

**MINUTES OF A MEETING OF THE
PLANNING COMMITTEE
HELD ON 2 AUGUST 2022 FROM 7.00 PM TO 8.52 PM**

Committee Members Present

Councillors: Rachelle Shepherd-DuBey (Chairman), Andrew Mickleburgh (Vice-Chairman), Chris Bowring, Stephen Conway, John Kaiser, Rebecca Margetts, Wayne Smith and Alistair Neal

Councillors Present and Speaking

Councillors: Peter Dennis

Officers Present

Callum Wernham, Democratic & Electoral Services Specialist
Ian Bellinger, Service Manager for Growth and Delivery
Connor Corrigan, Service Manager - Planning and Delivery
Lyndsay Jennings, Senior Solicitor
Mary Severin, Borough Solicitor

Case Officers Present

Joanna Carter

26. APOLOGIES

An apology for absence was submitted from Councillor David Cornish.

27. DECLARATION OF INTEREST

John Kaiser stated his surprise and disappointment that a decision taken at a previous meeting of the Planning Committee had been taken back to the Planning Committee. John added that whilst he accepted the dilemma faced by officers to try and avoid costs at appeal, he felt that the decision should not be taken back to Committee as they had already made their decision. John Kaiser added that he would declare a personal interest on item number 29, and would abstain on the vote.

28. APPLICATIONS TO BE DEFERRED AND WITHDRAWN ITEMS

No applications were recommended for deferral, or withdrawn.

29. APPLICATION NO.203544 - LAND TO THE WEST OF ST ANNES DRIVE, AND SOUTH OF LONDON ROAD, WOKINGHAM, RG40 1PB

Proposal: Full application for the proposed erection of 54 units (including 19 affordable homes) with associated access road from St Anne's Drive, landscaping and open space.

Applicant: Beaulieu Homes

The Committee considered a report, set out in agenda pages 5 to 96, which set out the background to this application, including the previous decision by the Committee to refuse Planning permission, and the subsequent appeal that had been lodged by the applicant. A Part 2 report was also included within the members' packs.

Mary Severin, Borough Solicitor, stated that since the time that this application was refused on 13 January 2022 confidential legal advice had been received from the barrister instructed to represent Wokingham Borough Council (WBC) in the course of the upcoming appeal. The barrister had provided WBC with new information which was not available at

the time of the January meeting. Whilst all Council meetings and information provided as part of those meetings must be held in public unless an exemption applied, in this case paragraph 5 of Part 1 of Schedule 12A of the Local Government Act 1975 applied as it dealt with legal professional privilege. Mary stated that in order for officers to provide members with the information that had come to light and the legal information that came with it, the Chair would invite the Committee to exclude members of the public prior to debating the contents of the Part 2 report.

John Kaiser stated that to his knowledge this had never happened before, and he could not understand why the Committee were being asked to reassess a decision made by a previous Committee. Mary Severin stated that the decision to grant planning permission was now with the Planning Inspector, and the Committee were being asked as to whether they wished to proceed with the reasons for refusal given originally, given the new information.

Stephen Conway confirmed that he had given his apologies for the meeting where this application was considered, and added that he came into the meeting with an open mind. Stephen added that he could recall other times where the Committee had been asked to consider reasons for refusal when an appeal was upcoming.

In response to a query from the Clerk with regards to public speaking, Mary Severin confirmed that Peter Dennis (Ward Member) could instead speak within the Part 2 session so long as the Chair agreed. The Chair confirmed that she was happy with this approach.

Wayne Smith stated that he was unaware, during his three years as Executive Member for Planning and Enforcement, of any applications being sent back to the Committee to reconsider reasons for refusal. Wayne felt that it was not right to exclude the public from the meeting, or from the information provided to members. Mary Severin stated that this situation had happened before, but it was very rare. Mary added that it was difficult to go into detail as to why this had been taken back to Committee without disclosing information contained within Part 2. Mary added that officers felt that they could not allow members not to be aware of the latest information and developments with this application. Mary added that members were, as always, free to make whatever decision they wished after listening to all representations and considering all information within the Part 2 report.

Harish Chowdary Gottipati, resident, spoke in objection to the application. Harish stated that there were a number of issues relating to the environment and local wildlife associated with this application, whilst any expansion of the area would cause other issues including with public transport. Harish added that there was not enough public transport in the area, whilst he found the train services to be unreliable. Harish noted that a number of families had immigrated to the Borough, for example from Hong Kong, and schools within the area were already full. Harish reiterated that his main concerns were in relation to public transport, congestion, and the associated environmental impact from increased vehicle emissions. Harish stated that there was a lot of hard water in the area, whilst the general water quality was poor. Harish added that he was disappointed that this meeting was happening in the school holidays when a lot of people were away, and part of the meeting was being held in private.

Rebecca Margetts stated that a vast amount of residents had objected to this, and those people would not be allowed to understand the information as to why members were being asked to consider aspects of the application again. Rebecca added her concern that part of the meeting would be held in Part 2.

Chris Bowring stated that he was very disturbed by the process that members were being asked to go through. Chris added that he had been a member of the Planning Committee on and off for a number of years, and what was being proposed was a rare event and very undesirable. Chris stated that at present, the applicant had the right to appeal to the planning inspectorate who may overturn the original decision if their application was refused by the Committee. Chris stated that members were being asked to intervene in this process because others believed that the reasons the Committee resolved to refuse the application were now invalid. Chris felt that this could set a precedent which could undermine the well-established democratic process where a decision refused by the Planning Committee could be appealed against and sent directly to the Planning Inspectorate. Chris stated that he had Chaired the meeting where this application was refused, and whilst he had voted to approve the application he would not support the process this evening as the original decision had been properly and democratically made.

Stephen Conway stated that everyone would feel uncomfortable with this process, and a fully Part 1 report would always be preferable. Stephen added that the Committee were being asked to consider some very sensitive and confidential legal advice, which if heard in Part 1 could prejudice WBC's case at appeal. Stephen added that in light of this, he felt it right to move into Part 2.

Mary Severin commented that a note could be placed within the Part 1 minutes which would give the public information in relation to the Committee's decision. Mary reiterated that the reason that members were being asked to consider this item was to save WBC costs at appeal.

Upon being put to the vote, the Committee resolved to move into a Part 2 session.

The Committee considered a report in Part 2, which presented them with a set of recommendations.

Upon deliberation and a subsequent vote, the Committee resolved to accept the recommendations as set out in the Part 2 report. In addition, the Committee resolved to place the following statement in the Part 1 minutes:

"Since this application was refused, the Council can no longer demonstrate a five-year housing land supply. In preparation for the appeal the Council's Planning Committee were asked to closely consider the reasons given to refuse the planning permission in January. The Committee have now authorised officers not to present evidence to the appeal for reasons for refusal 1 and 2 providing appropriate negotiations can be reached with the Appellant in relation to the appeal."

RESOLVED That the recommendations as set out within the Part 2 report be agreed, and the statement in relation to this decision be included within the Part 1 minutes as resolved by the Committee.

30. EXCLUSION OF THE PUBLIC

RESOLVED: That under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting to consider and determine the Part 2 information within agenda item number 29 on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 5 of Part 1 of Schedule 12A of the Act (as amended) as appropriate.

