

## NORTHERN AREA PLANNING COMMITTEE

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### MINUTES OF THE NORTHERN AREA PLANNING COMMITTEE MEETING HELD ON 14 MAY 2014 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER.

#### **Present:**

Cllr Chuck Berry (Substitute), Cllr Christine Crisp, Cllr Peter Hutton (Vice-Chair), Cllr Simon Killane, Cllr Mark Packard, Cllr Sheila Parker, Cllr Toby Sturgis, Cllr Anthony Trotman (Chairman) and Cllr Philip Whalley

#### **Also Present:**

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#### 47 **Apologies**

Apologies were received from Cllr Hurst and Cllr Groom.

Cllr Groom was substituted by Cllr Berry.

Following the Full Council meeting on Tuesday 13 May 2014, a number of changes were made to the Northern Area Planning Committee membership. With immediate effect, Cllr Marshall was made a full Committee member with Cllr Bill Douglas a substitute.

#### 48 **Minutes of the previous Meeting**

The minutes of the meeting held on Wednesday 23 April were presented.

The Chairman confirmed that concerns had been raised that the policy reasons cited for the refusal of application 12/03594 – Octavian, Eastlays, Gastard, Wiltshire, SN13 9PP, would not be sufficiently robust in event of appeal. Officers had confirmed that the policy reasons given at Committee were sufficient. Members could raise additional policy reasons in the event of appeal.

#### **Resolved:**

**To approve as a true and correct record and sign the minutes.**

49 **Declarations of Interest**

There were no declarations of interest.

50 **Chairman's Announcements**

There were no Chairman's announcements.

51 **Public Participation and Councillors' Questions**

The Committee noted the rules on public participation.

52 **Wiltshire Council Heddington 5 (part) Rights of Way modification order 2014**

A statement of objection provided by Andrew Fenwick was circulated to, and understood by members prior to the meeting and a copy of this objection was attached to the minutes.

Cllr Geoff Dickerson spoke in support of the application.

The Officer introduced the Rights of Way report which recommended that the Wiltshire Council Heddington 5 (part) Rights of Way Modification Order 2014 be sent to the Secretary of State for Environment, Food and Rural Affairs with the recommendation that it be confirmed as made.

She explained that an application had been received to record the area concerned as a by-way open to traffic. This application was not considered within the year period, and as a result an appeal was made to the Planning Inspectorate, who directed Wiltshire Council to consider the case. Following consideration, Wiltshire Council refused the application, and this decision is currently under appeal.

The matter before the Committee concerned an order to define the full width of the area as footpath. A representation and an objection were received and as a result the Order must be sent to the Inspectorate for determination.

There were no technical questions.

Members of the public addressed the Committee as detailed above.

In the debate that followed members thanked the officer for her clear and comprehensive report.

**In was resolved;**

**That the Wiltshire Council Heddington 5 (part) Rights of Way Modification Order 2014 be sent to the Secretary of State for Environment, Food, Rural Affairs with the recommendation that it be confirmed as made.**

53 **14.02367.FUL and 14.02730.LBC - Church House, The Street, Grittleton, Chippenham, SN14 6AP**

John Armstrong and Cllr Johnny Walker spoke in support of the application.

The Officer introduced the report which recommended that planning permission be refused.

He explained that the application was for a side extension to enclose a swimming pool on a grade II listed property. Under the proposal, the existing single story extension would be contained within the pool enclosure.

The Committee had the opportunity to ask technical questions of officers and it was confirmed that a previous planning application had been refused and that the conservation officer objected to the enclosure of the area. The enclosure would consist of timber frame with brick work to match existing buildings.

Members of the public then addressed the Committee as detailed above.

The local member, Cllr Scott was absent and Cllr Sturgis addressed the Committee on her behalf. He expressed support for the scheme and highlighted that the proposal did not impact on the south frontage of the building.

**It was resolved to;**

**In respect of 14/02367/FUL**

**To delegate to the Area Development Manager to grant permission subject to conditions:- to agree materials, submission of sample panels and other relevant conditions necessary in relation to works affecting a listed building.**

**In respect of 14/02730/LBC**

**To delegate to the Area Development Manager to grant consent subject to conditions appropriate to address works to a Listed Building.**

**Reason:- The proposed development is necessary to support the on-going use of the Listed Building; Will not result in significant harm to the heritage asset including the Conservation Area; and reflects previous historic development at the site.**

54 **14.02154.FUL - Rose Cottage, Corston, Malmesbury, SN16 0HD**

Phillipa Metcalfe, Keith Metcalfe and Cllr Roger Budgen spoke in support of the application.

The officer introduced the report which recommended that planning permission be refused.

He explained that although the site was attached to a grade II listed building, the site itself was not listed. The proposed extension would replace a large conservatory. The applicants sought an extension to their property due to the poor health of their son. Pre-application discussions had occurred, and alterations were suggested and accepted but were later rejected following advice that it would result in insufficient space for the applicant's son. The existing buildings had a clear hierarchy, the removal of which officers believed would negatively impact the adjacent listed building.

The Committee then had the opportunity to ask technical questions of officers and it was confirmed that the proposed extension was the same footprint as the existing conservatory. It was also confirmed that the site was stepped back from the adjacent listed building.

Members of the public then addressed the Committee as detailed above.

The local member, Cllr Thomson spoke in support of the application noting the benefit of removing the conservatory, the personal circumstances of the applicant and the lack of objection in the locality.

In the debate that followed, the Committee noted the benefits of removing the conservatory and the need to consider the needs of the family.

**It was resolved to;**

**Delegate to the Area Development Manager to grant planning permission subject to conditions to agree materials.**

55 **14.01293.OUT - Oak Hill House, Upper Seagry, Chippenham, Wiltshire, SN15 5HD**

Simon Chambers spoke in support of the application.

The Chairman drew attention to the late observations which were circulated at the meeting and later published as a supplement.

The Officer introduced the report which recommended that planning permission be refused.

He explained that although the site was beyond the village boundary. The site was located in the garden of another property.

There were no technical questions.

Members of the public then addressed the Committee as detailed above.

The local member, Cllr Greenman was absent.

In the debate that followed, the Committee noted the need for affordable housing in Wiltshire and the open location of the site.

**It was resolved to;**

**Refuse planning permission for the following reasons:**

**The proposed development, by reason of its location, siting and lack of justification as a rural exception site represents an unwarranted residential development outside of the development framework boundary contrary to Policies H4 and H7 of the adopted North Wiltshire Local Plan 2011 and Policies CP2, CP10 CP44 and CP48 of the emerging Wiltshire Core Strategy.**

**The level of development proposed is likely to result in a layout and relationship with the street and surrounding area that represents a detrimental intrusion into the adjacent countryside and harmful to the character and appearance of the area. The proposal therefore fails to accord with Policies C3 and NE15 of the adopted North Wiltshire Local Plan 2011 and Sections 6, 7 and 11 of the National Planning Policy Framework.**

**In accordance with the NPPF there is a deliverable 5 year supply of land for housing in place and there are no other material considerations that outweigh this position. As such, the balance of considerations is such that planning permission should not be granted having regard to policies H1 & H4 of the North Wilts Local Plan and CP2, and CP10 of the Draft Wiltshire Core Strategy and guidance in the National Planning Policy Framework, in particular at paragraphs 12, 14, 17, 47, 49, 150, 183, 184, 185, 196, 209, 210, 211, 212, 214, 215, 216.**

**The proposed development does not make any provisions for securing affordable housing on the site or financial contributions towards open space on the site, community facility, indoor leisure provision. The application is therefore contrary to Policies C2, H5 and CF2 & CF3 of the North Wiltshire Local Plan 2011.**

56 **Urgent Items**

There were no urgent items.

(Duration of meeting: 6:00 - 7.15 pm)

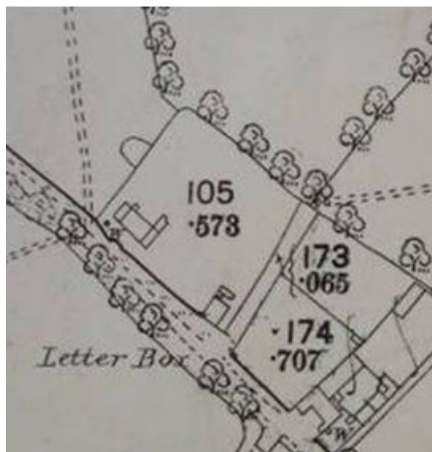
The Officer who has produced these minutes is Eleanor Slack, of Democratic Services, direct line 01225 718255, e-mail [eleanor.slack@wiltshire.gov.uk](mailto:eleanor.slack@wiltshire.gov.uk)

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## Objector Andrew Fenwick's Statement

1. A DMMO cannot lawfully change the Start Point of a footpath.

2. This footpath starts and has always started at the point B on your Order Plan as per **ALL** OS maps from 1886 up to being 1<sup>st</sup> recorded on the DM and statement in 1953 and for decades afterwards.



1886 OS map



1961 OS map

3. In law a footpath must always start at the original 'Start Point'. A DM entry, DMMO or Diversion Order cannot lawfully change this Start Point.

4. I claim the highway coloured purple on the Order Plan is not a footpath but is a Public Vehicular Way – and is the currently the subject of an appeal.

5. The Order Plan is based on an out of date OS map which has since changed significantly.

6. The measurements you have included fail to record the width at the narrowest point - that at the front right hand corner of the Industrial building. This is essential to properly record the extent of the road.

7. Part of the area marked on your DMMO map at the right rear corner of the building is clearly registered to us at the Land Registry. Detailed on-site measurements were recorded on our title by the LR Surveyor in 2011 and on subsequent OS maps.

8. The full width as marked is not available to users because of the encroaching and illegal fence erected by the Parish Council – see 'Kidner' case law *"full extent must be available"*.

9. As you clearly state in your previous reports; we as frontagers have rights under Ad Medium Filum Viae (AMFV).

10. You also state that our AMFV rights are not rebutted.

11. Thus the posts of the illegal fence are driven into our land under AMFV, without my consent and against my wishes. The Parish Council have rejected my demands for them to remove it.

12. As you state in your previous reports; it is probable we have a *"maintenance strip"* along the East side of the industrial building which would also preclude inclusion of this area in the order.

13. WC has refused many requests to enforce removal of the encroaching & illegal fence, saying that *"encroachment is minimal"*. Case law does not recognise this excuse and clearly

states *“full extent must be available”*. Therefore it is the statutory duty of WC to enforce removal of this illegal fence.

14. We have detailed planning consent for an access road over this land to service a residential development and the necessary rights to implement this, including 32 years of MPV use and a Prescriptive Easement for MPVs with force at law.

15. **Planning Practice Guidance 2014 - Housing & Land Assessment - Methodology**  
*Paragraph: 010* states that *The assessment should consider all sites and broad locations capable of delivering five or more dwellings*. Where is the assessment for this site for 8 dwellings?

*Paragraph: 011 Sites, which have particular policy constraints, should be included in the assessment.* Therefore this site should have been assessed.

*Paragraph: 012 Plan makers should consider all available types of sites including Planning applications that have been refused or withdrawn.*

*Para: 014* states *Plan makers should gain a more detailed understanding of deliverability, any barriers and how they could be overcome*. If Access is an issue then how does WC propose to overcome it?

*Para 22. Where constraints have been identified, the assessment should consider what action would be needed to remove them. Actions might include the need for investment in new infrastructure.....or a need to review development plan policy*

Clearly it is now incumbent on WC to remove constraints to development (rather than add to them) and invest in new infrastructure or review policy if necessary.

16. A DMMO application to upgrade to PVR is currently under appeal because it is being opposed by WC.

17. I have attached the letter dated 13/5/11 from Brian Taylor to my Access Indemnity Insurer's solicitor Chris Gee which states *“provision of the new access will not be an issue”*.

18. *To do this your client must be able to demonstrate a legal and historic right to drive over the right of way*. This I have done by way of a Prescriptive Easement founded on 32 years MPV use.

19. In the light of the forgoing and the duty of the council under PPG 2014 to remove constraints to development, I believe this order is fatally flawed, illegal and premature.

20. As my objection to it was not withdrawn, could WC please explain how the recent order for diverting FP14 was not referred to the SoS as required.

21. If the correct procedure was not undertaken in diverting FP14 then I claim the diversion order is not sound. This would open up the opportunity for WC to divert FP5 to join the original route of FP14 (as I have suggested for many years) as a means of overcoming any access issues for the residential development at Coach House – if any exist - as is incumbent upon WC under PPG 2014. Support today by the committee for this Hedd5 order might prejudice such action. Rather than diverting FP5 to adjoin FP14 as I suggested, WC have attempted the reverse, purely to thwart this development.

I have also attached a copy email to Carlton Brand which is self explanatory.