

Meeting AN **06M** 07/08
Date **28.11.07**

South Somerset District Council

Minutes of a meeting of the **Area North Committee** held on **Wednesday, 28th November 2007** at the Millennium Hall, Seavington.

(2.00 p.m. – 6.20 p.m.)

Present:

Members:

Patrick Palmer (Chairman)

| | |
|--------------|--------------------|
| Jill Beale | Paull Robathan |
| Tony Carvin | Keith Ronaldson |
| Ann Campbell | Jo Roundell Greene |
| Rupert Cox | Sue Steele |
| Roy Mills | Derek Yeomans |
| Derek Nelson | |

Also present:

Councillor Ric Pallister

Officers:

| | |
|-----------------------|--|
| Charlotte Jones | Head of Area Development (North) |
| Madelaine King Oakley | Area Support Team Leader (North) |
| Les Collett | Community Development Officer |
| Angela Watson | Assistant Solicitor |
| Andrew Gunn | Development Control Deputy Team Leader |
| Dave Norris | Development Control Team Leader |
| Kevin Reid | Planning Officer |
| Louisa Brown | Planning Officer |
| Lee Walton | Planning Officer |
| Simon Gale | Head of Development and Building Control |
| Angela Oxenbury | Committee Administrator |

NB: *Where an executive or key decision is made, a reason will be noted immediately beneath the Committee's resolution.*

84. Minutes (agenda item 1)

The minutes of the meeting held on the 24th October 2007, copies of which had been previously circulated, were approved as a correct record of the meeting and signed by the Chairman.

85. Apologies for Absence (agenda item 2)

Apologies for absence were received from Councillor Sylvia Seal.

86. Declarations of Interest (agenda item 3)

Councillor Paull Robathan declared a personal and prejudicial interest in Agenda Item 17, Planning Application 07/04748/LBC as the applicant of the planning application.

He left the room during consideration of this item.

87. Date of Future Meetings (agenda item 4)

Members noted that the next Area North Committee meeting would be held on **Wednesday 19th December 2007 at The Village Hall, Long Sutton.**

88. Public Question Time (agenda item 5)

There were no questions from members of the public.

89. Chairman's Announcements (agenda item 6)

The Chairman congratulated members on winning the previous evening's Planning quiz.

He reminded members that the Area North Parish Workshop would be held on Thursday 6th December at Long Sutton Village Hall.

90. Reports from Members (agenda item 7)

Councillor Derek Nelson reported that the Somerset County Council Area Working Panel was due to meet again at King Arthur's School, Wincanton on Wednesday 5th December.

Members expressed concern that parish councils were not aware of the Panel meeting and that members of the Committee had not been invited.

Councillor Jo Roundell Greene advised the Committee that South Somerset had been announced as the best local authority area in the country for the small amount of waste collected. She paid tribute to the staff and residents who had made this possible.

91. Young Peoples Strategy Co-ordination (agenda item 8)

The Head of Area Development (North) advised members that this presentation had been cancelled as the SSDC lead officer was absent, having already received apologies from two county councillors and representatives of Somerset County Youth Service workers, which would limit the value of the planned discussion. She also noted some difficulties in gathering material for the report which gave a good overview of support to young people, and to communities working with young people. She confirmed the item would be brought to the next available Committee.

92. Frontline Members Grants Monitoring Report (agenda item 9)

The Area Support Team Leader (North) presented the up to date expenditure of Area North members from their own grants budgets. She reminded members that applications should be submitted by the end of March 2008 and she advised them that an evaluation of the scheme was to take place in April.

In response to a member's question, the Area Support Team Leader said the scheme was much simpler for applicants than the Area North grants application process which included a 13 page application form.

During discussion, a member doubted whether the scheme was such that members could be said to be community champions.

The example of Area West was highlighted where local groups had been invited to select grant recipients but members doubted that such a process would work in Area North.

Members were generally supportive of the scheme and welcomed the forthcoming review.

RESOLVED: That the report be NOTED.

*Madelaine King-Oakley, Area Support Team Leader (North) - (01458) 257428
e-mail: madelaine.king-oakley@southsomerset.gov.uk*

93. Area North Grants - Update Report (agenda item 10)

The Area Support Team Leader (North) presented the report.

In response to a member's question, the Head of Area Development reported that the £1,464 outstanding balance of grant to Langport Town Trust was recommended to be returned to the unallocated balance because the conditions had not yet been met.

The Head of Area Development confirmed that Area North received £35,000 for its grants budgets. She said all areas received approximately the same but chose to use their budgets in different ways.

RESOLVED: That the report be NOTED.

*Madelaine King-Oakley, Area Support Team Leader (North) - (01458) 257428
e-mail: madelaine.king-oakley@southsomerset.gov.uk*

94. Somerset Levels and Moors LEADER + Programme – Appointment of a Member (agenda item 11)

The Chairman thanked Councillor Rupert Cox for his representation on the Somerset Levels and Moors LEADER + Programme.

Members questioned the value of membership of the Levels and Moors LEADER + Programme. The Head of Area Development advised that the group of partners were putting together a bid to the South West Rural Development Agency for funding for the levels and moors.

Following discussion, members agreed that the Committee would be better able to influence the group by having a member on it and proposed that Councillor Paull Robathan be appointed.

RESOLVED: That Councillor Paull Robathan be appointed to the Somerset Levels and Moors LEADER + Programme for the remainder of the 2007/08 Municipal Year.

(Voting: Unanimous)

*Angela Cox, Committee Administrator - (01458) 257437
e-mail: angela.cox@southsomerset.gov.uk*

95. Area North 2007/08 Budget Monitoring Report for the period ending 30th September 2007 (Executive Decision) (agenda item 12)

The Head of Area Development (North) reported that midway through the year, the budget was on target.

Members noted that the final payment for the Cockle Moor Bridge scheme had not yet been made to Somerset County Council from the Area North Capital Programme. The Head of Area Development confirmed that a decision had not yet been made by Somerset County Council on the precise completion works on site at the Langport Visitor Centre. She also confirmed that following discussions with the Leader of the Council, it would be proposed to SCC that SSDC complete works on site and deduct any essential costs from the final grant payment.

Members congratulated the Head of Area Development and Councillor Derek Yeomans for their attempts to gain a resolution to the issue and they supported the suggested action.

RESOLVED:

1. That the current financial position of the Area North Budgets be noted.
2. That the £1,989 from unused grant balances in Martock and Langport be returned to the unallocated balance in the Area North Capital programme.

Reason: To note the current financial position of the Area North Budgets, and to agree the unused grant balances be returned to the unallocated balance in the North Capital programme

(Voting: Unanimous)

*Charlotte Jones, Head of Area Development (North) - (01458) 257401
e-mail: charlotte.jones@southsomerset.gov.uk*

96. Proposed Installation of Wind Turbine at Ham Hill Visitors Centre (First Resolution) (agenda item 13)

Councillor Jo Roundell Greene, as Portfolio Holder for Environment and Property, informed the Committee that the wind turbine was being installed to be used as an

example to residents and to encourage people to use renewable energy. She said Ham Hill was a good starting point as it was a very windy site.

During discussion, the following points were made:-

- An “off the shelf” turbine would not be robust enough for the purpose.
- A bigger turbine could generate all the energy required at the site.
- Ham Hill was an ideal site for the erection of a wind turbine but the type proposed would be a poor example to the public

Members agreed in principle to the siting of a wind turbine at Ham Hill but requested that further studies be undertaken on the type of turbine to be erected.

RESOLVED: That an application be made under Regulation no. 3 of the Town and Country Planning General Regulations 1992 for the erection of a wind-turbine on the roof of the Visitor’s Centre at Ham Hill Country Park, subject to further studies being carried out on the type of wind turbine to be erected.

(Voting: 10 in favour, 1 against, 1 abstention)

*Ian Johns, Property Management Team Leader - (01935) 462579
e-mail: ian.johns@southsomerset.gov.uk*

97. Proposed Construction of Enhanced Plots and Visitor Plots at Tintinhull Gypsy Site (First Resolution) (agenda item 14)

The Portfolio Holder for Environmental Health and Inclusion, Councillor Ric Pallister, addressed the Committee. He said the work was an attempt to bring the Tintinhull site up to the same standard as Ilton. The two additional plots would be for visitors rather than permanent accommodation as eight pitches were considered to be right for the site.

Councillor Pallister confirmed that the two visitor plots would be managed by the site warden, would not include full facilities, and would be available for visits of up to 28 days.

During discussion a member expressed concern that the area was already saturated with sites but other members supported the proposals.

RESOLVED: That an application be made under Regulation no. 3 of the Town and Country Planning General Regulation 1992 to construct 2 visitors/transit plots, together with the rebuilding of 4 pairs of Amenity Blocks, a CCTV mast; and a change of use of the adjoining field for the formation of work-spaces, play space and vehicular parking at Tintinhull gypsy site.

(Voting: 6 in favour, 4 against, 2 abstentions)

*Ian Johns, Property Management Team Leader - (01935) 462579
e-mail: ian.johns@southsomerset.gov.uk*

98. Forward Plan – (For Information) (agenda item 15)

Members noted the Forward Plan and asked that the item on Rural Housing work should include a contribution from the Council’s housing team. In response to a member’s

request, the Head of Area Development agreed to ask if a representative from Somerset County Council could attend for the item Supporting Older People/Active Living.

RESOLVED: That the contents of the Forward Plan be NOTED.

*Angela Cox, Committee Administrator - (01458) 257437
e-mail: angela.cox@southsomerset.gov.uk*

99. Planning Appeals (agenda item 16)

During discussion of the report, members commented that the Inspector's report regarding the costs application relating to St Michaels Gardens, South Petherton was confusing. The Inspector had commented that the Council's interpretation was not unreasonable whilst he did not agree with that decision.

RESOLVED: That the report be NOTED.

*Simon Gale, Head of Development & Building Control - (01935) 462071
e-mail: simon.gale@southsomerset.gov.uk*

100. Planning Applications (agenda item 17)

07/04032/REM - The formation of a vehicular access and the erection of 6 houses with garages at Factory and Premises, Thorney Road, Kingsbury Episcopi, Martock, Somerset TA12 6BB

The Chairman informed the Committee that the consultation period for this application had not expired, therefore consideration would be deferred to a future meeting.

07/03984/FUL – The erection of 55 dwellings & associated works at Land adjoining St Michaels Gardens, Lightgate Lane, South Petherton, Somerset

The Development Control Deputy Team Leader reminded Members that the site had been allocated in the Local Plan. A previous application had been refused and at appeal the Inspector had commented that there were deficiencies in the proposed Section 106 agreement. The outstanding issue in the current application was the need to secure increased contributions from the applicant and a Section 106 planning obligation was proposed to secure contributions for affordable housing, public open space, educational infrastructure and community facilities.

The applicant had submitted a unilateral undertaking agreeing to the contributions and the Development Control Deputy Team Leader reported that the figures appeared to be acceptable.

Thomas Monaghan, a local resident, addressed the Committee on the unsuitability of Lightgate Lane for construction traffic and he asked that a request be put in writing asking the applicant not to use it. He was also concerned that heavy lorries could cause problems for the pipes providing the mains water supply underneath the site.

The Development Control Deputy Team Leader responded that, although it could not be conditioned, the applicant would be asked not to use Lightgate Lane for construction traffic. He also noted Mr Monaghan's comments regarding the mains water supply.

Tim Holden, the Applicant's agent, advised the Committee that the applicant had no objection to a Section 106 planning obligation provided it could be progressed promptly. He confirmed that a draft agreement had been provided indicating the monetary contributions to be made. He noted the comments made by Mr Monaghan and undertook to talk to the construction engineers and to provide a response to the planning officers.

One of the Ward Members, Councillor Keith Ronaldson, supported the officer's recommendation. He noted that the proposal was for 55 dwellings instead of the local plan allocation of 51 but the contributions being sought for affordable housing, public open space and community facilities were acceptable.

The other Ward Member, Councillor Paull Robathan, expressed disappointment at the comments of the appeal inspector. He highlighted the requirements for the site as set out in the Local Plan. He agreed that South Petherton needed houses for local people and the site was suitable for development, but said he could not support the officer's recommendation as the proposal did not satisfy the requirements of the Local Plan.

In response to specific points made by Councillor Robathan, the Development Control Deputy Team Leader said the Committee had to consider the application before it and not take account of the future of adjacent land for housing. He confirmed that the main rights of way through the site would be maintained with the diversion of one right of way to Silver Street that was acceptable to the Rights of Way Officer. The footpath diversion will be subject to a diversion order that would need to be advertised and subject to public consultation.

The Development Control Team Leader advised that the provision of a construction plan, indicating times of working on site, would go some way towards alleviating any possible disruption to residents.

In reply to a member's question regarding the speedy implementation of the Section 106 planning obligation, the Assistant Solicitor advised that complex negotiations could be involved with such agreements and although the draft unilateral had been submitted and the headline terms appeared to be acceptable, some work was still to be undertaken before an agreement could be signed.

In answer to a member's question, the Development Control Deputy Team Leader confirmed that a Monitoring Officer was to be appointed to ensure that the requirements of Section 106 planning obligations were met.

During discussion, members expressed sympathy for the residents and the need for their interests to be safeguarded. They agreed to support the application, subject to the successful negotiation of a Section 106 planning obligation and the submission of a construction and environmental plan.

RESOLVED: That planning permission be **GRANTED** subject to:-

1. the applicant entering into a Section 106 planning obligation to provide contributions in respect of affordable housing, public open space, educational infrastructure and community facilities.
2. the Conditions as detailed in the Officer's report
3. the addition of a condition requiring the applicant to submit a construction and environmental plan.

(Voting: 11 in favour, 1 against)

07/04748/LBC – The replacement of 2 No. doors on front elevation at ground and first floor at 5 The Bartons, Yeabridge, South Petherton, Somerset TA13 5LW

(Councillor Paull Robathan, having previously declared an interest, left the room during discussion of this item)

The Planning Officer advised that the parish council and Conservation Officer had raised no objections to the application to provide replacement doors to the Grade II listed building and therefore the recommendation was one of approval.

The Ward Member, Councillor Keith Ronaldson, suggested that the replacement doors were acceptable and would ensure the building was more sustainable for light and heat.

Other members agreed with his comments and supported the granting of permission, subject to the conditions proposed by the Planning Officer.

RESOLVED: That planning permission be **GRANTED** subject to the conditions as detailed in the Officer's report.

(Voting: 10 in favour, 1 abstention)

07/04194/FUL – The erection of 3 No. dwellings with garages at 8 Farm Street, Tintinhull, Yeovil, Somerset BA22 8PZ

The Planning Officer introduced the report and with the aid of slides presented views of the site showing the existing bungalow and the streetscene. She said there was an existing permission for one additional bungalow on the site. In addressing the issues raised by the ward member, she commented as follows:

- With regard to overdevelopment, adequate garden and amenity space was available.
- The access would be widened and Highways had made no objections.
- The Area Engineer had raised no objections, subject to soakaways being provided on the site.
- A condition had been suggested requiring a drainage gully to prevent water remaining on the highway.
- Extensive discussions had taken place with the Conservation Manager regarding the design.
- A deliberate decision had been made to give the design the appearance of a farmhouse to conform with the character of the area.

Philip Horsington, representing Tintinhull Parish Council, asked if three previous applications were extant. He said it was a large site of a sensitive nature due to the proximity of National Trust properties. He informed the Committee that the Parish Council's principal objection related to the access onto a very narrow road. He acknowledged that the access would be improved but hoped that the width of Farm Street could be increased as part of the development. It was an attractive part of the village and he hoped the development would be sympathetic to the surroundings.

The Planning Officer stated that the applications referred to by Mr Horsington were still current. Approval had been given previously for one dwelling and a garage. It was felt that to widen Farm Street would not be consistent with the conservation area and Highways had accepted the access and the impact upon the street.

Diccon Carpendale, the applicant's agent, said extensive pre-application discussions had been held with the Conservation Manager and Highways. In his opinion, the extent of the development on site would not be significantly greater than at present. The views of the local community had been considered and it was felt that the access was acceptable whilst not destroying the street scene.

The Ward Member, Councillor Jo Roundell Greene, expressed disappointment with the barn conversion design that she said was pretending to be something it was not. She would have preferred to have seen an original design of the 21st century and the proposal before them was contrary to what, in her opinion, the members of the planning committee were trying to achieve.

During discussion, varying views were expressed, including:-

- The sensitive design was more acceptable than the existing and would enhance the site.
- A rainwater collection system should be insisted upon.
- The entrance was acceptable for the existing bungalow.
- The design provided a reasonable pastiche given the proximity of Tintinhull House.
- The narrowness of Farm Street was a concern.
- There were concerns regarding the adequacy of space for cars.

The Planning Officer indicated the distances separating the properties and confirmed there would be no overlooking. She said a note could be added to the permission stating that rainwater collection should be considered.

The Committee agreed that permission should be granted, subject to the conditions proposed in the officer's report.

RESOLVED: That planning permission be **GRANTED** subject to the conditions as detailed in the Officer's report.

(Voting: 9 in favour, 3 against)

07/03924/FUL – The erection of two dwellings and garages and formation of associated vehicular accesses on Land at Manor Farm, Littleton Road, Compton Dundon, Somerton, Somerset TA11 6NP

The Planning Officer provided an update on the report as follows:

- A letter had been received from neighbours supporting removal of the farm.
- A letter from the National Farmers Union supported the provision of two dwellings to raise funds in order for the farmer to survive.
- The applicant's agent had proposed heads of agreement for a legal agreement.

The Planning Officer confirmed that there was an extant permission for the replacement of two dwellings on the site. He said the considerations surrounding the current application were complex, regarding the aspiration of the applicant to relocate his farming enterprise by raising capital from the sale of the existing holding. An alternative site had not yet been identified and, whilst having sympathy for the applicant, the planners had serious concerns that this would set a precedent. If the development did

not go forward, it was not clear how the Council would deal with the money it would be holding on behalf of the applicant.

Greg Jones, representing the Parish Council, informed the Committee that there had been a long history of complaints regarding the farm. The parish council supported the proposal which would mean relocation of the farmer and removal of the cause of the complaints. He felt the benefits of the application outweighed the policies against it.

Derek Stacey, speaking on behalf of the residents of neighbouring properties, supported the proposal but sought assurances that there would be no access through the site to the agricultural land beyond. He said that if permission were to be granted, both sites should be marketed immediately.

Joanna Fryer, the applicant's agent, informed the Committee that the site did not allow for further development and there were valid reasons to make an exception in this case. Three generations of the same family occupied the farm and the need to double the size of the herd could not be accommodated in the current location. There had been many complaints from residents and the lane was unsuitable for vehicles. She said the solution was for the farmer to invest in another locality and she felt the planning gain would be sufficient for approval to be given. She suggested that the proposal should not be implemented and the money held by the Council only released upon the farmer ceasing his enterprise.

The Assistant Solicitor advised that a Section 106 planning obligation could not be entered into on the terms proposed. She indicated that the Council could not act as private banker and there were no local plan policies to support the proposal. This was not enabling development, because the applicant did not yet have an alternative site. She said that even if an agreement were to be entered into to compel the applicant to build the two dwellings, the agreement could not prevent another person from applying for planning permission for a farmstead if the site were viable.

Ward Member, Councillor Tony Canvin, agreed with the parish council and the applicant's agent that the farm was not in the right place and the position of the road junction was a major issue. However, he acknowledged the need for a legal agreement to be entered into to secure sale of the site to a developer to enable the farmer to buy another property at the same time.

During discussion, a member expressed the view that the case should be looked at in more detail by the legal team but other members were in agreement that the application could not be supported. They agreed that the Council could not act as banker and that granting permission would set a precedent for similar proposals.

RESOLVED: That planning permission be **REFUSED** for the reasons contained in the Officer's report.

(Voting: 9 in favour, 2 against, 1 abstention)

*Simon Gale, Head of Development and Building Control - (01935) 462071
e-mail: simon.gale@southsomerset.gov.uk*

101. Land OS 1058, Gawbridge, Kingsbury Episcopi (Confidential Item) (agenda item 19)

The Head of Development and Building Control reminded members that the residents' occupation of the site was unauthorised and had been refused by the Committee and at appeal on a number of occasions.

Angus Murdoch of the Community Law Partnership (CLP) tabled a Synopsis of Submissions and addressed the Committee. He asserted that there had been significant changes to material considerations since the Inspector's decision and that would allow the Council and the residents to explore alternative sites before enforcement action was taken. He asked the Committee to consider granting temporary permission in the interim.

The Committee were asked to consider the remainder of the item in closed session.

102. Exclusion of the Press and Public (agenda item 18)

RESOLVED: That, by virtue of the Local Government Act 1972, Schedule 12A under paragraphs 1 and 6, the press and public be excluded from the meeting during consideration of the remainder of the item relating to Land OS 1058, Gawbridge, Kingsbury Episcopi, as the public interest in maintaining the exemption from the Access to Information Rules outweighs the public interest in disclosing the information.

(Unanimous)

The Head of Development and Building Control presented the report setting out the options open to the Committee. He informed the Committee that the Human Rights of the residents of the site as well as their welfare had been fully considered by officers and the Planning Inspectors.

The Committee noted the Assistant Solicitor's advice that they should make the decision on what action to take based on the most up to date information that had been provided in the officer's report, the Synopsis provided by CLP, her own advice to members in response to that Synopsis, and the further points made at the meeting.

The Committee discussed the case in detail and were given the opportunity to read the synopsis provided by Mr Murdoch.

Having considered the further submissions of the Community Law Partnership and the report with appendices submitted by the Head of Development and Building Control, the Committee voted unanimously in favour of the motion that an application be made to the High Court for an injunction. They were satisfied that the arguments in favour of enforcement outweighed those against it, having fully considered the issues arising under the Human Rights Act 1998 and the Race Relations Act 1976.

RESOLVED: That an application be made to the High Court for an injunction under section 187B TCPA 1990, requiring the Enforcement Notices to be complied with forthwith or within such period as the court deems appropriate.

Reasons: The main reason for the decision is that the necessary interference with the human rights of the family concerned which would be caused by eviction from the site and the clearance of the site and their possessions is (i) prescribed by law under the TCPA 1990 (ii) necessary in a democratic society since it pursues a legitimate aim such as the economic well being of the country, which includes the preservation of the environment (protection of the countryside) and public safety (avoiding or reducing the risk of flooding), in the interests of the rights and freedoms of others, and (iii) it is considered proportionate to the aims being pursued seeing that these aims cannot be safeguarded unless the enforcement notices are complied with and the site cleared.

(Voting: Unanimous)

*Simon Gale, Head of Development and Building Control - (01935) 462071
e-mail: simon.gale@southsomerset.gov.uk*

.....
Chairman