

BABERGH DISTRICT COUNCIL

MINUTES OF THE MEETING OF THE BABERGH COUNCIL HELD IN COUNCIL CHAMBER, COUNCIL OFFICES, CORKS LANE, HADLEIGH ON MONDAY, 7 AUGUST 2017

PRESENT: Peter Burgoyne - Chairman

| | |
|--------------------|------------------|
| Clive Arthey | Sue Ayres |
| Melanie Barrett | Simon Barrett |
| Peter Beer | Tom Burrows |
| David Busby | Tina Campbell |
| Michael Creffield | Siân Dawson |
| Alan Ferguson | Barry Gasper |
| Katherine Grandon | John Hinton |
| Bryn Hurren | Jennie Jenkins |
| Richard Kemp | Margaret Maybury |
| John Nunn | Adrian Osborne |
| Jan Osborne | Lee Parker |
| Peter Patrick | Stephen Plumb |
| Nick Ridley | David Rose |
| William Shropshire | Ray Smith |
| Harriet Steer | Fenella Swan |
| John Ward | |

The following Members were unable to be present: Tony Bavington, Sue Burgoyne, Sue Carpendale, Derek Davis, Michael Holt, Frank Lawrenson, James Long, Alastair McCraw, Mark Newman and Stephen Williams.

23 DECLARATION OF INTERESTS BY COUNCILLORS

None declared.

24 CHAIRMANS ANNOUNCEMENTS

The Chairman referred to the recent death of the wife of former Councillor Brian Lazenby.

25 LEADERS ANNOUNCEMENTS

Jennie Jenkins, Leader, launched the End of Year Report outlining the achievements of the Council over the past year. The report outlined the Council had built new homes, set up the new Shared Legal Service and had undertaken a new capital investment strategy enhancing the core services of the Council.

26 TO RECEIVE NOTIFICATION OF PETITIONS IN ACCORDANCE WITH COUNCIL PROCEDURE RULES

None received.

27 QUESTIONS BY THE PUBLIC

None received.

28 QUESTIONS BY COUNCILLORS

In accordance with Council Procedure Rule No. 12, Councillor Alastair McCraw, Ward Member for Alton had given notice of his intention to ask a question at the meeting. As Councillor McCraw was unable to be present on the day, his question was read out by the Chairman:

“Planning Application B/15/01737, granted under delegated authority on the 4th April 2016, had a completed Section 106 Agreement with provision for FOUR units of affordable housing. This provision had received support from myself as local member, the Parish Council, and even the original objectors.

A Deed of Variation was signed on the 3rd May, 2017 which replaced Schedules 2 and 4 dealing with the affordable housing with a commuted sum of £250,000 in lieu.

What was the basis for this substantive change to the Permission and its associated agreements and why were the Ward members not kept actively informed?”

Councillor Lee Parker, Cabinet Member for Planning replied as follows:-

“Planning permission B/15/01737/FUL was granted for the “Erection of 13 No dwellings, including a new vehicular access. As amplified by the addendum to the supporting statement by LSR Solicitors, received 4 February 2016 and Drainage Strategy by Ken Rush Associates dated February 2017”. As an application for less than 15 dwellings the application was eligible to be decided under delegated authority and the application was not determined at Committee. The permission was subject to a Section 106 to secure affordable housing executed in April 2016.

In late 2016 the applicant sought a deed of variation to the Section 106 to vary the affordable content of the proposal and to lift the “staircasing” restriction in the Section 106 which was noted to be an obstacle to lenders. The applicant made reference to drainage and other infrastructure costs which had not been foreseen. Negotiations were undertaken including the Housing Enabling team and the Council’s viability adviser to explore viability issues and ensure the development did not stall. Negotiations explored offers received from registered providers materially below cost price and the option to alter the expected tenure. Agreement was reached between the senior planning case officer and Housing Enabling colleagues as to an acceptable compromise. The senior planning case officer issued instructions to the legal service authorising the change as a delegated decision having regard to the viability evidence. A deed of variation was executed in May 2017 which substituted a financial contribution for the affordable housing provisions

in the original Section 106 and as this represented a pragmatic approach to prevent the site being stalled.

The National Planning Policy Framework paragraph 205 advises that where obligations are being sought or revised local planning authorities should take account of changes in market conditions over time and wherever appropriate be sufficiently flexible to prevent planning development being stalled.

Variations of Section 106 are not the subject of statutory requirements regarding consultation and publicity and this remains a matter of discretion on a case by case basis. The evaluation of viability matters is an issue which government has sought to expedite both through advice and between 2013 and 2016 through a change to the statutory provisions which expressly gave applicants the right to a fast-track appeal process. It is clear that the planning authority must give reasonable consideration to viability matters and that consideration includes a national policy expectation of flexibility. Whilst local considerations are material to the planning process the message to planning authorities is to work proactively with applicants to seek solutions rather than problems. In the present circumstance the professional recommendation to Planning Committee, had reference been made, would have been to accept the variation of the Section 106 in order to prevent the development stalling. Whilst the absence of consultation and publicity in this instance is acknowledged to appear unhelpful to the community's expectations the planning permission has not substantively changed and the issue of development viability is a matter of national interest which is regularly noted to take priority in weighing up matters.

It is regrettable that the Ward Member was not better informed by the senior case officer at the time and the reasons for this are not immediately apparent as he is no longer with the Council."

The following supplementary question was asked on behalf of Councillor McCraw:-

"Given the effect that these post permission changes have upon the Council's reputation, and the ability of members to serve their wards and communities, what steps will the Council take to actively inform Ward members when later substantive changes are made to a planning decision?"

Councillor Lee Parker responded as follows:-

"The evaluation of viability is not a reputational matter and the technical considerations relating to the assessment of development economics are a specialist professional matter. To this extent the planning authority must balance the need for timely handling of matters with public engagement on a case by case basis.

"Notwithstanding the absence of regulation requiring consultation and publicity it is the expectation of the Corporate Manager – Growth and Sustainable Planning that planning case officers will take appropriate steps, case by case, to keep Ward Members reasonably informed as to significant changes in controversial development schemes to support them in their Wards. The question of what changes are significant and when to liaise with Members is in part of a matter of

professional and common sense judgement and it would not be appropriate to prescribe detailed circumstances.

The planning pages of the website also now provide greater opportunity for email alerts to Members and the planning team continues to support Members in their training and use of that facility.

The Corporate Manager – Growth and Sustainable Planning will be taking steps to support the planning team to better inform and lead planning considerations around such viability matters and improved dialogue to support and make Ward Members better aware.”

29

BC/17/10 BOUNDARY REVIEW - RESPONSE TO STAGE ONE CONSULTATION ON WARDING PATTERNS

Jennie Jenkins, Leader of the Council introduced the response to Stage One of the Boundary Review on Warding Patterns. She explained that the two proposals had been developed through a series of workshops and meetings with Councillors and proposed recommendations 2.1 and 2.2 in Paper BC/17/10, which were seconded by Councillor Peter Patrick.

Councillor Jenkins and Emily Yule, Assistant Director – Law and Governance, responded to matters raised by Members during their discussion and clarified that the first proposal was from the administration group and the second was a cross party proposal that had been created by the task and finish group.

During the debate that ensued Members considered the option of sending only one proposal to the Boundary Commission. In response to a query about the role of multi-member wards the Assistant Director – Law and Governance responded that the Boundary Commission did not have any powers to amend Parish Boundaries and can only recommend amendments to the District Council.

It was agreed that the vote on the recommendations in paragraph 2 of Paper BC/17/10 would be taken separately. A demand for a recorded vote was received in accordance with Council Procedure Rule No 18.5.

The result of the recorded vote on recommendation 2.1 was as follows:-

For the Motion

Clive Arthey
Sue Ayres
Melanie Barrett
Simon Barrett
Peter Burgoyne
Tina Campbell
Barry Gasper
Kathryn Grandon
John Hinton
Bryn Hurren

Against the Motion

Peter Beer
Tom Burrows
Dave Busby

Abstentions

Michael Creffield
Siân Dawson
Alan Ferguson

Jennie Jenkins
Richard Kemp
Margaret Maybury
John Nunn
Adrian Osborne
Jan Osborne
Lee Parker
Peter Patrick
Stephen Plumb
Nick Ridley
David Rose
William Shropshire
Ray Smith
Harriet Steer
Fenella Swan
John Ward

The result of the recorded vote was 26 Members in favour of recommendation 2.1 with 3 Members against and 3 abstentions.

The result of the recorded vote on recommendation 2.2 was as follows:-

| <u>For the Motion</u> | <u>Against the Motion</u> | <u>Abstentions</u> |
|-----------------------|---------------------------|--------------------|
| Clive Arthey | Peter Beer | Michael Creffield |
| Sue Ayres | | Siân Dawson |
| Melanie Barrett | | |
| Simon Barrett | | |
| Peter Burgoyne | | |
| Tom Burrows | | |
| Dave Busby | | |
| Tina Campbell | | |
| Alan Ferguson | | |
| Barry Gasper | | |
| Kathryn Grandon | | |
| John Hinton | | |
| Bryn Hurren | | |
| Jennie Jenkins | | |
| Richard Kemp | | |
| Margaret Maybury | | |
| John Nunn | | |
| Adrian Osborne | | |
| Jan Osborne | | |
| Lee Parker | | |
| Peter Patrick | | |
| Stephen Plumb | | |
| Nick Ridley | | |
| David Rose | | |
| William Shropshire | | |
| Ray Smith | | |

Harriet Steer
Fenella Swan
John Ward

The result of the recorded vote was 29 Members in favour of recommendation 2.2 with 1 Member against and 2 abstentions.

RESOLVED

- (1) That the two proposals as set out in the Appendices to Paper BC/17/10 be submitted as Babergh District Council's response to the consultation.**
- (2) That the Chief Executive be authorised to submit the consultation response on behalf of the Council, and to include any relevant information arising from the Council's debate which provides further context and rationale behind the proposals.**

30

BC/17/11 DEVOLUTION OF DEVELOPMENT CONTROL POWERS ON A CROSS BOUNDARY PLANNING APPLICATION "THE APPLICATION" IN RESPECT OF LAND AT FORMER MANGANESE BRONZE SITE (ALSO KNOWN AS ELTON PARK WORKS)

Lee Parker, Cabinet Member for Planning, introduced Paper BC/17/11 that a planning application had been received for the former Manganese Bronze Site (also known as Elton Park) that crossed the boundaries of Babergh and Ipswich Borough Council. Councillor Parker proposed that Babergh District Council devolve to Ipswich the discharge of Planning Control Functions to determine the cross-boundary application and was seconded by Councillor Simon Barrett.

Natalie Webb, Development Management Officer – Growth and Sustainable Planning, responded to Members' questions on the Community Infrastructure Levy and that the plans will be presented to the Planning Committee for comments on the application.

RESOLVED

That the discharge of Babergh District Council's planning control functions under Section 70 (1) (Part III) of the Town and Country Planning Act 1990 to determine a cross boundary planning application in relation to land at the Former Manganese Bronze Site (also known as Elton Park Works) in respect of the land within the Babergh District Council administrative area and its functions under section 106 of the same Act to negotiate the terms of any necessary planning obligation subject to this Council's final approval be devolved to Ipswich Borough Council.

RESOLVED

- (1) That Simon Barrett be appointed to Planning Committee (replacing Sue Burgoyne).**
- (2) That Sue Burgoyne be appointed to the vacancy on the Joint Audit and Standards Committee.**
- (3) That Nick Ridley, previously appointed as the Joint substitute member on the Suffolk Health and Well-Being Board be appointed to the Board as the Babergh representative.**

The business of the meeting was concluded at 7.30 p.m.

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Chairman