

# DRAFT

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

## **WESTERN AREA PLANNING COMMITTEE MINUTES OF THE MEETING HELD ON WEDNESDAY, 1 MARCH 2023**

**Councillors Present:** Clive Hooker (Chairman), Tony Vickers (Vice-Chairman), Adrian Abbs, Phil Barnett, Jeff Beck, Dennis Benneyworth, Jeff Cant, Carolyn Culver and Howard Woollaston

**Also Present:** Sarah Clarke (Service Director (Strategy and Governance)), Paul Goddard (Team Leader - Highways Development Control), Niko Grigoropoulos (Team Leader Development Control), Cheyanne Kirby (Senior Planning Officer), Benjamin Ryan (Democratic Services Officer) and Simon Till ((Team Leader Development Control)

### **PART I**

#### **28. Minutes**

The Minutes of the meeting held on 8 February 2023 were approved as a true and correct record and signed by the Chairman, subject to the inclusion of the following amendments:

- On page 34, point 64, it should state that the AONB (Area of Outstanding Natural Beauty) did not get subsequent opportunities to comment on the proposal after it was proposed to cut down the trees.

Councillors Howard Woollaston and Dennis Benneyworth abstained from voting due to their absence at the previous meeting.

Councillor Carolyn Culver noted that she was yet to see the Section 106 Agreement for Compton Institute, as mentioned on page 7 of the minutes.

#### **29. Declarations of Interest**

There were no declarations of interest received.

#### **30. Schedule of Planning Applications**

##### **(1) Application No. and Parish: 22/01901/FULMAJ, Deerbourn, Inkpen, RG17 9DE**

1. The Committee considered a report (Agenda Item 4(1)) concerning Planning Application 22/01901/FULMAJ in respect of Deerbourn, Inkpen, RG17 9DE.
2. Ms Cheyanne Kirby introduced the report to Members, which took account of all the relevant policy considerations and other material planning considerations. In conclusion, the report detailed that the proposal was acceptable in planning terms and officers recommended that the Service Director of Development and Regulation

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be authorised to grant planning permission for the reasons listed in the main and update reports.

3. The Chairman asked Mr Paul Goddard if he had any observations relating to the application. Mr Goddard explained that all the construction traffic would occur on a highway, which was distant from the local village. Mr Goddard expressed that concerns from residents on construction traffic were to be mitigated by the inclusion of condition three, which required traffic, where possible, to use the north entrance to the site. Mr Goddard explained that they expected around three to four 'transit van-sized' vehicles to the site per week, which was a reduction compared to previous site traffic. Mr Goddard added that larger vehicles might have to use the bridleway entrance to the site, however, residents had to be notified of when this would happen. After construction is completed the bridleway may still be utilised a few times a year for the delivery of gas. Mr Goddard concluded that the Highways Officers raised no objections.
4. In accordance with the Council's Constitution, Dr David Thomas, Parish Council Representative, Ms Patricia Poynton, objector, Mr Eashwar Krishnan, Mr Kevin Martin and Mr David Keyte, applicants/agent, Councillor James Cole, Ward Member addressed the Committee on this application.

### **Parish Council Representation**

5. In line with the Council's Constitution, paragraph 7.14.5, the Chairman presented to the Committee that they suspend standing orders to allow Dr Thomas to speak due to late submission.
6. Councillor Jeff Beck proposed to suspend standing orders to allow Dr Thomas to speak. Councillor Benneyworth seconded the proposal. The proposal was put to vote and it was resolved to let Dr Thomas speak.
7. Dr Thomas in addressing the Committee raised the following points:
  - That Inkpen Parish Council object to the application.
  - The site had been a continuous source of stress and anxiety for residents.
  - That there had been a continuous disregard for the planning process with retrospective planning.
  - That there had been little work to help with the conservation of the site, which could be seen by the removal of a temporary boiler building and the retention of underground gas tanks. This ran contrary to government guidelines, as gas was not a renewable form of energy.
  - West Berkshire Council's Local Plan stated that there shall be no adverse effect on the character of the local area.
  - The Local Plan outlined that, where possible, renewable heat sources such as ground source heat pumps should be used in preference to gas and restricts new energy infrastructure in AONBs.
  - The Local Plan expressed that any development must be necessary, which would not apply to a steam room.
  - Gas was not the only option for a steam room, as proven Manor Farm Inkpen and Westcourt both used ground source heat pumps for their steam room.

### **Member Questions to the Parish Council**

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8. Councillor Phil Barnett queried whether the gas was in liquid form, which was confirmed by Dr Thomas.
9. Councillor Tony Vickers questioned where in the Local Plan Dr Thomas had found his Local Plan information, as he wanted to make sure it was the current local plan. Dr Thomas explained that it was the Local Plan 2018\_0.pdf, pg. 192 on the website.

### **Objector Representation**

10. Ms Poynton in addressing the Committee raised the following points:
  - That the proposed development was excessive for a large style dwelling.
  - The main concerns were over the further works creating further noise. There was the implementation of the management plan to limit the works, however, Ms Poynton was sceptical that this promise would be kept.
  - That the previous removal of woodland between the Objector's house and Deerbourn led to the destruction of the existing habitat and that if it could be conditioned to restore the previous habitat, it would ease Ms Poynton's concern.
  - That the secrecy and use of retrospective planning left residents exposed and eroded trust and this could set a precedent in the future.

### **Member Questions to the Objector**

11. Members did not have any questions of clarification.

### **Applicant/Agent Representation**

12. Mr Krishnan and Me Keyte in addressing the Committee raised the following points:
  - That the applicant aimed to work with residents to resolve all potential issues. This could be shown by the withdrawal of the previous application, the removal of the ramp and the use of the north entrance.
  - Future development would only be for the gas tanks and the restoration of the field, as the rest of the works were already complete.
  - The applicant was prepared to delay work until September if necessary.
  - Mr Krishnan was not previously able to address residents' concerns, as he was situated in Hong Kong during lockdowns.
  - That they contribute to the local area by growing produce in the fields and what cannot be eaten would be donated to the local food bank amongst other philanthropic undertakings

### **Member Questions to the Applicant/Agent**

13. Councillor Culver asked how often Mr Krishnan was in the country each year and Mr Krishnan explained that because his work was based in Hong Kong he was only in the country for 90 days due to tax implications.
14. Councillor Adrian Abbs queried as to when the retrospective work began. Mr Krishnan explained that the biggest deviation was the gas tanks, which were previously set on old oil tanks. This site was considered old, dirty and polluted, so it was decided to move the tanks. Mr Krishnan explained that other forms of heating were not considered to be as ecologically viable, as other methods would require digging large trenches, which would make the land useless for farming and rewilding. It was explained that tree surgeons had visited the site to help restore the existing trees to full health. Mr Krishnan was advised by the previous planning consultant that the

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relocation of the gas tanks would be acceptable. Mr Keyte explained that when he took over the site in August 2021 most of the building had been completed. Mr Keyte stated that in regards to the tennis court, it was relocated after August 2021 and that he did not advise the client to break the planning law.

15. Councillor Vickers questioned what the applicant's response was to their high carbon footprint. Mr Krishnan stated that he aimed to capture carbon whether that was through his funding of research or the greening of the land. Mr Krishnan reiterated that the choice of gas was the best option available.
16. Councillor Benneyworth wanted to know what concessions had been made to the residents. Mr Krishnan pointed to the use of the northern entrance instead of the bridal path, the change of timings for construction and the removal of the ramp.
17. Councillor Benneyworth asked whether the applicant was sure this could be achieved in 12 weeks of construction and Mr Keytes explained that the construction management plan had been put together by a trusted firm.
18. Councillor Barnett asked whether the applicant had tried to minimise the amount of noise and it was explained by Mr Krishnan that he was sorry for the initial level of noise and that they were aiming to keep noise to an absolute minimum.
19. Councillor Abbs queried whether the woodland discussed by Ms Poynton could be returned to its natural habitat. Mr Krishnan explained that it had been looked at by landscape experts and was deemed unsafe, however from now on he would like to do as little as possible to the surrounding area and site. Mr Keyte also noted that the site will naturally re-wild.
20. The Chairman asked whether the applicant would consider the construction starting in September, which was confirmed.

### **Ward Member Representation**

21. Councillor James Cole in addressing the Committee raised the following points:
  - There had been large amounts of objections to the previous application and those who had caused the issues were no longer part of the project.
  - The key issue was the noise, which had been awful for neighbours, however, this had been rectified.
  - The bridle path had been used extensively, however, this had been rectified.
  - The applicant had been poorly advised by the previous agent.
  - The applicant had spoken to his neighbours to find a solution to the problem.
  - The applicant wanted to maintain and look after the site.
  - There were no excuses for the use of gas and retrospective planning.
  - Everyone involved wanted to see the work finished and there should be work allowed up to 1 May and then after 1 September.

### **Member Questions to the Ward Member**

22. Members did not have any questions of clarification.

### **Member Questions to Officers**

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23. Councillor Jeff Cant asked why the application in 2021 was refused and Ms Kirby responded saying that she did not work on that application, however, she highlighted the main issues as being the gas tanks and the fact the boiler needed to be outside.
24. Councillor Cant questioned whether the word retention, on page 43, meant that the works had already taken place, which was confirmed.
25. Councillor Abbs enquired into the likelihood of a refusal being overturned at appeal. Ms Kirby explained that it would be difficult to defend the decision as it would require all of the factors to be taken into consideration. Mr Niko Grigoropoulos stated that the Committee would also need to consider whether enforcement action could be taken expediently and in the Officer's view the proposed works are considered acceptable.
26. Councillor Abbs queried whether the Officer's decision was a close one and Mr Grigoropoulos explained that all applications were considered on a balance and all evidence led the Officers to suggest that the permission be granted.
27. Councillor Beck asked why the boilers had to be above ground and Mr Grigoropoulos noted that underground boilers were considered dangerous when situated near a swimming pool.
28. Councillor Benneyworth asked whether the 12-week construction window was reasonable and Ms Kirby explained that condition three stated that the building works had to be built with regard to the construction management statement.
29. Councillor Woollaston asked whether a maximum amount of vehicle movements on the bridle path could be conditioned. Ms Kirby explained that as it was a Public Right of Way (PROW) they could not condition it.
30. Councillor Vickers enquired into whether a condition could be applied to manage carbon offsetting. Mr Simon Till explained that policy CS15 stated that major development would achieve net zero reductions in CO2 and carbon emissions from 2016. Mr Till explained the issue was that there was a viable fall-back position which would not require any further work in the Officer's view. If a condition was to be implemented, it was believed to be unreasonable to implement, which could be challenged at appeal. Mr Till went further by noting that the CS15 policy was meant for entirely new developments, not as in this case, a householder application only, which was only a major application by the size of the site. Finally, Mr Till concluded with the fact that national guidance has been extremely limited in this regard which means that any condition created would become problematic.
31. Councillor Vickers queried whether the fact that most of the applications had already been approved would further complicate things.

### **Debate**

32. Councillor Vickers commented on the ward's recent upsurge in affluent homeowners, which had built in a way many residents had felt stretched the limits of planning policy and process. The Councillor expressed discomfort in the building of such properties in the face of a climate emergency, however, the construction would be to a high standard, it would enhance the area and it was not visible from outside the site. Councillor Vickers emphasised the importance of site visits especially when the bulk of the works for the application occurred during the COVID-19 lockdowns where site visits were not taking place. The Councillor praised Mr Krishnan for working with the concerned residents and noted there would be an estate manager that would look after the property. As a result Councillor Vickers saw very little that the Committee

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could do to go against the officer's recommendation, regardless of the retrospective nature of the application.

33. Councillor Abbs expressed disappointment in the way residents had been treated, as well as the retrospective aspect of the application, however, he could not see any convincing evidence to which this application could be refused. Councillor Abbs dictated to Mr Krishnan that biodiversity net gain constraints were the minimum standards and if this was to come forward after the introduction of the new local plan the application would be refused. The Councillor implored Mr Krishnan to push for more than the minimum. Councillor Abbs proposed to accept Officer's recommendation and grant planning permission subject to the conditions listed in the main report and update report, as well as implementing the conditions discussed such as the limiting of the building works, before 1 May 2023 and after September 1 2023. This was seconded by Councillor Woollaston.
34. Councillor Cant recalled that in the past the Committee had been tough on retrospective applications and believed that, just because enforcement would be difficult, it should not be grounds to give consent. Councillor Cant was concerned with the precedent that would be set in regard to planning consent. The Councillor emphasised that retrospective planning was only given if the building occurred as part of a genuine consent and that this site had shown a repeated pattern of breaking planning rules.
35. Councillor Benneyworth reiterated that he disliked the retrospective nature of the application, however, the Councillor was pleased that there had been dialogue between the applicant and residents. Councillor Benneyworth supported the condition suggested by Councillor Abbs.
36. Councillor Culver expressed concerns over the number of gas tanks and believed it was too many for the limited amount of time spent on the property. The Councillor asked for the inclusion of a condition to include bat and barn owl boxes to support biodiversity.
37. The Chairman enquired into whether the start of construction could be delayed until September and reiterated Councillor Culver's condition. The Chairman emphasised that the Committee could not condition the bridleway or the gas. Finally, the Committee was asked whether any further conditions could be added to the application.
38. Councillor Cant asked whether a condition could be added to restrict variation from the plans without consent from the Committee and Ms Kirby expressed that this could not be conditioned, however, there was an improved plan condition that would ensure that everything built had to be in line with the plans.
39. Councillor Abbs enquired about the removal of permitted development and Mr Grigoropoulos stated that as the site was in an AONB there was little to take away.
40. Councillor Culver asked for the ecologist to advise on the bat and barn owl boxes.
41. Councillor Woollaston suggested that the condition around the construction works would be best implemented up to 1 May 2023 and after 1 September 2023.
42. Mr Till mentioned that in respect of the construction period one suggestion for 1 May 2023 and after 1 September 2023 and another for only after 1 September 2023. Councillor Abbs confirmed the condition to be 1 May 2023 and after 1 September 2023

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43. Mr Till explained the barn owl, bird and bat boxes would be a condition that would require no further construction to commence on site until a schedule of the boxes had been detailed.
44. Councillor Abbs amended his proposal to accept the Officer's recommendation and grant planning permission subject to the conditions listed in the main report and update report, as well as implementing the conditions such as the limiting of the building works before 1 May 2023 and after September 1, 2023, as well as the inclusion of barn owl and bat boxes on the site. This was seconded by Councillor Woollaston.
45. The Chairman invited Members of the Committee to vote on the proposal by Councillor Abbs seconded by Councillor Woollaston to grant planning permission. At the vote, the motion was carried out.

**RESOLVED** that the Service Director for Development and Regulation be authorised to grant planning permission subject to the following conditions/for the following reasons:

### ***Conditions***

#### **1. Approved plans**

The development hereby permitted shall be carried out and completed in accordance with the approved plans and documents listed below:

Proposed Boiler Building Plan 2291-3115 Rev A received 31st August 2022;

Lean-to Services Shed Plan 2291-3118 Rev A received 31st August 2022;

BBQ and Pergola Plan 2291-3120 Rev A received 31st August 2022;

Drainage Plan 2291-3108 Rev A received 31st August 2022;

Pool Section plan 2291-3111 Rev A received 31st August 2022;

Tennis Court Fencing and Retaining Walls Plan 2291-3121 Rev A received 31st August 2022;

Site Location Plan 2291-003 Rev B received 24th October 2022;

Site Plan 2291-3102 Rev B received 24th October 2022;

Pool Plans 2291-3105 Rev B received 24th October 2022;

Pool Roof Plan 2291-3106 Rev B received 24th October 2022;

Garden Wall Reconstruction Plan 2291-3107 Rev B received 24th October 2022;

Pool Elevations 2291-3110 Rev B received 24th October 2022;

Courtyard Retaining Walls Plan 2291-3114 Rev A received 24th October 2022;

Underground Tanks Plan 2291-3116 Rev B received 24th October 2022;

Underground Services Plan 2291-3117 Rev B received 24th October 2022;

Construction Management Plan received 31st January 2023;

Email from agent with further construction management details received 17th February 2023.

Reason: For the avoidance of doubt and in the interest of proper planning.

#### **2. Materials**

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The materials to be used in the development hereby permitted shall be as specified on the plans and/or the application forms. Where stated that materials shall match the existing, those materials shall match those on the existing development in colour, size and texture.

Reason: To ensure that the external materials respect the character and appearance of the area. This condition is applied in accordance with the National Planning Policy Framework, Policies CS14 and CS19 of the West Berkshire Core Strategy (2006- 2026), and Supplementary Planning Document Quality Design (June 2006).

### **3. Construction Management Plan**

The remaining non-retrospective works hereby approved development shall be undertaken in accordance with the details and provisions of the hereby approved Construction Management Plan (CMS) received 31st January 2023. For the avoidance of doubt any further works shall be carried out solely within the construction hours and all associated construction traffic shall access the site solely from the Kintbury Road entrance at the north east corner of the site as set out in the approved CMS. Any deviation from this approved arrangement, regarding the construction vehicle access route, which may necessitate the use of the Bridle Path access to the site, shall be the subject of prior discussion with the adjacent Bridle Path residents and will require the written agreement of the Local Planning Authority.

Reason: To safeguard the amenity of adjoining land uses and occupiers, and in the interests of highway safety. This condition is applied in accordance with the National Planning Policy Framework, Policies CS13 and CS14 of the West Berkshire Core Strategy 2006-2026, and Policies OVS.5, OVS.6 and TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

### **4. Arboricultural Method Statement**

No works hereby approved (including site clearance, any other preparatory and/or land reinstatement works and additional hedge planting) shall take place in the vicinity (i.e. within 5m of the outer limit of either the root protection area or the extent of the canopy of any of the existing trees, the subject of a group Tree Preservation Order (TPO), situated along the western (shared) boundary of the site with the adjoining Bridle Path Cottage paddock, whichever the greater, until an arboricultural method statement (AMS) has been submitted to and approved in writing by the Local Planning Authority and shall include details of the implementation, supervision and monitoring of all temporary tree protection and any special construction works within any defined tree protection area. The reinstatement of the previously removed hedgerow along the western boundary and any other planting hereby approved shall take place within the first planting season following approval of this AMS. Reason: To ensure the protection of trees identified for retention at the site in accordance with the National Planning Policy Framework and Policies CS14, CS18 and CS19 of the West Berkshire Core Strategy 2006-2026.

**5.** No construction works shall take place from 31st May to the 1st September 2023, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenity of adjoining land uses and occupiers. This condition is applied in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy 2006-2026, and Policies OVS.5 and OVS.6 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

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6. The approved boiler house and grasscrete track (the remaining non-retrospective works) shall not be used until details of bird, bat and barn owl boxes, (including number specification and locations) have been submitted to and approved by the Local Planning Authority. The development shall not be used until the bird, bat and barn owl boxes have been installed/constructed in accordance with the approved details, and the bird, bat and barn owl boxes shall be retained in accordance with the approved details.

Reason: To ensure biodiversity enhancements are incorporated into the development. This condition is applied in accordance with the National Planning Policy Framework, and Policy CS17 of the West Berkshire Core Strategy 2006-2026.

### ***Informatives***

1. Proactive

2. CIL

3. I10 The applicant is advised that this planning permission does not in any way allow the Public Right of Way to be obstructed at any time during the course of the development.

4. I12 The applicant is advised that all visitors to the site should be made aware that they would be driving along a Public Right of Way. As a result they should drive with caution when manoeuvring into and out of the site, and should give way to pedestrians, cyclists and equestrians at all times.

5. I13 Nothing connected with either the development or the construction must adversely affect or encroach upon the Public Right of Way, which must remain available for public use at all time. Information on the width of the PROW can be obtained from the PROW Officer.

*(The meeting commenced at 6.50 pm and closed at 8.23 pm)*

**CHAIRMAN** .....

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