

PLANNING & REGULATION COMMITTEE

MINUTES of the meeting held on Monday, 5 June 2023 commencing at 2.00 pm and finishing at 4.21 pm

Present:

Voting Members: Councillor Geoff Saul – in the Chair

Councillor Robin Bennett
Councillor Yvonne Constance OBE
Councillor Imade Edosomwan
Councillor Mohamed Fadlalla
Councillor Stefan Gawrysiak
Councillor John Howson
Councillor Judy Roberts
Councillor Les Sibley
Councillor Ian Snowdon

Other Members in Attendance: Councillor Dan Levy (for Agenda Item 7) and Councillor Bob Johnston (for Agenda Item 9)

By Invitation:

Officers: David Periam, Development Management Team Leader
David Mytton, Solicitor
Anna Herriman, Senior Planning Officer (Introduced Item 7)
Mary Hudson, Principal Planning Officer (Introduced Item 8)
Neal Richmond, Principal Enforcement Officer (Introduced Item 9)
Nicholas Perrins, Head of Strategic Planning
Jonathan Durham, Monitoring and Enforcement Officer
Bill Stewart-Jones, Monitoring Assistant
Jonathan Deacon, Interim Committee Officer

8/21 ELECTION OF CHAIR FOR THE 2023-24 COUNCIL YEAR

(Agenda No. 1)

The Interim Committee Officer, Jonathan Deacon, invited the Committee to elect the Chair for the 2023/24 Council Year. As a result of a nomination from Councillor Robin Bennett and seconded by Councillor Imade Edosomwan, it was AGREED that Councillor Geoff Saul be elected as the Chair for the 2023/24 Council Year.

9/21 ELECTION OF DEPUTY CHAIR FOR THE 2023-24 COUNCIL YEAR

(Agenda No. 2)

The elected Chair, Councillor Geoff Saul, invited the Committee to elect the Deputy Chair for the 2023/24 Council Year. As a result of a nomination from Councillor Judy Roberts and seconded by Councillor John Howson, it was AGREED that Councillor Richard Webber be elected as the Deputy Chair for the 2023/24 Council Year.

10/21 APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS

(Agenda No. 3)

Apologies for absence were received from Councillor Felix Bloomfield, Councillor David Rouane and Councillor Richard Webber. Councillor John Howson substituted for Councillor Webber.

11/21 DECLARATIONS OF INTEREST - SEE GUIDANCE NOTE BELOW

(Agenda No. 4)

There were none.

12/21 MINUTES OF THE PREVIOUS MEETING

(Agenda No. 5)

It was **RESOLVED** that the minutes of the meeting held on 17th April 2023 be confirmed as a true record and signed by the Chair.

13/21 PETITIONS AND PUBLIC ADDRESS

(Agenda No. 6)

Requests to address the Committee were received as follows:

- Shores Green Junction Witney (Item 7 on the agenda) – Mr Bal Tiwana Associate Planner, Stantec, attended the meeting to speak on behalf of the Applicant. Councillor Dan Levy, Eynsham Division, also attended the meeting and addressed the Committee.
- Sutton Courtenay Landfill Site (Item 8 on the agenda) – Councillor Greg O’Broin, Chair of Appleford Parish Council (who spoke virtually) and Mr Robin Draper (attended the meeting) who spoke on his own behalf and that of Sutton Courtenay Parish Council, addressed the Committee in opposition to the recommendations.
- Proposed Planning Enforcement Notice (Item 9 on the agenda) – Councillor Bob Johnston, Kennington and Radley Division, Oxfordshire County Council attended the meeting and addressed the Committee.

14/21 A40 / B4022 SHORES GREEN JUNCTION, WITNEY

(Agenda No. 7)

At the previous meeting held on 17th April, the Committee had deferred the application. Correspondence had been received from the South Leigh and High

Cogges Parish Council and the local Member, Councillor Levy, in which significant concerns were raised. Following the publication of the report, further e-mails and an accompanying letter had been received from the Parish Council. The letter stated that they considered there to be significant legal implications arising from the report and that the decision should be adjourned for a meeting with the Council. They considered that the report contained errors and suggested that they may challenge any decision made if the application was granted on the 17th April. The Parish Council considered that the focus of the report was on Witney, with inadequate considerations on the effects that the development proposed will have on South Leigh and High Cogges, indeed compounding the effect of the focus on Witney by inaccuracies about South Leigh.

As set out in the report, following the deferral of the application in April, meetings had been held between the applicant and the Parish Council and the report was updated accordingly. Prior to the current meeting, correspondence had been received on behalf of South Leigh and High Cogges Parish Council that 'sufficient progress had been made and a willingness to work cooperatively with us been shown'. They confirmed that they did not wish to address the Committee at the current meeting.

Anna Herriman, Senior Planning Officer, introduced the report and provided a presentation which included photographs and plans relating to the planning application for the construction of two new west-facing slip roads at the Shores Green junction of the A40; an off-slip to allow eastbound vehicles to exit the A40 onto the B4022 towards Witney and an on-slip to allow westbound vehicles to enter the A40 from the B4022 at this junction. Two existing lay-bys to the west of the A40 overbridge would be removed to accommodate the construction of the slip roads. The site comprised of approximately 10.7 ha of land located along the A40 dual carriageway at the existing Shores Green junction onto the B4022 to the east of Witney and is located approximately 600m from the south-east edge of Witney.

Ms Herriman's presentation included the significant features of the application site and that the application scheme sought to reduce traffic going through Witney Town with the subsequent likely improvement to the air quality as a result of the reduction in traffic management. She also described the concerns that had been expressed regarding rat running towards South Leigh village and that additional information was provided in the report in relation to addressing these concerns.

The Committee was addressed by Mr Tiwana, on behalf of the applicant. He stated that the principle for development had been firmly established, with significant economic and environmental benefits. The proposed development was a direct response to alleviating the long standing issue of traffic congestion and air quality issues in Witney and formed part of the overall A40 corridor improvement plan being progressed. The proposed development provided an alternative route between the A40 and destinations to the east and north east of Witney allowing the traffic to bypass the town centre. In addition to improving air quality, it was designed to provide a safe environment for pedestrians and cyclists.

Mr Tiwana referred to the meetings which had taken place between the applicant, the County Council and South Leigh and High Cogges Parish Council since the previous Committee meeting in April. He stated that the applicant agreed that it

would be beneficial to deliver a complementary scheme of traffic calming measures in South Leigh. This would build upon a 20 mph speed limit which had been recently introduced by the County Council through the village.

He clarified in response to questions from the Committee that the County Council as applicant was happy to enter into a legal agreement to secure the traffic calming measures.

Mr Mytton stated that the legal document was a unilateral undertaking because the County Council was not able to enter an agreement with itself; it was only able to record what had been agreed.

The traffic calming measures were as set out in Annex 8, p.85 of the report. They were that *'the traffic calming scheme funding will be for an amount up to the cost of the following proposed measures: (1) some additional 20mph repeater signs and road markings (2) a speed indicator device and posts (x4) (3) five village 'gateway' type features (4) four single build-out priority features (5) a single narrow priority feature with a pedestrian crossing - as shown on the traffic calming plan shared with the Parish Council on 23rd May 2023. Public consultation for these measures will be required to demonstrate local community support'*.

Mr Periam explained that the undertaking was not included in the recommendation in the report. Officers had not been advised by the Highways Authority that the measures were necessary to make the scheme acceptable. If the recommendation was approved as currently worded the Committee would not be resolving that the unilateral undertaking would be provided. However, it was open to the Committee to request that the undertaking was necessary to provide the traffic calming measures in order to make the development acceptable.

The Committee heard from Councillor Levy, the local Member. He referred to the Chair advising that there was an amendment to the report as it did not mention that the Junction was largely in the Eynsham division. He thanked officers for the work which had taken place since the previous Committee meeting in April focusing on the impact of the development on South Leigh. He expressed the view that in the event the Junction was approved, it would have a fairly dramatic impact on traffic on the south of the A40, particularly as it was regularly blocked which created the temptation for rat running.

Councillor Levy added that he was hopeful that air traffic and congestion in Witney, including in Bridge Street, would be improved if the scheme was approved and make travelling by bus or bicycle better. He confirmed he no longer had any objections to the revised scheme.

In response to questions from the Committee, Councillor Levy stated that he would prefer for a unilateral undertaking to be provided by the applicant, the Council, that the traffic calming measures were also included. Beyond this, it was important that large HGVs and large amounts of traffic did not travel through South Leigh as it was unsuitable via a single track through the village.

During the Committee Members' debate of this item, Councillor Bennett requested that going forward the Council's own policy and targets were set out in relation to climate change impacts and assessments.

Councillor Constance asked for further clarification on the approval process for the Carbon Management Plan. It was confirmed by Mr Periam and Mr Mytton that the options were for the Committee to request officers to do so when it was submitted, for the Committee to approve it at a future meeting or for the Chair, when advised by officers that the Plan had been received, to consult Members for their approval prior to a future meeting.

Councillor Gawrysiak formally proposed that the recommendation that planning permission be approved, subject to conditions. He also proposed that the Council as the applicant be required to enter into a unilateral undertaking to provide the traffic calming measures set out in Annex 8, p.85 of the report as they were necessary. Finally, he proposed that the Chair consult Members for their approval on the Carbon Management Plan when the Plan was submitted. The proposals were seconded by Councillor Constance.

The Chair called for a vote on the proposals. They were AGREED unanimously by the Committee (all 10 Members on the Committee).

It was noted that in relation to the Chair consulting Members as part of the approval process for the Carbon Management Plan, this would be reflected in an amendment to Condition 12, set out in Annex 1 (p.39) of the report.

RESOLVED that:

- a) Planning permission for application R3.0039/22 be **APPROVED** subject to conditions to be determined by the Director of Planning, Environment and Climate Change, to include those set out in Annex 1;
- b) The Council as the applicant be required to enter into a unilateral undertaking to provide the 5 traffic calming measures set out in Annex 8, p.85 of the report; and,
- c) The Chair consult Members of the Committee as part of the approval process for the Carbon Management Plan, when submitted by the Applicant, with Condition 12 being amended to reflect this.

15/21 SUTTON COURTENAY LANDFILL SITE, APPLEFORD SIDINGS

(Agenda No. 8)

Mary Hudson, Principal Planning Officer, advised in her introduction that the landfill site had been operating since the 1970s and as a result of an existing planning permission granted in 2015 was permitted to continue operating until 2030. The application proposed two changes to the S106 legal agreement and no changes to the conditions or the routing agreement that HGVs would take. The proposed changes to the S106 legal agreement were firstly, to remove the restriction on the source of waste permitted to be imported to the landfill site. Currently, the S106 agreement restricted the source of waste to Oxfordshire, Reading, Bracknell,

Wokingham and West Berkshire. The second proposed change was to amend the date for the provision of the north-south permissive path that the S106 Agreement required as part of the restoration. The Agreement stated that the relevant paths should be provided by 30 September 2023. However, it could not be provided within that timescale due to active developments which had consent to 2030, within that part of the site.

Ms Hudson added that the Monitoring Team had identified that waste was already being imported in significant quantities to the landfill site from outside the approved Hinterland area. The current application was therefore retrospective. The recommended changes were due to the applicant being unlikely to be able to complete the landfilling in accordance with the approved restoration by 2030 as required by the conditions without bringing in waste from other areas. Ms Hudson stated that it was recognised that the patterns of movement of waste to landfill had changed since the agreement had been signed in 2008. The Hinterland area was no longer seen to serve a useful purpose and was not supported by planning policy. It was also the case that the permissive path could not be implemented until the active developments on that part of the site had concluded. In the event that the two proposed changes were approved by the Committee, the Council would enter into a deed of variation to the existing S106 Agreement.

The following points of clarification were provided in response to questions and matters raised by the Committee:

- There had been no request by the applicant to change the annual import of waste being 600,000 tonnes with no more than 350,000 tonnes being imported by road. The Hinterland agreement only related to waste that was being imported via road. It was noted that the number of road movements at the site would be the same. The change would be in terms of where the vehicles were coming from. The point was discussed that the original agreement sought to minimise carbon emissions and with vehicles coming from further afield they were likely to generate more carbon emissions. There had originally been concern expressed by the Committee in relation to the original agreement regarding the transportation of waste by road. In theory there was the possibility of all the permitted tonnage being brought in by rail but this was unlikely, depending on contracts.
- HIF 1 had not yet been considered as a planning application and it was recommended to Committee Members not to attach too much weight to it in deliberations on the current application.
- Mr Periam stated that in recommending the removal of the restriction on the source of waste permitted to be imported to the landfill site in order to complete the landfilling by 2030, there had been regard to policies in the Council's Minerals and Waste Local Plan which encouraged timely restoration of landfill sites.

Councillor O'Broin, representing Appleford Parish Council, stated that the Council had good relations with the applicant and acknowledged that the site was confidently managed. However, there were concerns regarding noise, dust and air quality from commercial operations and the impact of traffic, particularly heavy commercial vehicles, in the vicinity of Appleford village. The Parish Council was opposing the

extension of the Hinterland agreement. He referred to paragraph 56 of the report that the Environment Agency Waste Data giving a total of approximately 713,000 tonnes of waste being imported to the landfill site, which was above the permitted annual import figure and therefore was a planning breach. 80% of the waste was coming from outside the permitted Hinterland area which Cllr O'Broin commented was a material and not an inconsequential breach. Overall, he believed the applicant had demonstrated a casual disregard for the S106 Agreement and that they should be required to advise the Council of any non-compliance.

Councillor O'Broin expressed concerns regarding the proposed amendment of the permissive path and the delays caused by the cement plant occupying the land. He also expressed the view that the applicant needed to consult the local community and that local authorities such as Appleford Parish Council and Sutton Courtenay Parish Council were consulted on the terms of any agreement or were parties to any agreement. He considered that the application lacked detail on traffic volumes, expected tonnage or remaining capacity at the site. He added that approving the application would be to approve historical non-compliance. Failure to meet the 2030 deadline on the part of the applicant should not result in automatic extension and could be used for other purposes. Councillor O'Broin requested that the application was refused, pending submission of meaningful traffic information and projected waste tonnage from the applicant.

The Committee also heard from Mr Draper, representing himself and Sutton Courtenay Parish Council. He requested that the Committee refused the application, taking into account the breach of the legal agreement. He referred to the Council having identified the breach and commented that the retrospective application lacked transparency and should not be approved. He concurred with Councillor O'Broin's point that there was a lack of detail in the applicant's application. Mr Draper also expressed concerns regarding the planning breaches of 568,000 tonnes of waste in 2021 being imported from outside the Hinterland area and the overall total being 713,000 tonnes of waste. It was unlikely on this basis that the applicant would have kept to the limit of 350,000 tonnes being imported by road.

Mr Draper recommended that the application was deferred, with full historic details provided of the waste movement and a plan stipulated by the applicant as to how the restoration of the site was to be completed by 2030 and the site returned to agricultural use. Maintenance should be provided by the applicant for the footpath for the benefit of the local community.

Councillor Constance formally proposed that the application was deferred. This was in order to obtain details on the level of the applicant's compliance or non-compliance since 2021 (when the previous Environment Agency's Waste Data was available) and what the impact would be on the restoration of the site, if the application was not approved by the Committee. It was noted that a number of authorities were sending waste to the landfill site and that it would be useful to look at whether it was necessary for the waste to travel from further away or whether they should be treating it. Councillor Bennett requested that policy work was undertaken to ascertain what the proportion of waste that needed to be landfilled was and if there was waste that could be treated without being landfilled and also comparing the percentage of waste

that the local authorities sent elsewhere with that sent to Sutton Courtenay Landfill Site. The applicant would again be invited to attend the meeting to answer questions.

The proposal was seconded by Councillor Fadlalla.

Councillor Howson spoke in support of refusing the application as he was persuaded by the representations of the two Parish Councils at the meeting and what he perceived to be the flagrant nature of the planning breaches in terms of the tonnage being imported and the apparent length of time this had been taking place. It was noted that it was not possible to require the applicant to change their application and that they had the ability to appeal against the decision should the application be refused and the matter considered by the Planning Inspectorate.

It was noted by the Committee that it was not possible for the Council to require the applicant to have discussions with the parish councils. Members did have the option to ask officers to pass on their concerns to the applicant that they ought to seek to improve the nature of the engagement and more promptly with the parish councils.

The Chair called for a vote on the recommendation to defer the application. The votes cast were, as follows:

For: 9

Against: 1 (Councillor Howson voted against as he wished to refuse the application).

Abstentions: 0

RESOLVED: that the application be **DEFERRED** for the reasons set out above.

16/21 PROPOSED PLANNING ENFORCEMENT NOTICE

(Agenda No. 9)

The Committee received a report.

The Chair sought approval from the Committee that Members were content for the press and public to be excluded for this item and that it was considered in private or closed session as it was stated in the report that it involved exempt information. This was by virtue of paragraphs 2, 6a and 6b of Part 1 of Schedule 12A of the Local Government Act 1972. This related to information which was likely to reveal the identity of an individual, information which would reveal that the authority proposed to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or that the authority proposed to make an order or direction under any enactment.

The Committee **AGREED** for the press and public to be excluded for this item and that it was considered in private or closed session, by virtue of paragraphs 2, 6a and 6b of Part 1 of Schedule 12A of the Local Government Act 1972.

There was subsequently a vote on the recommendation which was agreed unanimously.

RESOLVED: that a planning enforcement notice be issued against the unauthorised waste development in terms to be finalised with such detailed wording to be agreed in consultation with the Director of Law and Governance.

..... in the Chair

Date of signing