

**DORSET COUNCIL - WESTERN AND SOUTHERN AREA PLANNING
COMMITTEE**

MINUTES OF MEETING HELD ON THURSDAY 8 OCTOBER 2020

Present: Cllrs Mike Barron, Dave Bolwell, Kelvin Clayton, Susan Cocking, Jean Dunseith, Nick Ireland, Louie O'Leary, Bill Pipe (Vice-Chairman), David Shortell (Chairman), Sarah Williams, Kate Wheller and John Worth

Also present: Cllr David Walsh (Portfolio Holder for Planning) and Cllr Tony Alford

Officers present (for all or part of the meeting):

Bob Burden (Senior Planning Officer), Ann Collins (Area Manager – Western and Southern Team), Philip Crowther (Legal Business Partner - Regulatory), Colin Graham (Engineer (Development Liaison) Highways), Teresa Rabbets (Housing Enabling Officer), Darren Rogers (Enforcement Manager), John Shaw (Planning Officer), Guy Tetley (Engineer (Development Liaison)), Emma Telford (Senior Planning Officer), Allison Sharpe (Business Support Officer), Anita Skelson (Technical Support Officer), Huw Williams (Lead Project Officer - Corporate Projects) and Denise Hunt (Democratic Services Officer).

13. Apologies

No apologies for absence were received at the meeting.

14. Declarations of Interest

The following declarations were made at the meeting:-

Councillor Dave Bolwell declared that he had spoken against application WD/D/19/003186 - Homestead Farm, Main Street, Bothenhampton at a previous meeting of the committee.

He had taken legal advice and had not predetermined Item 6 - Update Report - Potential Enforcement Action, Homestead Farm, Main Street, Bothenhampton as the report specifically related to enforcement action. He would therefore consider the report with an open mind. and take part in the debate on this item.

Councillor Susan Cocking declared that she had previously declared that she had pre-determined Application WP/20/00306/OBL - Redundant Buildings, Broadcroft, Quarry, Bumpers Lane, Portland, DT5 1HY at the meeting on 10 September 2020 as a member of Portland Town Council Planning Committee. However, she had taken legal advice and had not predetermined Application 5e - Report to Committee to Modify a Planning Permission under Section 97 of the Town and Country Planning Act 1990 and would approach consideration of this report with an open mind.

15. **Minutes**

The minutes of the meeting held on 10 September 2020 were confirmed.

16. **Public Participation**

Representations by the public to the Committee on individual planning applications are detailed below. There were no questions, petitions or deputations received on other items on this occasion.

17. **Planning Applications**

Members considered written reports submitted on planning applications as set out below.

18. **WP/19/00480/OUT - Marsh Road Garage, Marsh Road, Weymouth, DT4 8JD**

The Committee considered an outline application to demolish existing buildings and erect 20 flats with parking and associated works.

The Senior Planning Officer gave a presentation of the site within the Defined Development Boundary (DDB) for Weymouth including photos of the site in relation to the surrounding area, an indicative site plan showing how 20 flats could be accommodated with 16 parking spaces and amenity space; indicative elevations showing 2.5 storeys that included accommodation within the roof space and indicative street scene.

The 1 bed flats ranged between 37 and 46.5sq metres which was within the standard of a minimum of 37sq metres with a shower room and 39sq metres with a bathroom.

The key planning issues were outlined including:-

- principle of development
- residential / visual amenity
- highway safety
- affordable housing
- flooding

Concerns regarding flooding had resulted in the submission of an amended Flood Risk Assessment and Drainage Strategy and was now considered to be acceptable.

Comments made by the Highways Officer had resulted in 2 additional parking spaces. He also advised of a single recorded injury incident in the area as a result of a rear end shunt before the junction with Newstead / Marsh Road.

Some members raised concerns in relation to overdevelopment of the site; the mass of the building compared with the terraced housing; non-compliance with Local Plan policy ECON3; land stability at the rear of the site

which bordered the Rodwell Trail and the decrease in amenity space due to the additional parking spaces which was considered to be insufficient for 20 flats and impact on parking congestion in the area.

Other members were mindful of the need for smaller properties, encouraging use of brownfield sites, high density accommodation and use of public transport in urban areas.

Clarification was sought on the views of Weymouth Town Council and the Senior Planning Officer advised that although not originally opposed to the scheme, Weymouth Town Council had lodged an objection when re-consulted on the amended plans.

She confirmed that the Environment Agency, Wessex Water and the Flood Risk Management Team were content with the proposal and that, in her view, non-compliance with Local Plan policy ECON3 was outweighed by the lack of 5 year housing land supply and that the site was surrounded by residential development with good transport links.

Further to a question in relation to the affordable housing contribution, it was confirmed that the Section 106 Agreement included a clause that would allow a viability assessment to be resubmitted should the number of properties alter as part of a reserved matters application.

Proposed by Councillor Susan Cocking, seconded by Councillor John Worth.

Decision:

(A) That authority be delegated to the Head of Planning to grant, subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) in a form to be agreed by the legal services manager to secure the following:

- The provision of an off-site affordable housing contribution of £5,772

and subject to the conditions (and their reasons) outlined in the appendix to these minutes.

(B) Refuse permission for the reasons set out below if the legal agreement is not completed within 6 months of the committee resolution or such extended time as agreed by the head of planning:

1. In the absence of a satisfactory completed Section 106 agreement the scheme fails to ensure provision of a financial contribution for the off-site provision of affordable housing. Hence the scheme is contrary to policy HOUS 1 of the West Dorset, Weymouth and Portland Local Plan 2015.

19. WD/D/20/000597 - Land West of, 5 Chapel Lane, Maiden Newton

The Committee considered an application to demolish existing outbuildings and erect 2 three bedroom detached houses with parking.

Members were given a presentation including an aerial photo demonstrating the mixture of orientation and style of buildings in the area; a proposed site plan with 2 parking spaces for each dwelling; a plan of the proposed dwellings within the street scene; elevations and floor plans, photos showing the access onto Chapel Lane, Old Chapel building and the garage to be demolished. The site was within the DDB and Area of Outstanding Natural Beauty (AONB), and for the most part outside the Conservation Area.

The key planning issues were outlined and members were advised of amendments to the wording of conditions that had been included on the update sheet circulated to members prior to the meeting.

The Technical Officer read out the written representations received in accordance with the public speaking protocol which are attached as an appendix to these minutes.

Councillor Tony Alford - Dorset Council, Eggardon Ward, addressed the committee, saying that the development was not visually attractive and not built on the principles of safety and inclusivity. He drew attention to the failure of the proposal to meet NPPF paragraphs 28 and 110 in addition to local plan policies.

The following points were made by officers further to comments made during public participation:-

- no loss of privacy as the large first floor front windows looked out onto parking and Chapel Lane and rear windows into the garden areas.
- that the development met national space standards
- technical services considered the proposal to discharge water to be acceptable with a request for a condition for a surface water management plan to be submitted.
- car parking spaces had been widened to 3 metres to enable a vehicle to turn sooner out of a space.
- a third smaller bedroom was served by roof lights.

Proposed by Councillor Bill Pipe, seconded by Councillor Kate Wheller.

Decision: That the application be approved subject to the conditions (as amended in the update sheet) outlined in the appendix to these minutes.

20. **WD/D/19/001514 - West Coombe, Smishops Lane, Loders, Bridport DT6 3SA**

The Committee considered an application to demolish an agricultural barn and erect a detached dwelling and garage.

Members were given a presentation of the 0.4 hectares site outside of the Loders DDB and within the Conservation Area. The proposed building was on a smaller footprint with minimal visibility of the site due to trees.

The key planning issues were highlighted including:-

- principle of development
- design, appearance and impact on the character of the area and AONB
- no undue impact on Up loaders and Loders Conservation Area
- no undue impact on agricultural enterprise

The barns had not been used for 15 years and this was considered to be a sustainable location due to its proximity to village amenities including a school and public house.

The Technical Officer read out the public written representations which are attached as an appendix to these minutes.

Cllr Alford addressed the committee saying that, in his view, the report recommendation had been favourable due to the site being surrounded by trees and that this might change in future. The proposal was for a new build outside the DDB that did not comply with Local Plan policies SUS2 and SUS3 in relation to accommodation purposed for local needs, rural worker homes and affordable housing. The NPPF also made clear the avoidance of building isolated homes in the countryside with a preference for proposals that enhanced the vitality of local communities. It also contravened the Loders Neighbourhood Plan that was a living, working document despite being more than 2 years old.

Responding to comments made during public participation, the Planning Officer confirmed the following points:-

- an additional home would add to the vitality of the village in allowing a family to move in and reach facilities in the village on foot.
- a condition for a tree plan had been included with replacement tree planting if necessary. Tree Preservation Orders could also be considered in the longer term.

Members asked about the mobile home on the site and were informed that this had been subject to an application for a temporary worker's dwelling in 1989, although it had been used for agricultural storage during the past 15 years. It was confirmed that the mobile home would be used during the construction and thereafter removed.

Councillor Nick Ireland commented that this was a further example of the DDB being ignored and that the proposal was not complaint with rule E5 of the Loders Neighbourhood Plan approved in July 2016. It also contravened Local Plan policies SUS2 and SUS4. He felt that the benefits were not sufficient to override these policies in order to approve an application for a single dwelling due to the lack of the 5 year housing land supply. He proposed refusal of the application which was seconded by Councillor Kelvin Clayton.

Members referred to paragraph 16.4 and 16.5 of the report, highlighting that the Loders Neighbourhood Plan was over 2 years old which affected its relevance with regard to the proposed scheme.

Despite the application being outside the DDB and contrary to the Loders Neighbourhood Plan, the proposal was considered to be a sustainable development due to its proximity to the village facilities and that the Loders Neighbourhood Plan had not specified development sites.

With the agreement of the proposer and seconder, the proposal to refuse the application was reluctantly withdrawn.

Proposed by Councillor Bill Pipe, seconded by Councillor David Shortell.

Decision: That the application be approved subject to the conditions outlined in the appendix to these minutes.

21. **WP/20/00361/OBL - Land South of Louviers Road, Weymouth**

The Committee considered a report concerning the modification of planning obligations on Section 106 Agreement dated 20 December 2018 (original planning approval WP/17/00832/FUL).

The Senior Planning Officer outlined the report that sought to remove the requirement for reinvestment of receipts in the local area, stating that the mix and tenure of the 40 affordable units would not change as a result of the alteration of the Section 106 Agreement.

Councillor Louie O'Leary stated that the development which was in his ward was well advanced and he had concerns about a clause preventing the reinvestment of social housing in the area. He proposed refusal of the recommendation.

This was supported by Councillor Kate Wheller who, whilst acknowledging that the Council may have benefitted from this clause in the past, was concerned that the proposal appeared to be giving up an opportunity for further investment when there was a significant need for affordable housing in the local area.

Members were advised that neither the NPPF nor Policy HOUS1 required reinvestment in the local area and therefore there was no policy basis upon which to draft a reason for refusal. The Housing Enabling Officer stated that this type of clause was expected by Registered Providers and did not necessarily mean that the area would lose out on future investment. The new developer could also be viewed as a welcome addition to the area.

Following this advice, Councillor Kate Wheller reluctantly withdrew her support for refusal of the proposal.

Proposed by Councillor Bill Pipe, seconded by Councillor Dave Bolwell

Decision: That authority be delegated to the nominated officer to modify the S106 agreement dated 20 December 2018, to

- modify mortgagee in possession clauses by changing the definition of

charge and paras 10.1 to 10.3 of schedule 3 in line with the Securitisation Working Groups standard mortgage in possession clause;

- and seek deletion of para 12 of Schedule 3 indicating they cannot be bound to reinvest in the same local authority area.

22. **Duration of Meeting - Time Limit**

A vote to continue the meeting was taken in accordance with Part 2, Paragraph 8.1 of the Council's Constitution.

Decision: That the meeting be extended to allow the business of the meeting to be concluded.

23. **Report to Committee to Modify a Planning Permission under Section 97 of the Town and Country Planning Act 1990 for the planning consent WP/14/00330/OUT, WP/16/00388/VOC and WP/19/00184/VOC**

The Senior Planning Officer advised that a report to remove the affordable housing obligation due to viability arising from the costs of unforeseen contamination of the site had been considered at the meeting on 10 September 2020. A number of the properties had been sold and others were currently being marketed.

The proposed modification related to public and environmental protection by preventing works that would compromise the capping systems across the site to prevent the risk of asbestos fibres in the soil from being released into the air as recommended by WPA Contaminated Land Consultants

A summary of correspondence received from a representative of Betterment properties had been included in a second update sheet circulated to members prior to the meeting that included a comment that an Article 4 direction would be more appropriate.

However, the Council's Legal Department considered that modifying the planning permission under Section 97 of the Town and Country Planning Act 1990 to include the proposed new condition would be more appropriate. If approved a notice would be served on all relevant parties and confirmed by the Secretary of State.

Councillor Susan Cocking stated that it was important to protect residents from contamination as more development took place on reclaimed land.

Members drew attention to the original conditions granted as part of the outline planning application and the covenants between the developer and homeowner at a time and questioned why it had taken a long time to suggest the report's proposal in order to safeguard owners' interests.

The Senior Planning Officer advised that this had come to light since occupation of the properties and that owners could be compensated for any loss of value to the properties. The same enforcement process would be

used as with any condition to require the owner to submit a planning application for works below 1m in depth.

Proposed by Councillor Susan Cocking, seconded by Councillor John Worth.

Decision: That Members agree to the modifying of the outline planning permission WP/14/00330/OUT and WP/16/00388/VOC and to include the condition in respect of WP/19/00184/VOC (if subsequently granted) by imposing the following new condition on such permissions:

No groundworks shall take place at a depth more than 1.0m below ground level of all buildings of the development or at a depth more than 0.60m below ground level for all private gardens, all privately owned external areas and all other areas of soft landscaping and groundworks shall not compromise the high visibility membrane present 1.0m below ground level of all buildings and 0.60m below ground level for all private garden areas, all privately owned external areas and all other areas of soft landscaping. For the avoidance of doubt this restriction shall apply to any works permitted pursuant to Article 3 of the Town and Country Planning (General Permitted Development Order) (England) Order 2015 as amended or any Order which replaces the same.

Reason for Decision

To protect the health of the persons living at the properties.

24. Update Report - Potential Enforcement Action, Homestead Farm, Main Street, Bothenhampton, Bridport, DT6 4BJ

The report was presented by the Enforcement Manager who provided the same presentation that was given to the Committee at its meeting on 10 September 2020 for the benefit of newly appointed members of the committee who had joined since that time.

He referred to the update sheet containing e-mails from the applicants on 30 September and 7 October 2020 that had been circulated to members prior to the meeting. These e-mails confirmed that the site had been locked down and the keys handed back to the applicants and that the site would be available to local residents for parking during highway authority works to the high pavement. The applicants had indicated that they would submit an appeal of the committee's decision in due course.

The Enforcement Manager outlined the 3 enforcement options below in full.

Option 1 – That no enforcement action be taken at this stage.

Option 2 - That enforcement action be taken requiring demolition of the whole building - *this was not considered to be expedient as the buildings were capable of being altered to more closely match the approved building and therefore the proportionality of taking such action needed to be considered.*

Option 3 - That enforcement action be taken requiring alteration of specific elements.

The Administration Assistant read out some of the written representations in accordance with the public speaking protocol. All written representations received were circulated to the committee prior to the meeting and are attached as an appendix to these minutes.

In response to comments made during public participation, the Enforcement Manager stated that the differences of the "as built" and "as approved" schemes were marginal. However, the subjective nature of the issues had been reflected in the public comments as well as differences in views of officers and the committee. The fallback position was the original permission as granted and therefore Option 1 meant that the Planning Inspector's view could inform any enforcement action that may be appropriate and was a more defensible position for the Council going forward.

Members questioned the accuracy of the measurements provided in the report as different figures had been provided as part of the Non-Material Amendments (NMAs). They asked how the Planning Inspector would assess the accuracy of these figures when they may also be reliant on the drawings and measurements presented to them.

The Enforcement Manager confirmed that it was usual practice for planning officers to rely on measurements provided by the applicant and how this was dealt with going forward would depend on the nature of any appeal. It was not unusual for a Planning Inspector to bring measuring equipment to a site, however, if an appeal resulted in a public inquiry then the measurements would be investigated by the Council in proofs of evidence.

Members remained concerned regarding the varying measurements and further highlighted that an appeal had not yet been submitted.

Councillor Bill Pipe proposed that in the absence of a lodged appeal, that enforcement action was not taken provided that an appeal was made by 15 November 2020. This would allow for a further report to be considered by the committee at its meeting on 3 December 2020.

Proposed by Councillor Bill Pipe, seconded by Councillor Jean Dunseith.

Decision: That the Committee agrees not to take enforcement action providing that an appeal is made against the decision to refuse planning permission by 15 November 2020. If no appeal is made by 15 November 2020 the question of enforcement action will be reported back to the Committee at the earliest opportunity.

Reason for Decision

The Inspector's view on any subsequent planning appeal will help to inform what formal enforcement action may be appropriate, if any, particularly noting that Inspectors often give a view in their formal decision letters as to which aspects of a development they consider acceptable, and which are not. By waiting for the outcome of any planning appeal, the Council will have a more defensible position as regards to any formal enforcement action it then decides to take.

25. **WP/20/00417/TEL - Telecommunications Mast Site, Weymouth Way, Radipole, Weymouth**

The Committee considered a proposal for the installation of an 18m high monopole supporting 6 antennas, 3 equipment cabinets and ancillary development.

Councillor John Worth left the meeting at this juncture.

Members received a presentation on the key matters regarding the acceptability of the siting and appearance of the scheme on land to the north of Manor Roundabout, Weymouth. There were 2 existing poles of 12 metres and 15 metres in height in the wide area of highway verge rising to the north with trees and a bridleway.

The site was with the Weymouth DDB with a low risk of surface water and fluvial flooding. Distances were provided to nearby facilities including the main entrance to Radipole Primary School (250m), Radipole nature reserve (220m); Lorton Meadow (250m); Redlands Sports Centre (500m) and St Nicholas and St Laurence School further to the north. The nearest homes to the application site were in Greenway Road (30m).

The proposal was to upgrade the lower of the 2 monopoles with a higher and more substantial monopole 17metres to the west of the one to be removed. The existing 15m mast located further to the east was used by a different network operator and would be retained.

A new mast was needed to support 2, 3, 4, and 5G antennae and the desired network coverage could not be achieved without a higher mast as 5G antennae needed to be 3m above the other antennae on the mast. The pole would be wider with antennae not fully enclosed within a glass fibre shroud.

Councillor Louie O'Leary left the meeting at this juncture.

The Lead Project Officer advised that the update sheet circulated to members prior to the meeting included a response from the Dorset Council Highways Liaison Engineer and further representations. Some of the points raised related to health concerns that could not be considered as part of this application.

The main considerations were outlined including conformity with national and local planning policy for communications development, the adequacy of the justification of the proposal and the provision and adequacy of other background information in support of the application.

The site was considered to be a good location for communications development and the application was supported by a Declaration of Conformity with ICNIRP Public Exposure Guidelines. Members were further advised that paragraph 116 of the NPPF 2019 stated that *"Local planning authorities must determine applications on planning grounds only. They*

should not seek to prevent completion between different operators, question the need for an electronic comms system, or set health safeguards different from the International Commission guidelines for public exposure."

If the committee considered that there was a need to approve the siting and appearance of the mast, the statutory deadline was in 2 days' time.

Written representations received in accordance with the public speaking protocol were read out by the Administration Assistant and are attached as an appendix to these minutes.

In response to a question, members were advised that the acoustic fencing had been implemented as part of highways development and would not impact on this development.

Proposed by Councillor Bill Pipe, seconded by Councillor Dave Bolwell.

Decision: The applicant be informed that Dorset Council's prior approval as the local planning authority is not required.

Reason for Decision

Having regard to policy:

- (i) COM10 (The Provision of Utilities Service Infrastructure);
- (ii) ENV1 (Landscape, Seascape and Sites of Geological Interest);
- (iii) ENV2 (Wildlife and Habitats);
- (iv) ENV5 (Flood Risk);
- (v) Policy ENV10 (The Landscape and Townscape Setting); and
- (vi) ENV16 (Amenity),

of the adopted West Dorset, Weymouth and Portland Local Plan 2015 and other material considerations including national planning policy and planning practice guidance, the proposed development is considered to be in general accordance with the development plan in force in the area. Details of the siting and appearance of the proposed development have been set out within the application and would be subject to conditions set out in Class A of Part 16 of the Schedule to the Town and Country Planning (General Permitted Development) Order 2015 (as amended). The development would not be unduly detrimental to the appearance of the locality and the applicant has demonstrated that there is a need for the technology and that all technically feasible alternatives have been explored and that the application proposal results in the least visual harm. The application is therefore in accordance with policy COM10 of the Local Plan. The proposed development further accords with national planning policy for high quality communications set out in paragraphs 112 to 116 of the National Planning Policy Framework (February 2019). Various concerns have been expressed in representations made about the application regarding the siting and appearance of the proposed apparatus and other matters. However, having considered the impact of the development, the rights of the applicant, the general interest and the public sector equalities duty, the opinion is that

the proposed development as described in the application has been adequately justified and is satisfactory and that any effect on human rights, on protected characteristics and on the character, appearance and amenities of the locality do not outweigh the authorisation and permitting of the subject development in accordance with adopted and prescribed planning principles.

26. Appeal Decisions

The Committee considered a report outlining appeals and appeal decisions in order to take them into account as a material consideration in the Planning Committee's future decisions.

Noted

27. Urgent items

There were no urgent items.

28. Update Sheets

The two update sheets are attached to these minutes.

Appendix - Decision List

Duration of meeting: 10.00 am - 4.00 pm

Chairman

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