

South Somerset District Council

Draft Minutes of a meeting of the **Regulation Committee** held on **Tuesday 16th July 2013** in the Council Chamber, Council Offices, Brympton Way, Yeovil.

(10.00 a.m. – 11.50 a.m.)

Present:

Peter Gubbins (Chairman)

Mike Best	Ros Roderigo
Tim Carroll	Sylvia Seal
Nick Colbert	Gina Seaton
Tony Fife	Paul Thompson
Ian Martin	
Shane Pledger	

Officers:

Jo Morris	Committee Administrator
Adrian Noon	Area Lead – East/North
Nick Head	Planning Officer
Paula Goddard	Senior Legal Executive
Roger Meecham	Engineer
Robert Archer	Principal Landscape Officer

1. Minutes (Agenda Item 1)

The minutes of the meeting of the Regulation Committee held on Tuesday, 16th April 2013, copies of which had been previously circulated, were approved as a correct record by the Chairman.

2. Apologies for Absence (Agenda Item 2)

Apologies for Absence were received from Cllrs. Terry Mounter, Angie Singleton and William Wallace.

3. Declarations of Interest (Agenda Item 3)

There were no Declarations of Interest

4. Public Question Time (Agenda Item 4)

There were no questions or comments from members of the public.

5. Land adj Heather House, Alford, Lovington – Application No. 12/04730/FUL

The Planning Officer presented the report as detailed in the agenda. The application had been deferred at the last Regulation Committee held on 16th April 2013 for the two reasons outlined in the report. Attached to the report was the original officer report plus information provided by the Council's Engineer and the Environment Agency. The Applicant had submitted some additional information since the report was published, which had been circulated to members of the Committee.

The Planning Officer referred to the information provided by the Applicant's Agent setting out proposals regarding future occupancy as outlined in the agenda and commented that it was disappointing that no precise definition had been received. The mechanism was extremely vague and would cause major problems regarding implementation and enforcement and would also carry some cost implications. He informed members that if they were minded to approve the application, details of a S106 Agreement would probably need to be brought back to the Regulation Committee for consideration and approval.

The Planning Officer also referred to the issue of flooding and highlighted that as referred to in the letter received from the Environment Agency, the site still remained in Flood Zone 3 where development should not be encouraged.

The Planning Officer referred to previous refusals of permission for a dwelling on this site. In relation to the most recent refusal he concluded that neither reason for refusal had been overcome and that no special need had been demonstrated and was therefore recommending refusal of the application. He referred members to the third reason for refusal outlined in the report and noted that reference to Policy STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review should be removed, as this structure plan had been rescinded.

With the aid of a power point presentation, the Planning Officer then highlighted the site and proposed plans.

At this point in the proceedings, Mr Harley referred Members to the 3 flood maps he had submitted showing that the site was outside of the flood warning zone and clear of risk of flooding from the reservoir.

Councillor Henry Hobhouse, Ward Member, spoke in support of the application. He was also speaking on behalf of the other Ward Member Nick Weeks who was unable to attend the meeting. He felt the upgraded flood defences carried out in Bruton in 2006 had dealt with any flooding issues and that the Environment Agency had not taken this into account. He also referred to the views of the Council's Engineer that the site was not a flood risk. He also commented that there was no landscape issue as the area was covered by trees. He urged members to approve the application.

Martin Roberts of Cary Moor Parish Council addressed the Committee and referred to the site being located on the curtilage of the village and didn't believe there was unacceptable intrusion and the proposed development would provide enhancement. He requested a condition relating to detailed planting proposals. Reference was made to the local consultant's report on flooding which concluded that the site was within Flood Zone 1. He considered the proposed dwelling to be within a sustainable location with access to a regular bus service with a pub and primary school within 1 a mile of the site. The Parish Council did not accept the reasons for refusal and had no objections to the application.

Bob Cudlipp, speaking in objection to the application, commented that if the application were to be granted it would set a precedent for future applications. He supported the Planning Officer's recommendation to refuse the application.

Michael Harley spoke in support of the application. He was convinced that the site was located within Flood Zone 1 and had less than 1 in 1000 chance of being affected by a flood. He also referred to the Flood Risk Assessment prepared by Dr Colin Clark concluding that the site was 0.8m above the flood level and an upstream level of about 31.00m was needed for flooding to take place.

Carolyn Harrington, speaking on behalf of the Applicant, reiterated that her mother had limited mobility and therefore needed to live in an adapted property. She had lived in the village of Alford for 40 years and wished to remain in a close caring community. She referred to there being an increase in road use if she were forced to leave the community. Reference was also made to the application receiving many letters of support.

Ben Carlisle, the Applicant's Agent spoke in support of the application. He commented that the Applicant had responded to the Committee's request but had resisted a full legal drafting which he believed was of benefit to the Committee. He referred to the Area East Committee and Parish Council both dismissing the reasons for refusal. Reference was made to the site being serviced by good bus services and other facilities being within a close proximity such as pub, school and shop. He commented that moving the Applicant away would sever her from her community and there would be an increase in travel with friends and family needing to visit. He believed that the site was not located in open countryside and would cause no harm should consent be granted.

The Council's Engineer commented that there was confusion over which Flood Zone the site was located in. He was convinced that the site was not located in Flood Zone 3 but referred to the Council's Strategic Flood Risk Assessment that showed that the site was in Zone 3 based on the Environment Agency data. He commented that the only way this could be changed was through formal challenge to the Environment Agency.

In response to questions from Members, Officer's confirmed that:-

- The proposal was for a substantial two story dwelling;
- There had been no flooding on the site the previous year;
- It was in the Applicant's interest to pursue the classification of the flood risk to the site with the Environment Agency;
- The adjacent bungalows, approved in 1987, would not have been subject to the flooding guidance and government policy applicable at the present time.

During the ensuing discussion, Members speaking against the Officer's recommendation referred to a number of issues, which included the following:

- There was conflicting opinion and evidence regarding flooding of the site. The hard evidence from the Council's Engineer indicated that the site should not be in Flood Zone 3;
- The site had not flooded in the past and was unlikely to do so in the future;
- The site was considered to be located within a sustainable location within an enclosed section at the start of the village;
- Villages could be sustainable with the use of IT and deliveries.

Members speaking in support of the Officer's recommendation made a number of comments which included the following:

- Reference was made to the history of the site and that two previous planning applications had been refused;
- There were no planning reasons to approve the application, personal circumstances should not be taken into consideration;
- Concerns were expressed that the applicant had declined to challenge the Environment Agency over the Flood Zone maps;
- The site was located within an unsustainable location;
- Concerns relating to enforcing and monitoring the conditions;
- Concerns over the size of the proposal.

The Area Lead – East/North referred to Policy SS2 in the emerging Local Plan and commented that small infill development would not be considered sustainable under this policy unless clear benefits could be achieved; such benefits were not demonstrated in this instance. Reference was also made to the S106 Agreement being extremely difficult to enforce and that the normal approach was for a RSL to be involved. He also commented that it was in the Applicant's interest to challenge the Flood Zone.

The Senior Legal Executive clarified that the application could be approved with or without the inclusion of a S106 Agreement.

The Applicant's Agent confirmed that he wished to withdraw the controls that had been submitted as outlined the report.

It was proposed and seconded to approve the application contrary to the Planning Officer's recommendation without the Applicant's offer of the S106 Agreement on the grounds that the proposed dwelling would be located on the edge of a village location demonstrating a sustainable infill site and that it had been satisfactorily demonstrated that there would be no risk of flooding. A number of conditions were suggested by the Area Lead – East/North which included time limit, access, landscape planting, site levels and permitted development rights to be removed regarding extensions and outbuildings. On being put to the vote, members voted 5 in favour and 5 against the proposal. The Chairman used his casting vote against the proposed recommendation.

It was then proposed and seconded to refuse the application as per the Planning Officer's recommendation outlined in the agenda report. On being put to the vote, members voted 5 in favour and 5 against. The Chairman used his casting vote to refuse the application.

RESOLVED: That Planning Application No. 12/04730/FUL be **REFUSED** for the following reasons:

01. The erection of a new dwelling in this rural location, remote from adequate services, employment, education and public transport, has not been justified on the basis of any exceptional circumstance or community benefit that would outweigh the longstanding policy presumption to protect the countryside from unwarranted and unsustainable development. As such the proposal is contrary to the aims and objectives of the NPPF (in particular paragraphs 14 and 55), and saved Policies ST2, ST3 and ST5 of the South Somerset Local Plan, 2006.

02. The proposed dwelling would be located within Flood Zone 3 where residential development that would result in people and property being at risk from flooding is only acceptable in exceptional circumstances. No such circumstances have been demonstrated and furthermore it has not been demonstrated that, sequentially, there are no other suitable sites available that would not be at risk of flooding. Accordingly the proposal is considered to fail the required Sequential Test and in these respects, the proposal is contrary to the aims and objectives of the NPPF (in particular paragraphs 14, 55, 100 and 101), and saved Policy ST5 of the South Somerset Local Plan, 2006.
03. With the loss of this open gap and the increase of built density adjacent to the public highway, the proposal would constitute an unacceptable intrusion in this countryside locality, contrary to Policies ST3 and ST6 of the South Somerset Local Plan, 2006.

Informatives:

01. In accordance with paragraphs 186 and 187 of the NPPF the council, as local planning authority, takes a positive and proactive approach to development proposals focused on solutions. The council works with applicants/agents in a positive and proactive manner by:
- offering a pre-application advice service; and
 - as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case there were no minor or obvious solutions to overcome the significant concerns caused by the proposals.

(Voting: 6 in favour, 5 against)

6. Date of Next Meeting (Agenda Item 6)

Members noted that the next meeting of the Regulation Committee would take place on Tuesday 20th August 2013 at 10.00am in the Council Chamber, Council Offices, Brympton Way, Yeovil.

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Chairman