

Minutes of a meeting of the Regulatory and Appeals Committee held on Thursday, 27 August 2020 in a Remote Meeting

Commenced 10.00 am
Concluded 2.50 pm

Present – Councillors

LABOUR	CONSERVATIVE	LIBERAL DEMOCRAT AND INDEPENDENT GROUP
Warburton Wainwright Amran Azam	Ali Brown	Reid

Observers: Councillor Johnson (minute 35) and Councillor D Green (minute 38)

Councillor Warburton in the Chair

32. DISCLOSURES OF INTEREST

- (1) In the interests of clarity, the following Councillors all disclosed that they had previously been on the Committee when the issues referred to in agenda items 5 and 6 had been discussed but all undertook to consider both applications on the basis of the information presented at today's meeting only:-
 - Councillor Warburton
 - Councillor Wainwright
 - Councillor Amran
 - Councillor Brown
- (2) The same councillors also disclosed for the sake of clarity that they knew of Mr Guy, who was in attendance to speak on behalf of the objectors to the application referred to in agenda item 7 but each confirmed that they had not discussed the item with him.
- (3) Councillor Azam disclosed for the sake of clarity that he had previously served on the Regeneration and Environment Overview and Scrutiny when the site referred to in agenda item 6 had been discussed but undertook to consider the application on the basis of the information presented at

today's meeting only.

ACTION; City Solicitor

33. INSPECTION OF REPORTS AND BACKGROUND PAPERS

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

34. MEMBERSHIP OF SUB-COMMITTEES

There were no recommendations to appoint Members to Sub-Committees of the Committee.

35. HOLME WOOD SOCIAL CLUB, TONG - 19/05300/FUL

Previous reference: Minute 12 (2020/21)

Note: at the commencement of this item, the Chair ascertained that Councillor Amran could neither be seen nor heard on the virtual platform so he announced that the Councillor would not be able to vote in respect of this particular item

The Assistant Director Transportation, Design and Planning submitted a report (**Document "U"**) which set out a full application (19/05300/FUL) for the demolition of the Holme Wood Social Club and construction of a single storey food convenience store and 4 retail units at Broadstone Way, Bradford.

This application had been previously considered by the Regulatory and Appeals Committee on 25 June 2020, where it had been resolved to approve the application. It had been agreed following the agenda preparation meeting on 27 July 2020 that in light of the expressed concerns explained in the report, that the application be reconsidered at this meeting.

The Assistant Director gave a detailed overview of the application showing the location site plan, elevations, layout, details of site operation as well as photographs of the site and the adjoining area. He also summarised the representations that had been received. He also stressed that the application had been previously considered and approved by this Committee at its meeting held in June of this year, however following that meeting, some concerns had been expressed with regards to the status and the weight that should have been given to the Holme Wood and Tong Neighbourhood Development Plan, and the application was hereby resubmitted for determination. The Assistant Director stressed that in his opinion the Holme Wood and Tong Neighbourhood Development Plan did not carry sufficient planning weight for the reasons set out in his technical report, and in particular as the Plan had never gone through the stages of being formally adopted as a supplementary planning document. However it was felt that this application was in accordance with the adopted development plan policies, and it was therefore being recommended for approval.

A Member and Ward Councillor for the area stated that the photographs did not portray all the shops that were part of the current parade. In response the Assistant Director stated that the photographs were intended to give an idea of the character of the surrounding area and not be a comprehensive depiction of all the different retail units that were currently situated in the vicinity of this site. The Member also stated that it was the intention of the Neighbourhood Plan that any of the current retail unit tenants could also be allocated a place at the new

centre, not just what was being proposed as part of this application. In response the Assistant Director stated that any proposal by the owners of the existing retail units to renovate any of the units would be appraised on its own merits.

The Chair expressed concerns and questioned why the Neighbourhood Development Plan had never come to fruition as an approved policy document, and considered that the status of the development plan could not be ignored.

The Assistant Director stressed that only limited weight could be given to the Neighbourhood Plan, although the issue of formal approval of the Plan was something he could not comment on, however it had been referenced in the technical report, and the officer view was that this application accorded with the spirit of that Neighbourhood Plan. The City Solicitor stated that having read the document, he agreed with the Assistant Directors' perspective on its status.

A Ward Councillor was present at the meeting and stated his objections to the application which were that two officer reports had been submitted today, one relating to the previous consideration by the Committee in June; that both these reports gave inaccurate and misleading information; that he had communicated his concerns to the Strategic Director Place and these emails had also been circulated to Members of this Committee prior to this meeting; that he fully understood the status of the Holme Wood and Tong Neighbourhood Development Plan and that officers should have followed the necessary steps to ensure that it became a binding document. However in the absence of this it should not translate to the Neighbourhood Plan only being given very limited weight. This application would not be a sustainable development and thus would have an adverse effect on the viability of the existing retail centre located at the parade. This application would add additional retail and thus be in contravention of the Neighbourhood Development Plan, in terms of the duplication and location of the new shops, and further affect the viability and sustainability of Holme Wood and the existing businesses, and he urged that the application be refused.

The Assistant Director reiterated his earlier comments that this application accorded with the Council's adopted Development Plan, and that the Neighbourhood Development Plan should be only be given limited weight. He added that the application was also a sustainable development both in terms of its location and its relationship to existing facilities, and thus was in accordance with the aspirations set out in the Neighbourhood Development Plan.

The Chair stressed that more weight should be afforded to the Neighbourhood Development Plan, as although there seemed to be divergent views on what weight should be given to this document, it was his view that officers had failed to progress the document through the Council's decision making processes.

The Applicant's agent was unable to make his representations due to technical issues affecting his connection, and he had not submitted any written representations in advance of the meeting.

In relation to the status of the Holme Wood and Tong Neighbourhood Development Plan, the City Solicitor stated again that only limited weight could be given to the status of the document.

There was then a robust discussion regarding the possibility of going through a process of registering the Social Club as an asset of community value, however the legal advice was that this was a separate process to the consideration of this application, and as such this planning application should be determined on its merits only.

During the discussion although some Members expressed support for the application, the majority of Members expressed considerable concern that the proposals would be in direct conflict with the sentiments expressed in the Holme Wood and Tong Neighbourhood Development Plan. Furthermore the proposed development would duplicate existing retail uses within the Holme Wood Local Centre and thus it would harm the vitality and viability of the Holme Wood Local Centre, and it was therefore:

Resolved –

That the application be refused on the following grounds:

- (i) That the application does not accord with the Holme Wood & Tong Neighbourhood Development Plan.**
- (ii) The proposed development duplicates existing retail uses within the Holmewood Local Centre and so it would harm the vitality and viability of the Holme Wood Local Centre contrary to Policies EC5 of the Core Strategy Development Plan Document and Policy CR1A of the Replacement Unitary Development Plan.**

ACTION: Assistant Director Transportation Design and Planning

36. ERLINGS WORK - 20/00865/MAF

The Assistant Director Transportation, Design and Planning submitted a report (**Document “V”**) which set out a full planning application for building operations to reinstate animal by-products process plant and roof mounted solar PV equipment following fire damage, demolition of outrigger extension at rear and shelter roof structures on west side, structural alterations to create extensions to front and west side, replacement and resizing of industrial access doors, installation of concrete wall sections to replace blockwork walls, installation of new wall and roof cladding, re-siting of two silo tanks (retrospective).

A detailed presentation of the application was made to members, including plans and photographs of the site; photographs of the re-build undertaken in 2019; plans showing the changes to layout and elevation as a result of the re-build and a detailed description of the objections to the application which had been received both prior to and following the publication of the report. Objections centred around problems of odour; HGV vehicle movement through the residential locality and spillages from the HGV vehicles. A councillor representing a neighbouring ward had also reported his concerns regarding the lack of respect shown to the community by the applicant and that the bund constructed in 2010 still had no been planted up.

Members were advised that the application was partly retrospective as the applicant had continued to build on following the re-build after a fire in 2019 and that a new bund had been constructed which would be built up, seeded and planted.

The Assistant Director highlighted key issues for members, which were

- The principle of this application as it was on green belt land
- The fact that the application was not disproportionate in height or size
- That the application did not reduce the openness of the surrounding green belt
- The Council's landscaping officer had assessed the application and was satisfied
- The greatest concerns from residents were around the issue of odour, which were an environmental health matter rather than a planning matter, however members should take into account whether the new buildings would exacerbate matters.
- The Environmental Health officer had assessed the application and was satisfied that the new fabrication would help to reduce odour.
- Odour on the road was outside the remit of this application
- The application would support the rural economy

In conclusion, it was stated that the matter for consideration at this meeting was the reinstatement of the fire damaged buildings only; that the application satisfied the exception test in respect of building on green belt and that the new buildings were not disproportionate. As a result, the application was recommended for approval.

The Chair of the Committee commenced questions by asking whether the new building would need a new fire certificate; would the new enclosed nature of the replacement building reduce noise impact and was the reason for the application being retrospective that the building was considered essential so re-building had been commenced immediately after the fire.

In response, he was advised that the plant was an important facility and that the applicant had cited that as a reason why building had been reinstated as soon as possible. There had also been some initial uncertainty about the need for planning permission. It was also stated that the build work on the new construction was far superior to the building it replaced with both pipe work and duct work being inside the new premises. It was suggested that the applicant would be best placed to advise on the fire certificate.

Another Councillor asked why spillages on the road were not a relevant issue and was advised that there was separate legislation covering this matter, which was dealt with by the Environmental Health Department.

A Member asked whether wet scrubber machinery would be installed in the new building and was advised that, although the application was simply for the reinstatement of two buildings, the Environmental Health Officer had commented to the effect that he was disappointed that this machinery was not being installed but did accept that the application was an overall improvement to the previous plant. In response to a second question, he was also advised that two silo tanks were to be re-sited but that this would have no adverse impact.

A Member queried the former use of the site and was advised that it had always been involved in similar work, being formerly a maggot farm, pet incineration facility and rendering plant before its current iteration dealing in category 1 animal by-products.

A Member queried the principle of dealing with retrospective applications and whether in particular it was expected that all works should cease while the application was dealt with.

It was explained that the situation varied depending on individual circumstances but that, while it was expected that works should cease until an application had been decided and applicant were advised that any unauthorised works were at their own risk, enforcement should not be undertaken unless there was risk of material harm. In this case, there had been confusion about the necessity for a planning application as it was essentially a re-build.

Members concurred with that advice, stating that the application would be considered simply on its merits as set out in the report, neither its retrospective nature nor any other environmental concerns could be described as material considerations.

The applicant's agent had joined the remote meeting and spoke in support of the application, stressing how devastating the fire had been and explaining the specialist nature of the work undertaken at the plant. Erlings works was one of only four plants in the UK capable of dealing with category one animal by-products and while it had been out of commission it had placed the other three plants under considerable strain. As a result of the rebuild, the plant was now state of the art, with considerable focus on odour control and air management. In response to the Chair's earlier question in respect of a fire certificate, he undertook to find that information and provide it to the officers concerned.

The chair concluded the discussion by noting that, although the plant had had numerous previous problems, he hoped that a benefit of the fire may be a much improved operation with benefits for the community as well as the company.

Resolved –

That the application be approved, subject to the conditions set out in Appendix 1 to Document "V".

ACTION: Assistant Director Transportation Design and Planning

37. SCHOLEMOOR CEMETERY EXTENSION - 20/01571/REG

The Assistant Director Transportation, Design and Planning submitted a report (**Document "W"**) which set out an application for change of use of former allotment land to form an extension to the existing cemetery on the former Allotment Gardens, Necropolis Road, Bradford.

Members received a detailed presentation in respect of the application, including plans and photographs of the site. It was explained that works had already started on-site under the provisions of the Coronavirus Act 2020 which permitted such essential works as a result of the pandemic. It was also explained that the

allotments had not been in use since 2015 and that the land had previously been very overgrown.

It was explained that concerns had been expressed by local residents about the boundary wall to the extension and the likelihood of it being misused as a shortcut into the cemetery. It was intended that the wall would be rebuilt and appropriate planting behind the wall would be put in place to prevent this possibility.

The neighbouring church had commented on the extension, asking that a portion of the land be used for an extension to their parking provision as there were already parking problems on the nearby roads. Members were advised that this application was for an extension to the cemetery only and that any request for the church to purchase some of the land would have to be made separately.

Further objections from residents in respect of the potential for lack of privacy would be dealt with by the planting of additional trees between the cemetery boundary and their gardens.

A further submission from a ward councillor which also raised concerns in respect of parking and the boundary wall was also presented.

Members queried whether the proposed boundary wall could be topped by railings to match those already in place as that would prevent access at that point. They were informed that this could be investigated.

A member also queried whether the extension was needed for the additional burials that the pandemic had necessitated and was advised that this section of the cemetery had been nearing capacity and that, therefore, the extension would have been required in any event. In response to a further question, it was also explained that the Council did have provisions in place should mass burial become a necessity but that, to ensure the dignity of burial proceedings, this application had been made.

A member noted that the ward councillor's concerns echoed those of the neighbouring church and asked what would need to be done to make some of the site into off street parking. He was advised that the church would need to contact the relevant department to ask for the land to be released and then make a separate application.

A representative of the church had joined the meeting but his comments were inaudible. The chair referred to his previously provided written comments, which were also about parking and asked that he liaise with the Principal Parks and Green Space Manager on this issue.

The officer representing the Council as the applicant joined the meeting and updated members on the progress of the works, stating that the extension was now complete but that it would not be put into use until all the existing provision had been used. He was mindful of issues of access from Necropolis Road and

would be working with all affected parties to come to a solution. He also stressed that there would be no additional vehicle access, the only new access would be a pedestrian link. He advised that railings could be considered and members further advised that, if they were so mined, a condition on this decision would obviate the need for a further application.

The representative of the neighbouring church was then able to make himself heard and explained to the Committee that, while the need for the extension was not being objected to, it would be useful if the space was reduced by 10% to allow for the future use of both the cemetery and the church. Currently the church did not have any formal parking and would like to enter into an agreement with the Council to establish this. He also hoped that future burials immediately adjacent the church would be handled sensitively and suggested that the current proposal did not deal with all communities fairly.

In response, the Principal Engineer, Highway Development advised that members must consider the impact of this application and stated that as the purpose of the extension was to enable the cemetery to be used for a longer time rather than increase its frequency of use, there would be little additional impact. As such, issues of parking were a third party matter.

Members were further advised by the applicant that the whole of the extension would be required for future burials.

Members commented that they had sympathy for the views expressed by the church representative and that they would like to see all parties working together to find a solution.

Resolved –

That the application be approved, subject to the conditions set out in Appendix 1 to Document “W” and also subject to one additional condition and one action for Officers in the Sport and Culture Service:

- (i) Within 12 months of the date of this permission, details of the boundary treatment along the southern boundary of the site onto Necropolis Road, which shall comprise a stone wall and railing, shall first be submitted to and agreed in writing by the Local Planning Authority and then be fully installed in accordance with the approved details. Reason: In the interests of visual amenity and to limit public access to the site and to accord with policies DS1 and DS2 of the Local Plan for Bradford; and,**
- (ii) That Officers in the Sport and Culture Service continue to work with the church to find a solution regarding parking.**

ACTION: Assistant Director Transportation Design and Planning

The Assistant Director Transportation, Design and Planning submitted a report (**Document “Z”**) which asked Members to consider a Listed Building Consent application (20/01665/LBC) relating to minor internal and external amendments to an existing listed building including: demolish, remove and replace internal stair, demolish and remove section of chimney at first floor only - ground floor and roof level chimney breast to remain. Alterations to external frontage with new external doors and windows throughout at 193 High Street, Wibsey, Bradford.

A detailed presentation of the application was given, including plans and photographs of the building concerned and the locality. Members were advised that the application was considered to mean the loss of the historic fabric of the building and that the proposed use of UPVC windows were not in keeping with its listed building status.

The Chair asked whether the existing staircase complied with building regulations; whether the upper floor of the building comprised an overcroft and whether the removal of the chimney would adversely affect the downstairs of the property. In response, he was advised that the staircase would be exempt from building regulations as the building was listed; that the property did include an overcroft and that the effect on the downstairs of the property would be a building regulations matter.

A ward councillor joined the meeting and spoke in support of the application, stating that it was important to ensure such properties were capable of being used and that, with the chimney in place, this building could not be fully utilised. He also considered that the objections to the proposed letterbox and railings were not relevant and that the proposal to simply cover the existing staircase was not practical. He was concerned that the house would not be habitable without some flexibility in respect of this application.

The Assistant Director responded by stating that the advice from the conservation officer had been to retain the chimney breast; that he had no objection to the letterbox and that the issue with the railings was a design problem. He reminded members that the application stated that UPVC windows would be used. If this were changed to wooden double glazed units of an appropriate design, that issue would be resolved.

The applicant also joined the meeting and explained that he could not understand why his application had been refused as other properties in the same row had been modified. He advised that the removal of the chimney breast would allow for the inclusion of an upstairs bathroom and that he would like to install railings to the front of the property as there was a significant littering problem

Members considered that the internal alterations to the property would be in keeping with modern standards and would enable an unused property to come back into use. They had concerns however about the proposed use of UPVC windows in a listed building and considered this to be inappropriate. If the applicant could consider amending the application to include the use of wooden windows of an appropriate style they would be minded to accept the application.

The applicant indicated that he would be able to do so.

Resolved –

That the application for listed building consent be deferred and delegated to the Assistant Director, Transportation, Design & Planning to approve, subject to the applicant submitting details within 3 months for the retention of the wooden windows and door or suitable replacement.

ACTION: Assistant Director Transportation Design and Planning

39. 24 CROOKE LANE, WILSDEN - 20/01626/FUL

The Assistant Director Transportation, Design and Planning submitted a report (**Document “Y”**) which set out a full planning application for the change of use of a grassed access to the side and rear of the end terrace house at 24, Croke Lane Wilsdén to form an enlargement to its private curtilage.

It was explained to the Committee that this application was the first part of a two stage process and that once planning permission had been granted, the public footpath which ran along the area under consideration could not be removed without a further application to extinguish the highways rights. Members were advised that there had been a number of objections to the application, including one from the local parish council but that their concerns would be a matter for the second part of the process and were not a relevant concern for this part.

In response to a question, it was clarified that the land concerned was covered by the deeds of no 24 Croke Lane.

A parish councillor joined the meeting and advised that this property had recently changed ownership and that, at the time of its sale, it had been very clear that a public access was involved. The applicant had tried to close the access unofficially and enforcement proceedings had been taken. He was concerned that there was no justification for blocking access for this property alone and that it would adversely affect the other properties in the row.

Members were reminded that all applications must be considered on their own merits only and that the present application did not, in itself block the right of way. The application was for change of use of the grassed access to formally come within the private garden area of no24.

The Committee’s legal advisor reiterated that this application did not entitle the property owner to block the public right of way. That was a separate process and could be undertaken with or without this application being made. He recommended that, if approved, an informative note be added to the decision provided to the applicant to explain that.

Members considered that explanation to be important in their consideration of this application.

Resolved –

That the application be approved, subject to the conditions set out in Appendix 1 to Document “Y”, bound by the insurance that access to the footpath is retained and that a new application would be required regarding the footpath.

ACTION: Assistant Director Transportation Design and Planning

40. 4 NEW HEY ROAD, BRADFORD - 20/01522/ADV

The Assistant Director Transportation, Design and Planning submitted a report (**Document “AA”**) which set out an application seeking advertisement consent (20/01522/ADV) for a 48 page advertising hoarding to be installed on the side elevation of 4 New Hey Road, Bradford.

The history of this site was explained, with two previous applications having been refused, most recently on the grounds of adverse visual impact and due to conflicting information in respect of lighting being provided on the application. There had also been some confusion on the part of the applicant in respect of the issue of deemed consent and this site. Members were advised that deemed consent could be considered only while the hoarding was in situ. Once it was not in use, all consents were deemed to have ended and a new application must be made and dealt with only on its merits.

Members noted that the junction where this building was located had been radically altered recently and that a large hoarding could be very distracting to traffic.

The applicant’s agent joined the meeting and stated that there was support for the application from local councillors; that the hoarding had been in use since the 1970’s and that it had been lit in the standard manner during its use. He considered the discontinuance notice to be opportunistic and that the proposed reasons for refusal not to be sufficiently robust.

Members were advised that the support of local residents and councillors was noted as was the long history of usage. They were further advised that there was a long standing policy of discontinuance where hoardings were considered to detract from an area. In this instance the hoarding was considered to be disproportionately large.

It was also explained that when a hoarding had been removed and revealed other problems of unsightliness the Council could seek further works to improve the

gable end concerned.

Resolved –

That the application be refused for the reasons set out in Appendix 1 to Document “AA”.

ACTION: Assistant Director Transportation Design and Planning

41. 9 CLIFTON ROAD, ILKLEY - 20/01753/FUL

The Assistant Director Transportation, Design and Planning submitted a report (**Document “X”**) which set out a full planning application for the demolition of the existing detached bungalow and the construction of 3 dwellings at 9 Clifton Road, Ilkley.

Members were advised that extant planning permission was in place for three dwellings but this application was needed to change the layout of those houses. A full presentation of plans and photographs was given and it was stressed that the house would be traditional in appearance and would fit in with their surroundings. There would be no adverse effect on the amenity of the existing houses and the relevant distances required for separation were being adhered to.

Objections to the application had been received in respect of parking problems and objection to the loss of a low wall but it was explained that the road was quiet; objections in terms of the loss of biodiversity and perimeter vegetation had been raised but the biodiversity officer had raised no concerns and the green space referred to was not protected and therefore not a planning matter. An up to date bat survey had been undertaken which showed there would be no problems with the demolition works.

The Assistant Director concluded by stressing to members that this was a minor variation to an extant permission and that, therefore, he recommended its approval.

Resolved –

That the application be approved, subject to the conditions set out in Appendix 1 to Document “X”

ACTION: Assistant Director Transportation, Design and Planning

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