

Minutes of a meeting of the Regulatory and Appeals Committee held on Monday, 18 May 2020 in Meeting will be held remotely

Commenced 10.00 am
Concluded 12.15 pm

Present – Councillors

LABOUR	CONSERVATIVE	LIBERAL DEMOCRAT AND INDEPENDENT GROUP
Warburton Wainwright Amran Watson	Ellis Brown	Reid

Observers: Councillor Whitaker (item 81), Councillor Town (Baildon Town Council) (item 82)

Councillor Warburton in the Chair

77. DISCLOSURES OF INTEREST

- (1) In the interest of transparency Councillor Ellis disclosed an interest in Minute 81 (Land at Bolton Road, Silsden) as was a Member of the Flood and Coastal Committee and the Airedale Drainage Board.
- (2) In the interest of transparency Councillor Ellis also disclosed an interest in Minute 82 (19 Northgate, Baildon) as he was on the Planning Panel when the item was first considered in July 2019. He undertook to approach the issue with an open mind and to consider all the relevant material planning issues before making a decision.

Action: City Solicitor

78. MINUTES

Resolved –

- (1) That the minutes of the meetings held on 6 February 2020 and 5 March 2020 be signed as a correct record.
- (2) That the minutes of the meetings of the Committee meeting sitting as Trustees held on 6 February 2020 and 5 March 2020 be signed as a

correct record.

79. INSPECTION OF REPORTS AND BACKGROUND PAPERS

There were no appeals submitted to review decisions to restrict documents.

80. MEMBERSHIP OF SUB-COMMITTEES

There were no changes to Membership of Sub-Committees.

81. LAND AT BOLTON ROAD, SILSDEN

The Assistant Director Planning, Transportation & Highways submitted a report (**Document “AK”**) which set out an application for the construction of a bungalow, car space and new Bitmac surfacing and drainage to parts of unadopted back and side streets on land at Bolton Road, Silsden.

It was reported that the application proposed a bungalow on a garden plot located on the other side of an unmade rear access behind 81-85 Bolton Road. The plot was owned by No 81. This application was similar to the application approved by Shipley/Keighley Area Planning Panel in March 2015.

That permission was not acted upon and this application sought a fresh permission. A number of objections had been received and the proposal was debated at the Shipley/Keighley Area Planning Panel meeting on 26th February 2020.

In response to the representations made to the meeting by neighbours and a ward councillor the panel resolved that :

“the application be deferred for further investigation to establish the position and extent of culverts or watercourses under or near the site, and to require amendments to the parking space layout.”

Members were informed that further discussions had been held with Yorkshire Water and the Council’s Drainage Section. It had been confirmed by the Principal Drainage Officer that there were no records of culverts or watercourses below the site known to the Council’s Drainage Section. The watercourse which may be shown on an historic Ordinance Survey map presented by an objector had been diverted.

It was reported that, however, it was accepted that knowledge of historic culverts may be incomplete so, as a precaution, the Principal Engineer advised that it would be reasonable to add an additional condition that required an intrusive ground investigation to determine the extent of any land drainage network and submit it to the Council along with proposals for dealing with any watercourses, culverts or land drains that might be found to exist within the site boundary.

Members were informed that a ‘pre-commencement’ condition had been agreed with the applicant’s agent that required that the condition of the land was determined before any building work could start on the site.

It was reported that additional alterations had been made to the application concerning the extent of the red line boundary which had also been queried by objectors. This red line had been amended to follow the boundary of line of the plot to the south west which ran parallel to the front of number 9 Townhead. This meant that the proposed resurfacing of this part of the unadopted highway abutting the site was no longer proposed as part of the application.

Members were informed that the car parking space for the bungalow had been amended in response to Area Panel Member's concerns that it would be awkward to use. The Highways Officer's comments on the proposed development had remained unaltered.

It was reported that although the plot was restricted, the land was suitable for the modest bungalow being proposed. The development had been approved previously in 2015 and, as before, the Officer recommendation was to grant permission subject to the conditions listed in Appendix A.

It was suggested that Condition 2 could be amended to include the words "before the development was brought into use" at the end of it.

In response to a Member's enquiry it was reported that the new housing development in the area would not generate traffic on Back Bolton Road as it would have the requisite number of parking spaces.

A Ward Councillor in attendance at the meeting stated that she was speaking on behalf of a number of local residents who had requested her support with their objections to this application. Unfortunately, they could be seen 'remotely' but under normal circumstances would have attended in person and made the following representation:

- the main concerns were regarding the culverted watercourse which was running down Back Bolton Road. The comments within the Summary Statement from Yorkshire Water and the Drainage Officer stated that because there was no record of the culvert and watercourse being shown below the site, it therefore had been diverted. These comments appeared unfounded as they also stated that they accepted, that the knowledge of any historic culvert, may be incomplete, so the fact that it was unable to be seen on their maps was insufficient proof that it had been diverted. The watercourse was clearly documented on the historic maps so where was the documentary evidence to show the culvert had been diverted? Unable to find any such document on the planning portal?
- the natural line of the watercourse remained exactly the same now as it had always been; it was evident, when it flooded, as to where the culvert was situated, as seen in the Boxing Day Floods of 2015, the more recent floods from February this year and after any significant flooding.
- It was also apparent that the culvert was no longer fit for purpose as it had insufficient capacity to deal with the sheer amount of water which ran off the steep sided hillside. There had been significantly more flooding since

this previous application was granted in 2015.

- Place names from the historic maps, such as Water Lane, Ford and Well, clearly denote this was land which was saturated in water.
- It was also evident that the culvert required a lot of maintenance. If a bungalow was built over the top of the culvert there was danger the whole thing would collapse and would result in even more nuisance flooding for existing residents.
- nearby residents recently built a new garage in close proximity to the site they also encountered digging into the culvert when they were laying the footing for their garage structure. This was a much lighter structure than that of a bungalow.
- It was indicated that, in any event, an intrusive ground investigation report would be required - it would be far more logical to have sight of this report before the Planning Panel made their decision; suggest refusing or deferring the application until this crucial document had been provided.
- With regard to highway safety, the first application was initially refused on highway safety grounds back in 2014. The position was now worse. The site was in the middle of several narrow, unmade, unadopted, back lanes which were already difficult to negotiate and to add a further home into the mix was nonsensical and would only add further to the highway safety concerns.
- In addition highway safety had become an ever increasing problem on Bolton Road. Collectively there were a number of new homes being built off this very busy road and a further 57 homes had planning permission just up above. There were a significant number of regular near misses and accidents. Sadly, a life changing injury was the result of one such accident which was recorded and Bradford Council were aware of it.
- Bradford's Highway Safety Team had already started a programme of works to improve the safety on Bolton Road. This included the junction at Townhead which was identified as one that was very difficult to safely get in and out of. It was odd that there were conflicting views on the highway safety of this junction within the Council's own Highways Department.
- In conclusion I would reiterate the need for an independent report to be requested regarding the watercourse and culvert in relation to this site and that it be submitted prior to any planning permission being granted.

In response the Senior Planning Officer reiterated that there was no objection to the proposed development from the Council's Highway Development Control, there were no significant safety issues, congestion was caused by residents parking; neither Yorkshire Water nor the Council's Drainage Section had raised any objections to the proposal. Proposal could be approved with the necessary conditions attached rather than being refused which could not be justified.

An objector representing the Bolton Road Neighbourhood Group made the following comments:

- Danger from traffic at the site entrance which was at the junction of three un-surfaced, unlit roads.
- Only one small parking place was proposed on-site, generating street parking in the vicinity
- Given 1 and 2 above, restriction of access for emergency vehicles.

- The risk of causing the culvert which runs under the site to collapse causing flooding.
- The much higher impermeability of the site (currently garden) if developed causing flooding from run-off.

A further written representation had been received from the resident of 9 Town Head objecting to the application on safety grounds.

In response to the comments raised the Senior Planning Officer reported that Condition 2 made it clear that an intrusive investigation of the site was undertaken to determine the extent of any land drainage and that it be submitted to the planning authority before any work commenced.

The Principle Engineer Highways Development reported that a two bedroom dwelling was unlikely to result in a significant uplift in vehicle movements to and from the site; he was not aware of any incidents.

In response to a Members question it was reported that there were two access points to the site with Bolton Road being the quickest.

In response to Members concerns regarding the culvert the Senior Planning Officer suggested that Condition 2 needed to state that should the investigation reveal the presence of any land drainage network features, detailed proposals for dealing with any watercourses, culverts or land drains existing within the site boundary should be submitted to the local planning authority for approval and the measures should be carried out before the development was brought into use.

The applicant was in attendance and made the following comments:

- He understand that it was raised that the entrance to the site looked busy, this was pure chance that they had arrived home in the motorhome that could be seen in the picture. The gate to the garden was opened so the officer could take photos prior to him driving the motorhome into the parking space in the site.
- They owned and lived at no 81 so access was never a problem and even with a vehicle outside their property no obstruction was caused by them.
- He understood that to object to a proposal there must be a valid reason for objection?
- He had read that the objections were the same as when they first applied and received planning permission unanimously passed.
- Tawny Owls and Bats were regularly seen in the garden by the objectors? Same answer as last time the area was not suitable habitat so there were no bats and no owls.
- One objector had stated as a fact that there was a watercourse either directly under the site or definitely to the side of the site; map from Yorkshire Water of local water courses showed no water course within 100

meters.

- Objectors stated there was a hidden underground void underneath the whole area and any building work would be perilous. Just to the North of the site were 2 large double garages built of stone with tiled roof. To the south 4 three storey town houses built in 2011 and directly south a large bungalow built in 2015 and there had been no problems with any of the buildings, no voids shown on any plans or maps.
- The question of the plans indicating that the site outline was incorrect was a simple misunderstanding as the outline was the extent of proposed Bit Mac to be laid.
- Queries had all been dealt with and the slight alterations to parking had been addressed.
- Could not see any reason to hinder the passing of the planning permission

Resolved-

- (1) That the application be approved for the reasons and subject to the conditions set out in the Strategic Director, Place's technical report subject to Conditions 2 and 4 being amended as follows:**

Condition 2:

Prior to the commencement of the development, hereby approved, an intrusive investigation of the site in order to determine the extent of any land drainage network shall be carried out and submitted to the local planning authority. Should the investigation reveal the presence of any land drainage network features, detailed proposals for dealing with any watercourses, culverts or land drains existing within the site boundary shall be submitted to the local planning authority for approval and the measures so approved shall be carried out before the development is brought into use.

Reason: In order to ensure the site can be safely developed and to reduce the risk of flooding so as to comply with policies DS5 and EN7

Condition 4:

Before the development is brought into use, the off street car parking facility for the dwelling shall be laid out, hard surfaced, sealed and drained within the curtilage of the site in accordance with the approved drawings and retained while the development is in use. The gradient shall be no steeper than 1 in 15.

Reason: In the interests of highway safety and to accord with Policy TR2 of the Core Strategy Development Plan Document.

- (2) That the precise wording of the above resolution be delegated to the Assistant Director, Transportation and Planning.**

Action: Strategic Director, Place

82. 19 NORTHGATE BAILDON BD17 6JZ

The Assistant Director Planning, Transportation & Highways submitted a report (**Document “AL”**) which set out an application to seek the, construction of single-storey private hire vehicle booking office on land to rear of 19 Northgate Baildon BD17 6JZ.

The Assistant Director reported that the application was first approved by the Shipley/Keighley Area Planning Panel at its meeting in July 2019. The applicant acted in good faith on that grant of permission and built the single storey office, though not in full compliance with the approved plans as detailed in the report at Appendix A. The operator had the appropriate private hire operating licence and had been using the office to operate the private hire fleet since September 2019.

Following the grant of planning permission, a 3rd party commenced Judicial Review (JR) proceedings to challenge the Council’s decision. In accordance with the Judicial Review Pre Action Protocol the Council agreed that it would quash its decision. A signed order was issued by the High Court in January 2020 putting that into effect. Accordingly, the Area Planning Panel’s decision is quashed and planning application 19/01605/FUL is brought to this meeting to be re-considered on its planning merits.

It was reported that the main planning issues which were debated at the July 2019 Panel meeting concerned the lack of off street car parking at the site and the implications for local highway safety. In addition, the site was in Baildon Conservation Area.

Members were informed that the private hire office had now been built and its appearance was slightly different to the plans considered at the Area Planning Panel. Amended plans including those design variations had been received and publicised. The visual appearance of the office and the manner of its operation and implications for local amenity and road safety were now more readily understood than they were in July 2019 given that the development was now built and the use had been operating since September 2019.

It was reported that the main points of difference to the original design were that the building was no longer detached – it was attached to an adjacent garage building; the customer booking window had been deleted as had the external covered customer waiting area; the applicant had advised that the majority of bookings were made remotely through dedicated phone lines and/or online; the building had been built with a mono-pitched roof as opposed to the previously shown gabled structure with a dual-pitched roof; the external door to provide access to the toilet facilities had been deleted.

It was reported that the business had been in operation since its approval for 8 months now and had not caused any problems. It was acknowledged that the business provided a valuable service.

Members were informed that the amended scheme sought to address this concern by limiting the nature of the business in that by operating as a purely telephone/remote booking facility, customers would no longer need to call in-person to the site and wait for a vehicle. Vehicles would therefore no longer need to park along, manoeuvre or make otherwise use of the restricted access road alongside the unit. The removal of the welfare facility would also serve to discourage vehicle drivers from parking up and making use of the facilities in between fares. The Council's Highway Engineer was satisfied that the implementation of these measures would be sufficient to overcome their previous concerns.

It was considered that the development would enhance the character and appearance of Baildon Conservation Area in that it would effectively screen the adjacent dilapidated garage building and improve wider range views when seen from Northgate.

Officers were recommending that planning permission be granted. It was reported that a petition with over 30 signatories had been received against the proposal together with 21 letters of objection. In support, around 90 representations had been received including one from a local Ward Councillor.

An additional representation in support of the application had been received from another Ward Councillor which was read out to Members and stated:

- Baildon Taxis was a long established, well respected local business that had relocated just a few yards from its previous location; the new location was in a safer position off the main road on the edge of the conservation area. The taxi office had been built from natural stone and was in keeping with the local area; it was a vast improvement as it hid a dilapidated old garage from view.
- The revised plans removed the external waiting area which made it more acceptable to people living nearby; and the vast majority of business was done by telephone so there was no need for people to visit the booking office; Baildon Taxis had done a fantastic job in marketing their phone number across Baildon including installing a Freephone in the nearby Co-op and Copper Beech Club.
- The business had been successfully trading in the exiting location for 8 months on top of over 30 years in the previous location.

The Baildon Town Councillor spoke in support of the application and made the following comments:

- Baildon Taxis was a valuable asset to the Community, they were trusted by many in the community, which was vitally important to the elderly.
- They were 100% supportive of Baildon Neighbourhood Watch, attending the meetings with Shipley Neighbourhood Police Team, sending out alerts to their drivers to 'look out' for suspicious vehicles etc- on one occasion a staff Member rang 999 about a stolen car and the car was apprehended.
- They had helped by putting NHW signs on lampposts in the village etc, they gave support to Baildon's charity events, providing free taxi services to the elderly & their drivers were always of the highest standards.

- The office they had built was of local stone, sat perfectly in its location and did not impede on any residential properties. It certainly was a vast improvement to how the land was previously, which was basically a dumping ground for what appeared to be household rubbish?
- It would be a sad day if Baildon Taxis were no longer able to operate from the centre of Baildon.

A representative of the objector made the following comments:

- The officer recommendation to the July 2019 Area planning panel was to refuse. There were two grounds, access and highway safety, and nuisance to neighbouring residents . Members came to a contrary conclusion and granted permission.
- The report now recommended the granting of permission but what had changed?
- The access was the same, and the relationship of dwellings to the site remained the same .The highway comment simply say that as there were no walk in customer facilities or welfare for drivers the application could be supported.
- The application drawing showed desks for the staff and two lots of benches. Who would use them if it was not drivers and customers? The report at the top of page 52 acknowledges that customers would use the benches. That being the case, drivers would bring vehicles into the access. So the highway comments were based on a misconception.
- A series of photographs demonstrated the difficulties of vehicles using what the report described correctly as a restricted access road. Note how the Co-op delivery vehicle had to use all the carriageway and even the foot path to egress onto Northgate. It was no surprise that the manager of the CO-OP , Baildon's major food store had lodged a robust objection
- The report stated that the toilet was now only accessible to the three staff who operated the 24/7use. It did stretch the imagination to think that any of the 25 drivers who had a pressing need would be denied access to that toilet .
- At the bottom page 49, the report advised that permission had been given to use a nearby car park and a letter had been received apparently authorising this arrangement. However, this car park was subject to restrictions and at some times of day is very well used. This begs the question would there always be the capacity and the time available for the taxis?
- At the top of page 49 there was a space for the comments by Baildon Town Council – no comments appeared in the report. Why? Because they were made and posted on the Portal on 17th March. I quote in full: “The planning committee would request that the original objections from Bradford Council’s Highways officer regarding the number of parking spaces available for taxi drivers were considered. Also the committee would like to highlight the close proximity of the new taxi office to a residential dwelling 19a Northgate.”
- The report for the July Panel cited as reason for refusal the increase in noise and disturbance to neighbouring residents. 19a Northgate was specifically named, and that applied to the flat that was occupied by the

Malt Shovel's manger which faced the application building and the occupiers of 4 East Parade. The relationship of these properties to the application building could be seen on the report map. The justification for the change in view was given on page 51. There was no external waiting area, whilst acknowledging that there was an internal one. This was a 24/7 operation. Given the concerns expressed in the July report it was surprising that this one did not contain the consultation by the Environmental Health department. That contained a clear recommendation that customers should have "a waiting area away from any noise sensitive premises". This was a 24/7 operation no restrictions on operating hours were proposed to be conditioned nor were any of the amenity safeguards suggested by the Environment Health officer.

- What had been built had little resemblance to that which the members at the July Panel decided to approve . It clearly caused harm to the character of the conservation area as the officer consultation stated, but not significant harm. Contrast this with the consultation relating to the drawing before the July Panel which stated, having made detailed requests for amendments that " the proposed structure itself subject to the points noted, could be constructed whilst maintaining the character of the area".
- The current comment concluded : The building did not cause significant harm to the character of the conservation area, but could with proper attention to detail made a more complementary contribution". The original design with amendments suggested would not have caused harm – that word did not appear in the first consultation from the conservation officer. Furthermore, that consultation expressed concerns about the use " the principle of locating this use on the site must be subject to further clarification, to ensure the level of activity would not be harmful to the amenity and character of the conservation area and the setting of the listed building."
- In conclusion the evidence showed that the original assessment by officers in 2019 remained valid, with the added issue that the building which the Panel Members agreed at that time, was not the building being considered by the Committee today. An unrestricted 24/7 operation as recommended offered no safeguards to residential amenity, and its continuation perpetuates congestion which in itself was harmful to the amenity and character of the conservation area.

Members considered the comments raised and acknowledged the amount of support the proposal had received.

Resolved-

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

Action: Strategic Director, Place

83. 24 HEIGHTS LANE, BRADFORD

The Assistant Director Planning, Transportation & Highways submitted a report

(**Document “A1”**) which set out an application for the installation of roller shutters and creation of an additional Use Class A1 unit at 24 Heights Lane, Bradford.

It was reported that the main issue relating to the installation of roller shutters was their visual appearance and, with regards the additional retail unit, its effect on neighbouring amenities and highway safety.

Members were informed that the roller shutters had been amended to include a ‘brickbond’ design such that they now complied with the Council’s adopted supplementary planning document, ‘Shopkeepers Guide to Securing Premises’.

The additional retail unit was to be formed within the footprint of a building that was granted planning permission last year. The proposal did not increase the bulk or floor space of the building beyond that already permitted and so would have no additional impact on local residents, traffic generation, parking demand or delivery pressures.

The proposal was acceptable subject to standard conditions relating to commencement of the permitted development and compliance with approved plans, plus another to limit hours of operation.

It was reported that one representation had been received from a Ward Councillor, raising concerns and requesting the application is determined by the Area Planning Panel. Local residents had also expressed concerns about the visual amenity, increase traffic flow and increase in the disruption in the local environment.

It was considered that since the new units would be small, the amount of deliveries and servicing would be small. There was space to the front of the units for service and delivery vehicles and overall, it was not considered that the level of servicing and deliveries for the three units would cause a detriment to highway safety.

Members felt conditions should be added in relation to the opening hours of the units and prohibiting outdoor storage to the front or side of the property.

Resolved-

That the application be approved for the reasons and subject to the conditions set out in the Strategic Director, Place’s technical report subject to the following additional conditions:

- (1) That there shall be no outdoor storage or display of equipment, plant, goods or materials within the site.**

Reason: In the interests of visual amenity, provision of car parking and to accord with policies DS1 and TR2 Core Strategy Development Plan Document.

- (2) That the use of the premises shall be restricted to the hours from 0800 to 2000 Mondays to Saturdays and from 0900 to 1600 on**

Sundays, Bank or Public Holidays.

Reason: In the interests of the amenities of neighbouring residents and to accord with Policy DS5 of the Core Strategy Development Plan Document.

(3) That the precise wording of the above resolution be delegated to the Assistant Director, Transportation, Design and Planning.

Action: Strategic Director, Place

84. 'HAND AND SHUTTLE', 48 TONG STREET, BRADFORD

The Assistant Director Planning, Transportation & Highways submitted a report (**Document "AJ"**) which set out an application for the for the partial change of use of public house (Use Class A4) to car sales and forecourt with installation of full height showroom windows, internal roller shutter door and mesh link metal fencing at the 'Hand and Shuttle', 48 Tong Street, Bradford.

It was reported that the main planning-related issues related to (i) the physical alterations to part of the building, chiefly the installation of showroom windows, a rear service door and security fencing, (ii) noise and disturbance of neighbouring residents and (iii) highway safety, which was the main focus of objections received to the proposal.

The physical changes to the building would not be harmful to its appearance and, with regards the fencing, were subject to a previous planning permission. Whilst noting the opening hours of the exiting public house and its location on the busy Tong Street, the operating hours of the car sales business would be unlikely to cause an increase in noise and disturbance, and could be controlled through a suitably worded condition.

In highway safety terms, the proposal was relatively small-scale that would not generate a significant level of traffic. Furthermore, it and would replace and unsatisfactory access off Tong Street and the unmade Melford Street with one from the Rook Lane. This was a similar arrangement to a scheme previously granted planning permission.

The Council's Highways Engineer had offered support to the proposal. Members were informed that 23 objection letters had been received from nearby residents; one of the letters stated that it was not a petition and should be classed as one objection which included a list of 27 signatories. The summary of representations were detailed in the report.

It was suggested that condition 6 also include that the acoustic fencing should be retained while the development use subsists.

Resolved-

(1) That the application be approved for the reasons and subject to the

conditions set out in the Strategic Director, Place's technical report subject to Condition 6 being amended as follows:

Prior to the first use of the development and while the use hereby approved thereafter subsists, an acoustic fencing to the specification and extent shown on the approved plans (28-019.02 C), shall be erected adjacent to the domestic curtilages of group of 4 terrace houses. The acoustic fence shall be retained whilst ever the use subsists.

Reason: To protect the residential amenities of the nearest occupiers in accordance with policies DS5 and EN8 of the Core Strategy Development Plan Document.

- (2) That the precise wording of the above resolution be delegated to the Assistant Director, Transportation, Design and Planning.**

Action: Strategic Director, Place

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