

# City of Bradford Metropolitan District Council

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## Minutes of a meeting of the Area Planning Panel (Shipley) held on Thursday 12 February 2009 at the Town Hall, Shipley

Commenced 1005

Concluded 1230

### PRESENT – Councillors

CONSERVATIVE	LABOUR	LIBERAL DEMOCRAT
Binney	Amin	Cole
Clamp	Ferriby	
Owens	Shabir Hussain	

Observers: Councillor L'Amie (Minute 33 (g)) and Councillor Townend (Minute 33(a))

### Councillor Owens in the Chair

#### 30. DISCLOSURES OF INTEREST

Councillor Cole disclosed a prejudicial interest in the item relating to Jenny Lane Playing Fields, Heygate Lane, Baildon (Minute 33(g)) as he had exchanged letters of information with the Catholic Diocese and he therefore withdrew from the meeting during the discussion and voting thereon in accordance with the Members' Code of Conduct (Part4A of the Constitution) and the Members' Planning Code of Conduct (part 4B of the Constitution).

Councillor Ferriby disclosed a personal interest in the item relating to Jenny Lane Playing Fields, Heygate Lane, Baildon (Minute 33(g)) as she was involved in the launch of the Green Space Network in Bradford South, however, as her interest was not prejudicial she remained in the meeting.

#### 31. INSPECTION OF REPORTS AND BACKGROUND PAPERS

There were no appeals submitted by the public to review decisions to restrict documents.

#### 32. PUBLIC QUESTIONS

There were no questions submitted by the public.



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Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



### 33. **PLANNING APPLICATIONS AND ASSOCIATED MATTERS**

The Strategic Director Regeneration presented **Documents “S”, “T” and “U”**. Plans and photographs were displayed and/or tabled in respect of each application and representations summarised.

(a) **Butler House, Access from Kirk Drive, Baildon**

**Baildon**

Full application for the construction of a contemporary split-level detached bungalow on land adjacent to Butler House and 27 Kirk Drive, Baildon – 08/03723/FUL.

The Strategic Director, Regeneration informed Members that the application had previously been considered at the meeting held on 25 September 2008 and the Panel had requested that consideration of the application be deferred in order for further investigations in relation to the provision of off-street parking be undertaken. It was noted that revised submission was not a formal amendment to the scheme and the plans should not have been stamped as ‘amended’.

The Strategic Director, Regeneration explained that the proposal had been considered by the Council’s Conservation Officer and Planning Officers, who had thought the submission inappropriate as Butler House was a listed building within a Conservation area. The proposed parking scheme would create a driveway through the garden of Butler House and provide parking and a turning area below the retaining wall in front of Butler House. The area would be screened from views on Kirk Drive by hedges and utilise a permeable brick paving.

Local residents had been contacted and had raised further concerns in relation to the loss of kerbside parking on Kirk Drive; highway safety; the further detriment to Butler House; and that the driveway would increase the run-off onto Kirk Drive.

In conclusion the Strategic Director, Regeneration indicated that the Panel was required to consider whether or not there was any scope to provide off-street parking within the development site and that officers believed the proposal to be inappropriate due to its impact on the listed building and Conservation area.

An objector was present at the meeting and outlined the following concerns:

- That the strength of the feeling against the application remained high in the vicinity.
- That the proposal would spoil a listed building.
- That the design of the proposed new building was not like any of the houses in the area.
- That the new dwelling would overlook the bedrooms of the houses opposite.
- That parking was an issue and bad parking could cause an accident.
- That the emergency services had been unable to get through due to two vehicles being parallel parked.
- That there was no turning circle at the end of Kirk Drive.
- That the previous application removed four parking spaces and extra parking on Kirk Drive could not be tolerated.

A Ward Councillor was also present at the meeting and made the following points:

- That a petition had been submitted in relation to the previous application.
- That the proposal would have a negative impact on Butler House and the other properties on Kirk Drive.

- That the photographs taken in the recent bad weather were misleading as they gave the impression that there was adequate parking provision on Kirk Drive.
- That the Council's Conservation Officer had stated that he did not support the proposal and that the garden must remain undisturbed.
- That the residents of Kirk Drive were very concerned about the proposal.

During the discussion Members raised concerns with regard to the proposed parking provision. It was noted that there was some scope for a driveway, but that the alternative option before them was disappointing. Members considered that the proposal was not acceptable as it did not address the initial concerns raised by the Panel in September 2008.

#### **Resolved –**

**That the application be deferred in order for officers to further consider alternative off-street parking arrangements with the applicant.**

**Action: Strategic Director, Regeneration**

#### **(b) Decisions Made by the Secretary of State**

##### **APPEALS ALLOWED**

#### **(i) 5 Lower Heights Farm, Keighley Road, Cullingworth Bingley Rural**

Farm store for the drying of feed, hay and farm implements and the parking of a tractor – 08/02826/FUL.

#### **(ii) 3 Delph Wood Close, Gilstead Bingley**

Construction of a new dwelling in garden – 08/01086/FUL

#### **(iii) 3 Farnham Close, Baildon Baildon**

Gable extension to form first floor bedroom with en-suite and ground floor WC and kitchen – 08/02301/FUL

##### **APPEALS DISMISSED**

#### **(iv) Land to Rear of 30 Main Street, Burley in Wharfedale Wharfedale**

Construction of a single storey three bedroom detached house with integral garage – 08/04465/FUL

#### **(v) 7 West Chevin Road, Menston Wharfedale**

Construction of a two storey three bedroom detached dwelling with integral garage – 07/10518/FUL

#### **(vi) Oakbank Farm Land, Childs Lane, Wrose Windhill/Wrose**

Construction of 10 detached dwellings – 08/00053/OUT

**Resolved –**

**That the decisions be noted.**

**Action: Strategic Director, Regeneration**

**(c) 20 Nab Wood Drive, Shipley**

**Shipley**

An Enforcement Notice was issued against the owner of the above property for the unauthorised construction of a wall and fence adjacent to the highway. The owner failed to comply with the Enforcement Notice by 9 April 2008 and prosecution proceedings were instigated. Summonses were issued in October 2008 and on 15 January 2009 the owner appeared before Bradford Magistrates. The requirements of the Enforcement Notice to reduce the wall to 1 metre in height were complied with in early January 2009.

**Resolved –**

**That the information contained in the report be noted.**

**Action: Strategic Director, Regeneration**

**(d) Enforcement Enquiries Closed by the Area Planning Manager as Not Expedient to Pursue**

**(i) Park House, The Green, Bingley**

**Bingley**

Damage to protected tree – 07/00430/TPOCN

It is not considered that there was a clear breach of planning control which would warrant further enforcement action.

Date Enforcement File Closed: 2 January 2009

**(ii) Land off Thackley Old Road, Shipley**

**Windhill/Wrose**

Unauthorised tipping – 07/01069/ENFUNA

It was not considered that there was a clear breach of planning control which would warrant further Enforcement Action.

Date Enforcement File Closed: 2 October 2008

**(iii) Land to the West Of 31 Shann Street, Bolton Woods**

**Windhill/Wrose**

Damage to protected tree – 05/00008/TPOCN

It was not considered that there was a clear breach of planning control which would warrant further Enforcement Action.

Date Enforcement File Closed: 23 December 2008

(iv) **Bingley Roofing And Stone Centre, Greenside Lane,  
Cullingworth****Bingley Rural**

Alleged unauthorised change of use of premises - 07/01058/ENFCOU

It was not considered that there was a clear breach of planning control which would warrant further Enforcement Action.

Date Enforcement File Closed: 6 January 2009

**Resolved -**

**That the decisions be noted.**

**Action: Strategic Director, Regeneration**

(e) **41 Glenaire Drive, Baildon****Shipley**

Full application for the construction of a detached dwelling in the side garden of 41 Glenaire Drive, Baildon – 08/05106/FUL

The Strategic Director, Regeneration gave a presentation setting out the proposals and tabled plans detailing the layout. He explained that the application proposed the construction of a detached dwelling in the side garden. A watercourse ran through the garden and this was one of the principle issues considered. The proposal was to divert the watercourse and partially culvert it closer to the boundary with 39 Glenaire Drive in order to provide a footprint for the proposed dwelling. A flood risk assessment had also been provided. The Strategic Director, Regeneration confirmed that previous applications had been submitted, however, this proposal had been reduced in scale and was more appropriate. He reported that officers were keen to ensure that the protected Beech tree was not affected and a condition in relation to protective fencing had been placed on the application.

It was noted that 46 letters of representation had been received from neighbours on the grounds of over dominance, flood risk, damage to trees, parking, overlooking and impact on the street scene. Two Ward Councillors and the Parish Council had also objected to the proposal. Consultations had been undertaken with the Environment Agency with regard to the flood risk and they had given their consent for the culvert to be moved. The Strategic Director, Regeneration confirmed that the bunded area had been proposed to prevent the flooding of the new dwelling and 39 Glenaire Drive. He added that Yorkshire Water did not have any objections to the application.

The Strategic Director, Regeneration informed Members that the development of brownfield sites was encouraged by the Government. The materials to be used would ensure the successful integration of the house into the locality and there was adequate parking provision. He then recommended the application for approval, subject to the conditions set out in the report.

An objector from the Parish Council was at the meeting and made the following comments:

- That there were doubts in relation to the natural stream.
- That the application site was in an area of high density housing.
- That if the water course was tampered with it could increase the flood risk.

Another objector was present at the meeting and raised the following issues:

- That the stream was the boundary to his rear garden.
- That the stone wall to either side of the stream was quite deep.
- That if the new culvert became blocked his garden would be flooded.
- That there was a substantial amount of water in the stream at times of heavy rain.
- That there was lots of wildlife in the area.
- That trees had been removed prior to the planning application being submitted.
- That the residents loved the area as it was.
- That a house built for profit was not necessary.

During the discussion Members expressed concerns in relation to the watercourse. The Strategic Director, Regeneration confirmed that the Environment Agency were content with the scheme and that the culvert had been designed in conjunction with them. Positive responses had also been received from Yorkshire Water and the Council's Drainage Department.

**Resolved -**

**That the application be approved for the reasons and subject to the conditions set out in the Strategic Director, Regeneration's technical report.**

**Action: Strategic Director, Regeneration**

(f) **28 Lansdowne Close, Baildon**

**Baildon**

Full planning permission is sought for the construction of a side extension to provide additional living accommodation and a replacement garage at 28 Lansdowne Close, Baildon – 08/06373/FUL.

The Strategic Director, Regeneration gave a presentation setting out the proposals and tabled plans detailing the layout. He explained that the proposal had been revised and a detached garage that had been proposed initially had now been omitted in favour of a garage attached to the front of the dwelling. He further explained that the proposed side extension would incorporate an altered roof form from hip to gable. The materials to be used in the construction would match those of the original dwelling and the property was sited at the far end of a residential cul-de-sac. The Strategic Director, Regeneration reported that the proposal was acceptable in design terms and the existing single garage would be replaced. He confirmed that a number of objections had been received in relation to the previously proposed detached garage, however, the revised plans had been re-advertised and only one further representation had been received with regard to the amended position of the garage. In conclusion the Strategic Director, Regeneration recommended the application for approval, subject to the conditions set out in the report and also subject to an additional condition that the use of the garage be restricted to a non-commercial use in connection with the residential use of the dwelling house only.

**Resolved -**

**That the application be approved for the reasons and subject to the conditions set out in the Strategic Director, Regeneration's technical report and subject to the following additional condition:**

(i) **That the use of the replacement garage shall be restricted to a non**

**commercial use in connection with the residential use of the dwelling house.****Action: Strategic Director, Regeneration****(g) Jenny Lane Playing Fields, Heygate Lane, Baildon****Baildon**

A full application for the construction of a two metre high mesh fence at Jenny Lane Playing Fields, Heygate Lane, Baildon – 08/06381/FUL.

The Strategic Director, Regeneration gave a presentation setting out the proposals and tabled plans detailing the layout. He informed Members that the proposal was to construct a 2 metre high fence around most of the site. The majority of the site was used as a recreation open space and the proposal did not seek to fence off the children's play area. He confirmed that the fence would be constructed from green mesh and run from the Jenny Lane frontage, around the play area and past the Club House. It was noted that it was a prominent site that afforded views across the countryside.

With regard to the site history, the Strategic Director, Regeneration explained that a Certificate of Lawfulness had been issued on 5 September 2008 for a 2 metre high fence around the site. The Certificate of Lawfulness confirmed that planning permission was not required for the fence as detailed in the application for the Certificate, as it was set back 4 metres when parallel to a highway (and in other areas was not adjacent to a highway). The developer now wanted to bring the fence forward where parallel to the highway so that it would run adjacent to the back edge of the highway. This would require planning permission. It was noted that Planning officers had considered the impact of the fence and they believed there to be no significant change between the lawful situation (i.e. without planning permission being required) and the proposed position (i.e. subject to planning permission). The Strategic Director, Regeneration confirmed that by the developer applying for permission the Local Planning Authority could control the design and appearance of the fence. The proposed green mesh fence had been chosen as its colour and transparency would have the minimum visual impact on the area.

The Strategic Director, Regeneration reported that the method of publicity had been challenged and confirmed that three notices had been positioned around the site and an advert placed in the Telegraph and Argus newspaper. He was, therefore, content that the statutory obligations had been met. Six letters of objection had been received on the grounds of visual impact; inappropriate location; industrial appearance; that the site should remain open; that the fencing was contrary to the access to the playing fields and could be a pre-cursor to future development of the site. The Parish Council had stated that they believed the proposed fence to be an eyesore, look industrial and not improve the security of the site.

The Strategic Director, Regeneration confirmed that the future development of the land had not been considered and recommended approval of the application, subject to the conditions as set out in the report.

Concerns were raised in relation to the fact that from the plans presented to the Panel it appeared that the line of the proposed fence meant that it would be constructed on top of an existing sycamore tree. The Strategic Director, Regeneration confirmed this to be the case and the Panel asked whether and how the tree could be protected. The Strategic Director, Regeneration agreed that the issue would need to be resolved prior to the fence being constructed and stated that it may be possible to add a further condition to those set out in the report that required the protection of the tree in question. The Council's legal officer also advised that apart from utilising planning conditions the Panel had powers

under the Town and Country Planning Act 1990 to protect any trees by authorising the making of a Tree Preservation Order where it was expedient to do so and where the tree in question was considered to be of good amenity value. The Panel then requested that the Council's legal officer asked the Council's Tree Team to make such an order with immediate effect.

An objector was present at the meeting and highlighted the following concerns:

- That the playing fields were the last remaining open space in Baildon.
- That the proposal was subject to PPG17 and the Local Authority should have undertaken robust assessments.
- Had an audit been undertaken of the playing space?
- Had the possibility of development on playing fields been considered?
- Had the residents' loss of amenity been considered?
- Had Sport England been consulted?
- That if the fence was erected about the wall it would create a litter trap.
- That the proposal would have a serious impact.
- What would happen to the footpath?
- Did the Panel have a choice?
- Had the relevant checks been put in place?
- That the green space would be seriously limited.
- That the proposed fence was too high and would be an eyesore.

The Chair then requested a definition of 'open space'. In response to the comments made, and the request of the Chair, the Strategic Director, Regeneration confirmed:

- That the proposal was restricted to a fence around the periphery of the playing fields, which were not being reduced. The land was private and the Council had no control over it except for the playing fields. The tests associated with PPG17 had not been undertaken as the proposal did not prejudice or put at risk the extent of the playing fields.
- That he was content that the Council had met all the statutory obligations.
- That Sports England had not been consulted as there was no threat to the land.
- That the Rights of Way Officer had been consulted and had not objected to the access provision for the footpath.
- That the Council's Playing Fields Officer who had not objected as the playing fields were to remain as was.

An objector from the Parish Council was present at the meeting and made the following points:

- That concerns had been expressed by residents.
- That the application was misleading as it had been submitted as a replacement fence. The only part it would be replacing was a small area on Jenny Lane.
- That it would be intrusive in its location.
- That the design was more appropriate for security fencing, not around a play area.
- That the field was maintained by the Local Authority and what assurances would there be in relation to its upkeep.
- That the land owner could consider a less obtrusive fence.
- That the Diocese had not consulted the Parish Council.
- That only the Rugby Club had been consulted.
- That no unruly behaviour had taken place to warrant such a fence.
- That the Parish Council objected to the application.



A Ward Councillor was present at the meeting and raised the following concerns:

- That he concurred with the points raised by the previous speakers.
- That he believed that the Panel should focus on the application put forward and not what could be lawfully done.
- That the design of the fence was not appropriate for the area.
- That it was a semi-rural area with a residential street to either side of the site.
- That there were no proven issues of criminality or anti-social behaviour in the area.
- That the Catholic Diocese had made no attempt in the past 15 years to establish ownership of the land.
- That Baildon residents had had access rights for many years.
- That the fence would have an adverse effect on the amenity of Baildon residents.

The applicant's representative was also present at the meeting and made the following comments:

- That the Diocese of Leeds was a registered charity and had to look after their property as assets.
- That following many years of allowing the residents to use the site, they no longer could.
- That there were Health and Safety and stewardship issues involved.
- That they had a formal lease with Baildon Rugby Union Football Club (RUFC) and the presence of dog excrement on the grass was a health and safety issue. It was a problem for the sports club and the Diocese would be responsible if a claim was made.
- That there were problems of anti-social behaviour, as complaints had been received from the police and the Council's Environmental Health Team regarding the potential problems for other users of the site.
- That the demarcation of limits of ownership had to be considered. The land was private, not a public open space and users had permission or were trespassing.
- That there had been two instances where the Diocese had to fight to retain the land and this had been expensive and a waste of charity money.
- That there had to be a fence and it would be erected. It could be erected under the Certificate of Lawfulness.
- That the issue to be considered was whether the fence should be erected at the boundary or 4 metres set in. If placed 4 metres in then there could be fly tipping and litter issues, which were health hazards.
- That the reason for the application was that it was in everyone's interest for the fence to be sited at the boundary.
- That there had to be a fence and that the Diocese wanted it to be placed in the most sensible place.

In response to questions raised by Members of the Panel, the applicant's representative confirmed:

- That there was no way of enforcing notices placed on the land to state it was private. There had been notices placed in relation to dog fouling and these had been ignored. The Diocese's view had been that it was acceptable for people to use the land in a satisfactory manner, but this had not happened and the Diocese had defended two cases to turn the land into a village green.
- That legal advice had been sought in relation to not placing signs on the land.
- That there would be limited access to the land through gates that would be locked and only authorised users would be allowed access.
- That the erection of a fence had been reluctantly forced upon them and the issue to

be considered was its placement.

During the discussion Members expressed concerns with regard to the design of the fence and its overall necessity.

**Resolved -**

**That the application be refused as the proposed fencing, by reason of its inappropriate design, height, appearance and position would cause detriment to the character and appearance of this semi rural location, contrary to polices UDP3, UR3 and D1 of the Replacement Bradford Unitary Development Plan (2005).**

***ACTION: Strategic Director, Regeneration***

(h) **7 Westcliffe Avenue, Baildon**

**Baildon**

An outline application for the construction of a detached house at 7 Westcliffe Avenue, Baildon with all matters reserved – 08/06767/OUT

**The Panel noted that the application had been withdrawn in writing by the applicant prior to the commencement of the meeting.**

***ACTION: Strategic Director, Regeneration***

Chair

**Note: These minutes are subject to approval as a correct record at the next meeting of the Panel.**

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THESE MINUTES HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER