

PLANNING COMMITTEE (SPECIAL) MINUTES

1 AUGUST 2013

Chairman: * Councillor William Stoodley

Councillors: * Mrinal Choudhury * Bill Phillips
* Stephen Greek * Simon Williams
* Ajay Maru (2) * Stephen Wright

* Denotes Member present
(2) Denotes category of Reserve Member

432. Attendance by Reserve Members

RESOLVED: To note the attendance at this meeting of the following duly appointed Reserve Members:-

Ordinary Member

Reserve Member

Councillor Keith Ferry

Councillor Ajay Maru

433. Declarations of Interest

RESOLVED: To note that the following interests were declared:

Agenda Item 6 – Planning application 1/01

Councillor Thaya Idaikkadar declared a non-pecuniary interest in that he had been involved in the Hive in his capacity as Portfolio Holder for Property and Major Contracts. He would remain in the room whilst the matter was considered and voted upon.

434. Right of Members to Speak

RESOLVED: That, in accordance with Committee Procedure Rule 4.1. the following Councillors who were not Members of the Committee, be allowed to speak on the agenda items indicated:

<u>Councillor</u>	<u>Planning Application</u>
Marilyn Ashton	1/01 - The Hive Football Centre (Formerly Prince Edward Playing Fields), Camrose Avenue, Edgware
Sachin Shah	1/01 - The Hive Football Centre (Formerly Prince Edward Playing Fields), Camrose Avenue, Edgware
Navin Shah	1/01 - The Hive Football Centre (Formerly Prince Edward Playing Fields), Camrose Avenue, Edgware

435. Petitions and Deputations

RESOLVED: To note that no petitions or deputations were received at this meeting.

RESOLVED ITEMS

436. Representations on Planning Applications

RESOLVED: That in accordance with Committee Procedure Rule 25.1, Part 4B of the Constitution, that Procedure Rule 30.3, Part 4B of the Constitution, be suspended in order to allow a resident of Hindes Road, who wished to object to Planning application 2/01, to address the Committee.

437. Planning Applications Received

In accordance with the Local Government (Access to Information) Act 1985, the Addendum was admitted late to the agenda as it contained information relating to various items on the agenda and was based on information received after the dispatch of the agenda. It was admitted to the agenda in order to enable Members to consider all information relevant to the items before them for decision.

THE HIVE FOOTBALL CENTRE (FORMERLY PRINCE EDWARD PLAYING FIELDS), CAMROSE AVENUE, EDGWARE

Reference: P/0665/13 (The Hive Developments Ltd) Variation Of Condition 29 (Approved Plans - Added Through Application P/2807/12) Attached To P/0002/07 Dated 08/04/2008 For 'Redevelopment For Enlarged Football Stadium And Clubhouse, Floodlights, Games Pitches , Banqueting Facilities, Health And Fitness Facility, Internal Roads And Parking' To Allow Minor

Amendments To The Stadium Comprising: Phase 1: Internal And External Alterations To East Stand Including Additional Row Of Seats; Increase In Height, Depth And Capacity Of West Stand Including Camera Position; Reduction In Capacity Of Standing Areas; Increase In Height Of Floodlights And Re-Siting Of Southern Floodlights; Additional Turnstiles, Spectator Circulation, Fencing, Food Kiosks And Toilets; Alterations To Parking Areas. Phase 2: Replace North Stand With Seated Stand; Reduction In Capacity Of Standing Area In Southern Stand; Extension To Rear Of West Stand To Provide Indoor Spectator Space (Total Stadium Capacity Not To Exceed 5176 As Previously Approved)

The Divisional Director advised that, following publication of the addendum, it had been brought to his attention that officers had omitted to undertake a "screening opinion" in accordance with the Environmental Impact Assessment Regulations (EIA). He added that, as a result he was recommending that the application be deferred in order to allow this necessary procedural requirement to be undertaken and for the application to be submitted to a future meeting of the Planning Committee.

The Chairman advised Members that the Committee should focus its discussion on whether or not the application should be deferred and should not discuss the merits of the application itself. He added that, therefore, Members would not be permitted to back bench on this item.

Following questions and comments from Members, the Divisional Director advised that:

- EIA regulations required Planning Authorities to carry out a screening opinion to determine if an Environmental Impact Assessment was required to accompany a planning application. This process would be based upon a consideration of the expected environmental effects of a development. The screening process would consider the scheme as a whole along with any cumulative effects. Consideration of the merits of the proposals such as design and appearance of the stands or floodlights would not be considered as part of the process for determining whether an EIA was required. The application met the necessary thresholds for screening. The process was required to be carried out regardless of whether the application had been recommended for approval or for refusal;
- in Planning terms, the West Stand and floodlights were deemed to be unlawful but not illegal and officers would need to consider the expediency of any enforcement action if matches were to take place at the venue prior to the determination of the planning application. Those aspects of the site that were deemed to be lawful (by virtue of the existing planning permission from 2008) could continue to be used;
- if the application was deferred due to a procedural oversight on the part of the Council, the applicant would be entitled to appeal on the grounds of non-determination. In that circumstance, The Secretary of State would be required to consider the application against the same EIA

regulations as the Council if a screening opinion had not already been undertaken);

- a deferral was sought in order to rectify a procedural shortcoming in the processing of the above planning application.

A Member stated that Committee Members had received conflicting advice regarding the officer recommendation in relation to the application and sought assurances from the Divisional Director that the correct procedure was being followed in relation to the request for a deferral. The Divisional Director apologised on behalf of the Planning Service for the procedural oversight and advised that:

- the Planning Service would fully examine the cause of the procedural oversight and progress the application;
- the outcome of the screening process would be published before the application was re-submitted to the Committee, and officers could not at this stage be specific about the timescales for this.

DECISION: DEFERRED to allow completion of a screening opinion pursuant to the Environmental Impact Assessment Regulations to be carried out.

The Committee wished it to be recorded that the decision to defer the application was agreed by a majority of Councillors

FLAT G, 36 HINDES ROAD, HARROW

P/0538/13 (Mr Mohammed Lalji) Description Certificate Of Lawful Existing Use: Use Of Detached Outbuilding In Rear Garden As Residential Unit (Class C3)

The Divisional Director advised that the application was being reported to the Planning Committee following a request by the Nominated Member of the Committee, and that applications relating to Certificates of Lawful Existing Use were usually dealt with by the Planning Service as part of its delegated functions.

The Divisional Director added that the application had been recommended for Grant based on consideration of the evidence submitted and using the statutory test for such evidence which was “on the balance of probability”, and in the absence of any evidence to the contrary.

Following questions and comments from Members, officers advised that:

- the Planning Service was in the process of collating information relating to similar buildings which would be the subject of a future report to the Planning Committee.
- the Planning Service had been alerted to this development at 36 Hindes Road in 2007 following a visit to the property by the

Enforcement Team. However, the enforcement action had not been pursued further. The Divisional Director could not pinpoint the reasons for this but suggested this may have arisen from pressure on the enforcement officer resource, which has declined in recent years;

- supporting evidence provided by the applicant corroborated the claim of the outbuilding's continued use as a residential unit for the past four years and there was no evidence to suggest that there had been a break in occupancy;
- the applicant had submitted Council Tax receipts and tenancy agreements as evidence of this. The Council Tax payments had been made by the applicant/owner of the property, and the six tenancy agreements were with different individuals. Officers considered that the evidential threshold required by Planning Act had been met in this case and there was no evidence to the contrary;
- the Committee was not required to consider the merits or faults of the outbuilding, but to consider whether the evidence submitted demonstrated that it had been in continued use for a four-year period;
- Courts had acknowledged that a short period during which the building was unoccupied during the 4 years qualifying timescale would not amount to an argument against continuous use;
- the applicant had been paying domestic council tax on the unit, however, the main house was used for non-domestic purposes;
- the recent review of the Planning enforcement regime by the Government had introduced provisions relating to deliberate concealment of buildings. Officers would not recommend this case be used as a test case as the Council had been made aware of it in 2007 and it was highly unlikely that the case would succeed;
- in theory, the applicant could seek a lease on the outbuilding and sell the property if the application was granted;
- litter and other environmental issues and the terms of the tenancy agreements related to the property were not relevant to the application and did not form part of the evidence regarding whether this building's occupation was lawful;
- officers considered that it would be difficult to justify a refusal in this case. If it were refused, then the process for examination of the Committee's reasons would be via a public inquiry, with sworn witness statements and cross-examination by the applicants advisors or Counsel;
- if the application was deferred, the applicant would have the right of appeal against the Council's failure to make a decision within the prescribed time period;

- the Committee could not rely on suspicion or speculation, and would require clear contrary evidence. The claims made by the objector regarding this property did not constitute evidence;
- residents in fifteen properties on Hindes Road had been consulted regarding this application, and no responses had been received;
- this property did not meet the threshold for development that required screening for an EIA;
- if, in the future, the evidence provided by the applicant proved to be fraudulent, then the Council could seek to re-determine the case based on any new evidence. Any fraudulent act by an applicant would be deemed to be a criminal act and the Council could look at revoking its decision.

Members made the following points:

- these types of conversions tended to be small and overcrowded and affected an area and its residents;
- the Council needed to investigate how widespread this issue was, to make the wider community in Harrow aware of it and take relevant enforcement action;
- they had serious doubts regarding the robustness of the corroborating evidence submitted by the applicant and were of the view that fifteen consultation notices were insufficient in this case.

The Divisional Director advised that, if the item was deferred for reasons not supported by evidence, then there was a risk that the applicant would appeal against the decision and seek costs to be paid by the Council.

DECISION: DEFERRED to allow further examination of the evidence submitted by the applicant and to widen the consultation area and to re-consult residents in Hindes Road.

The Committee wished it to be recorded that the decision to defer the application was unanimous.

(Note: The meeting, having commenced at 7.31 pm, closed at 8.33 pm).

(Signed) COUNCILLOR WILLIAM STOODLEY
Chairman