

# DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

## EASTERN AREA PLANNING COMMITTEE

### MINUTES OF THE MEETING HELD ON WEDNESDAY, 19 DECEMBER 2018

**Councillors Present:** Pamela Bale, Graham Bridgman, Keith Chopping, Richard Crumly, Marigold Jaques, Alan Law (Vice-Chairman), Tony Linden (Substitute) (In place of Peter Argyle), Tim Metcalfe, Graham Pask (Chairman), Richard Somner and Emma Webster

**Also Present:** Jessica Bailiss (Policy Officer (Executive Support)) and David Pearson (Development Control Team Leader)

**Apologies for inability to attend the meeting:** Councillor Peter Argyle and Councillor Alan Macro

#### PART I

#### 41. Minutes

The Minutes of the meeting held on 28<sup>th</sup> November 2018 were approved as a true and correct record and signed by the Chairman.

#### 42. Declarations of Interest

There were no declarations of interest received.

#### 43. Schedule of Planning Applications

##### (1) Application No. & Parish: 17/00186/COMIND - The Grotto, Lower Basildon, Reading

Agenda Item 4(1)) concerning Planning Application 17/00186/COMIND in respect of the conversion and refurbishment of existing listed residential building into a 53 bedroom boutique hotel and private members club including Coach House extension, detached spa facility with outdoor swimming pool and enabling development in the form of 6 detached lodge units and 2 x 4 bedroom family houses, was deferred for consideration at a later Committee meeting.

##### (2) Application No. & Parish: 18/02512/HOUSE - Pightles, Tutts Clump, Reading

The Committee considered a report (Agenda Item 4(2)) concerning Planning Application 18/02512/HOUSE in respect of a two-bay garage to front of property (Section 73 application to vary Condition 1 of Planning Permission 17/01646/HOUSE).

David Pearson introduced the report to Members' of the Committee, which recommended conditional approval, and ran through the key points. He referred to the update sheet and stated that there was an error under section two. It stated that the existing house had four bedrooms and with the approved extensions this would reduce to three bedrooms. David Pearson clarified that the existing house had four bedrooms and with the approved extensions this would increase to five bedrooms.

David Pearson also drew Members attention to section three on the update sheet, which answered questions that had been raised by Members at the site visit regarding solar

## **EASTERN AREA PLANNING COMMITTEE - 19 DECEMBER 2018 - MINUTES**

panels. It confirmed that there could be solar panels placed on the roof subject to compliance with the requirements of permitted development rights under the General Permitted Development Order.

In accordance with the Council's Constitution, Mr Andrew House, Parish Council representative, Mr Chris Marsh, agent, and Councillor Quentin Webb, Ward Member, addressed the Committee on this application.

### **Parish Council Representation**

Mr House in addressing the Committee raised the following points:

- He was the Chairman of Bradfield Parish Council and was representing the views of the Parish Council, which objected to the planning application.
- The site was located within the Area of Outstanding Natural Beauty (AONB). Other properties nearby were served by good road frontages.
- There had been numerous planning applications submitted for the site dating back to 2015. The planning application being considered currently was the seventh planning application. The planning application submitted in 2015 had included a proposal to convert the upstairs area within the garage to a family room.
- The Parish Council had objected to a proposal for a two storey building that included a three bay garage as it would face the road and was located within the countryside. The Parish Council had objected to that previous application due to the impact that would be caused. A revised application had then been submitted which reduced the size of the loft area. This had also been refused and therefore a new proposal was submitted that reduced the ridge height of the building down to 3.9 metres.
- It had been proposed that the garage area would need to allow room for two four by four vehicles however, the current car port would not allow for this. A partition had also been erected, which would inhibit use as a garage for car storage.
- The Parish Council felt that the application posed a risk and that West Berkshire Council needed to consider refusing retrospective planning permission for the site.
- The Parish Council felt challenged by the application as in essence a garage was being changed into accommodation.
- Mr House was sceptical as to whether there had ever been any intention to use the building as a garage. It was felt that any variance in the current conditions was unreasonable and would risk there being a new dwelling in the countryside.

### **Questions from Members**

Councillor Graham Bridgman commented that virtually all of the comments made by Mr House related to the fact of the building and that Members were only due to consider the use of the building. Councillor Bridgman stated that the building already had planning permission and Members needed to consider what it could be used for.

Councillor Bridgman referred to Mr House's comment regarding a new dwelling in the countryside and sympathised with the frustrations voiced by the Parish Council. However Members were faced with a building that already had planning permission and therefore could not consider the position or size of the house, only the use.

Mr House felt that a garage building should be used solely as a garage. He was concerned that only one of the two doors could be used and three quarters of the floor

## **EASTERN AREA PLANNING COMMITTEE - 19 DECEMBER 2018 - MINUTES**

space could not be used to store a car. In his view the garage should be used a garage facility and not a habitable area.

Councillor Alan Law queried the conditions and stated that the wording 'ancillary to residential dwelling' was normally used. He felt that the wording of the conditions seemed to be very precise and queried why such a restrictive approach had been used. Mr House stated that the Parish Council had requested that formalities be put in place to ensure the loft space within the garage could not be converted into an annex. In the past wording of conditions had not been tight enough and had resulted in conversions occurring.

Councillor Law asked why the Parish Council was against the area being used as a bedroom if it was ancillary to the main house. Mr House stated that the Parish Council was concerned about the house increasing to five bedrooms. Councillor Law asked what the issue was with a five bed roomed house and Mr House stated that if the ancillary building became an annex the Parish Council were concerned regarding its use. It was important that the use of the building was connected to the main residency. Councillor Law commented that this was not necessarily important in planning terms.

### **Agent Representation**

Mr Marsh in addressing the Committee raised the following points:

- Planning Officers were recommending that the planning application be approved. A very comprehensive report had been provided by Officers.
- It was not an application for separate residential use but rather to bring the condition in question in line with the use of the main building.
- Leaving the condition as worded could cause issues for owners when wishing to sell or re-mortgage the property.
- A variance in the condition would allow the tenants to use the area for other means, such as a games room, none of which would be detrimental to amenity.
- Parking on the site would remain ample if the application was approved.
- There would be no material implications if the condition was to be revised.
- Regarding a change of use, for example to a business operation, this would require judgement as to whether or not planning permission would be required. Mr Marsh stated that this was not something that the occupants desired to do. Ancillary use would be enforced by the Local Authority.
- It was suggested through conditions that Permitted Development Rights be removed for windows on the outbuilding and no objection had been raised to this by the applicant.
- Mr Marsh asked Members to follow the recommendation made by Officers to approve the application.

### **Questions from Members**

Councillor Alan Law asked for clarification regarding the conditions. A request was being made to vary condition one however, he was surprised that the same was not being requested for condition five, as the two conditions would conflict with each other. Mr Marsh stated that with a standard section 73 application, it allowed the Local Authority to look at the substance of the conditions and vary if they wished. Councillor Law was aware of this point however, was still confused as to why no request had been made to change condition five. Mr Marsh referred back to it being a section 73 application and that the outcome of the application could alter the substance of all the conditions.

## **EASTERN AREA PLANNING COMMITTEE - 19 DECEMBER 2018 - MINUTES**

Councillor Tim Metcalfe noted that permission had been given for a garage with two bays for the storage of two vehicles and this would now be restricted to one vehicle. He noted that conditions had not been varied to say that the garage could not be used for two vehicles. Mr Marsh stated that the application did not involve particular configurations of the building. Councillor Metcalfe referred to the upstairs area of the building and queried if this could be rented out, as it would be a very feasible option. Mr Marsh commented that Officers would be best placed to answer this question however, it was a matter of planning judgement. A matter of change of use could be subject to enforcement action if the necessary process was not followed correctly.

### **Ward Member Representation**

Councillor Quentin Webb in addressing the Committee raised the following points:

- Planning issues were not being questioned through the application. In essence what was for consideration were conditional changes to a luxury garage facility.
- He was concerned regarding the number of changes that had been requested over the history of the site and stated that he would rather retain the original conditions. He saw no reason to vary the condition and was concerned that further changes on the site could take place if the application was approved.

### **Questions from Members**

Councillor Emma Webster queried why it mattered if the building was used as a garage. Councillor Webb stated that the property was served by a light use road and to approve the application could result in an increased number of bedrooms. In his view parking and turning room were sufficient for the property along with access to the road.

Councillor Richard Crumly asked Councillor Webb if he was concerned about the building being used as a separate dwelling or business. Councillor Webb stated that this was not a planning consideration for the Committee that evening and the conditions were all that should be considered.

### **Member Questions to Officers**

Councillor Bridgman referred to the point made by Councillor Metcalfe and drew Members attention to page 85 of the agenda pack. Under section 6.2.6, point 2, where it stated that the introduction of a separate commercial use within the building was a potential adverse impact typically capable of arising from the use of any residential outbuilding. Councillor Bridgman referred to the possibility of using the outbuilding for Bed and Breakfast purposes, a rented out room or a separate annex, He asked the Officer, if the application was approved, if the owner could use the building for the above purposes and how far they could go in renting out part or all of the building.

David Pearson stated that when there was a possible change to a new or mixed use, there was a large amount of case law to consider. Letting out the room to a lodger would not be considered a change of use. However if three rooms were let out then it would be questioned if this use was becoming more dominant than the original domestic use of the house. It was about scale, degree and the nature of the use. There was no evidence however, to suggest that the garage area would be used as anything other than for ancillary purposes. There was no condition currently restricting use of the ground floor area to a garage facility and currently there was nothing to suggest that a change of use was intended. David Pearson stated that with these points taken into account there would be a risk of losing at appeal if Members were minded to refuse the application.

Councillor Bridgman noted that the building currently had a staircase that took up one sixth of the first floor along with a toilet room. He asked if there was anything contained within the planning history that might suggest further works could take place upstairs, for

## **EASTERN AREA PLANNING COMMITTEE - 19 DECEMBER 2018 - MINUTES**

example the installation of a bathroom. David Pearson stated that if the applicant wished to turn the upstairs area into a gym with an adjoining bathroom, they would not require planning permission to do so.

Councillor Pamela Bale struggled to see the point in applying for planning permission if no changes were required to the building. David Pearson stated that an applicant could apply to vary conditions if they felt that they were too onerous. Officers had reviewed the site and given that the building was so close to the main building, it was felt that the risk of selling the outbuilding separately was very low. However the risk of being taken to appeal if the variation was refused, was very high. Case law for similar cases was mixed in terms of success at appeal.

Councillor Bale felt that the most appropriate time to vary the condition in question would have been in 2017, when a variation on conditions two, three and four was requested. David Pearson stated that at that time the applicant might have been satisfied with condition one.

Councillor Law asked for clarification regarding the word 'ancillary' and questioned what uses were deemed acceptable regarding ancillary to residential use. David Pearson stated that case law was varied and suggested that a fully functioning annex with amenities would be acceptable in some cases but not in others. Councillor Law recalled that there was often a statement included within conditions that ensured an outbuilding could not be sold separately unless planning permission was obtained. David Pearson stated that this was normally used if there was a larger separation between a dwelling and an outbuilding and it was possible to create a separate curtilage. David Pearson felt that this was not the circumstance in this case.

Councillor Keith Chopping queried if the application was approved, if the ground floor could be converted into living accommodation. David Pearson confirmed that it could be however, if it was used as a separate dwelling to the main dwelling then planning permission would be required.

Councillor Chopping further questioned if the owner wanted to convert the garage to living space and then sell the building, if planning permission would be required. David Pearson confirmed that planning permission would need to be sought, unless the situation went undetected for four years, in which case a certificate of lawful use might be sought..

Councillor Crumly agreed with Officers that it was unlikely that the building would be separated from the main dwelling and sold. However if the situation did occur, there would be a new separate dwelling in the countryside. Councillor Crumly asked if it was within Members' jurisdiction to add an additional condition to prevent this from happening. David Pearson stated that in his personal opinion this was not required for the application being considered however, it could be added at Members' request. If the applicant felt it was inappropriate it was possible that they might appeal the decision.

Councillor Bridgman asked if there was any understanding of what the building was used for at that time and if there was any form of human habitation. David Pearson was of the understanding that the building was currently used for recreational purposes. However under the current conditions, if a bed was placed within the building it would go against the conditions. If condition one was varied the building could be used for a bedroom or as an annex.

### **Debate**

Councillor Law noted that the concerns raised were about process and planning by degree. In his opinion the building was ancillary. He stated that he would however, like to tighten up the conditions to ensure the outbuilding could not be sold separately. With this

## EASTERN AREA PLANNING COMMITTEE - 19 DECEMBER 2018 - MINUTES

in mind Councillor Law proposed that Members approve the application in line with the Officer recommendation. Councillor Tony Linden seconded this proposal.

Councillor Webster concurred with Councillor Law. Given the commitment of the Parish Council, she felt assured that if any use deemed to be inappropriate was taking place within the building, this would be flagged up to the Local Authority and enforcement action could be taken. Section 73 applications involved a huge amount of work. The removal of permitted rights had been sufficiently dealt with through conditions and would ensure that windows could not be constructed on the southern elevation or roof slope of the garage building. In Councillor Webster's view this removed the risk of the building being used for bed and breakfast purposes. Councillor Webster was therefore minded to support the application.

David Pearson explained that wording could be added to ensure the outbuilding was not sold separately and the applicant could then take the decision on whether to appeal this or not.

Councillor Bridgman wished to ask the Officer a further question. He noted that the removal of permitted development rights would ensure that windows could not be constructed on the southern elevation or roof slope of the garage building however, asked what the applicant could do in relation to permitted development rights to the front of the building. David Pearson confirmed that this would fall under normal permitted development rights however, because the site was within the AONB these would be very strict. Councillor Bridgman further asked if planning permission would be required if the applicant wished to change a window or door to the front of the building. David Pearson stated that he would need to check this point at a later stage.

Councillor Richard Somner felt that thought needed to be given to revised wording as the building was being referred to as a garage when it might not be used for this purpose. Councillor Law suggested that it be called an ancillary building. Councillor Somner concurred with Councillor Law.

David Pearson suggested that rather than an additional condition to ensure the building was not sold separately, that this be included at the end of condition one. Councillor Law suggested that the wording be as follows 'the ancillary building cannot be sold separately to the residential building'.

The Chairman invited Members of the Committee to vote on the proposal by Councillor Law and seconded by Councillor Linden and at the vote the motion was carried.

**RESOLVED** that the Head of Development and Planning be authorised to grant planning permission subject to the following conditions:

### 1. Ancillary use

The building hereby permitted shall not be used at any time other than for purposes ancillary to the residential use of the dwelling known as Pightles. The building shall not be sold or otherwise separately disposed of from the dwelling known as the Pightles.

Reason: To limit the future use of the building to prevent uses which would not be ancillary to the main dwelling. This condition is applied in the interests of ensuring a sustainable pattern of development, and safeguarding neighbouring and local amenity. This condition is applied in accordance with Policies ADPP1, ADPP5, CS1, CS13, CS14, CS19 of the West Berkshire Core Strategy 2006-2026, Policies C1, C3 and

**EASTERN AREA PLANNING COMMITTEE - 19 DECEMBER 2018 - MINUTES**

C6 of the Housing Site Allocations DPD 2006-2026, and WBC House Extensions SPG (2004).

**2. Removal of permitted development rights for windows on outbuilding**

Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order with or without modification), no windows/dormer windows (other than those expressly authorised by this permission) which would otherwise be permitted by Schedule 2, Part 1, Classes A, B and/or C of that Order shall be constructed on the southern elevation or roof slope of the garage building hereby permitted, without planning permission being granted by the Local Planning Authority on an application made for that purpose.

Reason: To prevent overlooking of adjacent property, in the interests of safeguarding the privacy of the neighbouring occupants. This condition is applied in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy (2006-2026), Quality Design SPD (2006) and House Extensions SPG (July 2004).

**INFORMATIVES**

**1. Proactive actions of the LPA**

The Local Planning Authority (LPA) has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application. In particular, the LPA:

- a) Provided the applicant with a case officer as a single point of contact.
- b) Granted planning permission for a less onerous condition whilst ensure sufficient safeguards are retained for protecting local amenity and maintaining a sustainable pattern of development.

**44. Appeal Decisions relating to Eastern Area Planning**

Members noted the outcome of appeal decisions relating to the Eastern Area.

*(The meeting commenced at 6.30pm and closed at 7.26pm)*

**CHAIRMAN** .....

**Date of Signature** .....