

## **Minutes of the Meeting of the Planning Committee held on 21 March 2019 at 7.00 pm**

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**Present:** Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair), Colin Churchman, Graham Hamilton, Angela Lawrence, David Potter, Gerard Rice, Sue Sammons and Sue Shinnick

Steve Taylor, Campaign to Protect Rural England Representative

**In attendance:** Andrew Millard, Assistant Director - Planning, Transport and Public Protection  
Leigh Nicholson, Strategic Lead - Development Services  
Matthew Ford, Chief Engineer  
Jonathan Keen, Principal Planner  
Tom Scriven, Principal Planner  
Bob Capstick, Locum Planning Lawyer  
Wendy Le, Democratic Services Officer

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Before the start of the Meeting, all present were advised that the meeting may be filmed and was being recorded, with the audio recording to be made available on the Council's website.

### **90. Minutes**

The minutes of the Planning Committee held on 14 February 2019 were approved as a correct record.

### **91. Item of Urgent Business**

There were no items of urgent business.

The Chair announced that item 9 – 18/01802/FUL, Beauchamp Place, Malvern Road, would be moved up the agenda to be the first item to be heard due to the amount of public members present for the item.

### **92. Declaration of Interests**

There were no declarations of interest.

### **93. Declarations of receipt of correspondence and/or any meetings/discussions held relevant to determination of any planning application or enforcement action to be resolved at this meeting**

The Chair declared on behalf of the Committee that they had received emails regarding item 8 – 18/01760/HHA, The Lodge and item 10 18/01635/FUL of the agenda.

#### **94. Planning Appeals**

Leigh Nicholson, Strategic Lead of Development Services, presented the report.

The Committee was satisfied with the report.

#### **RESOLVED:**

**That the Planning Committee noted the report.**

#### **95. 18/01802/FUL - Beauchamp Place, Malvern Road, Grays, Essex, RM17 5TH**

Jonathan Keen, Principal Planner, advised that the planning application sought planning permission for the use of the land for gypsy traveller families. The proposal was for 5 mobile homes, 5 touring caravans and day rooms with associated parking and fencing within the site. At present, there were 2 mobile homes on site with one occupied by the applicant and their family.

The application was recommended for refusal due to the proposal representing inappropriate development in the Green Belt. The Agent's statement of support for the application had been received and the issue of the medical condition of one of the children had been considered but it was not enough to constitute very special circumstances. The medical letter received regarding the child's medical condition from the Agent in addition to the statement of support had also been in draft format and unsigned, so limited weight could not be afforded to it.

The Chair opened the item up to the Committee for questions. He went on to ask if the personal consent attached to the appeal on application 13/00574/FUL (as indicated in the current application) had ceased, when the previous named occupiers had left the site in mid-2018. The Principal Planner confirmed that the personal consent had ceased when the previous occupant had left the site in mid-2018.

The Chair asked if the Temporary Stop Notice (TSN) that had been served, had been given to the applicant. The Principal Planner answered that the TSN had been placed on a post at the entrance to the site which would have been obvious and the current occupiers had breached the notice already. The Chair went on to ask if the applicant had raised any issues regarding the site history or whether they were aware of the site history and that it was on the Green Belt. The Principal Planner confirmed the applicant had been aware of the site's history and that the site was on the Green Belt.

Regarding the medical letter relating to applicant's child, Councillor Hamilton asked whether it was dated. The Principal Planner replied that the letter was dated November 2018 and contained private medical details that could not be shared with the Committee. Councillor Hamilton went on to ask if there was a

residential area to the north of the site and whether it would be possible for encroachment further up and past the houses. In response, the Principal Planner said that the boundaries of the site was defined as shown by the red lines in the map and that the applicant did not own any further land past the houses. It would not be possible to encroach into another person's owned land for development works.

Regarding the Green Belt and openness of the site, the Chair thought that a huge volume of work had already been undertaken judging from the photos shown. He asked the case officer for more details. The Principal Planner answered that there was more hard core surfacing on the site than there had been previously so it did look like some work had been undertaken. The hard core had not been there prior to the TSN.

Councillor Churchman sought clarification on whether there had been a condition in previous applications where the replanting of trees had been required. The Principal Planner gave clarification that this had been a condition in the previous application but no trees had been replanted.

With no more questions from the Committee, the Chair invited the registered speakers to present their statements.

The Ward Councillor, Councillor Gledhill, presented his statement in objection to the planning application.

The Resident was not available to present their statement and the Chair gave the Committee a minute to read the Resident's statement which was in objection to the planning application.

As the Agent was not available to present their statement in support of the planning application, the Chair permitted the Applicant, Mr John 'O Connor, to present his statement in support of the planning application.

The Chair asked if the Committee had further questions following the given statements. Councillor Hamilton commented that the applicant had been under the impression that permission had been granted and the applicant's solicitors should have clarified this Green Belt site would most likely have had no permission given. The Chair answered that Councillor Hamilton's comment would be picked up within the debate of the item and went on to say that clarification was the responsibility of the solicitors.

The Chair asked the case officer about the communication methods that had taken place with the applicant. The Principal Planner replied that he had met with the applicant a few weeks prior to the Planning Committee meeting tonight and had been shown around the site and had met the applicant's daughter.

The Chair opened the item up to the Committee for debate and felt that there were no very special circumstances that would allow for development on the site.

With no further comments from the Committee, the Chair proposed the Officer's recommendation and it was seconded by the Vice-Chair. The Chair moved on to voting of refusal of the application based on Officer's recommendations.

**For:** (9) Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair), Colin Churchman, Graham Hamilton, Angela Lawrence, David Potter, Gerard Rice, Sue Sammons and Sue Shinnick.

**Against:** (0)

**Abstained:** (0)

Application 18/01802/FUL - Beauchamp Place, Malvern Road, Grays, Essex, RM17 5TH was refused.

**96. 18/01760/HHA - The Lodge, Fen Lane, Bulphan, Essex, RM14 3RL (deferred)**

The Principal Planner, Tom Scriven, gave a brief outline of the application which had been heard at Committee on 14 February 2019 and had been brought back to outline the implications of approving the contrary to Officer recommendation. The key issues of the application was that:

- The site was in the Green Belt;
- Permitted development rights had been removed;
- The total square metre of the extension would be twice the size of what local policy allowed for; and
- There were no special circumstances that would outweigh the harm that would be caused to the Green Belt.

Adding to the application, the Locum Planning Lawyer, Bob Capstick, referred to section 70(2) and section 38(6) outlined on page 23 of the agenda. He went on to refer to the procedures outlined in paragraph 7.4 and 7.5 in the Constitution. The Locum Planning Lawyer stated that this meant the Committee had one chance to set out the reasons for departing from the Officer's recommendations which needed to be clear, convincing and demonstrate planning grounds.

*(Councillor Churchman was unable to participate in the item as he had not been present for the initial hearing of the application.)*

The Chair opened the item up to the Committee for questions.

Referring to policy PMD6, the Vice-Chair noted it would be unlawful to grant the application approval. He went on to ask if there would be penalties to individual Councillors if they passed the application. The Locum Planning Lawyer answered that there would be no direct penalties.

Councillor Hamilton said that his main reason for refusing the application lay in the last paragraph on page 23 of the agenda. He went on to say that a successful legal challenge to the approval of the application could come from the neighbours and that future similar applications could use this application as precedence for their applications.

The Chair reminded the Committee that the item was still open for questions. He went to ask the case officer whether the application would set a precedent for future similar applications. The Principal Planner answered that the application would not necessarily set a precedence as each application was considered on their own merit. However, consistency was necessary in how the policy was applied.

Agreeing with the Principal Planner that each application was considered on their own merit, Councillor Rice said that there were specific reasons within the National Planning Policy Framework (NPPF) that allowed the Committee to pass the application.

Referring to Councillor Rice's point, the Assistant Director of Planning, Transport and Public Protection, Andrew Millard, said that this was in part correct but the development plan and the material planning considerations of the application had to be taken into account. The total square metre of the extension fell contrary to the development plan.

The Chair opened the item up to the Committee for debate.

Noting the legal advice given by the Locum Planning Lawyer, Councillor Rice referred to the paragraph 145, item C of the NPPF '...the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building' and said that it was a reason that could be used to approve the application. Councillor Rice went on to say that the NPPF was a ministerial document which overrode the Planning Authority's plan that dated back to 1997 and only consisted of a Core Strategy rather than a complete plan. If the application was refused and went on to appeal, the appellant could cite the NPPF.

In reference to Councillor Rice's quote from the NPPF, the Assistant Director of Planning, Transport and Public Protection said that the words within the NPPF were correct and had been in national planning guidance for many years. The NPPF was set at the highest level but needed to be considered alongside the local planning authority's local policy which comprised the development plan. The NPPF could not be looked at in isolation and the two reasonably sized rooms proposed in the application was contrary to the development plan. Adding to this, the Locum Planning Lawyer said that the key word was 'disproportionate' which the Committee did not feel that the proposed extension was and the local policy stated that it was. The Committee needed to justify the reasons why they felt the extension was not disproportionate. The Assistant Director of Planning, Transport and Public Protection added that the Policy PMD6 was clear on the maximum square

metre of extension that was allowed and was not a question of Officer's views versus Members' views.

The Chair reminded the Committee that he had voted against approving the application in the last Committee meeting and went on to say that the size of the extension was significantly higher than the recommended 33 sq.m allowed for in local policy. It was rare for the Committee to go against Officer's recommendations although this had been undertaken in previous applications notably the Wellness Centre and a larger extension in Bulphan but the Committee had provided clear and concise reasons for those. The Chair expressed concern on the term 'unlawful' which would be his reason for refusing the application and did not feel that there was a special circumstance to approve the application. He felt if the application was to be approved, it would allow for other similar applications on the Green Belt to come through.

Echoing the Chair, Councillor Hamilton said the floor space of the extension was not a small breach of the 33 sq.m allowed for in local policy. He too expressed concern on what the criteria would be in future applications if this application were to be approved.

Steve Taylor, Campaign to Protect Rural England Representative, commented that the extension was disproportionate based on local planning policy. He went on to say that he would be fascinated to know how the Planning Department planned to explain the rules of Policy PMD6 following the onslaught of similar applications if this application was to be approved.

After hearing the Officers' views and the Members' views, Councillor Lawrence thought that the applicant was still being fair in the size of the extension proposed and that it was not disproportionate. She went on to say that it was within the applicant's garden and would be building within his boundary and not encroaching on to the environment. Councillor Lawrence stated that she followed her own decisions and did not always go by Officer's recommendations as she supported Thurrock's residents. She felt the applicant was following the processes correctly as he had applied for planning permission and only wanted the extension to house his elderly mother.

The Chair thought that the reason for the extension constituted a special circumstance. He expressed concern on what precedence this would set for future similar applications and the unlawfulness of the decision if the Committee chose to go against the Officer's recommendation for refusing the application.

Councillor Rice stated that the extension proposed was a single storey extension and would not be aligning with the roof which was considered to be not disproportionate. He agreed with Councillor Lawrence's comments in that it was within the applicant's boundary and that neighbours would not see the extension. Councillor Rice went on to quote the NPPF again and stated there were exceptions allowed to policies and that the Committee would make their own decisions with consideration given to Officers' views.

Disagreeing with Councillor Rice, Councillor Hamilton said it was not a criteria that the extension would not be seen by other people or that it was in the applicant's own boundary. He went on to agree that the applicant had followed processes correctly by applying for planning permission but did not feel that this was relevant to the application.

The Chair summed up and moved the item on to voting based on the Officer's recommendation to refuse the application. This was proposed by the Chair and seconded by the Vice-Chair.

*(Councillor Churchman was unable to vote on the item as he had not been present for the initial hearing of the application.)*

**For:** (3) Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair) and Graham Hamilton.

**Against:** (5) Councillors Gerard Rice, Angela Lawrence, Sue Sammons, Sue Shinnick and David Potter.

**Abstained:** (0)

Based on the votes, the recommendation for refusal on application 18/01760/HHA - The Lodge, Fen Lane, Bulphan, Essex, RM14 3RL was rejected.

The Locum Planning Lawyer restated paragraph 7.4 and 7.5 of the Constitution.

Councillor Rice referred again to paragraph 145, item C of the NPPF '...the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building' and stated that this was his reason for departure from Officer's recommendation. He did not feel a single storey extension was disproportionate and said it was understandable if the extension had been double storey. He did not think the application would affect other future applications as each application was judged on its own merit.

The Locum Planning Lawyer stated that the reason did not comply with paragraph 7.4 and 7.5 of the Constitution as planning reasons needed to be provided and supported by substantial evidence. The extension was more than twice the size allowed and the Committee had to explain why they thought the significantly large size was not disproportionate as part of their reason for departure from Officer's recommendation.

Reiterating that the extension was a single storey extension, Councillor Rice said this was not disproportionate and referred again to paragraph 145, item C of the NPPF '...the extension or alteration of a building, provided that it does not result in disproportionate additions'. He did not think a single storey extension would 'wreck the house' and the applicant had already reduced the size by over 40%. Councillor Rice continued on to say that the reason given

was valid and that it was up to Officers to treat other applications on their own merit but the Committee had made their decision on this application which the Officers had to act upon.

Regarding the nature of the application, the Chair said that single storey extensions were difficult as guidelines had to be followed which was why the Committee had to provide clear and concise reasons for departing from the Officer's recommendation.

The Assistant Director of Planning, Transport and Public Protection added that Officers were to provide the Planning Committee with good and professional advice to help the Committee to make sure the decisions taken were legal, concise and consistent following their local planning policy. He went on to say that the fundamental issue was that the local policy allowed for an extension of two reasonably sized rooms of a total of 33 sq.m and the application's proposed extension was clearly double that size. This was contrary to the Council's local planning policy.

Councillor Hamilton said that if the extension had been a few square metres more than what was allowed for in local planning policy, it may have been possible to approve. However, the proposed extension was too large.

Reminding the Committee that a vote had already been taken, the Assistant Director of Planning, Transport and Public Protection said the Committee would now need to articulate why the decision made was contrary to the Council's local planning policy. Once that was made clear, the Locum Planning Lawyer would then advise the Committee on the next step within the Constitution.

Councillor Lawrence questioned whether she could check the legal formalities through an email to enable her to give the criteria required by the Locum Planning Lawyer. She explained that her reason for departure was due to the special circumstance in which the applicant's mother was sick. The Locum Planning Lawyer explained that the application would need to be deferred if the reasons for departure from the Officer's recommendation could not be given that night. Councillor Lawrence answered that she had a few reasons as to why the application should be approved but given the legal formalities that she was not familiar with, she would need more time.

The Chair said that the Committee had legal training to enable the Committee to understand the circumstances and legality within the Planning Committee. He reminded the Committee of their legal obligations and the rules of the local planning policy.

Again, Councillor Rice repeated paragraph 145, item C of the NPPF and stated that this was a sufficient reason as the extension was not disproportionate to the original building. He added the reasons would also include that the extension would enable the applicant's sick mother to live with the applicant. Councillor Rice stated that the debate had taken place, the Committee had made their decision which was that the recommendation for

refusal had been rejected. It was now for the Assistant Director of Planning, Transport and Public Protection to help the Committee overcome this.

The Assistant Director of Planning, Transport and Public Protection explained that he was unable to tell the Committee what to say and that it was for the Committee to explain the reason for departure from the Officer's recommendation. The NPPF had to be considered alongside the Council's local planning policy and the NPPF did not override this. The fact was that the acceptable size of two reasonably sized rooms were 32.9sq.m and the Committee needed to state why the proposed 76.67sq.m was allowed contrary to the local planning policy.

Councillor Rice responded that the proposed size was not considered to be disproportionate according to the NPPF and alongside with the personal circumstance of the applicant's sick mother, it was sufficient reasons for approval. The Assistant Director of Planning, Transport and Public Protection explained that the proposed extension size was not acceptable and that it was disproportionate. The exception in the NPPF could not be quoted as it was over the maximum size allowed for in the local planning policy. Councillor Rice disagreed and said that the NPPF could be quoted as this had been provided in the Planning Training last month.

The Chair suggested the item could be deferred to a later date to confirm with the trainer of the Planning Training on what had been taught. Councillor Rice thought the application should be decided that night and said that personal circumstances had been allowed in previous applications so could not understand why it was not being accepted in this application. The Chair thought that it was usually best to take the professional views of the Officers and the reasons for departing from the Officer's recommendations had to be clear and concise.

Summing up the reasons that had been given for departure, the Assistant Director of Planning, Transport and Public Protection said these included:

1. The NPPF gave the ability to the Committee to approve the application because the Committee considered the extension to be of a proportionate size; and
2. The applicant's personal circumstance – needing additional room to allow his sick mother to live with him.

The Assistant Director of Planning, Transport and Public Protection repeated paragraph 7.4 and 7.5 of the Constitution. The Locum Planning Lawyer added that the reasons given were clear but the Officers were not convinced and that it would be preferable to defer the application until clear and concise reasons could be given.

Councillor Potter queried if it was the intention of the Officers to keep bringing the application back to Committee until the Committee agreed with the Officer's recommendation. The Chair believed this was not the case.

Councillor Hamilton said that most applications would entail a personal circumstance and the Committee had to be objective on applications.

Councillor Lawrence thanked the Officers for their help and said the Committee and Officers had to work together on decisions within applications.

Councillor Sammons said that as there was a special circumstance within the application, common sense should prevail. The extension was larger than what was permitted but no one would be able to see it and was only to accommodate the applicant's sick mother.

Steve Taylor said that the words contained within the NPPF was subjective terms and the local planning policy defined the meaning of those words.

As a vote had already taken place, the Locum Planning Lawyer said that the Planning Officers would draft conditions to be attached to the approval as outlined in paragraph 7.6 of the Constitution. Following the reasons given by the Committee earlier for departing from Officer's recommendation, the Assistant Director of Planning, Transport and Public Protection said the reasons were lawful and normal procedure now would be to draft the conditions of approval of the application.

**97. 18/01635/FUL - FBS Salvage, Stanhope Industrial Park, Wharf Road, Stanford le Hope, SS17 0AL**

The Principal Planner, Jonathan Keen, presented the application which sought permission to build a two storey commercial building. Another condition was recommended to be attached to recommendation B in paragraph 8.2 which was that lorries would be prevented from leaving the site from 7.00 to 19.00 Mondays – Saturdays and no lorries allowed on Sundays and bank holidays.

The Chair opened the item to the Committee for questions.

Councillor Churchman sought clarification on the objection stated in paragraph 4.6. The Principal Planner explained that the Royal Society for the Protection of Birds (RSPB) were not a statutory consultee but had been concerned on the proximity of the site which lay within 500 metres to the Thames Estuary and Marshes Special Protection Area. There had been no objections raised regarding this from Natural England but had requested a number of conditions.

Regarding the birds, Councillor Lawrence questioned whether works would be undertaken during the birds' nesting season. The Principal Planner explained that the ground was hardstanding at present and there were no areas of work to be undertaken which would disturb the birds.

The Chair thought the proposal would help to bring in more business to the area and moved the application on to voting based on the Officer's two

recommendations to approve. Recommendation A was proposed by the Chair and seconded by Councillor Hamilton.

**For:** (8) Councillors Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair), Colin Churchman, Graham Hamilton, Angela Lawrence, David Potter, Gerard Rice, Sue Sammons and Sue Shinnick.

**Against:** (0)

**Abstained:** (1) Councillor Angela Lawrence.

Recommendation B was proposed by the Chair and seconded by Councillor Sue Shinnick.

**For:** (8) Councillors Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair), Colin Churchman, Graham Hamilton, Angela Lawrence, David Potter, Gerard Rice, Sue Sammons and Sue Shinnick.

**Against:** (0)

**Abstained:** (1) Councillor Angela Lawrence.

The application 18/01635/FUL - FBS Salvage, Stanhope Industrial Park, Wharf Road, Stanford le Hope, SS17 0AL was approved.

**98. 18/00450/OUT - Greenwise nurseries, Vange Park Road, Vange, Essex, SS16 5LA**

Tom Scriven, Principal Planner, presented the application which sought planning permission for development of the site for up to 31 custom-build homes. The site fell within the definition of the NPPF regarding previous development of the site and there was an existing lawful use of the site.

Referring to page 83 of the agenda, Steve Taylor questioned the 'fall-back position' mentioned in the table. The Principal Planner explained that this referred to the lawful use of the site which was currently used for storage.

The Chair invited the speakers to present their statements.

The Agent, Mr James Bompas, presented his statement in support of the application.

The Chair asked if there were any similar type of developments to the application in Essex that were successful. The Principal Planner was aware of one successful planning appeal with a similar type of development but there were none in Essex.

Noting the objection regarding access on page 70 of the agenda, Councillor Hamilton asked whether there were problems in this area. Answering that

Highways had been consulted, the Principal Planner said there had been no objections to the proposed access.

The Chair felt the development proposed was exciting and situated in an interesting location. The item was opened up to the Committee for debate.

Councillor Lawrence welcomed the application and was aware of building companies wishing to build in Thurrock and having a design code in place was good to ensure quality. She went on to say she had seen the site which needed tidying up.

Councillor Rice agreed that it was great to see custom build homes proposed as the government was encouraging this type of development. It was good to see that Thurrock was ahead on this type of development.

Councillor Hamilton questioned if the houses would be built simultaneously. The Chair said that this would depend on planning permission. The Principal Planner answered that uptake of the development would not be at the same time and developers would have to stick to the parameters outlined in the design code. Councillor Hamilton went on to ask if there was a limit or cut off point on building works. Explaining that this was not within the Planning Authority's control, the Principal Planner said that there was no definite timescale of building works given the amount of people waiting for the scheme.

The Chair commented that developers were usually aware of the risks involved and 3 years to build was usually given upon permission although land was a different matter. The Principal Planner explained that once the land for the site was approved, development works on the site could commence. There was demand for the scheme and the uptake should be fairly quick.

Regarding the education contribution mentioned on page 70 of the agenda, Councillor Hamilton questioned how this would be arranged. The Principal Planner answered that the education contributions was arranged through the legal agreement with terms agreed.

Councillor Churchman welcomed the development and thought it would help to improve the site.

The Chair sought clarification on whether there would be 3 car park spaces per dwelling. Confirming this was the case, the Principal Planner said 3 was the minimum and it was within the design parameters.

The Chair moved the item on to voting based on the Officer's recommendation. The Chair proposed the recommendation and Councillor Churchman seconded it.

**For:** (9) Councillors Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair), Colin Churchman, Graham Hamilton, Angela Lawrence, David Potter, Gerard Rice, Sue Sammons and Sue Shinnick.

**Against:** (0)

**Abstained:** (0)

The application 18/00450/OUT - Greenwise nurseries, Vange Park Road, Vange, Essex, SS16 5LA was approved.

**The meeting finished at 9.14 pm**

Approved as a true and correct record

**CHAIR**

**DATE**

**Any queries regarding these Minutes, please contact  
Democratic Services at [Direct.Democracy@thurrock.gov.uk](mailto:Direct.Democracy@thurrock.gov.uk)**