

**Minutes of a Meeting of the Planning
Applications Committee held at
Council Chamber, Surrey Heath House
on 5 April 2017**

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

+ Cllr Richard Brooks	Cllr Adrian Page
- Cllr Nick Chambers	+ Cllr Robin Perry
+ Cllr Mrs Vivienne Chapman	- Cllr Ian Sams
+ Cllr Colin Dougan	Cllr Conrad Sturt
+ Cllr Surinder Gandhum	- Cllr Pat Tedder
+ Cllr Jonathan Lytle	+ Cllr Victoria Wheeler
+ Cllr Katia Malcaus Cooper (from part way through min 70/P)	+ Cllr Valerie White

+ Present

- Apologies for absence presented

Substitutes: Cllr Ruth Hutchinson (In place of Cllr Pat Tedder) and Cllr Max Nelson (In place of Cllr Ian Sams)

In Attendance: Lee Brewin, Ross Cahalane, Duncan Carty, Michelle Fielder, Gareth John and Jonathan Partington

Kevin Cantlon

The Chairman and on behalf of the Committee, wished to say that he was so saddened by the tragic loss of a much loved and valued colleague. He felt a great sadness for his widow Natalie and he added he would be sending a personal message to her.

69/P Minutes

The open and exempt minutes of the meeting held on 9 March 2017 were confirmed and signed, subject to the amendment of note 5 at minute 63/P, at the voting paragraph to approve the application, it should read 'voting against the recommendation to approve'. This typo was noted but the minutes for signature and the minutes on the Council's website had already been updated. A couple of minor typos in the printed hard copy agenda were also noted but they had already been amended in the minutes for signature and the Council's website.

70/P Application Number: 16/0652 - 24 and Greenaways 26 London Road, Bagshot, GU19 5HN

The application was for the erection of a three storey building to provide 15 x one bedroom and 10 x two bedroom retirement apartments with associated communal facilities, vehicular access, car parking and landscaping.

Members were advised of the following updates:

'The Council's Viability Officer has confirmed a requirement for £226,000 towards affordable housing provision in lieu of on-site provision.

The Council's Arboricultural Officer has raised no objections to the proposal.

Natural England has raised an objection to the proposal on the following basis:

"The application is not currently able to contribute towards an identified SANG and has not proposed an acceptable individual bespoke SANG to provide the avoidance and mitigation measures required. An identified SANG is required to enable certainty that there will not be a significant impact upon the SPA from development. SANG contributions must also be secured. Natural England therefore objects to the proposed development and recommends that the application be refused planning permission."

A legal agreement is advanced for the provision of the affordable housing contribution and a SANG contribution of £8,889.40 but has not been finalised.

Officers have carefully considered the objection from Natural England and, notwithstanding the Ash and Tongham decisions indicated in Paragraph 7.6.4, are concerned that there does not appear to be a SANG solution for this proposal.

In addition, the national Planning Practice Guidance at Paragraph: 007 Reference ID: 21a-007-20140306, issued in March 2014, indicates:

"Care should be taken when considering using conditions that prevent any development authorised by the planning permission from beginning until the condition has been complied with. This includes conditions stating that 'no development shall take place until...' or 'prior to any works starting on site...'

Such conditions should only be used where the local planning authority is satisfied that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission. A condition precedent that does not meet the legal and policy tests may be found to be unlawful by the courts and therefore cannot be enforced by the local planning authority if it is breached. Development carried out without having complied with a condition precedent would be unlawful and may be the subject of enforcement action."

One of the tests for imposing planning conditions is that they are "reasonable in all other respects". It is a concern that the imposition of Condition 3, which would prevent the commencement of the development until the SANG solution is provided would be unreasonable when there is significant uncertainty that this could be complied with during the lifetime of the permission.

As such, given the materiality of the Natural England objection and the Government guidance; and along with the precautionary approach which needs to be taken in relation to development which could have an adverse effect on the SPA, the recommendation is amended to recommend refusal on SPA grounds (both SANG and SANG provision).

The lack of a mechanism to secure a contribution towards affordable housing provision elsewhere in the Borough is also added as a reason for refusal give that a legal agreement has not been secured.

The applicant has been informed about this proposed change to the recommendation. The applicant has responded strongly criticising the proposed late change in recommendation without the ability to respond. The applicant is of the opinion that Natural England has not added anything substantively more than its original advice (received 9 August 2016) and that the inspector's decisions remain material considerations. In the circumstances the applicant has requested three alternative options to refusal:

- Defer the application from determination at this Committee meeting;*
- Expand the required Section 106 legal agreement to include the required SANG mitigation and delay determining the application until completed; or*
- Revert back to the original recommendation.*

However, it is considered that there has been a change in advice by Natural England with the latest advice received on the 22 March 2017 (after the report was finalised). There is no certainty that deferral of the application would resolve this matter in a timely manner and a S106 would still need details of an acceptable SANG site. The officer's recommendation to refuse therefore remains.

Change in recommendation:

REFUSE, for the following reasons:

- 1. The Planning Authority is unable to satisfy itself that the proposal (in combination with other projects) would not have an adverse effect on the integrity of the Thames Basin Heaths Special Protection Area (SPA) and the relevant Site of Specific Scientific Interest (SSW). In this respect, significant concerns remain with regard to the adverse effect on the integrity of the Special Protection Area in that there is likely to be an increase in dog walking, general recreational use and damage to the habitat and the protected species within the protected areas. Accordingly, since the planning authority is not satisfied that Regulation 62 of the Conservation of Habitats and Species Regulation 2010 (The Habitats Regulation) applies in this case, it must refuse permission in accordance with Regulation 61 (5) of the Habitats Regulations and Article 6 (3) of Directive 92/43/EE. For the same reasons the proposal conflicts with guidance contained in the National Planning Policy Framework and Policy CP14 of the Surrey Heath Core Strategy and Development Management Policies 2012 and Policy NRM6 of the South East Plan 2009 and Thames Basin Heaths Special Protection Area Avoidance Strategy Supplementary Planning Document (Adopted January 2012).*
- 2. In the absence of a completed legal agreement under Section 106 of the Town and Country Planning Act 1990, to secure a contribution towards affordable housing provision elsewhere in the Borough, the applicant has failed to comply with Policy CP5 of the Surrey Heath Core Strategy and Development Management Policies Document 2012 and the National Planning Policy Framework.'*

Some Members had concerns regarding the parking allocation for the number of flats proposed. It was felt that the proposal would lead to overspill parking on local roads.

Members were reminded that the County Highways Authority had raised no objection to the scheme. Some Members felt that it would be beneficial for a representative of the County Highways Authority to visit some proposed developments in order to experience local concerns.

The draft residential design guide was referenced by some Members and noted that the document stated that parking should be at the side or the rear of developments. This proposal had parking at the front.

Although a transport assessment had been submitted by the applicant, some Members felt that local concerns needed to be taken into account. In particular the level of parking and vehicular movements would be unacceptable in a village concept.

Clarification was sought regarding the description of the proposal as it stated in the report that it was for retirement apartments but the transport plan referred to it as sheltered housing. Officers confirmed to Members that the application referred to retirement/sheltered housing.

Members were minded to include a further reason for refusal as they felt the proposal would be overdevelopment of the site compared to the amount of parking and communal space provided. Officers reminded Members that the amount of communal space proposed was within the draft residential design guide.

Members agreed that there would be insufficient parking spaces to meet the local need of overall development and the frontage parking allocation would be contrary to the draft residential design guide.

Resolved that application 16/0652 be refused, as amended, for the reasons as set out in the update and a third reason for refusal be added to state that there would be insufficient parking spaces to meet the local need of overall development and the parking allocation would be contrary to the draft residential plan.

Note 1

The recommendation to refuse the application as amended was proposed by Councillor Valerie White 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 the application was as follows:

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

Councillors Richard Brooks, Vivienne Chapman, Colin Dougan, Surinder Gandhum, Edward Hawkins, Ruth Hutchinson, Jonathan Lytle, David Mansfield, Max Nelson, Robin Perry, Victoria Wheeler and Valerie White.

71/P Application Number: 16/0840 - Erlwood Manor, London Road,

Windlesham, GU20 6PG

The application was for the erection of single storey building to provide restaurant and support services for the existing business premises. (Amended & Amended Plans - Rec'd 07/12/2016). (Additional and Drainage Strategy Information - Rec'd 27/01/2017). (Additional Information rec'd 21/02/2017).

Members were advised of the following updates:

'Comments have been received from the Arboricultural Officer. No objection is raised subject to condition (this will take the form of condition 11 as drafted in the committee report being amended (amendment underlined)), and an informative being added.

Amended condition 11

No development shall take place until full details of soft landscaping works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved, and implemented prior to first occupation.

The submitted details shall include details of new planting to be carried out and shall make provision for the planting of 5 new trees within the property boundaries of a minimum "heavy standard" size [12 - 14cm girth and a nominal diameter of 4.1cm].

All hard and soft landscaping works shall be carried out in accordance with the approved details. All plant material shall conform to BS3936:1992 Parts 1 – 5: Specification for Nursery Stock. Handling, planting and establishment of trees shall be in accordance with BS 8545:2014 Trees: from nursery to independence in the landscape.

Any trees or planting that, within a period of 5 years from the date of planting, dies, becomes damaged, diseased or is removed shall be replaced in kind.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012.

Suggested informative

In relation to condition 11, the 5 trees to be planted as mitigation for the loss of the Oak and the Beech removed to facilitate the development should comprise a mix of any of the following: Quercus palustris "Green Pillar" / Quercus robur "Regal Prince", Quercus robur fastigiata "Koster" or Fagus sylvatica "Dawyck" [green cultivar not purple or gold variants].'

Members felt that the proposal would be beneficial to the local area as an enhanced catering option for staff at Eli Lilley could reduce the amount of vehicular movements in and out of the grounds at lunchtimes.

Resolved that application 16/0840 be approved, as amended subject to the 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 Edward Hawkins and seconded by Councillor David Mansfield.

Note 2

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

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

Councillors Richard Brooks, Vivienne Chapman, Colin Dougan, Surinder Gandhum, Edward Hawkins, Ruth Hutchinson, Jonathan Lytle, Katia Malcaus Cooper, David Mansfield, Max Nelson, Robin Perry, Victoria Wheeler and Valerie White.

72/P Application Number: 16/0961 - 325 Guildford Road, Bisley, Woking GU24 9BD

The application was for the erection of 6 x three bedroom dwellings in the form of a pair of semi-detached houses and a terrace of two storey houses with accommodation in the roof and 6 x two bedroom and 3 studio flats in the form of a three storey block with parking, landscaping and access from Guildford Road following demolition of existing building. (Amended info and plan recv'd 2/11/16) (Additional Info - Rec'd 16/02/2017). (Amended Plans - Rec'd 09/03/2017). (Additional Information recv'd 10/3/17).

Members were advised of the following updates:

Correction

Paragraph 2.2 – The sentence should read:

"The application site includes an access direct from Guildford Road and no access is proposed through the adjoining Foxleigh Grange development."

Three representations in support have been received (none making any specific comments).

The LLFA had requested that further drainage details were provided which the applicant has more recently provided. On the basis that the LLFA will need a minimum 21 day period, an extension of time to determine the application is proposed.

CHANGE TO RECOMMENDATION:

To extend the time period to determine the application to allow full consideration of the further drainage details to 27 April 2017, and any required drainage conditions

added following the receipt of further LLFA comments, with any required time period extensions to be agreed by the Head of Regulatory.'

Members felt that the proposal would greatly improve the site.

Resolved that application 16/0961 be approved, as amended, subject to the conditions as set out in the report of the Executive Head – Regulatory and to extend the time period to determine the application to allow full consideration of the further drainage details to 27 April 2017, and any required drainage conditions added following the receipt of further LLFA comments, with any required time period extensions to be agreed by the Executive Head - Regulatory.

Note 1

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

Note 2

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

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

Councillors Richard Brooks, Vivienne Chapman, Colin Dougan, Surinder Gandhum, Edward Hawkins, Ruth Hutchinson, Jonathan Lytle, Katia Malcaus Cooper, David Mansfield, Max Nelson, Robin Perry, Victoria Wheeler and Valerie White.

73/P Application Number: 17/0081 - Shatin, Westwood Road, Windlesham, GU20 6LP

The application was for a detached two storey dwelling including parking area following demolition of existing dwelling and outbuildings. (Additional info rec'd 07/03/2017).

The application would normally be determined under the Council's Scheme of Delegation; however, it has been reported to the Planning Applications Committee at the request of Cllr Valerie White.

Members welcomed the removal of permitted development rights as outlined in condition 5.

Resolved that application 17/0081 be approved subject to the conditions as set out in the report of the Executive Head – Regulatory.

Note 1

The recommendation to approve the application was proposed by Councillor Colin Dougan and seconded by Councillor Max Nelson.

Note 2

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

Voting in favour of the recommendation to approve the application:

Councillors Richard Brooks, Vivienne Chapman, Colin Dougan, Surinder Gandhum, Edward Hawkins, Ruth Hutchinson, Jonathan Lytle, Katia Malcaus Cooper, David Mansfield, Max Nelson, Robin Perry, Victoria Wheeler and Valerie White.

Chairman