

Tidenham Parish Council
Planning, Development Control and Highways Committee 2019/2020

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Minutes of extraordinary Planning, Development Control & Highways Committee Meeting held on 11th December 2019 at 6:30pm at Tidenham War Memorial Hall.

Present: Councillors: Tullett (Chairman), Bollen, Drew, O'Toole, Powell and Wall.
Officers: Clerk (Carol Hinton), Clerk's Assistant (David Stevens).
6 members of the public.

1. ATTENDANCE

- a. **Resolved to receive** apologies for absence from those councillors unable to attend from Councillor Koning.
- b. **Resolved to accept** those apologies received with reasons for absence from Councillor Koning.

2. DECLARATIONS OF INTEREST

- a. **To receive Declarations of Interest** in respect of matters contained in this agenda, in accordance with the provisions of the Local Government Act 1972 in respect of officers and in accordance with the provisions of the Localism Act 2011 in respect of members.
Interests may be declared at any time during the meeting should they become apparent.
- b. **To consider any Dispensation Requests** received by the Parish Clerk and not previously considered.
None received.

3. MINUTES OF PREVIOUS MEETING

- a. **Resolved to** defer approval of the minutes of the meeting held on 27th November 2019 until the next meeting on 18th December 2019.

4. PUBLIC CONSULTATION

To receive and consider any questions from the Public which may be answered but not debated.

- a. Residents of Elm Road who attended the meeting raised concerns about planning application **P1274/19/OUT** – Land north of Gloucester Road. These concerns included:
 - i. Impact to the grade II listed manor house as stated in David Haigh, conservation advisor to the District Council, correspondence.
 - ii. Changes to the character of the landscape due to increased height of orchard and surrounding hedges.
 - iii. Responsibility for maintenance of hedges and need for access from the manor grounds.
 - iv. Compacted soil in orchard area due to excessive earth moving equipment and work during wet conditions.
 - v. Many residents, some elderly, have lived for many years in Elm Road and enjoy the view, the proposed changes will have a significant impact on the outlook.

5. TO CONSIDER PLANNING APPLICATIONS RECEIVED

- a. **P1274/19/OUT – Land North of Gloucester Road.**

Variation of Conditions 05 (Site levels and sections) and 12 (Landscape scheme) of planning appeal APP/P1615/W/15/3003662 (P1530/14/OUT) to allow for amendments to approved drawings in relation to site levels/sections and the landscaping scheme.

Resolved to note councillors discussed various aspects and comments with regards this application including concerns that FOD planning are recommending granting permission before the Parish Council and others have submitted their comments. It was suggested writing to the monitoring officer about making such recommendations before all comments have been received, this was proposed by Councillor Powell, seconded by Councillor Drew and voted in favour by all other Councillors.

Objection for the following reasons:

The proposed variation of conditions will significantly change the topography of the site from the agreed development. The amount of excess spoil and its disposal should have been calculated and planned at the time of the original application and the implications of its removal from site should not be a consideration. Removal of the excess spoil to other local developments should be considered. The height of the proposed hedge is of concern and will alter the agreed look of the site. The proposed tree planting in front of the grade II listed manor house will also alter its look. Parish Councillors were also concerned that local residents had not been notified of this application.

- i. The CMS (Construction Method Statement) Rev. D now includes paragraph 3.17 which allows for the placing of sub-soil and top soil in the Orchard area which was not in the original submission. The landscape specification of Dec 2017 stated that the subsoil would be removed from site. This paragraph appears to have been added following complaints from residents and the Parish Council about the level of soil that has been dumped in the Orchard area raising the ground level by 2 metres with one area considerably higher. This raised ground represents a lack of privacy for existing residents and raises questions regarding drainage and the effect on the ecology of the area.
- ii. There are details within the CMS regarding the orchard for which outline planning permission has not been approved. Also some of the details seem to be retrospective with numerous anomalies. Parish Councillors expressed concern that the inclusion of the proposed alterations suggest an assumption that approval will be forthcoming, there is further concern that FOD planning are recommending granting permission (see page 28 of the Public Document Pack) before the Parish Council and others have submitted their comments.
- iii. The Appeal Decision APP/P1615/W/15/3003662 states the LEMP (Landscape, Open Space and Ecological Management Plan) shall also identify the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. These are not identified in the LEMP submitted and this information must be identified at this stage to assure the Parish Council that the provision is in place prior to the first house being occupied. The Parish Council has been left to deal with problems from previous developments where these provisions have not been in place and have subsequently left residents with no recourse. I would be grateful if you could acknowledge receipt of this in the circumstances please.
- iv. Bellway Homes own Heritage Statement does not support the change in topography of the orchard, citing that the 'engineered building up of the ground level of the site will be visually at odds with the natural undulations of the surrounding landscape altering the visual flow' and that 'the elevated ground will therefore also elevate any activity on the raised ground including the presence of people using the community orchard'.
- v. Dawn Morgan, Flood Risk Engineer, has sought clarification of the reason for raising the orchard land expressing concerns about flood risk at the site. And also states:
 - It will prevent runoff from the higher land to the North from entering the site (Cross sections A- A, B-B, C-C). The site must accept the natural flow of water (in accordance with the Land Drainage Act 1991) and therefore mitigation measures would be required to control the new flow route and ensure that there is no detrimental impact to third party land, North and East of the orchard.
 - Based on existing site levels and according to cross section N-N, any runoff from Elm Road will pool at the pedestrian entrance and then flow around the raised area across the path to the East. This could cause on-site issues for the residents.
 - In addition, cross section N-N shows an increased gradient from West to East and with the additional 1 in 4 side slope, this will increase the rate of runoff from the orchard and cause it to be concentrated down the pedestrian walkway. We would recommend that a swale be considered along the boundary, to mitigate this surface water flow route through the site.

- vi. J.H.Blockley, Principal Flood Risk Management Officer, has declined to comment on this variation of conditions. Is there a concern with future flooding?
- vii. David Haigh, conservation advisor to the District Council, does not support the change in topography for reasons including those raised by the Parish Council in previous correspondence. He also raises concerns about the suggested benefit for the proposal which neither justifies nor mitigates the identified harm from the proposal.
- viii. Parish Councillors raised concerns about the possible effect on the listed status of Wirewoods Green Manor. The Parish Council requests that the changed topography of the site should not be allowed.
- ix. Alistair Chapman, Sustainability Report states the proposal would create a raised 'plateau' within the community orchard field. Creating an uncharacteristic feature with an adverse effect on the amenity of the area. There is an increased risk of important strategic planting being unsuccessful due to planting taking place on 'made up' ground where soil structure and drainage cannot be relied upon. There is an absence of phasing proposals or any long term rectification strategy which could demonstrate a high level of confidence as to successful long-term establishment and maintenance.
- x. It is the Parish Council's understanding when determining a s.73 application, the LPA may impose conditions beyond those proposed in the application. However, the conditions imposed should only be ones which could have been imposed on the original grant. It has previously been held that the amendments permitted should not amount to a "fundamental alteration" of the proposal put forward in the original application. In summary therefore, whilst the principle of development here is clearly established the details set out in this reserved matters application cause unacceptable harm to the setting and significance of Wirewoods Green Manor and do not reinforce or promote local distinctiveness.
- xi. Heritage Statement as produced by RPS states the following in the section titled Legislation:
 - 2.1 Where any development may affect certain designated heritage assets, there is a legislative framework to ensure proposed works are developed and considered with due regard to their impact on the historic environment. This extends from primary legislation under the Planning (Listed Buildings and Conservation Areas) Act 1990.
 - 2.2 The relevant legislation in this case extends from section 66 of the 1990 Act which states that special regard must be given by the decision maker, in determining applications, to the desirability of preserving a listed building and its setting.
 - 2.3 The meaning and effect of these duties have been considered by the courts in recent cases, including the Court of Appeal's decision in relation to Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council [2014] EWCA Civ 137.
 - 2.4 The Court agreed with the High Court's judgment that Parliament's intention in enacting section 66(1) was that decision makers should give 'considerable importance and weight' to the desirability of preserving (i.e. keeping from harm) the setting of listed buildings.

Further: This Built Heritage Statement has demonstrated that the proposed increase in ground level of the Site has the capacity to impact upon two built heritage assets: Grade II listed Wirewoods Green Manor and adjacent Grade II listed Barn.
- xii. A statement in a letter from Pete Sully accompanying the application P0057/19/DISCON states "As discussed at our recent meeting Bellway Homes are proposing to amend the existing ground levels of the proposed Orchard in order to dispose of excess spoil from the construction arising" which has subsequently been withdrawn! If the application was withdrawn why are we being asked to reconsider?
- xiii. Parish Councillors are concerned about the short term environmental impact the removal of the excess spoil will have but do not feel this is a material consideration. However the long term environmental damage the proposals to alter the orchard, which is for the benefit of the whole community, will have is a material consideration that should be taken into account.

- xiv. A statement by **Chloe Johnson** case Officer in the Public Reports Pack states that:
- On balance it is considered that the works to raise the ground levels in this area of the site would result in some harm to the setting and significance of the listed building, however this is off set by the public benefit resulting in the reduction of lorry movements and the planting of a new orchard. **The Parish Council disagrees, as already stated with regards short vs long term environmental impact.**
 - Landscape - There are two elements to the landscaping; the first relates to the impact of the changes in levels on the landscape character of the area the other to the physical impact of the planting.
 - In this case it is considered that the raising of the ground levels will result in an **artificial and alien feature that does not reflect the character and appearance of the existing landscape.** The amended scheme now proposes a change in levels of up to 1.3m across the site, with the embankments around the edge being up to 1.5m compared to the original details which showed a change of 1.5m and 1.7m, the changes would still result in a in a feature with an angular man made appearance. However, on balance it is considered that the changes are not so significant that the scheme should be refused. **The Parish Council disagrees and considers these changes to be significant.**
- xv. The Parish Council has received concerns from residents in Elm Road not least from the resident close (11m) to the proposed orchard. Many of these residents are elderly and have lived in Elm Road for many years. The changes proposed are significant and impact their outlook which doesn't appear to have been taken into account.
- xvi. With regards current operations it is stated that all operations are to be carried out during dry weather conditions when material is not overly wet, or saturated. Works are to be completed in 'working strips' defined by the working reach of the 360 degree excavators being used, so no prepared areas are to be re-tracked by large vehicles once operations commence. A toothed bucket is to be used for all operations. Grading buckets should not be used. The attached standard specification clauses are to be applied to the works. All landscape ground preparation should be completed during May to September under dry weather Conditions. Contrary to this, work started late November/early December and also before planning consent. In addition, the Parish Council has been advised that work is being carried out this week in very wet conditions and with multiple excavators being used.

6. RESOLVED TO NOTE THE DATE OF THE NEXT MEETING

Next meeting 18th December 2019.

The meeting closed at 19.10hrs.