

Minutes of a meeting of the Regulatory and Appeals Committee held on Thursday 11 January 2018 at City Hall, Bradford

Commenced	10.05 am
Adjourned	1.10 pm
Reconvened	1.35 pm
Concluded	2.40 pm

Present – Councillors

CONSERVATIVE	LABOUR	LIBERAL DEMOCRAT AND INDEPENDENT
Brown Rickard	Warburton Wainwright Amran Watson	Griffiths

Observers: Councillors; Barker (Minutes 56, 57 and 58), Dale Smith (Minute 56) and Whiteley (Minute 56)

Councillor Warburton in the Chair

52. DISCLOSURES OF INTEREST

In the interests of transparency, Councillor Rickard disclosed that he lived in the Wharfedale Ward but had had no involvement with any of the applications under consideration. He was also a trustee of Moorlands Learning Trust, which encompassed Ilkley Grammar School.

ACTION: *Interim City Solicitor*

53. MINUTES

Resolved –

That the minutes of the meeting held on 9 November 2017 be signed as a correct record.

ACTION: *Interim City Solicitor*

54. INSPECTION OF REPORTS AND BACKGROUND PAPERS

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

NO ACTION

55. MEMBERSHIP OF SUB-COMMITTEES

Resolved –

That Sue Thompson, representing the Bradford District Clinical Commissioning Group, be appointed to the Corporate Parenting Panel for the remainder of the 2017/18 municipal year in place of Ali Jan Haider.

ACTION: Interim City Solicitor

56. LAND AT SUN LANE, BURLEY-IN-WHARFEDALE

The Assistant Director - Planning, Transportation and Highways presented a report (**Document “AC”**) in relation to an outline application for the demolition of existing buildings and permission (all matters reserved other than points of vehicular access into the site) for residential development (Use Class C3); education facility (Use Class D1); public spaces; landscaping; car/cycle parking; access routes within the site; drainage and other associated works (Supplementary Environmental Statement relating to the provision of an up to two-form entry primary school) on land at Sun Lane and Ilkley Road, Burley-in-Wharfedale - 16/07870/MAO. A range of plans and photographs were displayed.

The Assistant Director reported on a number of amendments and updates to his report including the replacement of the words ‘exceptional circumstances’ with ‘very special circumstances’ throughout and the addition of the following paragraph following the second paragraph of the ‘Reason for Granting Planning Permission’ on Page 52:

‘Therefore it is considered that very special circumstances have been demonstrated to warrant the grant of planning permission for this development in the Green Belt.’

He also reported on the substance of additional representations and additional documentation, received further to the publication of his technical report, from a local resident and the Ward Councillors.

The Assistant Director responded to questions from Members:

- This was an outline application and, as such, would not establish the final layout of the development.
- The sewer across/through the site was not a reason for objection as it could be diverted or the development designed to avoid it.
- He was aware that lower parts of the site had flooded in the past; the existing watercourse having backed up from the River Wharfe. There had been no flooding in the preceding ten years on the parts of the site where the houses were shown on the indicative masterplan.

- The Flood Risk Assessment concluded that the development would not create additional flooding risk. Conditions were proposed in respect of drainage works.
- Any development undertaken outside Flood Zone 1 would constitute a breach of condition.
- A condition was proposed in respect of the maximum permitted forward flow of surface water from the development.
- Yorkshire Water had not raised any objection to the application and the sewerage system was its responsibility. The Local Planning Authority accepted this position. He was not aware of any concerns with the network in this location.
- The Council had adopted its Community Infrastructure Levy (CIL) Scheme in 2017 and this money could not be ring-fenced. Contributions went into a central pot (with the exception of a proportion allocated to the relevant Parish or Town Council) and the Council then decided how it should be spent in accordance with its 'Regulation 123 list'. Education infrastructure was one of the priorities on that list.
- A primary school was proposed to be provided as part of this development.
- The Council's Education Planning Team did monitor planning consents and their implementation in order to plan for the future.
- This was an outline application and did not include an absolute requirement to build a primary school. The application acknowledged, that due to the scale of building proposed, there would be a need for a school and made provision for it to be located within the site. There were a number of ways in which this could be delivered in the future and it was noted that it was in the developer's interest for there to be sufficient educational provision in the area.
- In respect of questions that had been raised in respect of the level of the targets for new housing set by the Core Strategy, it was explained that the Council had prepared its development plan in light of national policy and in accordance with the methodologies put forward by Central Government. The Core Strategy had been considered by an Inspector and found to be both sound and robust, Since the adoption of the Core Strategy the Government had undertaken consultation on changes to how the assessment of future housing need was carried out but the conclusions of this review were only in draft and there would be no final changes until late Summer 2019 at the earliest. At this stage there were a number of alternative methods to assess future need some of which would produce lower figures and others potentially higher figures. The Government had been clear that Local Planning Authorities should not scrap their plans. If contained within an adopted Local Plan, an Authority could rely on its targets for a period of five years so there was no requirement for the Council to revisit its assessment of future housing need at this point. Even if the targets were re-assessed it was not possible to predict whether or not this would lead to a reduction for the figures for Burley, or any other part of the district; there were a lot of issues/evidence that would need to be taken into consideration.
- The provision of a school had been discussed with the applicant. There would usually be two costs associated with such a scheme the first being the cost of the necessary land and the second being the cost to build the structure. The Council could not build a new school itself as there was no legal mechanism by which it could do so.
- The Council could consider the expansion of existing schools.

- It was proposed that a Phasing Plan would be submitted by the applicant and this would have to be approved in writing by the Local Planning Authority.
- It was understood that the West Yorkshire Combined Authority (WYCA) was investigating the potential for the expansion of car parking for all railway stations, although Burley did not lend itself to easy expansion. Car parking was one of the issues that had been raised by the Neighbourhood Plan and could perhaps be addressed through the use of CIL monies.
- The applicant had agreed to seek to encourage the use of public transport by new residents by funding the expansion of the existing bus service to serve the site which would facilitate access to the railway station. The Local Planning Authority could only ask the developer to make all reasonable efforts to promote the use of public transport.
- It was believed that the houses on Wellfield Lane had been built within approximately the last 20 years.

The Ward Councillors were in attendance at the meeting and made the following comments:

- If the application was approved, consideration should be given to accelerating the payment of the Section 106 contributions to earlier stages of the development; it was considered that payment at the point of occupation of 150 and 200 units would be more appropriate.
- The Green Belt was a successful tool in preventing urban sprawl and would normally be reviewed as part of an overall plan not in response to a planning application.
- A letter from the Secretary of State (for Communities and Local Government) addressed to the Leader of Council in March 2017 had stated that Green Belt boundaries should be amended only in exceptional circumstances or when site allocation plans were prepared.
- The local Area Planning Panel had recently refused permission for the building of two houses quite close to this site on the grounds that they would be inappropriate development within the Green Belt, approval for 500 houses was also considered to be inappropriate.
- The growth of settlement in Wharfedale was leading to encroachment along the A65 in an elongated narrow shape.
- There would be a significant impact on the character of the Special Landscape Area which had many visitors.
- The application should be refused and the Green Belt protected.
- Officers had argued that the shortfall in land supply should be given significant weight but considerable weight was also to be placed on the protection of the Green Belt.
- The National Planning Policy Framework (NPPF) said that local authorities should regard the construction of new buildings in the Green Belt as inappropriate unless there were very special circumstances and that very special circumstances would not be considered to exist unless the potential harm was clearly outweighed by other considerations. The Replacement Unitary Development Plan (RUDP) also stated that it should not be permitted except in very special circumstances or for a small number of defined uses.
- Burley had a clearly defined edge in Sun Lane. This development would reduce the gap to Ben Rhydding; officers' assertion that this would not increase the potential for the villages to merge was not accepted.

- The Green Belt existed to safeguard the countryside from encroachment and officers had suggested that mitigation could be provided by landscaping and open spaces but the application was contrary to Paragraph 89 of the NPPF.
- Burley – in Wharfedale was not a town, it was a historic village that had been in existence since the 1700s; it had many visitors due to its historic and unique nature.
- The NPPF stated that housing need was not likely to be accepted as outweighing the harm to the Green Belt.
- This development would not provide the affordable housing necessary for those in urban areas.
- It was suggested that approval of this application was the only solution. There were very limited options for development in the village but this did not justify a development that would be detrimental for local residents; no deal was better than a bad deal.
- There were issues with Education provision.
- The existence of the Roman Camp had previously been unknown and development may damage this valuable find.
- The village already had significant resources in terms of recreation and open space.
- It was considered that the applicant had failed to demonstrate that there were very special circumstances and the application should be refused.
- The same issues affected the village now as in 2012 when first elected to the Council, these included the lack of parking at the station, overcrowded trains and a shortfall in school places.
- Permission had already been granted, or building taken place, of 200 houses, since 2012, with no infrastructure support.
- Burley was congested and there were difficulties in accessing facilities due to the lack of parking particularly for elderly or disabled residents.
- The parking situation at the station was very difficult; there was a clash with school traffic.
- The proposal for an extended bus service once most of the houses were constructed was insufficient; people would not walk that distance in the meantime.
- The trains were already standing room only and there was a lot of pressure on the surrounding roads, including the A65.
- The suggestion that there may be improvements to the rail network was of concern as, at a WYCA Transport Committee meeting in 2017, a Railtrack representative had stated that there were no plans to improve the Wharfedale line or to extend platforms to allow an increase in carriages as there was no funding available for such works.
- The pressure on secondary school places was of great concern; only a limited amount of expansion would be possible at Ilkley Grammar School; it was already being expanded to cope with the existing population.
- There would be a lot of problems before a school could be built.
- This application was the first of many to meet the targets in the Core Strategy for this locality. There would also be applications for sites within the Leeds district that would put pressure on its schools.
- It was considered that there was a real possibility of the catchment of Ilkley Grammar School shrinking so that it would no longer include Burley, where would those children then go?
- It was believed that there was sufficient evidence to show that the proposal

was unacceptable, the disruption to residents lives made it unsustainable; it would affect the health and wellbeing of local people.

- The very small amount of CIL funding would not do much to help. Where money was spent needed to be carefully considered in order to support communities.

The Assistant Director clarified that:

- The recent refusal by the Area Planning Panel had been due to there being no very special circumstances to justify the development in the Green Belt.
- If the Committee was minded to approve the application it would have to be referred to the Secretary of State for Housing, Communities and Local Government for him to decide if he wished to call it in for scrutiny.
- In planning for the future the Education Department took account of all existing people in the system and data on births they also looked at projections for migration and committed residential development.
- If the Parish Council was allocated 25% of the CIL monies associated with this site (if it ultimately adopted a Neighbourhood Plan) this would not be an insignificant amount; it could be circa £1 million.

A local resident spoke in objection to the application:

- The Local Plan was at a critical stage.
- The Land Allocations Plan was expected by the middle of 2018.
- It was considered that determination of the application at this stage would discredit the local planning process and deny local people the chance to comment on the proposed sites through the allocations process. It was not appropriate to approve a site wholly within the Green Belt at this point, it was premature and would undermine confidence in the local planning system.
- The review of the Green Belt was already underway and was a key part of the Land Allocations Plan.
- The adverse impact of this proposal far outweighed the benefits and it was considered that there was a strong case for refusal on the grounds of prematurity. The NPPF allowed this where 'the development proposed was so substantial or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by pre-determining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or neighbourhood planning or (b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area'.
- This site was the largest 'cherry on the cake' in terms of housing sites in the district and to deal with it outside the local planning framework to the gain of an impatient developer was considered to be wrong.

The Assistant Director said that his argument in respect of prematurity was set out in his technical report and he stood by this view.

The applicant spoke in support of the application:

- The Assistant Director's report was very comprehensive and recommended approval of the application.

- This application resulted from extensive engagement over a four year period with the Local Planning Authority (LPA), the Parish Council and other stakeholders.
- The LPA had pushed for a well designed and genuinely sustainable scheme.
- The Council's Core Strategy had been adopted in 2017 and this application was fully consistent with that document. The Strategy required the provision of 700 new dwellings in Burley and this target had been endorsed by the Inspector on the basis of the availability of this site.
- The Parish Council had not objected to the application.
- There had been extensive public consultation and all the relevant technical issues had been examined and addressed. There were no objections from the statutory consultees.
- The scheme would provide significant benefits for the community with 30% affordable housing provision and infrastructure improvements including a new school, allotments, open space, landscaping and bio diversity enhancement. It would also include almost £1 million in highway and transport improvements including the extension to the bus service.
- The Roman Camp (which had previously been undiscovered) had been embraced and incorporated into the development. This was a special opportunity and Historic England was excited by the proposed approach.
- Benefits to existing residents and the local community would be secured by 45 conditions and a Section 106 planning obligation. The development would generate £4 million CIL, £3 million in New Homes Bonus and additional revenue for the Council from Council Tax.
- It was believed that very special circumstances existed and the proposal accorded with both local and national policy.

He responded to Member's questions:

- The applicant's initial preference had been for the delivery of a school, with the land being gifted to the Council. The CIL contribution of £4 million would cover the build cost.
- The Authority's approach was to ensure that maximum flexibility was retained and the Section 106 obligation did not therefore preclude any option in terms of the provision of the school. How and when the school was delivered would be discussed with the Council as the scheme moved forward.
- Under the terms of the planning permission as proposed, it would not be possible to build anything other than a school on that part of the site.
- A commitment had been made to subsidise the existing Ilkley to Otley bus service to provide a half hourly service to Burley Railway Station to co-ordinate with the train timetable. There may also be the possibility of the A84/A85 bus service to Leeds being diverted to run through the site. At this time no commitment had been made to improve public transport services to Bradford.
- There was a fine balance in terms of when the bus service connection to/through the development commenced; it needed to be early enough to try to influence the travelling habits of the new residents but not so early that it came to an end before becoming successfully utilised and viable. Once the main spine road was built this could be progressed.
- In terms of impact on the special character of Burley in Wharfedale and cohesion; this would be determined by the detailed design of the scheme. He

personally knew the village very well and the legacy of its development sites was very important to the applicant. It was important that the details were right and the selection of house builder was considered to be a key issue in this respect. The aspiration was to provide a unique and very high quality development.

- It was anticipated that the scheme would provide detached and semi detached family housing, in a range of sizes, in a suitable mix for the area, subject to the market conditions. There would also be 30% affordable housing for local people.

The Assistant Director noted that the bus service to the railway station would also facilitate travel to Bradford or Keighley by train.

In response to a further question from a Member, the Assistant Director and Interim City Solicitor confirmed that it was possible for a Section 106 obligation to define a priority order in terms of those entitled to access the affordable housing.

Members made the following comments:

- An overlay plan to indicate the flood risk zones in relation to the proposed built development would be useful once the layout became more formalised.
- It was important to give consideration to integrating links to Bradford and Keighley.
- More reassurance was needed in respect of the provision of the associated school.
- It was accepted that there was a need for more housing but this proposal would mean giving up Green Belt and this should only be done with significant care. The 'very special reasons' given were not wholly convincing; the reasons needed to be very strong but the lack of clarity in respect of the proposed school was of concern.
- There would be an impact on the nearest railway stations.
- A referendum was to take place on the Neighbourhood Plan in May (subject to approval by the Executive). It was too early to agree to approval at this point.
- The lack of a concrete plan for the school was a concern.
- It was agreed that a substantial scheme was a better approach than piecemeal development but the provision of the school was a very important factor and there were risks that it would not happen due to events outside the control of the Council and the developer. This affected the weight that could be afforded to the benefits of the proposal.

Resolved –

- (1) That consideration of the application be deferred until a local referendum on the Burley Neighbourhood Plan has taken place in May 2018; this being subject to the prior approval of the Executive, or, if approval is not given to the undertaking of the referendum in May that it be re-submitted to the next appropriate meeting of this Committee.**
- (2) That the applicant be requested to provide a more defined strategy to show how a school can be delivered on the site, including**

consideration of how this will fit within the overall phasing of the development.

ACTION: *City Solicitor*

57. LAND TO THE EAST OF BRADFORD ROAD, BURLEY-IN-WHARFEDALE

A report was submitted by the Assistant Director - Planning, Transportation and Highways (**Document “AD”**) in relation to a outline application for the construction of a residential development scheme comprising up to 15 dwellings, with all matters reserved except for means of access to, but not within, the site, on land to the east of Bradford Road, Burley-in-Wharfedale - 17/00496/MAO. A range of plans and photographs were displayed.

The Assistant Director reported on a number of amendments and updates to his report including the replacement of the words ‘exceptional circumstances’ with ‘very special circumstances’ throughout.

In response to a question from a Member of the Committee he stated that the adjacent site was not within the blue edged boundary and was not in the same ownership. The Community Infrastructure Levy (CIL) would be in the region of £120,000 to £150,000 dependent on the level of floorspace constructed.

A Ward Councillor made the following comments:

- He concurred with the officer’s recommendation.
- The A65 was a clearly defined boundary between Burley and Otley; this development would be a clear encroachment onto the land separating these settlements.
- Any existing properties on the same side of the road as this site had been constructed prior to the introduction of planning legislation.
- There were double white lines along the length of the A65 to Sandholme Drive.
- This section of the A65 was very congested and also suffered with speeding traffic.
- The proposed access would be between Sandholme Drive and Menston Old Lane; there was already a church, a village hall and a petrol station accessed off this section of the A65 together with various junctions; it was far from ideal for a housing development.

The applicant’s agent put forward the following arguments in support of the application:

- The applicant had worked closely with the Parish Council on its Neighbourhood Plan for a two year period with the aim of achieving its preferences for the location of new housing. Local residents and the Parish Council considered that the size and scale of the proposed development at Sun Lane was not appropriate.
- The Parish Council had envisaged a range of sites satisfying the requirement for new houses.

- It had been acknowledged that a contribution to the delivery of the housing target for Burley may be required from this site.
- It was considered that there were no technical reasons to refuse the application.
- The scheme would provide much needed homes and support social and economic infrastructure. There was an acute shortage of homes in the district; this scheme would make a contribution and support one of its Local Growth Centres.
- The deficit in the five year supply was recognised in the officer's report. The Core Strategy recognised that the Green Belt needed to change.
- This development would bring about an immediate social infrastructure improvement; whereas a large scale scheme could take years to realise.
- Affordable housing and CIL funds would be provided.
- It was important that there was a choice and a mix of sites in order to build a balanced community and to diffuse the traffic implications.
- This site was within walking distance of the station.
- The development would have a minimal effect upon the Green Belt.
- Further Green Belt sites would need to be developed to accommodate the target of 700 dwellings.

The Assistant Director clarified that:

- Significant weight was given to the shortage of housing, which was acute, but this scheme would make a relatively small contribution, although it was accepted that sometimes small sites could be developed more quickly.
- In terms of the argument about the need for a choice and mix of sites, a range of sites was set out in the SHLAA (Strategic Housing Land Availability Assessment) and five sites in the area either had permission or were already developed. The Sun Lane site was not the only other option.
- Although small sites may not appear to have as much impact on the Green Belt not all Green Belt sites were the same; some would be in a more sensitive location or may have a greater propensity to set a precedent or encourage further sprawl; the A65 had been defined as a strong defensible edge to the Green Belt.

Members commented that:

- The development of this site would not look out of place.
- It was a relatively small site and there were houses along this side of the A65.
- There had to be strong reasons to give up Green Belt land and there were no such reasons in this case.

Resolved –

That the application be refused for the reasons set out in the Assistant Director - Planning, Transportation and Highways' technical report.

ACTION: Assistant Director - Planning, Transportation and Highways

58. LAND AT BRADFORD ROAD, BURLEY-IN-WHARFEDALE

The report of the Assistant Director - Planning, Transportation and Highways (**Document “AE”**) considered an outline planning application for up to 40 dwellings, with all matters reserved except for means of access to, but not within, the site, on land at Bradford Road, Burley-in-Wharfedale - 17/00497/MAO. A range of plans and photographs were displayed.

The Assistant Director reported on a number of amendments and updates to his report including the replacement of the words ‘exceptional circumstances’ with ‘very special circumstances’ throughout.

A Ward Councillor made the following comments:

- This site was along the road from the previous application. There were still double white lines at this point and there were speed awareness signs.
- Endor Crescent had a narrow entrance which meant that vehicles turning into it had to slow right down on the main road and move out towards the centre of the carriageway.
- There were already a number of junctions/access points onto the A65 in this locality.
- It was not considered that the development of the site as proposed would be appropriate and the recommendation for refusal was supported; the other Ward Councillors also supported refusal.

The applicant’s agent spoke in support of the application:

- This land was owned by the same family as the preceding application and the same points were pertinent to its consideration.
- There were no technical reasons to refuse the application.
- There was an acute need for new housing.
- There was a need for a choice/mix of sites.
- This site could be delivered imminently.
- There would be a limited impact on the Green Belt.
- The density appeared low as a result of the inclusion of the allotments. Many meetings had been held with the Parish Council in respect of the delivery of the Neighbourhood Plan and there had been considerable interest in the retention of the allotments. If the development went ahead as proposed this area of land would be gifted to the Parish Council as a social infrastructure gain. It should not therefore be included in the calculation for the density of development.
- The landowner and his family had lived in Burley in Wharfedale for many years and cared about the village.
- The Parish Council wished to provide a mix of sites in different localities and with social infrastructure improvements.
- All sites would contribute towards the chronic five year housing supply deficit.

The Assistant Director said that:

- The allotments had not been included in the description of the development although they were shown in the indicative layout. If the application was

approved as presented a different layout could then be submitted with the proposed dwellings more widely spread out across the whole site.

- In terms of the weight given to the Neighbourhood Plan; it was deemed to be emerging policy and could be taken into account. The Neighbourhood Plan did refer to allotment provision and inferred that the Parish Council supported the principle of additional facilities but consideration was needed in respect of whether this was appropriate in the location proposed. Even if it was considered to be so this would not be sufficient to warrant a grant of consent in the circumstances of this case.
- At one stage the Parish Council had been hoping that small sites could be used to meet the target for new housing but the target had been lower at that point. The Inspector had recognised that there was a need for large sites to be utilised.

A Member commented that the possibility of urban sprawl on this side of the A65 was of concern.

Resolved –

That the application be refused for the reasons set out in the Assistant Director - Planning, Transportation and Highways' technical report.

ACTION: Assistant Director - Planning, Transportation and Highways

Chair

Note: These minutes are subject to approval as a correct record at the next meeting of the Regulatory and Appeals Committee.

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