining the application received on 30 November 2020. Members were reminded that although it was open to the CRA to reject the Inspector's report and recommendation, it can only lawfully do so if the CRA finds that the Inspector has made a significant error of fact or law. As such, if the Inspector's recommendation was rejected, the CRA must provide legally valid reasons, supported by evidence, of the error of fact or law, where the CRA's decision is open to legal challenge.

Attention was drawn to Agenda Supplement 2 which detailed a series of questions and responses that had been submitted ahead of the meeting.

Members of the Committee then had the opportunity to ask technical questions to the officer. Members sought further clarity on the timeline for the TVG applications; planning triggers and terminating events in line with Counsel's Advice; the decision to instruct a non-statutory public inquiry; and if the applicant had been advised on their right to claim judicial review of the decision to return the application dated 13 January 2020.

In response, officers explained that the draft WHSAP was not a trigger event on 13 January 2020 which meant that the CRA was therefore wrong to determine that the application dated 13 January 2020 was invalid, and that the CRA was wrong to have also rejected the application dated 11 June 2020 as the trigger events at that time affected only part of the application land. However, it was emphasised that it was not open to the Inspector to consider the application dated 13 January 2020, as the application before him was that received on 30 November 2020 and that this was the "time" of the application relevant to whether the right to make an application ceased to apply.

The named public speakers as detailed above then had the opportunity to present their views to the Committee.

Councillor David Vigar, as the Local Unitary Member for the identified locality of the application, then spoke to the application and recapped the sequence of events leading to Counsel's Advice being received and the importance of retaining the green space for the residents of Trowbridge Grove. Considering Counsel's Advice, Cllr Vigar then made the case to re-examine the option of processing the application made on 13 January 2020 as it should have been processed originally.

A debate then followed where Members discussed the points raised by Cllr Vigar alongside the legally complex nature of the application, and the benefits of deferring the application in order to further understand Counsel's Advice, the questions and answers published as Agenda Supplement 2, and the balance of prejudice relating to any decision made by the Committee. Members further discussed the powers of the Committee to override/alter a decision made by an

officer under delegated authority and felt that further advice was needed in order to make an informed decision.

At the conclusion of the debate, Councillor Horace Prickett moved to defer the application to allow for a more detailed report to be prepared, seconded by Councillor Jonathon Seed.

Following a vote on the motion, it was then:

**Resolved:**

**The Committee DEFERRED determination of the application to register land at Southwick Court Fields, in the parishes of Southwick and North Bradley, as a Town or Village Green, to seek a further report on whether the application of January 2020 could be processed with the wider application area examined.**

*Members took a comfort break from 4.30pm to 4.37pm.*

82 **PL/2024/04800: Land South of 92 High Street, Chapmanslade, BA13 4AN**

Public Participation

- Mr Terry Hulbert, local resident, spoke in objection to the application.
- Ms Dagmar Steffens, local resident, spoke in objection to the application.
- Mr Mark Foster, local resident, spoke in objection to the application.
- Mr John Foster, applicant, spoke in support of the application.
- Councillor Philip Holihead, on behalf of Chapmanslade Parish Council, spoke on the application.

Gen Collins, as Principal Planning Officer, presented the report which recommended that the Committee delegate authority to the Head of Development Management to grant planning permission subject to conditions and informatives and officers securing a completed Section 106 unilateral undertaking from the applicant to establish the proposals as a self-build development for the demolition of stables and construction of new sustainable self-build dwelling with associated works and change of use of land to C3.

It was noted that Members of the Committee had undertaken a site visit on Tuesday 5 November 2024, the day prior to the Committee meeting, with the Case Officer, Arboricultural Officer, and Highways Officers being present.

Key material considerations were identified including the principle of development; design and landscape; impact on trees; earthworks/land stability; heritage; residential amenity; highways; biodiversity; and drainage.

Attention was drawn to late representations that had been submitted following publication of the agenda, however it was confirmed by officers that the material considerations raised had already been taken into account within the report.

Members of the Committee then had the opportunity to ask technical questions to the officer. Members queried aspects relating to highway safety including traffic generation, potential conflicts with traffic movements, and the nature of the access as a private, unadopted road. Further queries were made in respect to fire safety and access to a suitable water supply, the width of the private lane being suitable for an emergency vehicle, and the minimum distances required pursuant to overhead power lines and new housing. Members also sought clarity on the separation distances between neighbouring properties and the proposed new dwelling with regard to overlooking and potential loss of residential amenity.

In response, the Case Officer and attending Highways Officers explained that the baseline existing land use was a material consideration in terms of the site being a previously developed site that had existing traffic generation currently used by one party, and with the site having three stables, there was the potential to have an even greater associated traffic generating on-site use. Members also heard from the attending Highways Officers who represented the Local Highways Authority, that the proposed single dwelling would not likely result in an increase in traffic generation when compared against the existing/potential stabling use. Moreover, the Highways Officers argued that the residential use would not result in substantive highway harm using the private lane and entering the public highway.

Members were also informed that the applicant had committed to relocating the stables to other land owned by the applicant which would be accessed from an existing agricultural access point and not through this proposed site, thus mitigating the risk of exacerbating the use of the private lane. Members were also advised that sufficient separation distance existed between the proposed new dwelling and existing dwellings to safeguard neighbouring amenity. This would be further mitigated by the presence of existing mature boundary trees, and in addition, a suggested planning condition which would require the submission of a detailed Landscape Plan to secure additional tree planting. As such, officers had concluded that the development would not result in a material impact to the residential amenity to warrant a refusal.

Members were reassured that the Case Officer had consulted with Dorset & Wiltshire Fire Rescue Service and that no objection to the scheme had been raised. It was further noted that fire and rescue considerations fell under building control regulations rather than being within the remit of the Highway or Planning Authority. Furthermore, it was highlighted that the applicant would be notifying the electricity provider to discuss the proposal and that the subsequent Construction Management Plan and Construction Method Statement would outline the necessary details to make the site serviceable in terms of construction.

The named public speakers as detailed above then had the opportunity to present their views to the Committee.

Councillor Bill Parks, as the Local Unitary Member, then spoke to the application where he thanked officers for their hard work throughout the planning history of the site.

A debate then followed where Members acknowledged the representations made by neighbouring residents and the Parish Council, and considered the suitability of the site to accommodate a dwelling with regard to access, traffic generation, and fire safety. Additional input was sought from the attending Legal and Highways Officers on the use of the lane as the only means of vehicular access to serve the proposal, and Members were advised to consider the material planning considerations as set out in the published report, from what they saw in person at the scheduled Member site visit, and from hearing the planning issues being debated.

At the conclusion of the debate, Councillor Jonathon Seed moved to approve the application in line with officer recommendations which was seconded by Councillor Stewart Palmen. Following a vote on the motion, it was:

**Resolved:**

**The Committee delegated authority to the Head of Development Management to GRANT planning permission subject to officers securing a completed S.106 unilateral undertaking from the applicant to establish the proposal as a self-build development and be bound by the following planning conditions and informatives listed below:**

**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 approved plans and documents set out on the drawing issue sheet dated 07/08/2024.**

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

- 3. No development shall commence on site (including any works of demolition), until a Construction Method Statement and a Construction Environmental Management Plan (CEMP), which shall include the following:**

- a) the parking of vehicles of site operatives and visitors;**
- b) loading and unloading of plant and materials;**

- c) storage of plant and materials used in constructing the development;
- d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- e) wheel washing facilities;
- f) measures to control the emission of dust and dirt during construction;
- g) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
- h) hours of construction, including deliveries;
- i) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.
- j) Working method statements for protected/priority species, such as nesting birds and reptiles.
- k) Mitigation strategies already agreed with the local planning authority prior to determination, such as for bats; this should comprise the pre-construction/construction related elements of strategies only.
- l) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
- m) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).

has been submitted to, and approved in writing by, the Local Planning Authority.

The approved Statement and CEMP shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

**REASON:** To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase. To ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable.

4. No development shall commence on site (except for demolition and site clearance works) until full technical design details for the retaining walls, and a supporting statement and methodology of proposed earthworks together with structural calculations prepared by a suitably qualified independent professional demonstrating



land stability can be achieved on site, has been submitted to and approved in writing by the LPA.

Thereafter the development shall be implemented in accordance with the approved details.

**REASON:** To ensure the proposal can be built safely with structural integrity

5. No development shall commence on site above ground slab level (except for demolition and site clearance works) until details of waste & recycling facilities (including location, collection and range of facilities) have been submitted to and approved in writing by the Local Planning Authority.

The development shall not be first occupied until the approved recycling facilities have been completed and made available for use in accordance with the approved details and they shall be subsequently maintained in accordance with the approved details thereafter.

**REASON:** In the interests of public health and safety.

6. No development shall commence on site above ground slab level (except for demolition and site clearance works) until manufacturer's details and photographs of the materials to be used for the external walls, roofs, windows and doors 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.

7. No development shall commence on site 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 and hedgerows on the land;
  - full details of any 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;
  - finished levels and contours;
  - means of enclosure;
  - car park layouts;
  - other vehicle and pedestrian access and circulation areas;
  - all hard and soft surfacing materials;
  - minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting);

- proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines indicating lines, manholes, supports);

**REASON:** 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. The development hereby approved shall not be brought into use until all the existing buildings on site have been permanently demolished and all of the demolition materials and debris resulting there from has been removed from the site.

**REASON:** In the interests of the character and appearance of the area [and neighbouring amenities].

10. The development shall not be first occupied until the 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.

11. 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.

12. The development hereby approved (including demolition and site clearance) shall be carried out in strict accordance with the approved details shown on plan ref: Proposed Site Plan 2338.FOS-03B Rev O and in accordance with the Arboricultural Impact

**Assessment and Method Statement of Works dated 19 April 2024. In particular, the arboricultural method statement must provide the following:**

**In order that trees to be retained on-site are not damaged during the construction works and to ensure that as far as possible the work is carried no demolition, site clearance or development should commence on site until a pre-commencement site meeting has been held, attended by the developer's arboricultural consultant, the designated site foreman and a representative from the Local Planning Authority, to discuss details of the proposed work and working procedures.**

**Subsequently, and until the completion of all site works, site visits should be carried out on a monthly basis by the developer's arboricultural consultant. A report detailing the results of site supervision and any necessary remedial works undertaken or required should then be submitted to the Local Planning Authority. Any approved remedial works shall subsequently be carried out under strict supervision by the arboricultural consultant following that approval.**

**REASON: In order that the Local Planning Authority may be satisfied that the trees to be retained on and adjacent to the site will not be damaged during the construction works and to ensure that as far as possible the work is carried out in accordance with current best practice and section 197 of the Town & Country Planning Act 1990.**

- 13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.3) (England) Order 2020 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A, AA, B, C, D, E and F and Part 1 Class A shall take place on the dwellinghouse 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.**

- 14. No external light fixture or fitting will be installed within the application site unless details of existing and proposed new lighting have been submitted to and approved by the Local Planning Authority in writing. The submitted details will demonstrate how the proposed lighting will impact on bat habitat compared to the existing situation.**

**REASON: To avoid illumination of habitat used by bats and additional sky glow in a sensitive development landscape edge location.**

15. No development shall commence on site until the trees on the site and along the site boundaries have been enclosed by protective fencing, in accordance with British Standard 5837 (2005): Trees in Relation to Construction. Before the fencing is erected, the exact type and position shall require the written approval of the Local Planning Authority and after it has been erected, it shall be maintained for the full duration of the construction works and no vehicle, plant, temporary building or materials, including raising and or, lowering of ground levels, shall be allowed within the protected areas(s).

**REASON:** To enable the Local Planning Authority to ensure the protection of trees on the site and along the site boundary (on land within the applicant's control) in the interests of visual amenity.

### **Planning Informatives**

The proposed development will require separate approval and a separate license from the EA for any sewerage treatment plant to be installed on site.

The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species including for example, bats, breeding birds and reptiles. The protection offered to some species such as bats, extends beyond the individual animals to the places they use for shelter or resting.

Please note that this consent does not override the statutory protection afforded to any such species.

In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

The habitat within the proposed development site and the surrounding area is suitable for roosting, foraging and commuting bats. An increase in artificial lux levels can deter bats which could result in roost abandonment and/or the severance of key foraging areas. This will likely result in a significant negative impact upon the health of bat populations across the region. Artificial light at night can have a substantial adverse effect on biodiversity. Any new lighting should be for the purposes for safe access and security and be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2021, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2021), and Guidance note GN08-18 "Bats and artificial lighting in the UK", issued by the Bat Conservation Trust and Institution of Lighting Professionals.

**The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required, it will be necessary for the applicant to obtain the landowners consent before such works commence.**

**If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.**

*Councillors Andrew Davis, Bill Parks, and Pip Ridout requested that their votes in abstention be recorded.*

*Councillor Ernie Clark requested that his vote against the motion be recorded.*

83 **Urgent Items**

There were no urgent items.

(Duration of meeting: 3.00 - 6.10 pm)

The Officer who has produced these minutes is Ellen Ghey of Democratic Services, direct line 01225 718259, e-mail [ellen.ghey@wiltshire.gov.uk](mailto:ellen.ghey@wiltshire.gov.uk)

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