NORTH HERTFORDSHIRE DISTRICT COUNCIL

PLANNING CONTROL COMMITTEE

MEETING HELD AS A VIRTUAL MEETING
ON THURSDAY, 20TH AUGUST, 2020 AT 7.30 PM

MINUTES

Present: *Councillors: Ruth Brown (Chair), Val Bryant, Morgan Derbyshire, Tony Hunter, David Levett, Ian Moody, Sue Ngwala, Mike Rice, Tom Tyson, Sam Collins (In place of Sean Prendergast) and Ian Mantle (In place of Mike Hughson)*

In Attendance: *Simon Ellis (Development and Conservation Manager), Nurainatta Katevu (Legal Advisor) and Matthew Hepburn (Committee, Member and Scrutiny Officer)*

Also Present: *At the commencement of the meeting approximately 5 members of the public, including registered speakers.*

21 WELCOME AND INTRODUCTION

Audio Recording – 23 Seconds

The Chair welcomed everyone to the virtual Planning Control Committee meeting that was being conducted with Members and Officers at various locations, communicating via audio/video and online and advised that there was the opportunity for the public and press to listen and view proceedings.

The Committee, Member and Scrutiny Officer gave advice regarding the following:

Attendance

A roll call was undertaken to confirm that the required Members, Officers and Registered Speakers were present and could hear and be heard.

If for any reason the meeting was not quorate an Officer would interject the meeting and the meeting would adjourn immediately. Once the meeting was quorate the meeting would resume.

If a remote Member were to lose connection the Chair may adjourn the meeting for a short period to enable connection to be re-established. If the Chair did not adjourn the meeting the Member would be deemed to have left the meeting at the point of failure and be deemed to have returned at the point of re-establishment.

Only Members present for the entirety of debate and consideration of an item were entitled to vote.

Live Streaming

The meeting was being streamed live on the Council's YouTube channel. If live streaming failed the meeting would adjourn. If the live stream could not be restored within a reasonable period then the remaining business would be considered at a time and date fixed by the Chair.

If the Chair did not fix a date, the remaining business would be considered at the next ordinary meeting.

If technology failed for a member of the public who had attended to participate and was unable to do so, the Chair may decide to adjourn or proceed to the next item of business to allow for connection to be re-established. If connection could not be restored within a reasonable period, the Chair could decide to conclude the remaining business. If a Member or Member of the Public dropped out of the meeting and was unable to connect by video, an email had been sent with instructions on how to join the meeting via telephone.

Noise Interference

The Committee, Member and Scrutiny Officer asked all in attendance to ensure that electronic devices were muted.

Rules of Debate

If a Member wished to speak they should use the raise hand button and this would alert the host that they wished to speak.

Members were reminded that the normal procedure rules in respect of debate and times to speak would apply.

Voting

When requested to vote, Members were informed to vote using the Green tick for 'Yes', Red Cross for 'No' and Blue Raise Hand for 'abstain'.

Details of how Members voted would not be kept or minuted unless a Recorded Vote was requested or an individual requests that their vote be recorded.

The Committee, Member and Scrutiny Officer would clearly state the result of the vote and the Chair would proceed to the next agenda item.

The Chair, Councillor Ruth Brown, started the meeting proper.

22 APOLOGIES FOR ABSENCE

Audio Recording – 6 Minutes 23 Seconds

Apologies for absence were received from Councillors Daniel Allen, Mike Hughson and Sean Prendergast.

Having given due notice Councillor Ian Mantle advised that he would be substituting for Councillor Mike Hughson and Councillor Sam Collins advised that he would be substituting for Councillor Sean Prendergast.

23 NOTIFICATION OF OTHER BUSINESS

Audio Recording – 6 Minutes 45 Seconds

There was no other business notified.

24 CHAIR'S ANNOUNCEMENTS

Audio Recording – 6 Minutes 50 Seconds

(1) The Chair welcomed those present at the meeting;

(2) The Chair advised that, in accordance with Council Policy, the meeting would be audio recorded and live streamed on the Council's YouTube;

(3) The Chair drew attention to the item on the agenda front pages regarding Declarations of Interest and reminded Members that, in line with the Code of Conduct, any Declarations of Interest needed to be declared immediately prior to the item in question;

(4) The Chair clarified matters for the registered speakers and informed members of the public that they 5 minutes for each group of speakers i.e. 5 minutes for objectors and 5 minutes for supporters. The 5 minute time limit also applied to Member Advocates.

The bell would sound after 4 1/2 minutes as a warning and again at 5 minutes to signify that the speaker must cease.

(5) The Chair advised that there would be a comfort break at approximately 9:00pm if the meeting were to be still underway at that time.

25 PUBLIC PARTICIPATION

Audio Recording – 8 Minutes

The Chair confirmed that the 5 registered speakers were present.

26 17/02755/1 LAND AT JUNCTION OF POTTERSHEATH ROAD AND DANESBURY PARK ROAD, WELWYN

Audio Recording – 8 Minutes 20 Seconds

Retrospective application for the change of use of land to use a residential caravan site for two gypsy families, each with two caravans including no more than one static mobile home and laying of hardstanding and erection of a timber fence.

The Development and Conservation Manager introduced the item and provided the Committee with the following updates:

- A letter received from Stephen McPartland MP in relation to the application had been sent to Members;
- Members were referred to paragraph 2.4 on page 6 and specifically Policy E of the 2015 Planning for Traveller Sites document published by DCLG;
- Members were directed to the Planning History, detailed at Paragraphs 4.3.1 to 4.3.5;
- There were changes to the Recommendations at Paragraph 5.1 on page 19 within the report, as follows:

Recommended condition 1 reason. Add additional last line:
'Whilst the very special circumstances are compelling, to enable the matter of land allocation to be resolved through the Local Plan Hearings a temporary permission is justified.'

Recommended condition 3 reason – re-write the whole reason:
To accord with the terms of the submitted application and evidence of need contained therein.

The Development and Conservation Manager provided an explanation of the current position of the site, as follows:

- The planning application was for two pitches with a maximum of two static caravans;
- Members were to note recommended condition 3 on page 19 which sought to limit the number of pitches to no more than two static caravans on this site - the requirements and the enforceability of that condition could only come into affect if planning permission is granted;
- There were currently 3 static caravans on the site, at least one touring caravan and one amenity block which was one more static caravan than was applied for but one less than the proposed land allocation would allow for in the emerging Local Plan; and
- The siting of the third static caravan was a separate enforcement matter outside the remit of the determination of that planning application – enforcement powers were delegated to officers. However, it could be achieved by enforcing the terms of condition 3 if Members were to accept that recommendation.

The Development and Conservation Manager advised Members the reasons to determine the application now were as follows:

- The strategy was to delay the determination of the planning application until after the Inspector had finished the Local Plan Hearings and adjudicated on the proposed allocation of this site for traveller accommodation. Particularly after the Inspector specifically set aside a whole day of the main mods EiP to discuss this issue;
- The additional hearings were scheduled for March 2020 but were delayed due to the pandemic;
- If the Inspector had agreed with the Council's needs analysis and concluded that the site should be allocation for 4 pitches, we would not have hesitated to recommend a permanent permission for this development – indeed there remains a strong case for a permanent permission even now;
- From October 18 2020 the site would have been in use for traveller accommodation for 4 years and without a planning application the use would become lawful by longevity. It was therefore necessary to determine this planning application now before the 4 year rule applied and before the additional EiP hearings, which would not be determined before 18 October 2020;
- To enable a fair Local Plan hearing for all interested parties, officers felt that on balance a 2 year temporary permission was justified in this instance although there remained a strong case for a permanent permission even now – but to grant a permanent permission would undermine the Local Plan process;
- A temporary permission allowed for all outcomes – a permanent permission later after the Local Plan or if the Local Plan did not allocate that site for traveller accommodation the position could be reconsidered in light of that outcome without a permanent use authorised on the site.

- Members were to note the recommendation at paragraph 5.1 that this application must be referred to the Secretary of State if Members were minded to grant permission in line with the recommendation – the Secretary of State would then have 21 days to decide whether to facilitate a call in inquiry – if not after 21 days and well before 18 October 2020, the temporary permission could be granted and the position on site could be certain pending the outcome of the Local Plan.

Following the Development and Conservations detailed introduction, he presented the report in respect of application 17/02755/1 supported by a visual presentation consisting of photographs and plans.

A Codicote Parish Council representative thanked the Chair for the opportunity to address the Committee in objection to application 17/02755/1, including:

- In 2016 the applicants unlawfully occupied a site within the green belt and submitted a retrospective planning application citing exceptional circumstances and the vulnerability of a family member as grounds for planning consent;
- There was conclusive evidence for this application to be refused – eye witness assertions that the two families did not live at the site and had rarely lived at the site;
- The Danesbury Park Road site was occupied by migrant workers who did not fall within the definition of Gypsies and Travellers;
- The green belt site was put forward several years ago under the emerging Local Plan as having the potential for development. It was deemed unsuitable by NHDC and the site was withdrawn. Is North Herts in danger of operating a two tier system - unsuitable for development per se, but adequate for members of the travelling community?
- There had been one too many park homes on the site since last year and no enforcement had been actioned;
- The physical area of the site had increased; the boundary had encroached on to an adjacent site;
- There were other issues: fencing to the boundary with the A1M was too close to the edge, propped up with bricks, posing a danger to motorists; migrant workers were regularly seen sitting on the embankment;
- The hedgerow to Pottersheath Lane had been allowed to encroach and threatens to restrict visibility;
- There was a continual leak of water from an unknown source, perhaps a toilet block, at the junction to the highway; and
- The lives of legitimate residents were being blighted by individuals who had no intention of complying with planning legislation.

Barrister Horatio Waller, Francis Taylor Building, thanked the Chair for the opportunity to address the Committee in objection to application 17/02755/1, including:

- The application sought permission for inappropriate development in the Green Belt, resulting in a loss of openness and encroachment into the countryside;
- Officer support here was premised on the perceived requirement for this site to meet a shortfall in the identified need across the District for pitches;
- Local residents had submitted a robust critique to the local plan inspector on the key conclusions reached in that report. The identified requirement for pitches seems to be artificially inflated, whilst the number of vacant pitches at Pulmore Water were underestimated; and
- It would be hasty for the Committee to determine now that this site was needed to meet unmet need when the local plan inspector had not yet made a decision on the robustness of the evidence base.

The following Members sought clarification from the Codicote Parish Council representative and Barrister Horatio Waller:

- Councillor Mike Rice;
- Councillor Sue Ngwala; and
- Councillor Sam Collins;

The Codicote Parish Council Representative and Barrister Horatio Waller responded to questions as follows:

- There was only eye-witness evidence as to who lived at the site;
- The site was surrounded by houses, enabling residents to see who lived at the site; and
- There were no children on the site.

Councillor Lisa Nash, Member Advocate, thanked the Chair for the opportunity to address the Committee, including:

- The Secretary of State for Housing, Communities and Local Government would consider calling this application in, if the application were to be granted planning permission;
- The residents had support from their local Member of Parliament, the Rt Hon Stephen McPartland;
- It would be wrong to permit the temporary development prior to the Planning Inspector's hearing;
- In 2016, a retrospective planning application was made to permit the change of use for this land to a residential caravan site for two families. The decision notice issued on 20 October 2016 refused this development;
- Other applications in the vicinity had also been refused, owing to their encroachment into the Green Belt;
- Section 13 of the National Planning Policy Framework stated that 'the essential characteristics of Green Belts were their openness and their permanence';
- This application asked for land to be taken out of the Green Belt;
- The NPPF stated that 'Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified'
- The development had harmed the characteristic of the area;
- The development would set precedence to develop further onto the Green Belt; and
- Codicote Parish Council and Pottersheath Residents Association requested Members to refuse the application.

Mr Nathaniel Green, Green Planning Studio, thanked the Chair for the opportunity to address the Committee in support of application 17/02755/1, including:

- It was accepted by the LPA through its own GTAA that there was a shortfall of 10 pitches in the plan period to 2031;
- It was intended by the council that part of the shortfall would be made up by the siting of 4 pitches on this site. Two in the first instance through this application and two more subsequently.
- There were good reasons for the LPA's support of this site, despite its location in the Green Belt;
- The Plan examination had found that the site was deliverable, highways access was considered safe by Hertfordshire County Council and the client was happy to implement the visibility splays at the entrance;
- The site had been assessed as sustainable through the plan process;
- The site was heavily screened and had its visual impact minimised; and

- The examination accepted that exceptional circumstances existed that allowed for the site's inclusion in the emerging plan despite its location in the Green Belt.

The following Members sought clarification from Mr Green's presentation:

- Councillor Mike Rice;
- Councillor Sam Collins; and
- Councillor David Levett.

Mr Green responded to questions raised as follows:

- There were children and two families on the site.

NB: The Development and Conservation Manager lost connection to the meeting at 20:17 and re-connected at 20:19.

In response to points raised, the Development and Conservation Manager advised that Condition 8 could only come into force if Members granted planning permission.

The following Members took part in the debate:

- Councillor David Levett;
- Councillor Tony Hunter;
- Councillor Ruth Brown;
- Councillor Sue Ngwala; and
- Councillor Ian Mantle.

Points raised in the debate included:

- A Member referred to the following paragraphs on page 24 within the report
  'The first conclusion was that the current occupiers of this site did comply with the 2015 definition of Gypsies and travellers. This definition was contained in the 2015 Government publication 'Planning policy for travellers' sites. Travellers were defined as: 'Persons of a nomadic habit of life, whatever their race or origin, including such persons who on grounds only of their own, their families or dependents' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such.';
- The permission was temporary not permanent;
- The current position of the site;
- The facilities at the site; and
- What the result would be if Planning Permission were to be refused.

Development and Conservation Manager responded as follows to points raised in the debate:

- There were 3 static caravans on site, 1 touring caravan and 1 amenity block;
- Condition 3 was enforceable;
- A second amenity block was also proposed; and
- If Planning Permission were to be refused, the application would not be referred to the Secretary of State and an Enforcement Notice would have to be served on the site. Members would have to provide an explanation as to the reason for refusal at appeal.

It was proposed by Councillor Levett, seconded by Councillor Derbyshire and upon being put to the vote, it was:

RESOLVED: That application 17/02755/1 be **GRANTED** planning permission subject to the application being referred to Secretary of State for Housing, Communities and Local Government, the conditions and reasons contained in the report of the Development and Conservation Manger; and

An additional last line added to Condition 1 reason, as follows:

'whilst the very special circumstances are compelling, to enable the matter of land allocation to be resolved through the Local Plan Hearings a temporary permission is justified.' and

The Condition 3 reason to be re-written to read:

'To accord with the terms of the submitted application and evidence of need contained therein.'

27 20/00970/FP LAND WEST OF 1 THE GREEN, ASHWELL ROAD, NEWNHAM, HERTFORDSHIRE

Audio Recording – 1 Hour 30 Seconds

Erection of a terrace of 4 dwellings (2 x 3 bed and 2 x 4 bed) and new vehicular accesses onto The Green, associated car parking, landscaping and ancillary works.

The Development and Conservation Manager presented the report in respect of application 20/00970/FP supported by a visual presentation consisting of photographs and plans.

Peter Lapham thanked the Chair for the opportunity to address the Committee on behalf of the applicant, North Hertfordshire District Council, including:

- The land was identified as being suitable for residential development and had been vacant for some time;
- The proposals consisted of 2x 3 bed properties and 2x 4 bed properties;
- The homes provided generous rear gardens; and
- A small number of comments had been received from the public in regard to the proposal.

The following Members sought clarification from Mr Lapham's presentation:

- Councillor Ruth Brown; and
- Councillor Tom Tyson.

Mr Lapham responded to questions as follows:

- The size of the proposed dwellings and the number of bedrooms were guided by the existing adjoining houses which were also fairly generous;
- It would have appeared unbalanced if the proposed dwellings were smaller than the existing properties;
- The size of the proposed properties were in keeping with the existing homes;
- The properties would be sold at Market Value; and
- Land would not be taken from Plot 1.

The following Members took part in the debate:

- Councillor Tom Tyson;
- Councillor David Levett;
- Councillor Ruth Brown;
- Councillor Mike Rice; and
- Councillor Sam Collins.

Points raised by Members included:

- Assurance that the proposed properties would be in keeping with the existing ones;
- Plot 1 Parking;
- The number of bedrooms and size of the properties;
- The completion of a Housing Needs Assessment; and
- Market Value vs rent.

The Development and Conservation Manager responded to points raised as follows:

- Referred Members to Conditions 2 and 3;
- The land was Council owned and therefore residents were not authorised to park on it;
- There was a policy that provided balance to community;
- The Housing Needs Assessment was only applied to bigger schemes;
- It was important to get the scale and property right for the area;

It was proposed by Councillor Mantle, seconded by Councillor Tyson and upon being put to the vote, it was:

RESOLVED: That application 20/00970/FP be **GRANTED** planning permission subject to the conditions and reasons contained in the report of the Development and Conservation Manager.

28 PLANNING APPEALS

Audio Recording – 1 Hour 25 Minutes 30 Seconds

The Development and Conservation Manager presented the report entitled Planning Appeals.

RESOLVED: That the report entitled Planning Appeals be noted.

29 MEMBER PLANNING TRAINING UPDATE

Audio Recording – 1 Hour 25 Minutes 52 Seconds

The Development and Conservation Manager informed Members that the dates of the planning training would be announced in due course. However, it was likely it would take place mid-September onwards.

The meeting closed at 9.00 pm

Chair