

## WESTERN AREA PLANNING COMMITTEE

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**MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 10 JUNE 2015 IN THE COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN.**

**Present:**

Cllr Christopher Newbury (Chairman), Cllr John Knight (Vice-Chair), Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Andrew Davis, Cllr Magnus Macdonald, Cllr Horace Prickett, Cllr Pip Ridout, Cllr Jonathon Seed and Cllr Roy While

**Also Present:**

Cllr Fleur de Rhé-Philipe and Cllr Jon Hubbard

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**57 Apologies for Absence**

Apologies for absence were received from:

- Dennis Drewett

**58 Minutes of the Previous Meeting**

The minutes of the meeting held on 20 May 2015 were presented.

**Resolved:**

**To approve as a correct record and sign the minutes of the meeting held on 20 May 2015.**

**59 Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency and explained that the setup of the meeting was due to technical issues.

**60 Declarations of Interest**

There were no declarations of interest.

## 61 Public Participation and Councillors' Questions

The Chairman welcomed all present. He then explained the rules of public participation and the procedure to be followed at the meeting.

The following written question and response was received and noted:

### **Question from Councillor Ernie Clark, Hilperton Division:**

Re Wiltshire Council v Secretary of State for Communities and Local Government [2015] EWHC 1459 (Admin) - judgment handed down on 20 May 2015.

This seems to be a truly appalling decision by a High Court judge, and surely needs to be appealed to the Court of Appeal on grounds of procedural error and error of law.

The old saying is that it is a woman's privilege to change her mind, but that cannot extend to a decision handed down by a High Court judge which has already finally determined an issue, viz. [74] of [2015] EWHC 1261 (Admin):-

"In the circumstances and, with a degree of reluctance, I find that I am unable to exercise my discretion not to quash the decision letter."

Furthermore, it is plainly inconsistent and wrong not to quash the decision letter in Appeal B on the basis that the decision would have been the same in spite of the Secretary of State's error of law, but to refuse to quash the decision letter in Appeal A because the decision would almost certainly have been different and hence would deprive the Developer Defendants of the benefits of that unlawful decision letter.

The consequences of such flawed reasoning must be that a Local Planning Authority can never overturn an Appeal Decision, however serious the unlawfulness of it may be.

The judge also seems totally to have ignored the fact that Wiltshire Council is the Local Planning Authority with a duty to the public at large to ensure that the integrity of the planning system in its area is maintained and in that respect it cannot be treated as on a par with developers. There is no proper evaluation in the judgment of the harm to the public interest that will be caused by not quashing the decision letter.

I am advised that the proper approach to the exercise of the discretion, which is supposed to be exceptional, not to quash a decision that has been found to be unlawful is that of Mr Justice Gilbart on 19 February 2015 in *Davies v Carmarthenshire County Council* [2015] EWHC 230 (Admin), following *Bateman v South Cambridgeshire District Council* [2011] EWCA Civ 157, particularly *Moore-Bick LJ* at [31].

In the circumstances will Wiltshire Council be taking this decision to the Court of Appeal? If not, why not?

### **Response**

Officers can confirm that the Council is seeking permission from the Courts to appeal the Judge's decision not to quash the decision letter issued by the Secretary of State in relation to the planning appeal at Devizes Road, Hilperton.

The following supplementary question and response was received and noted:

### **Question from Councillor Ernie Clark, Hilperton Division:**

As both the decision letters from the Secretary of State were unlawful, will WC be appealing both decisions, A and B?

### **Response**

The question would be circulated to the legal and planning officer to be answered at a later date.

## **62 Planning Applications**

The Committee considered the following applications:

### **63 14/09500/FUL - Sienna's Valley Farm, Huntenhull Lane, Chapmanslade, BA13 4AS**

#### Public Participation

Professor Nigel Brown spoke in objection to the application.

Mr Charles Thackway spoke in objection to the application.

Mr Keith Muston spoke in objection to the application.

Mr Derek Tanswell spoke in support of the application.

Mr Edward Drew spoke in support of the application.

Mr Dennis Barnard representing Chapmanslade Parish Council spoke in objection to the application.

The Senior Planning Officer outlined the report which recommended the application for approval. Key issues were stated to include the principle of the development, impacts upon the character and appearance of the landscape, impact upon neighbouring amenities and the highways impact. The committee had previously deferred the application on the 17 December 2014 to allow the Local Planning Authority to gather more information.

Members of the Committee then had the opportunity to ask technical questions of the officer.

Members of the public then had the opportunity to present their views to the Committee as detailed above.

The local Unitary Member, Councillor Fleur de Rhé-Philipe, then spoke in objection to the application.

Issues discussed in the course of the debate included: whether there was an essential need for the dwelling, the visual impact on the character and appearance of the area, the viability of the proposed business plan and the close location of the applicant's residence in Frome.

Advice was provided by Mr Tony Coke, the Council's Specialist Agricultural Advisor.

At the end of the debate it was;

### **Resolved**

**To refuse planning permission for the following reasons:**

**The site is located in the open countryside, outside the limits of development for Chapmanslade as defined in the Wiltshire Core Strategy. Residential development in this location is restricted by policy CP48 to that required to meet the needs of employment essential to the countryside. The Council consider that the functional need for accommodation to oversee any birthing/sick animals could be met through permitted development rights to be on hand during such events and does not justify a year round presence. The applicant has failed to submit robust financial information to support such a dwelling and no evidence has been submitted demonstrating that the appellants could not provide sufficient oversight of the holding from a dwelling in a nearby settlement. Furthermore, the siting of the temporary dwelling harms the character and appearance of the Special Landscape Area. The proposal fails to comply with Core Policies 48, 51 and 57 of the Wiltshire Core Strategy and Saved Policy C3 of the West Wiltshire District Local Plan and the NPPF, namely paragraph 17 and 55.**

### **63a Proposed Discharge of Section 52 legal agreement - Lewington Close/Longford Road, Melksham**

#### **Public Participation**

Mrs Janet Williams spoke in objection to the application.

Mr David Timbrell spoke in objection to the application.

Mr Paul Walsh spoke in support of the application.

The Senior Planning Officer outlined the report which recommended the application for approval. The key consideration was identified as assessing whether the Section 52 Agreement served a valid purpose, given the changes in circumstances and planning background since its completion in 1975. The

committee had previously discussed the application at the meeting on the 20 May 2015 which resolved that Planning Officers should gather more information.

Members of the public then had the opportunity to present their views to the Committee, as detailed above.

The local Unitary Member, Councillor Jon Hubbard, then read a statement on behalf of Mr Jenkins and spoke in objection to the application.

The legal officer advised the committee that the Section 52 agreement was a contract between the council and the party to the agreement. The legal agreement would be held on the land making it a land charge.

Issues discussed in the course of the debate included: the relevance of the Section 52 Agreement today and the need to protect the residents from over development.

At the conclusion of debate, it was

**Resolved**

**To approve the discharge by the Council of the Section 52 Agreement.**

Recorded Votes

Cllr Ernie Clark – Against

Cllr Andrew Davis - Against

**64 Planning Enforcement Update - Crockerton**

Steven Hawkins, Planning Enforcement Team Leader, referred to the enforcement update included in the agenda.

Members discussed the budget for direct action allocated to the enforcement team and being able to call enforcement items into the committee.

At the end of the discussion it was;

**Resolved**

**To congratulate Mr Hawkins and the enforcement team.**

**To note the report.**

**To pass on comments about the need for a budget for such direct action on enforcement matters to the Cabinet.**

65 **Urgent Items**

There were no Urgent Items.

(Duration of meeting: 3.00 - 5.00 pm)

The Officer who has produced these minutes is Will Oulton, of Democratic Services,  
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