

PLANNING COMMITTEE

MINUTES

12 DECEMBER 2012

Chairman: * Councillor Keith Ferry

Councillors: * Mrinal Choudhury * Bill Phillips
* Stephen Greek * Sachin Shah (3)
* Joyce Nickolay * Stephen Wright

In attendance: James Bond Minute 344
(Councillors)

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

337. Attendance by Reserve Members

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

Ordinary Member

Reserve Member

Councillor William Stoodley

Councillor Sachin Shah

338. Right of Members to Speak

RESOLVED: That, in accordance with Committee Procedure Rule 4.1, the following Councillor, who was not a Member of the Committee, be allowed to speak on the agenda item indicated:

Councillor

Planning Application

James Bond

2/10 – 62 Imperial Drive, North Harrow.

339. Declarations of Interest

RESOLVED: To note that the following interests were declared:

Agenda Item 10 – Planning Application 1/01 – Krishna-Avanti Primary School, Camrose Avenue, Edgware

Councillor Mrinal Choudhury declared a non-pecuniary interest in that he had previously visited the Krishna Avanti Primary School during his tenure as Mayor. He would remain in the room whilst the matter was considered and voted upon.

Councillor Susan Hall, who was not a Member of the Committee, declared a non-pecuniary interest in that she had previously visited the Krishna Avanti Primary School. She would remain in the room whilst the matter was considered and voted upon.

Agenda Item 10 – Planning Application 2/04 and 2/05 – Rooks Heath College, Eastcote Lane, South Harrow

Councillor Sachin Shah declared a pecuniary interest in that he was a governor at Rooks Heath College. He would leave the room whilst the matter was considered and voted upon.

Agenda Item 10 – Planning Application 2/09 – Canons High School, Shaldon Road, Edgware

Councillor Stephen Wright declared a non-pecuniary interest in that he was a governor at Canons High School. He would remain in the room whilst the matter was considered and voted upon.

Agenda Item 10 – Planning Application 2/11 – 7 West Drive Gardens, Harrow

Councillor Susan Hall, who was not a Member of the Committee, declared a non-pecuniary interest in that she owned a business in Wealdstone which was close to the proposed development site. She would remain in the room whilst the matter was considered and voted upon.

340. Minutes

RESOLVED: That the minutes of the meeting held on 28 November 2012 be taken as read and signed as a correct record.

341. Public Questions, Petitions and Deputations

RESOLVED: To note that no public questions were put, or petitions or deputations received.

342. References from Council and other Committees/Panels

RESOLVED: To note that there were none.

343. Representations on Planning Applications

RESOLVED: To note that no representations had been received.

RESOLVED ITEMS

344. 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 despatch 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.

RESOLVED: That authority be given to the Head of Planning to issue the decision notices in respect of the applications considered.

(APPLICATION 1/01) KRISHNA-AVANTI PRIMARY SCHOOL, CAMROSE AVENUE

Reference: P/2640/12 (The I-Foundation). Removal of Condition 14 (The Land and Buildings, Except for the Multi Use Playing Areas Shall Be Used for the Purpose Specified on the Application and for no Other Purpose of For the Hire of the Premises for any Purpose, Including any Other Purpose on Class D1) Attached to Planning Permission Ref: P/1282/07 Dated 8 April 2008 for the Construction of One Form Primary School, External Works, Access and Care Parking. Removal of Condition 19 (The School Hereby Permitted Shall be Used Solely by the Pupils and Staff and Shall not be Used, Hired or Made Available for Use by any Other Party) Attached to Planning Permission Ref: P/1282/07 Dated 8 April 2008 for the Construction of One Form Primary School, External Works, Access and Car Parking.

The Chair reported that when original planning permission on this site had been granted, the Committee had indicated at the time that they were reluctant to allow facilities for outside public use due to the impact on local residents and imposed two relevant conditions.

The School had applied for variation to these two relevant conditions which the Committee had recently considered and allowed for a 1 year period only. The School had now applied for the complete removal of these conditions.

An officer reported that they would be engaging with the applicants on the wider use of the property. However they had not requested any pre-advice prior to this application. The consultation on this application ended on 27 December 2012, so the Committee were requested to delegate this decision to the Divisional Director of Planning providing their view on its merits.

The Chair concluded by explaining that the School would have to re-apply for planning permission for use of the premises in one year's time, which is why the conditions were only varied for a one year period. This issue could be re-considered when planning permission was applied for again.

DECISION: That Delegated Authority be given to the Divisional Director of Planning to determine the planning application following the end of the consultation period on 12 December 2012, with the Committee's view that the application be Refused planning permission for the development described in the application and the submitted plans, as amended by the addendum, for the reason reported.

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

(APPLICATION 2/01) NOWER HILL HIGH SCHOOL, GEORGE V AVENUE, PINNER

Reference: P/2824/12 (Dr Jackie Georgiou). Variation of Condition 2 of Planning Permission P/2156/09 Dated 6 November 2009 to Allow the Retention for an Additional Three Years of Two Two-Storey Temporary Buildings to Provide Classrooms.

An officer reported that there were a series of applications being presented to the Committee at this meeting, relating to temporary buildings at schools. These applications were being presented for the retention of these temporary buildings whilst discussions continued with the schools regarding securing permanent buildings for classrooms. The Building Schools for the Future programme had discontinued and so different options were being considered.

The officer also reported that planning officers were part of a school organisation officers group which considered place planning issues for schools and were actively dealing with considering future options especially given the pressure placed on the borough in terms of schools places.

DECISION: GRANTED variation of the condition for the development described in the application and submitted plans, as amended by the addendum, for the reasons reported.

The Committee wished it to be recorded that the decision to vary the condition was unanimous.

(APPLICATION 2/02) BENTLEY WOOD HIGH SCHOOL, BINYON CRESCENT, STANMORE

Reference: P/2823/12 (Mr Nick Alwyn). Variation of Condition 2 of Planning Permission P/2157/09 Dated 6 November 2009 to Allow the Retention for an Additional Three Years of a Single-Storey Temporary Building to Provide 3 Classrooms.

DECISION: GRANTED variation of the condition for the development described in the application and submitted plans, as amended by the addendum, for the reasons reported.

The Committee wished it to be recorded that the decision to vary the condition was unanimous.

(APPLICATION 2/03) BENTLEY WOOD HIGH SCHOOL, BINYON CRESCENT, STANMORE

Reference: P/2828/12 (Mr Nick Alwyn). Variation of Condition 2 of Planning Permission P/0855/10 Dated 15 July 2012 to Allow the Retention for an Additional Three Years of a Single Storey Temporary Building to Provide Two Additional Classrooms and a Temporary Single Storey Double Classroom Unit.

DECISION: GRANTED variation of the condition for the development described in the application and submitted plans, as amended by the addendum, for the reasons reported.

The Committee wished it to be recorded that the decision to vary the condition was unanimous.

(APPLICATION 2/04) ROOKS HEATH COLLEGE, EASTCOTE LANE, SOTUH HARROW

Reference: P/2822/12 (Mrs Jacqui Wright). Variation of Condition 3 of Planning Permission P/1678/08 Dated 24 July 2008 to Allow the Retention for an Additional Three Years of a Two-Storey Temporary Building Adjacent to the Easterly Site Boundary.

DECISION: GRANTED variation of the condition for the development described in the application and submitted plans, as amended by the addendum, for the reasons reported.

The Committee wished it to be recorded that the decision to vary the condition was unanimous by those Members present in the room.

(APPLICATION 2/05) ROOKS HEATH COLLEGE, EASTCOTE LANE, SOUTH HARROW

Reference: P/2821/12 (Mrs Jacqui Wright). Variation of Condition 1 of Planning Permission P/2158/09 Dated 6 November 2009 to Allow the Retention for an Additional Three Years of Two Temporary Single-Storey Modular Buildings.

DECISION: GRANTED variation of the condition for the development described in the application and submitted plans, as amended by the addendum, for the reasons reported.

The Committee wished it to be recorded that the decision to vary the condition was unanimous by those Members present in the room.

(APPLICATION 2/06) PARK HIGH SCHOOL, THISTLECROFT GARDENS, STANMORE

Reference: P/2820/12 (Mrs Jackie Willis). Variation of Condition 2 of Planning Permission P/2161/09 Dated 8 December 2009 to Allow the Retention for an

Additional Three Years of Two-Storey Temporary Buildings to Provide 9 Classrooms.

DECISION: GRANTED variation of the condition for the development described in the application and submitted plans, as amended by the addendum, for the reasons reported.

The Committee wished it to be recorded that the decision to vary the condition was unanimous.

(APPLICATION 2/07) HARROW HIGH SCHOOL, GAYTON ROAD, HARROW

Reference: P/2825/12 (Mrs Ruth Dennison). Variation of Condition 2 of Planning Permission P/2155/09 Dated 23 December 2012 to Allow the Retention for an Additional Three Years of Two Single-Storey Temporary Buildings to Provide Classrooms.

DECISION: GRANTED variation of the condition for the development described in the application and submitted plans, as amended by the addendum, for the reasons reported.

The Committee wished it to be recorded that the decision to vary the condition was unanimous.

(APPLICATION 2/08) HATCH END HIGH SCHOOL, HEADSTONE LANE, HARROW

Reference: P/2827/12 (Mrs Mary Quick). Variation of Condition 1 of Planning Permission P/2159/09 Dated 15 January 2010 to Allow the Retention for an Additional Three Years of a Temporary Modular Building.

DECISION: GRANTED variation of the condition for the development described in the application and submitted plans, as amended by the addendum, for the reasons reported.

The Committee wished it to be recorded that the decision to vary the condition was unanimous.

(APPLICATION 2/09) CANONS HIGH SCHOOL, SHALDON ROAD, EDGWARE

Reference: P/2826/12 (Mr Simon Newton). Variation of Condition 2 of Planning Permission P/2162/09 Dated 6 November 2009 to Allow the Retention for an Additional Three Years of Two Single-Storey Temporary Buildings.

DECISION: GRANTED variation of the condition for the development described in the application and submitted plans, as amended by the addendum, for the reasons reported.

The Committee wished it to be recorded that the decision to grant the application was as follows:

Councillors Mrinal Choudhury, Keith Ferry, Stephen Greek, Joyce Nickolay, Bill Phillips and Sachin Shah voted to grant the variation.

Councillor Stephen Wright abstained.

(APPLICATION 2/10) 62 IMPERIAL DRIVE, NORTH HARROW

Reference: P/2439/12 (Mrs Berta Lilley). Certificate of Lawful Existing Use: Continued Use of a Dwellinghouse as 7 Self-Contained Flats and 1 Non Self-Contained Flat.

An officer reported that this application related to a determination on whether there was enough evidence to substantiate that the property had been used for a period of 4 years as 7 self-contained flats and 1 non self-contained flat. A previous application had been refused in June on the basis that insufficient evidence had been provided to the Local Planning Authority. The application had been re-submitted with further evidence. The test to apply on in relation to the application was whether the evidence demonstrated on the balance of probabilities that the property had been used as described. The test was not one of beyond reasonable doubt. In light of this, officers were recommending to the Committee that the proposal be agreed.

In response to queries raised by Members, responses were provided as follows:

- evidence provided dated back to 2006 and the 4 year period would have expired in 2012. On this basis officers believed that the applicants had not been delaying this application;
- following refusal of an application, the Planning Department would often offer to speak to applicants about addressing reasons for refusal;
- in terms of a planning assessment, the development that had taken place, did not meet current guidance issued. However, this was not a planning application so did not fall to be assessed against these criteria. The sole determination to be made by the Committee was whether the evidence demonstrated that, on the balance of probabilities, the development had been in existence for the last 4 years. The Committee were not determining the appropriateness of the development. This was a legal test as laid out in legislation;
- the reason why the Committee were being asked to determine this application was because of the public interest in the application;
- issues relating to Environmental Health were not planning considerations. However any concerns raised could be forwarded to the relevant department. The Council Tax department had also been made aware of this development for Council Tax purposes;

- an HMO (House in Multiple Occupation) Licence had different definitions in terms of legislation. The Committee had to determine on balance if the development had been in existence and occupied for a period of 4 years. Having an HMO licence did not negate this test. The Licence had been made under different legislation and having a Licence did not mean necessarily reflect the use for the purposes of Planning legislation.

A Member, who was backbenching, commented that the names put forward by the applicant of people residing in the properties over the 4 year period, was inconsistent with the Electoral Register. This demonstrated that the evidence was flawed and had therefore failed to provide the necessary evidence. In response to the submissions, the Chair commented that if someone did not appear on the Electoral Register, this did not automatically imply that they had not resided in the property.

During the discussion, Members of the Committee also made a number of comments as follows:

- there was a HMO Licence in existence for the property. This provided weight to a view that the property in question had not been divided into self-contained flats as stated by the applicant. The Licence referred to 8 households. If the development had been self-contained flats as stated, it would not have been represented that way on the Licence. This was important evidence on how the property was being used;
- one Member suggested that further evidence could be obtained from the applicant in relation to the conversion which had taken place. This included invoices for work conducted, VAT returns. If this had not been obtained then this should be requested from the applicant. The Chair responded by stating that it was up to the applicant to provide the necessary evidence, not for the Council to request and detail which evidence they should provide;
- the test was not one of 'beyond reasonable doubt' but one of 'on a balance of probabilities'. On this basis, it was a Member's view that there was more evidence that the property had been used as stated by the applicant, than evidence to the contrary;
- there was concern that some of the evidence had been concocted;
- although not an issue to be determined by the Committee, the development and its current state was shocking and shameful.

A Member of the Committee proposed refusal on the same grounds on which the application had been previously refused. This reason was that the Local Planning Authority was not satisfied that sufficient evidence had been provided to demonstrate that, on the balance of probabilities, the single-family dwellinghouse at 62 Imperial Drive, North Harrow, Middlesex, HA2 7LJ has been in use as 7 self-contained flats and one non self-contained flat for a

continuous period of at least 4 years prior the date of application. The existing development was therefore considered to be unlawful and as such the Local Planning Authority refuse to issue a Certificate of Lawful Existing Development.

Another Member commented that the Committee required more time to analyse and study the evidence before it. Therefore it would be in the interest of the Committee to defer the item until the next meeting. As a result of this comment, the Member who had proposed refusal withdrew his Motion.

DECISION: DEFERRED to allow further consideration of the evidence.

(APPLICATION 2/11) 7 WEST DRIVE GARDENS, HARROW

Reference: P/2473/12 (Mr A-AL-MOOD). Proposed Alterations to Existing Two-Storey Rear Extension Incorporating Accommodation in the Roofspace (To Include Reduction in Height and Removal of Roof Terrace and Balconies); Proposed Alterations to Existing Front Porch and Infill Side Extension; Proposed Installation of Two Satellite Antennas on Roof, Front Boundary.

An officer reported that planning permission had been granted in 2007 for extensions to the site. However the extensions built were not in accordance with this permission and enforcement action had taken place. Following a succession of appeals and applications for lawful certificates, the development had been deemed to be unlawful.

The application before the Committee was to scale down the property to that which was originally applied for in 2007.

The Chair commented that in the Addendum, there was a revised recommendation for the Committee to delegate authority to the Divisional Director of Planning with their views. This was because the expiry for consultations as contained on the site notice was 27 December 2012.

Members of the Committee raised a number of queries which officers responded to as follows:

- an application had been received earlier in the year. This had been refused. The new application which was before the Committee had only been submitted a couple of weeks prior to the meeting;
- in effect the application addressed the requirements of the enforcement notice served on the site and implement the previous permission granted in 2007.

The Chair proposed that if there were any significant representations received by the Divisional Director of Planning in relation to this application prior to the end of the consultation period, that the application be referred back to the Committee for determination.

DECISION: That

- (1) Delegated Authority be given to the Divisional Director of Planning to determine the planning application following the end of the consultation period on 27 December 2012, with the Committee's view that the application be Granted planning permission for the development described in the application and the submitted plans, as amended by the addendum, subject to the conditions and informatives reported;
- (2) the application be referred back to the Committee if any significant representations are received by the Divisional Director of Planning prior to the end of the consultation period on 27 December 2012.

345. Member Site Visits

RESOLVED: To note that there were no site visits to be arranged.

346. Response to the Government's Proposals for Changes to Permitted Development

In accordance with the Local Government (Access to Information) Act 1985, this item was admitted late to the agenda to allow the Council to submit its views on the proposed changes to permitted development to the Government.

The Chair reported that the report had been prepared by officers with no prior input from Members. Officers were congratulated for the work that had gone into the preparation of the proposed responses to the Government on the consultation for changes to permitted development rights.

RESOLVED: That the response set out in section 2 of the report be submitted to the Secretary of State as the Council's formal position in respect of the consultation.

347. Extension of Time for Completion of Section 106 Agreement for Kodak

In accordance with the Local Government (Access to Information) Act 1985, this item was admitted late to the agenda to allow the Committee to consider an extension to the time period for the completion of a Section 106 agreement on the Kodak site from the deadline date of 21 December 2012 to 31 January 2013.

The Chair explained that because Kodak were currently in administration in America, there was no guarantee that approval for completion of the Section 106 agreement could be obtained by the current deadline of 21 December 2012. For this reason, an extension to the time period for completion of the agreement was being sought.

RESOLVED: That

- (1) the time period for the completion of the Section 106 agreement and issue of the planning permission for Kodak be extended from 21 December 2012 to 31 January 2013;

- (2) the Divisional Director of Planning be provided with delegated authority to refuse the application for the reasons set out in the report to the Planning Committee dated 26 June 2012 if the Section 106 agreement is not completed by 31 January 2013.

(Note: The meeting, having commenced at 6.30 pm, closed at 7.55 pm).

(Signed) COUNCILLOR KEITH FERRY
Chairman