

**Minutes of a Meeting of the Planning
Applications Committee held at
Council Chamber, Surrey Heath House
on 10 February 2016**

+ Cllr Edward Hawkins (Chairman)
+ Cllr David Mansfield (Vice Chairman)

+ Cllr David Allen	+ Cllr Katia Malcaus Cooper
+ Cllr Richard Brooks	+ Cllr Robin Perry
+ Cllr Nick Chambers	+ Cllr Ian Sams
+ Cllr Mrs Vivienne Chapman	- Cllr Conrad Sturt
+ Cllr Colin Dougan	+ Cllr Pat Tedder
+ Cllr Surinder Gandhum	+ Cllr Victoria Wheeler
- Cllr Rebecca Jennings-Evans	+ Cllr Valerie White

+ Present
- Apologies for absence presented

Substitutes: Cllr Dan Adams (In place of Cllr Rebecca Jennings-Evans)

In Attendance: Cllr Ruth Hutchinson, Cllr Adrian Page, Duncan Carty, Jane Ireland, Emma Pearman, Michelle Fielder, Jonathan Partington, Lee Brewin, Cllr Paul Deach, Laura James, Karen Limmer, Ian Macey, Richard Payne, Jenny Rickard and Cllr Bill Chapman

Cllr Pat Tedder arrived part way through min 45/P
Cllr Ian Sams arrived part way through min 45/P

Cllr Bill Chapman from min 46/P – 47/P
Cllr Paul Deach from min 44/P – 47/P
Cllr Ruth Hutchinson from min 44/P – 47/P

44/P Minutes

The minutes of the meeting held on 13 January 2016 were confirmed and signed by the Chairman.

45/P Application Number: 15/0884 - land north of Beldam Bridge Road, West End, GU24 9LP

The application was for the outline planning application for the erection of up to 85 dwellings with new access and change of use of land to publicly accessible recreation space (SANG), car parking, landscaping and open space. (Details of access only to be agreed).

A site visit was carried out at the site.

Members were advised of the following updates:

'Correction: The comments of the County Highway Authority have now been received. No objections are raised.'

Six further objections have been received via Mr Gove MP, which raise issues already considered in the officer report but raised concern about the lack of challenge to the appeal decision for SU/14/0532 (Land south of Kings Road et al).

An objection has been received from the Windlesham Heathpark Wood Group, which is appended along with further comments (in objection) from the West End Action Group. These letters were also separately forwarded by Mr Gove MP.

Additional representations have been received from an objection making the following further comments:

- *The nursery land has not been used for over 20 years;*
- *Concern about the reporting of the County Highway Comments [Officer comment: see correction above];*
- *Disagree with the report's indication that the land is in a poor condition;*
- *There is a minimum of 6.28 years supply of housing;*
- *Rate of build is governed by developers (marketing/demand) and that developers (as in an appended Fareham BC report) will hold back delivery to suit the market/demand. The recent new builds in West End are struggling to be sold;*
- *Wider view of housing demand (to include SHMA partners and other neighbouring Boroughs) should be taken; and*
- *A request to defer this application.*

The Planning Policy Manager has provided an updated position in relation to housing land supply for the Borough, and has been appended to this update.

The applicant has requested an extension to complete the required legal agreement for SANG delivery and retention to 10 March 2016, with any required further extensions agreed by the Executive Head of Regulatory.

The applicant has confirmed that they also wish to provide a unilateral undertaking to provide affordable housing and a SAMM payment in line with adopted policy/SPD. The Council considers that these matters can be considered at the reserved matters stage (when the number/size of units is known)

CHANGE TO RECOMMENDATION:

To extend the time period to complete the legal agreement for SANG delivery and retention to 10 March 2016, with any required extensions to be agreed by the Executive Head of Regulatory.'

Members were further advised that the extension of the time period to complete the legal agreement should read 11 March 2016. In addition informative 3 would be amended to relate to condition 15 and not 14 as detailed in the report. In addition the Committee was advised of details regarding the council's housing land supply.

The Ward Member had concerns about various issues including road safety and flooding. It was requested that should the Committee be minded to approve the application, that any reserved matters would be brought back to Committee.

Members were advised that although there had not been any comments in the report from the Council's drainage officer, the Local Lead Flood Authority had made comments and recommended conditions 9, 10 and 11.

Some Members also had concerns regarding the safety as the proposed access would be on a bend in the road. Officers advised that condition 15 proposed a speed reduction scheme.

The Committee sought clarification on why policy H8 of the Core Strategy had been disregarded by the inspector at appeal, which stated that reserved sites should not be developed. Officers referred Members to page 61 of the report which stated that the inspector advised greater weight to the NPPF than local policies.

Resolved that application 15/0884 be approved subject to conditions and the satisfactory legal agreement to secure the delivery and retention in perpetuity of a Suitable Accessible Natural Greenspace (SANG) by 11 March 2016.

In the event that a satisfactory legal agreement has not been received by the 11 March 2016 to secure SANG provision/retention, the Executive Head - Regulatory be authorised to refuse the application for the reasons as set out in the report of the Executive Head – Regulatory.

Note 1

It was noted for the record that Committee Members had received correspondence from the West End Action Group.

Note 2

As the application triggered the Council's public speaking scheme, Mr Bain and Mr Consterdine spoke in objection and Mr Woolf spoke in support.

Note 3

The recommendation to approve the application was proposed by Councillor Edward Hawkins and seconded by Councillor Colin Dougan.

Note 4

In accordance with Part 4 Section D paragraph 18 of the Constitution, the voting in relation to this application was as follows:

Voting in favour of the recommendation to approve the application:

Councillors, Richard Brooks, Nick Chambers, Vivienne Chapman, Colin Dougan, Surinder Gandhum, Edward Hawkins, David Mansfield and Robin Perry.

Voting against the recommendation to approve the application:

Councillors Dan Adams, David Allen, Katia Malcaus Cooper, Victoria Wheeler and Valerie White.

46/P Application Number: 15/1047 - The Castle Grove Inn, Scotts Grove Road, Chobham GU24 8EE

The application was for the erection of a two storey rear extension following the part demolition and conversion into 2 three bedroom semi-detached houses and 1 one bedroom bungalow with parking and access. (Amended plans rec'd 08/01/16).

This application would normally have been determined under the Council's Scheme of Delegation for Officers, however, at the request of a Local Ward Councillor it had been called in to be determined by the Planning Applications Committee.

The Ward Member had concerns about the junction and requested that the fence be lowered or removed at the junction to improve the sight lines. It was also noted that the pavement was non-existent where the fence had been installed, which caused a safety issue for pedestrians.

Some Members requested that a condition be added to remove all fencing and install bollards. Officers advised that the Local Planning Authority could remove the rights to put up any fences after occupation, by amending condition 5.

Resolved that application 15/1047 be approved as amended subject to conditions as set out in the report of the Executive Head – Regulatory.

Note 1

The recommendation to approve the application as amended was proposed by Councillor David Mansfield and seconded by Councillor Robin Perry.

Note 2

In accordance with Part 4 Section D paragraph 18 of the Constitution, the voting in relation to this application was as follows:

Voting in favour of the recommendation to approve the application as amended:

Councillors Dan Adams, David Allen, Richard Brooks, Nick Chambers, Vivienne Chapman, Colin Dougan, Surinder Gandhum, Edward Hawkins, Katia Malcaus Cooper, David Mansfield, Robin Perry, Ian Sams, Pat Tedder, Victoria Wheeler and Valerie White

47/P Application Number: 15/0868 - Hook Meadow, Philpot Lane, Chobham GU24 8HD

The application was for the change of use of former field shelter and erection of extensions to it, to form single storey dwelling house and creation of residential curtilage (retrospective).

This application would normally be determined under the Scheme of Delegation for Officers, however, the application had been called in by Member's for consideration by the Planning Applications Committee.

A site visit took place at this site.

Members were advised of the following update:

1. *The text at para 7.5.7 of the Committee Report is to be replaced by that below:*

The representations that the applicant has made in relation to this matter have been carefully considered in compliance with the Human Rights Act 1998 and on balance it is considered that although Article 8 may be engaged this is necessary in a democratic society. Further, the same issues were considered by the HHJ Seymour when granting the Injunction in the High Court.

2. *In response to the Committee Report the applicant has circulated a 9 page written response to Members. From this it is clear that the applicant wishes the application to include planning permission for the porch and lounge extension. The matter is therefore presented to planning committee as an application for the change of use of the former field shelter and the extensions erected. Accordingly para 4.2 of the Committee Report is deleted.*

The material considerations against which the planning application is assessed does not however change and the principal considerations remain as detailed below:

- a. Whether the development can reasonably be considered works of conversion?*
- b. Whether the new build development is appropriate development in the Green Belt?*
- c. Whether any form of SPA mitigation should be secured (in the event planning permission is to be granted)?*
- d. Whether there are very special circumstances present?*

Officers conclude that the assessments undertaken in the Committee Report remain valid, the development cannot reasonably be considered works of conversion, the new build does not meet any of the tests in the NPPF to not be inappropriate development in the Green Belt. There was no lawful residential occupation of the site prior to the SPA designation and there are no very special circumstances present to clearly outweigh the harm to the Green Belt which would otherwise arise.

The inclusion of the extensions in the application does, however, mean that the first reason for refusal in the Committee Report must be amended and as such this is revised below:

The Local Planning Authority is not satisfied that the former field shelter was of permanent and substantial construction as required by paragraph 90 of the NPPF and as such, the authority cannot reasonably conclude that the building was suitable for conversion to a dwelling house. Moreover the application is not supported by any evidence or plans demonstrating how

substantive structural or other elements of the former field shelter were utilised or retained in the works undertaken in the creation of the dwelling house. It is not therefore considered the applicant has sufficiently and robustly demonstrated that works do not comprise the erection of a new dwelling house as alleged in the extant enforcement notices or addressed by the Appeal Inspector at paragraph 2 of the appeal decision letter (ref: APP/D3640/C/09/2117978 dated 24 May 2010). This element of the proposal is therefore inappropriate development in the Green Belt which is, by definition, harmful and by its very nature causes harm to the openness of the Green Belt. Moreover, the creation of the residential curtilage to serve as garden land to the unauthorised dwellinghouse and the extensions undertaken to form the porch and the lounge causes further harm to the open and undeveloped character of the area and results in an enclosed and domesticated area of land, while the extensions increase the scale and mass of the unauthorised dwellinghouse. The resulting countryside encroachment is contrary to the purposes of including land in the Green Belt and reduces Green Belt openness. As such the development is contrary to the aims and objectives of the Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework.

- 3. For the sake of completeness a copy of the enforcement appeal decision is provided - Members attention is drawn to paragraph 2 wherein the Inspector concludes that the works undertaken were not works of conversion but the erection of a freestanding structure.*
- 4. The LPA has been copied into correspondence between the applicant and Natural England (NE). This correspondence relates to the need to mitigate the application's impact on the Thames Basin Heaths SPA. The applicant considers that mitigation is not required as she was in residence on the site prior to the SPA designation in March 2005. NE has advised that if the applicant can prove her occupation of the land occurred prior to this date mitigation is not required. However, it is noted that the applicant's appeal against the enforcement notice on the grounds the works were lawful by the passage of time was dismissed and as such there has been no lawful residential occupation of the land. In similar cases the LPA has rejected claims that periods of unlawful residential occupation of sites justifies setting aside the requirement for SPA mitigation to be secured. This approach has been accepted by appeal inspectors and contributions towards SPA mitigation secured.*
- 5. A response of no objection has been received from the Environment Agency and as such no objection on flood risk grounds is raised.*
- 6. One further letter of support bringing the number to 24 has been revived. This raises the following matters:*
 - a. Precedence – others have been allowed*
 - b. This is a residential use in a residential area*
 - c. The delay in validation is unacceptable*
 - d. The application would not set a precedence*

- e. *The applicant has simply turned a field shelter into a habitable dwelling as she had nowhere to go*
7. *An objection has been received on behalf of the Chobham Society. This raises the following matters:*
- a. *Inappropriate development in the Green Belt*
 - b. *The site is in the flood plain*
 - c. *Precedent*
 - d. *The applicant has flouted the enforcement notices*
8. *The applicant has responded to the letter of objection and comments:*
- a. *It is too late for the comments to be considered as relevant*
 - b. *There are cases of precedence having being set*
 - c. *Every application is decided on its own merits; i.e. the fear of setting a precedent is not a reason for refusal nor is the existence of any enforcement notices*
 - d. *Questions whether the author 'is part of and represents The Chobham Society'*

Members were also advised that the Environment Agency had raised no objection to the proposal.

A Member spoke on behalf of a resident who was in support of the application.

Whilst Members had sympathy for the applicant, it was however noted that there had been a public enquiry and planning permission had not been sought prior to the development.

Some members asked whether a permission could be granted that was limited to the lifetime of the applicant. Officers advised this was not the application before them and further, the enforcement action had gone through a public inquiry process and a High Court Judge in recent injunctive proceedings. These acknowledged the harm to the Green Belt.

Members asked what were 'very special circumstances'. Officers explained these were part of the planning test which might justify development by the applicant taking place in the Green Belt. However, officers stated that the applicant's circumstances had not changed to alter their view set out in the report and this was acknowledged in the High Court injunction, which also applied to the extension works carried out.

Resolved that application 15/0868 be refused for the reasons as set out in the report of the Executive Head – Regulatory.

Note 1

As the application triggered the Council's Public Speaking Scheme, Miss Hook, the applicant spoke in support.

Note 2

The recommendation to refuse the application was proposed by Councillor David Mansfield and seconded by Councillor Ian Sams.

Note 3

In accordance with Part 4 Section D paragraph 18 of the Constitution, the voting in relation to this application was as follows:

Voting in favour of the recommendation to refuse the application:

Councillors Dan Adams, Richard Brooks, Nick Chambers, Vivienne Chapman, Colin Dougan, Surinder Gandhum, Edward Hawkins, David Mansfield, Robin Perry, Ian Sams, Pat Tedder, Victoria Wheeler and Valerie White

Voting against the recommendation to refuse the application:

Councillors David Allen Katia Malcaus Cooper

Chairman