

**WEST OXFORDSHIRE DISTRICT COUNCIL**  
**LOWLANDS AREA PLANNING SUB-COMMITTEE:**  
**MONDAY 12 MARCH 2018**

**UPDATE AS TO PROGRESS (AND WHERE RELEVANT REASSESSMENT) OF APPLICATIONS SUBJECT TO A RESOLUTION TO APPROVE BUT WHERE A DECISION HAS NOT AS YET BEEN ISSUED**

**REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING**

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**1. PURPOSE**

To update members as to progress with regards to some of the key applications where a resolution to approve has been made but where, as yet, a decision has not been issued and, where relevant to reconsider the planning balance in light of the new prevailing circumstances and following receipt of the Local Plan Inspector's recent letter dated 16 January 2018.

**2. RECOMMENDATION**

That the resolutions as per the recommendations set out in respect of each case be confirmed, and the Head of Planning and Strategic Housing and Development Manager be authorised to proceed to issue the decisions provided that no new material planning issues arise in the period before a decision is issued.

**3. BACKGROUND**

- 3.1. Members will be aware that a resolution to approve an application is not the same as making the decision. Decisions are only deemed to be made at the point that they are issued and case law is clear that where between a resolution to approve a decision and the point it is issued ( e.g. because the resolution was subject to a legal agreement) a new factor emerges that would be relevant in the planning balancing exercise then the decision maker has to have regard to that matter and if necessary report it back to committee to affirm or otherwise their initial assessment in light of the new consideration.
- 3.2. In this instance the recent letter from the Local Plan Inspector is clearly material in that it states that the emerging plan is capable of being found sound and the inference is thus that as such policies of the emerging plan can be given greater weight. Additionally the proposed housing allocations in the AONB were not supported by the Inspector.
- 3.3. There have been a series of applications which remain undetermined. In some instances the letter is of little relevance in so much as the weight given to the delivery of housing was not a key issue in the decision to approve. For others the housing supply from the site in question has been factored into the housing land supply figures that underpin the soundness of the emerging plan and as such a decision to "reverse" the decision to approve could have consequences for the soundness of the local plan. Where this is the case the notes pertaining to the application make this clear. On other sites, particularly those in the AONB and in Conservation Areas, the balancing exercise is set out again in more detail to ensure that the correct legal weighting is given to the relevant factors that now need to be considered. Some other applications have been or are subject to new matters emerging as part of the ongoing negotiations on the S106 or as a result of further information being provided ( e.g. results of the archaeological dig are

now known) and in these instances whilst the application is referred to for completeness the recommendation is that these sites be subject to a further more detailed report when the position is clearer.

- 3.4. The Local Plan process is still evolving and Officers wish to avoid an ongoing process whereby when every stage of the emerging local plan is reached it could be claimed that a further balancing exercise is required given the weight to be attached to the policies of the emerging plan will gain greater and greater weight. Delegated Authority is therefore sought for Officers to undertake a final assessment at the point of issuing any of these decisions on their planning merits taking into account any further changes in material considerations.
- 3.5. Of necessity this report only seeks to re cast the planning balance exercise rather than provide a new full report in respect of each and every application determined. Given the profile of the applications in question Members will of course already be aware of the relevant background information that led to the initial resolutions but should further clarification be required they are advised to refer to the original reports which may be found on line. Officers will also be in a position to provide further assistance in clarifying matters at the meeting if required.
- 3.6. The following paragraphs refer to the relevant applications within the area of this Sub-Committee. The Sub-Committee is also advised that a similar report was referred to the Uplands Area Planning Sub-Committee at its meeting on 5 March, and is available from the Council's website.

#### **16/03627/OUT: Butts Piece, Stanton Harcourt**

- 3.7. This application secured a resolution to approve subject to a section 106 agreement and where the tilted balance was a material factor in the recommendation to approve. However the housing numbers are counted as part of the overall land supply figures that underpin the local plan and the weight required to be given to the impact on heritage assets etc has not changed. The development as proposed is considered acceptable and compliant with the relevant provisions of the Existing (in so much as it is consistent with the advice of the NPPF and as such could be afforded full weight) and Emerging Local Plans in addition to the relevant provisions of the NPPF.
- 3.8. As such it is considered that Members should reaffirm their decision to approve the scheme.

#### **Other Sites**

- 3.9. There are additional sites in Minster Lovell and Eynsham Nursery that were considered at the last meeting and as such the advice offered reflected the fact that the Inspectors letter had been received. The Eynsham Nursery decision was the result of an appeal and the Minster Lovell decision arose from a proposed allocation which now has increased weight given the greater certainty that the emerging plan will include it.
- 3.10. As such it is considered that Members should reaffirm their decision to approve the schemes.

#### **4. ALTERNATIVES/OPTIONS**

The Sub-Committee could decide to take no further action. However if the applications where new material considerations have arisen are issued without regard to the latest position then the resultant decision could be subject to successful legal challenge.

## **5. FINANCIAL IMPLICATIONS**

This report has no direct financial implications, but the costs of defending incorrectly issued decisions could be considerable.

## **6. RISKS**

There are risks in not assessing the applications in accordance with the appropriate legal balancing exercises including matters as may have arisen post the initial resolution.

## **7. REASONS**

To ensure that any decisions issued are subject to the appropriate planning balancing exercise.

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Background Papers:

See relevant application references