

**Coventry City Council**  
**Minutes of the Meeting of Planning Committee held at 2.00 pm on Thursday, 19**  
**December 2019**

Present:

Members: Councillor L Harvard (Chair)  
Councillor N Akhtar  
Councillor P Akhtar  
Councillor A Andrews  
Councillor R Auluck  
Councillor R Bailey  
Councillor L Kelly  
Councillor J McNicholas  
Councillor D Skinner  
Councillor S Walsh

Other Members: Councillors J Blundell, M Heaven, T Sawdon, G Williams

Employees (by Directorate):

Place: L Albrighton, M Andrews, Place Directorate  
O Aremu, Place Directorate  
C Knight, Place Directorate  
T Miller  
U Patel, Resources Directorate  
C Whitehouse, Place Directorate

Apologies: Councillor C Miks

## **Public Business**

### **63. Declarations of Interest**

Councillor R Auluck declared an interest in the matter referred to in Minute 69 (Application FUL/2018/0842 – Land at St Martins Road, Howes Lane, Kings Hill Lane and Green Lane). The interest arose as she lives in the vicinity of the application site. Councillor Auluck removed herself from the meeting during the consideration of this application.

Councillor Bailey declared an interest in the matter referred to in Minute 68 (Application FUL/2019/0824 – Club House Gaveston Road). The interest arose as he was sponsoring a petition that objected to the application. Councillor Bailey spoke in relation to the petition and did not take part in the discussions or the decision making thereafter.

Councillor L Kelly declared an interest in the matter referred to in Minute 68 (Application FUL/2019/0824 – Club House Gaveston Road). The interest arose as she had had previous involvement with the objectors. Councillor Kelly removed herself from the meeting during the consideration of this application.

Councillor L Kelly also declared an interest in the matter referred to in Minute 69 (Application FUL/2018/0842 – Land at St Martins Road, Howes Lane, Kings Hill Lane and Green Lane). The interest arose as she had had previous involvement in the matter. Councillor Kelly removed herself from the meeting during the consideration of this application.

Councillor D Skinner declared an ‘other interest’ in the matter referred to in Minute 73 (Application to record a Public Footpath from Ten Shilling Drive to Guinea Close). He removed himself from the meeting during the consideration of this application.

Councillor S Walsh declared an interest in the matter referred to in Minute 68 (Application FUL/2019/0824 – Club House Gaveston Road). The interest arose as he had had previous involvement with this matter. Councillor Walsh removed himself from the meeting during the consideration of this application.

#### 64. **Members Declarations of Contact on Planning Applications**

The Members named declared a contact on the following applications as indicated:

<b>Application No.</b>	<b>Councillor</b>	<b>From</b>
FUL/2019/0824 – Club House Gaveston Road	All members of Committee	Objectors
FUL/2018/0842 – Land at St Martins Road, Howes Lane, Kings Hill Lane and Green Lane	All members of Committee	Objectors
FUL/2019/2501 Coundon Court School Northbrook Road	Councillor L Kelly	Resident
FUL/2019/2433 – Plot C06 Friargate	Councillor R Bailey	Officers

#### 65. **Minutes of the Meeting held on 20 November 2019**

The minutes of the meeting held on 20 November, 2019 were signed as a true record.

#### 66. **Late Representations**

The Committee noted a tabled report which summarised late representations and responses on the following:

<b>Application</b>	<b>Site</b>	<b>Minute</b>
FUL/2019/0824	Club House Gaveston Road	68
FUL/2018/0842	Land at St Martins Road, Howes Lane, Kings Hill Lane and Green Lane	69
FUL/2019/2501	Coundon Court School Northbrook Road	70
FUL/2019/1883	Land off Broadmere Rise	72

67. **Outstanding Issues**

There were no outstanding issues.

68. **Application FUL 2019 0824 - Club House Gaveston Road**

The Committee considered a report of the Head of Planning and Regulation detailing the above application for the erection of new indoor bowls facility and maintenance store and reconfiguration of car park, which was recommended for approval.

Prior to the presentation of the application, the Committee's Legal Officer read out the following statement:

"..... I would like to bring to your attention the following:

- The detailed committee report put before you today has been prepared for the purposes of taking the Committee through the entire application and the issues which have been raised to date.
- Public speaking, petitions and all information (inc photographs) to date have been made available at this meeting and will also form part of the presentation being provided by officers.
- In essence, the approach which officers will be undertaking in relation to the presentation you will be receiving on this application will be as if it were a fresh application.

This approach is being taken in order to ensure that there is a fair and open process to all sides in the determination of this application.

For all members who will be participating and voting on this application, I would like to suggest that you ensure that you have sufficient understanding of any issues relating to the application such that you can be satisfied in your own mind that you are in a position to be able to make an informed decision. To this end, I would encourage all members to ask such questions as you deem relevant from officers on this application which will in turn inform an appropriate and informed debate on the determination of this application".

The application had previously been considered at the Committee meetings held on 4 July, 2019 (Minute 17/19 refers) and 26 September, 2019 (Minute 39/19 refers) where it was deferred to a future meeting to allow officers to determine if any other sequentially preferable sites were available/suitable and for Highways to reaffirm that the access/parking was acceptable. At both meetings, the Committee considered petitions, one submitted by Councillor R Bailey and the other by Councillor G Williams, both objecting to the application. As a reminder, the detail of both petitions was read out by the Committee's Legal Officer.

The Late representations document tabled at the meeting summarised additional objections that had been received since the agenda was published. The representations reiterated previous objections and responded to additional

information submitted since the previous meeting. The document also provided an appraisal of the objections received.

The Committee also considered two petitions objecting to the application, the first bearing 228 signatures, which had been submitted by Councillor R Bailey, a Cheylesmore Ward Councillor. Councillor Bailey and the petition spokesperson attended the meeting and spoke in respect of the petition. The second petition bearing 118 signatures was submitted by Councillor G Williams, a Bablake Ward Councillor. Councillor Williams and the petition spokesperson attended the meeting and spoke in respect of the petition.

The applicant's agent also attended the meeting and spoke in support of the application.

Following consideration of the report, the late representations document and matters raised at the meeting, the Committee considered that the sequential assessment had exhausted all suitable sites within the sequential test area. Furthermore, highways confirmed that the car park would be remodelled to their satisfaction and that they had no objections to the proposal.

**RESOLVED that planning permission be granted in respect of Application FUL/2019/0824 subject to conditions listed within the report.**

(Note: Councillors Bailey, Kelly and Walsh did not take part in the consideration or voting on this application as they had declared an interest.)

**69. Application FUL 2018 0842 - Land at St Martins Road, Howes Lane, Kings Hill Lane and Green Lane**

The Committee considered a report of the Head of Planning and Regulation detailing the above application for proposed installation of two new highways access junctions on land west of Green Lane and the junction of St Martins Road, Green Lane, Howes Lane in relation to the site clearance and mixed use development of land at Kings Hill for the provision of up to 2,500 dwellings (Use Class C3), 4,000sqm of mixed use floor space (Use Classes A1, A2, A3, A5, B1, C2, D1 and D2) in a district centre, a primary school, a secondary school, formal and informal open space and enabling infrastructure including new roads within the site and improvements to the existing road junction at Stoneleigh Road. The application was recommended for delegated approval subject to conditions.

The late representations document tabled at the meeting reported that seven further representations had been received objecting to the scheme, questioning ownership certificates on the application forms and raising concerns that were already reflected within the Committee report.

The Committee also considered a petition submitted by Councillor J Blundell, a Wainbody Ward Councillor. Councillor Blundell and Councillor M Heaven (petition spokesperson) attended the meeting and spoke in respect of the petition. Councillor T Sawdon, also a Wainbody Ward Councillor, attended the meeting and spoke in respect of his objections to the application. Two further objectors attended the meeting and spoke in respect of their objections. The applicant's agent also attended the meeting and spoke in support of the application.

**RESOLVED that the grant of planning permission in respect of Application FUL/2018/0842 be delegated to the Head of Planning and Regulatory Services, subject to conditions listed in the report and the completion of a S106 legal agreement (via the Warwick District Council application W/18/0643) to secure the contributions listed within the Highway section of the report.**

**70. Application FUL 2019 2501 - Coundon Court School Northbrook Road**

The Committee considered a report of the Head of Planning and Regulation detailing the above application for the erection of a new teaching block, hall extension, canopy, car park and temporary construction access road. The application was recommended for delegated approval subject to conditions.

The late representations document tabled at the meeting summarised and appraised further objections received and detailed additional/amended conditions. Following the receipt of further consultation comments and proposed additional conditions the recommendation was also amended to recommend approval without any need for delegated authority.

The Committee considered a petition bearing 53 signatures sponsored by Councillor G Williams, a Bablake Ward Councillor. Councillor Williams and the petition spokesperson attended the meeting and spoke in respect of the petition. The applicant's agent also attended the meeting and spoke in support of the application.

**RESOLVED that planning permission be granted in respect of Application FUL/2019/2501, subject to conditions listed in the report, the conditions listed in the late representations document and the inclusion of an additional condition managing the future use of the (temporary construction) access point at Hollyfast Road.**

**71. Application FUL 2019 2433 - Plot C06 Frairgate**

The Committee considered a report of the Head of Planning and Regulation detailing the above application for the erection of a boutique style hotel of around a 100 guest rooms over 5 storeys, with accompanying restaurant and bar at ground floor level. The Application included the partial stopping up of highway. The application was recommended for approval subject to conditions.

Councillor J O'Boyle, Cabinet Member for Jobs and Regeneration attended the meeting and spoke in respect of the benefits of economic regeneration within the City Centre.

A registered speaker attended the meeting and spoke in respect of their objections to the application. The applicant's agent also attended the meeting and spoke in support of the application.

**RESOLVED that planning permission be granted in respect of application FUL/2019/2433 subject to conditions.**

**72. Application FUL 2019 1883 - Land off Broadmere Rise**

The Committee considered a report of the Head of Planning and Regulation detailing the above application for the erection of six, detached dwellings with parking and access from Broadmere Rise. The application was recommended for approval.

The late representations document corrected a typo within the planning history in relation to application S/1966/0167.

A registered speaker attended the meeting and spoke in respect of their objections to the application. The applicant's agent attended the meeting but chose not to speak.

**RESOLVED that planning permission be granted in respect of Application FUL/2019/1883 subject to conditions listed within the report.**

**73. Application to record a Public Footpath from Ten Shilling Drive to Guinea Close**

The Committee considered a report of the Deputy Chief Executive (Place) which reported on an application to record a public footpath from Ten Shilling Drive to Guinea Close.

The City Council received an application from the Ramblers Association dated 24 September, 2006, for a public footpath to be recorded on the Definitive Map and Statement from Ten Shilling Drive to Guinea Close. The application was made under Section 53 of the Wildlife and Countryside Act 1981.

In 2018 the route was obstructed by two freeholders. The Council wrote to both freeholders requesting that they remove the obstructions and they complied. Earlier this year, the route was again obstructed and as a result, the Council started investigating whether a Definitive Map Modification Order (DMMO) should be made.

The claimed route runs from Guinea Close to the rear and east of No. 2 Guinea Close, it continues south to the east of Nos. 31, 29, 27 and 25 meeting Ten Shilling Drive at the entrance to the E-On site. The length of the route is approximately 129 meters and is bordered on the eastern side by a mature hedge and on the western side by fences separating the claimed route from the neighbouring gardens. The width of the route is 7 meters. The route is currently obstructed where the path meets Ten Shilling Drive by fencing and hard standing

for motor vehicles which expands over the line of the route. The claimed route was indicated as a bold dashed line marked A-B-C-D on a map appended to the report.

Section 53(2)(b) of the Wildlife and Countryside Act 1981 requires that the Council shall keep the Definitive Map and Statement under continuous review and make such modifications to the Map and Statement as appear requisite in consequence of the occurrence of certain events.

One such event (section 53(3)(c)(i)) requires modification of the map by the addition of a right of way.

“(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows :-

- (i) That a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates.....”

The evidence can consist of either documentary/historical evidence or user evidence or a combination of this evidence. All of the evidence must be evaluated and weighed so that a conclusion can be reached as to whether, on the balance of probabilities’ the alleged rights subsist or are reasonably alleged to subsist. Any other issues, such as safety, security, suitability, desirability or the effects on property or the environment, are not a consideration or relevant in determining the decision.

The Highways Act 1980 states that the public must have used the way without interruption and as of right; that is without force, secrecy or permission. Section 31(2) states that “the 20 years is to be calculated retrospectively from the date when the right of the public to use the way is brought into question”.

A route can be presumed to have been dedicated under Section 31(1) of the Highways Act if a route has been used by the public for 20 or more years. When calculating the 20 year period, there must be a clear event that made the public realise that their rights are being challenged; referred to as calling into question. Events that can call a route into question include blocking the route, a notice, telling people not to use the route or submitting a definitive map modification Order to the Council.

In this case there are a number of events that could be regarded as a calling into question; the application submitted by the Rambler’s Association in 2006, the obstruction of the route in 2017 and the obstruction of the route in 2019.

Having considered all evidence and callings into question, it was recommended that the calling into question date would be 1986 using the DMMO application as this was the first calling into question and therefore is considered by officers to be the most appropriate date.

The report provided information on the results of the consultation undertaken and a detailed analysis of the evidence which included amongst other information,

planning history, sale of land by the City Council, restrictive covenant, historic mapping evidence.

The report concluded that mapping evidence clearly showed that the route has been recorded as a physical feature since 1880 through to today. The recording of a route on an OS map does not in itself represent highway rights nor does it demonstrate that the route was private.

The resident's solicitor submitted that the actions of the Council as land owner demonstrated that the route was not highway at the time of the sale. However, this assertion was not supported by any evidence, none of the actions by the land owner can be interpreted as an intention not to dedicate.

The objectors failed to demonstrate an intention not to dedicate the route prior to the DMMO application.

There was enough evidence on the balance of probabilities to say that the route in question is a public right of way with the status of a public footpath.

The Committee considered a petition bearing 239 signatures (219 on line signatures and 20 paper petition) sponsored by Councillor M Lapsa. Unfortunately, Councillor Lapsa was unable to attend the meeting and had nominated Councillor A Andrews to speak on his behalf. Councillor Andrews and the petition spokesperson attended the meeting and spoke in respect of the petition. A local resident also attended the meeting and spoke on behalf of the objectors. The petition detail was read out by the Committee's Legal Officer.

**RESOLVED that the Committee do not authorise the City Solicitor to make the necessary Definitive Map Modification Order for the route from Ten Shilling Drive to Guinea Close in the City of Coventry as shown in Appendix A, pursuant to Section 53 of the Wildlife and Countryside Act 1981, to be recorded as public footpaths.**

(Note: Councillor Skinner did not vote on this application as he had declared an interest and left the room during the consideration of this item.)

#### **74. Appeals Report**

The Committee noted a report of the Head of Planning and Regulation which provided information on appeals lodged and determined in the period 1 September to 31 October 2019. The report set out the main issues of the appeals and summarised the decisions, together with details of any costs which were made and/or awarded, either for or against the Council. Members noted the typographical error within the report relating to the dates covered.

#### **75. Any other items of public business which the Chair decides to take as matters of urgency because of the special circumstances involved**

There were no other items of public business.



(Meeting closed at 7.45 pm)