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

DISTRICT PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON WEDNESDAY 12 MARCH 2025

Councillors Present: Denise Gaines (Chairman), Adrian Abbs, Phil Barnett, Nigel Foot, Alan Macro, Geoff Mayes, Justin Pemberton, Tony Vickers, Howard Woollaston and Paul Kander (Substitute) (In place of Richard Somner)

Also Present: Michael Butler (Principal Planning Officer), Simon Till (Development Management Team Leader), Stephen Chard (Democratic Services Manager), Sam Chiverton (Apprentice Democratic Services Officer) and Nicola Thomas (Service Lead – Legal and Democratic Services)

Apologies: Councillor Richard Somner and Councillor Jeremy Cottam

PART I

1. Minutes

The Minutes of the meeting held on 8 January 2025 were approved as a true and correct record and signed by the Chairman, subject to the following amendment:

Item 3(1) – The Mall, The Kennet Centre, Newbury – Paragraph 31:

Councillor Howard Woollaston indicated that the points he had made were in relation to the retail units rather than the residential units.

2. Declarations of Interest

Nicola Thomas (Legal Advisor) clarified that Members who had considered this item when it came before the Eastern Area Planning Committee could participate in the debate and vote on the item at this Committee, assuming they were not predetermined on the matter.

Councillor Phil Barnett declared an interest in Agenda Item 4(1) by virtue of the fact that he had worked in the nuclear industry for a number of years, but this had been in relation to civil uses rather than weapons over the past 20 years of this time. He reported that, as his interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, he determined to remain to take part in the debate and vote on the matter.

3. Schedule of Planning Applications

(1) Application No. & Parish: 24/02147/FUL - Land at Strawberry Farm, Burghfield Road, Aldermaston

1. The Committee considered a report (Agenda Item 4(1)) concerning Planning Application 24/02147/FUL in respect of the proposed construction of a new detached bungalow following fire damage to the previous dwelling on the site with associated works.

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2. Mr Michael Butler (Principal Planning Officer) introduced the report to Members. He explained that the application had initially been referred to the Eastern Area Planning Committee following the item being called-in to Committee by the Ward Member based on the consideration that refusal of the application would be unreasonable.
3. The Eastern Area Planning Committee resolved to refer the application to this Committee for determination as the application, if approved, would be contrary to the provisions of the Development Plan and the guidance contained in the National Planning Policy Framework, in regards to the DEPZ issue noted in the report and the HSADPD.
4. The report took account of all relevant planning considerations and other material planning considerations. In conclusion, the report detailed that the proposal was not acceptable in planning terms and officers recommended that the Development Manager be authorised to refuse planning permission for the reasons set out in the main report.
5. However, should Members be minded to approve the planning application it would be necessary for the Committee to delegate power back to officers to resolve a matter, related to car parking, by the inclusion of a new plan in the approved details.
6. In accordance with the Council's Constitution, Mr Steven Cottrell, agent, addressed the Committee on this application.

Agent Representation

7. Mr Cottrell addressed the Committee. This representation can be viewed on the recording: [District Planning Committee - Wednesday 12 March 2025](#)

Member Questions to the Agent

8. Members asked questions of clarification and were given the following responses:
 - Applications had previously been submitted as follows:
 - October 2022 – this was an application (submitted by a different agent) for a replacement dwelling, which had been refused.
 - March 2023 – the application (same as the current one) was submitted and withdrawn because the local Ward Member had missed the date to be able to call in the application.
 - The property had been bought at auction, and the purchaser had already committed significant funds by the time of the fire, which they would have lost if they had not concluded the purchase. The owner believed that they would get planning permission to rebuild the bungalow.
 - Mr Cottrell was unable to confirm the exact dates for the probate process. Sales details had been submitted as part of the planning - these showed that the property had been run down and in need of significant refurbishment, but it had been complete with power and water. This type of property was considered attractive to the market.
 - Members were advised that the property had been marketed well before the arson.
 - It was confirmed that the arson had occurred in the period after the auction, but prior to completion.

Member Questions to Officers

9. Members asked questions of clarification and were given the following responses:

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- Members were advised that because the application was for a like-for-like replacement, there would be no increase in traffic, and therefore officers were not able to request any enhancement to the access and associated visibility splay.
- The previous application had been refused on Detailed Emergency Planning Zone (DEPZ) grounds. If the bungalow had remained on site and had been capable of being used for accommodation, it would not have been removed from the Off Site Emergency Plan (OSEP). Prior to 3 January 2022, planning permission may have been granted.
- Extensions were covered by permitted development rights. While it would be possible for increases in occupation due to extensions to be controlled, the Local Planning Authority had chosen not to do this. New dwellings were controlled because they were explicitly mentioned in Policy CS8. Conditions could be imposed on replacement dwellings to restrict permitted development rights, but buildings that existed prior to the adoption of CS16 would be subject to the planning regime at the time they were constructed.
- It was confirmed that the Emergency Plan needed to be regularly updated to account for changes, such as increases in population as a result of home extensions.
- Officers had given careful consideration to the definitions of abandonment and cessation of use, and to relevant national and local policies. It was confirmed that abandonment was related to intentionality. If there was a demonstrable intention to continue use of a derelict dwelling, then it could not be considered abandoned. However, if a building had been demolished then this would lead to cessation of use. Policy C7 stated that there was a presumption in favour of the replacement of an existing dwelling of permanent construction. The supporting text stated that only proposals involving the replacement of existing permanent dwellings would be permitted under this policy. If this application was to be approved then it would set a precedent, since the policy stated that the dwelling had to be existing and of permanent construction.
- Officers believed the settlement boundary to be at Kestrels Mead, which was 20-30m from the application site's western boundary. If the site had been within the settlement boundary, then it would have been included in the Emergency Plan.
- Members were advised that planning permission was needed for replacement dwellings. If a planning application was submitted while a dwelling was on the site, but that dwelling was subsequently rendered unsound due to vandalism/arson and had to be demolished, the application would be considered as if the building was still standing. However, if a building was demolished prior to the application being submitted, the use would be judged to have ceased, and the replacement dwelling would be considered contrary to policy. For this application, the timing of the arson was unfortunate, but the policy's wording did not allow any flexibility, and legislation was clear that assessment must be on the basis of the situation on site at the time the application was made.
- Officers indicated that settlement boundaries were frequently reviewed and considered against the pattern of settlement, and the anticipation of the needs of future developments. If it was considered appropriate that a site be incorporated into a settlement boundary, then it would form part of the settlement boundary review.
- Officers did not feel that approval of this application would set a precedent, since there was open countryside to the east of the site, and anything in this area was clearly outside the settlement boundary.

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- Officers acknowledged it was unfortunate that it had taken a significant period of time for the Emergency Plan to be updated to reflect the change at this site.
- The Planning Casework Unit had advised that they had received a request for the Secretary of State to intervene in this application. It was not clear if the request was to intervene in the case of approval or refusal at resolution, and the Planning Casework Unit had not disclosed a reason for the call-in request. Members were advised that the Local Planning Authority would not normally issue a decision until the Secretary of State had confirmed whether or not the application would be called in. If the Local Planning Authority was to issue a decision before knowing if the matter was to be called in, this may result in a judicial review. Members were invited to debate the application and reach a resolution in the normal way, but were advised that the decision would not be issued until the Secretary of State had confirmed if they would be calling it in.

Debate

10. Councillor Adrian Abbs opened the debate. He noted that officers had spent a lot of time checking the facts of the case and were giving very clear and strong advice to the Committee. He acknowledged that even if the Committee was to reach a decision, it could not be implemented until clarification had been received from the Secretary of State. He noted that there was always risk associated with buying property at auction, and while the subsequent arson event had been unfortunate, and he was sympathetic towards the applicant's situation, it was not a planning concern. He felt that relevant loopholes in planning policy/legislation merited further consideration, but that was beyond the remit of the Committee. He indicated that he was minded to support the Officer's recommendation.
11. Councillor Tony Vickers welcomed the matter being referred to the Secretary of State, as he felt that further clarity was needed on this issue. He did not feel that luck should be a factor in the planning system, and recognised that such issues could add to the difficulty of dealing with an estate. He noted that probate could take years to be concluded, during which time properties could become uninhabitable or structurally unsound. He indicated that he disagreed with Councillor Abbs on this matter. He noted that under current proposals to reform the planning system, Members would not have a say in smaller planning applications, but he felt that a common sense approach provided by a Committee was needed in cases such as this where planning policy had got things wrong in a small way. If the situation had happened outside of the DEPZ, then the law of unintended consequences would apply. He felt that rural properties would be at risk where they had temporarily ceased to be occupied, but where there was no intention to give up that use. He felt that Policy C7 had gone too far and indicated that he was inclined to support the applicant and go against the Officer's recommendation on the first ground. With regards to the Emergency Plan, he felt that this application would not have a significant impact relative to other changes such as the cumulative impact of births and deaths across the area. He noted that the property was listed as vacant, but it had still been included in the Emergency Plan as an occupiable property some considerable time after it had burnt down.
12. Councillor Alan Macro suggested that the probate issue was a red herring. He noted that the new owner would have become responsible for the property at the point when contracts were exchanged, and while the arson was unfortunate, the owner should have insured it from the point when they exchanged contracts. However, he noted that the property was very close to the settlement boundary. He suggested that when the Kestrels Mead and Falcon Fields site had been allocated, the settlement boundary should have been redrawn around this site. There had been other

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opportunities to do this as part of settlement reviews. This would have meant that the site would have been included within the Emergency Plan. He felt that this was a significant anomaly and was a reason to approve the application.

13. Councillor Paul Kander indicated that he had previously lived in Kestrels Mead and considered the applicant's property to be part of the community. He acknowledged that preparing and updating the Emergency Plan was a difficult task, but it was challenging to use this as a reason for not approving this application. He highlighted that in the time when he had lived in Kestrels Mead, his household size had fluctuated due to his children visiting. Also, he highlighted that he could have used permitted development rights to convert the loft. He noted that other developments, such as a recently approved waste processing plant with numerous employees had been accepted within the DEPZ, so he felt it would be churlish to refuse this application to rebuild an existing property that had been burnt down. The remainder of the property had then been demolished on the advice of the Fire Service. He was concerned by the precedent set due to the property falling into disuse unintentionally. He indicated that he was minded to go against the Officer's recommendation and approve the application. He expressed a preference for the Committee to reach a decision at this meeting even if it could not be implemented until the Secretary of State had reviewed it.
14. Councillor Justin Pemberton suggested that planning policy and legislation could have unintended consequences because of how they were written. He acknowledged that applications for replacement dwellings should be assessed in line with current policies. However, in this case, the applicant had been unable to submit an application before the existing building had been demolished because the arson could not have been foreseen. He felt that the applicant had acted quickly in submitting the previous applications and he did not think it was appropriate to punish the applicant due to the strict wording of Policy C7. He recognised that household sizes could fluctuate over time, and he did not consider that this application would have a significant impact on the Emergency Plan if approved. He indicated that he was minded to support the application.
15. Councillor Phil Barnett recognised that Officers were professionals, and he usually supported their recommendations in relation to planning matters. However, he also recognised that it was important to consider other aspects. He felt that a common sense approach was needed in this instance and indicated that he was minded to go against the Officer's recommendation and support the application.
16. Councillor Howard Woollaston indicated that he had initially been minded to support the Officer's recommendation, but his views had been swayed by the debate, and he was now minded to go against the Officer's recommendation and support the application.
17. Councillor Vickers acknowledged that Officers had interpreted the policies correctly, but proposed to go against the Officer's recommendation and approve the application, with the suggested conditions as set out in Appendix 4 of the report. This was seconded by Councillor Macro who felt it should be made clear that there were exceptional circumstances with the property being close to the settlement boundary and with the previous dwelling being destroyed by fire.
18. The Chairman invited Members of the Committee to vote on the proposal by Councillor Vickers, seconded by Councillor Macro, to grant planning permission subject to the suggested conditions set out in Appendix 4 of the report. At the vote the motion was carried.

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RESOLVED that the Development Manager be authorised to grant planning permission subject to the conditions set out in Appendix 4 of the report. The Committee felt that there were exceptional circumstances with the property being close to the settlement boundary and with the previous dwelling being destroyed by fire.

(The meeting commenced at 6.30pm and closed at 7.50pm)

CHAIRMAN

Date of Signature