

INFORMAL AGENTS MEETING

7 MARCH 2023

Present:

John Maxey (Chair)
Tim Slater
Preja Khanal (substituting for Shaun Gayton)
Daniel Wallage
Shanna Jackson
David Taylor
Peter Gidney
Ben Hornigold
Hannah Wood-Handy, BCKLWN
Michael Burton, BCKLWN
Amanda Driver, BCKLWN
Lee Osler, BCKLWN
Ruth Redding, BCKLWN

1. **Apologies**

None

2. **Minutes of Previous Agents Meeting**

Agent's asked for a list of Planning Department employees with photo's. Staff were not willing to have their photo distribution amongst Agents, but an updated telephone contact list has been distributed (RR)

3. **CIL**

See below.

4. **Policy DM18**

DT submitted an email prior to the meeting, explaining why this was to be added onto the Agenda. Please see below.

HWH stated that the Environment Agency needed to answer most of the questions raised by DT.

DT requested that the Environment Agency attend the next Agents Meeting and it was agreed that they will be invited.

ACTION (RR): Invite EA to Formal Agents Meeting

Some lengthy discussion followed, including discussion about several Appeal Decisions which have been won by the Council, where Pins have supported the use of Policy DM18.

Discussion went on regarding new Policy LP17 and it was suggested by the Chair that anyone interested should attend the Examination of the Local Plan when the Hearing is reconvened.

BH asked whether this Authority use EA maps or our own Strategic Flood Maps, HWH confirmed that we use our own strategic maps.

Discussion continued, but this needs to be a continued discussion with the EA.

5. Update on Local Plan EIP

MB advised:

- First rounds of Local Plan examination hearings took place in December 2022/ January 2023
- On 11 January 2023 Inspectors adjourned hearings, due to concerns about several issues, including spatial strategy (role of A10/ Main Rail Line Strategic Growth Corridor), settlement hierarchy, deliverability of West Winch Growth Area
- Inspectors set Borough Council additional tasks (evidence base documents) to complete – deadline 28 April
- Consultation on new evidence documents likely to take place during summer 2023, with hearings re-convened in autumn
- Current timetable would allow for Local Plan adoption by spring 2024

6. Update on Staffing

HWH explained that contract staff with Capita have now ended.

We have a new Ecologist, Claire Wiggs who has been with us for two weeks.

Interviews for the Arboricultural Officer will take place on 10 March 2023

Principal Planning Officer interviews are on 13 March 2023.

Loran Gilbert is leaving on 10 April 2023.

We have a new Conservation and Heritage Officer, Lynette Fawkes.

HWH went on to explain that we have several vacancies for Planners at different levels. JM asked how many planners we are looking to recruit and HWH explained around 6.

LO explained that the Technical Team had caught up with the back log in registering applications but is experiencing another back log currently.

He also explained that there is a Consultation out regarding an increase in the Planning Fees for 35% increase for Majors and 25% for non-Majors with retrospective applications being double the planning fee and no “free go” applications being proposed.

SJ suggested we compile a list of “hot topics” for invalid applications and circulate to the Agents, to reduce invalid applications and re-work.

7. Review New Policies Stuck

Michael Burton explained that Policy LP31 carries limited weight and will be discussed at examination and may be subject to change.

8. NN

HWH explained that NN doesn't really affect our Authority. Information is available on the website and Claire Wigg our new Ecologist will be able to assist if need be.

9. New Policy LP13

See Agenda Item 4.

10. Party Wall Act

See Item 8 of Informal Agents Meeting 28/09/22 (DT) asked for an Informative to be added to decision notices. HWH said she would consider this request but felt that it should be the Agent's decision as to whether the Party Wall Act applies.

11. Planning Reference Numbers

RR explained that an increasing amount of applications are being received for Discharge of Conditions, Variation or Conditions and Non-Material Amendments, where the reference number on the application form is incorrect. This causes delays for the Planning Officers and additional work for the Technical Team, changing reference numbers over after the application has been validated. JM suggested that Agent's send a copy of the decision notice with the application to avoid confusion.

HWH explained that there are delays with NCC Highways for Discharge applications where S278 applies and permissions can expire whilst awaiting response from Highways. She suggested that Agents take this into consideration when applying to discharge conditions.

12. AOB

DT asked if the Agent is only contacted on Pre-Commencement conditions, prior to decision HWH confirmed this is the case.

HWH said that a shadow HRH requirement will need to be added to checklists. Looking at a simplified matrix.

There is currently a vacancy on the Informal Agents Group – RR to send email asking for candidates.

13. Next Meetings

Formal – June 2023 am

Informal – September 2023 am

3. CIL

You Tube Training Session – Positive Feedback/very useful

Primary consideration when advising clients & submitting Form 1

Appeals

VOA Appeal - Replacement dwelling following demolition - Another appeal where the extent of works for a residential extension exceeded the original application, as the applicant demolished the building due to Safety concerns.

Applicant wanted GIA of the dwelling to be offset, but as the demolition occurred before the 2nd application was approved for the replacement dwelling, there was no existing building.

The appellant contended that the delay in planning approval was the cause of the issue, but the inspector dismissed the claim.

The applicant contended that the footings of the original building and partial external walls constituted a building, but the inspector used The Pocket Oxford English Dictionary (POED) definition of a building is “a structure with walls and a roof”.

The LN & DN were issued when the 2nd application was approved and the appellant argued that they were not aware of the CIL. The Inspector states that the onus would rest **with the applicant and their advisers to make themselves aware of the planning application process and other planning related matters**, including CIL, when engaging in the planning and development process

VOA Appeal - Erection of extensions to form a first floor level with habitable roof space, together with change of use of part of ground floor from office to residential to provide 3 dwellings with ground floor access and provision of new shopfront

This appeal relates to: Transfer of exemption to amended full application

A self build exemption was granted under the 1st full app, the 2nd app amended the internal layout to increase the flats from 2 to 3, with some alterations to the form of the building. The inspector fell in favour of the CA and confirmed that an exemption cannot be transferred from 1 full app to another full app, even if the applications are significantly the same, but with minor amendments.

In summary - This appeal highlights the fact, that there is no appeal for not granting an exemption, but relates to how the exemption is calculated and granted.

Only a S73 allows a transfer, but uplift to pay if works have commencement onsite.

VOA Appeal - Extensions, alterations and partial demolition of the existing building to retain the ground floor in Class E, with conversion of the first floor flat to a one bed apartment and the addition of a second floor to create a one bed flat.

The Form 1 was submitted stating an incorrect ‘in legal use’ date at Section 7. The appellant submitted a Revised Form 1, following approval of the application, which was not accepted by the CA.

The Inspector stated that the content within the original submitted Form 1: CIL Additional Information questionnaire must stand, as it formed part of the original planning application to the local planning authority and formed part of the information which ultimately informed the decision in granting consent.

The Inspector stated that ‘neither the VOA nor indeed the CA, can accept under any circumstances, the submission of a revised CIL Additional Information questionnaire ‘after the event’ without corroborating evidence to the contrary’. The information on the original form must stand, and the fact remains that the information on the form clearly states that the building was last occupied for its lawful use

In summary: Ensure that all details within the Form 1 are correct, including the in legal use details, as a CA uses this information to offset any existing buildings.

Self Build Exemptions

We have had several enquiries from applications relating to Self Build Exemptions – refunds & change in circumstances after commencement.

4. Policy DM18

1. What is the purpose of DM 18.
2. What data was used (and is currently used) to determine the DM 18 boundary.
3. What are the needs of the DM 18 catchment.
4. Avoiding inconsistency in the current decision making regarding planning applications and understanding the technical and supportive evidence / documentation provided in support of an application for planning approval in DM 18.
5. What is the future vision for the DM 18 catchment.
 - a. Does the catchment retain the current shanty town character.
 - b. Does it move forward to an improved outlook with structures that take regard of climate change, adopting available design features of flood resistance and resilience.
 - c. Why is it wrong to increase the numbers of residents in the boundary of DM 18, following improvements to the defences, improved weather forecasting, EA. "Directline Flood Warnings" and a strategy intent on holding the defence line and retaining an improving standard of defence.
 - d. The storm tide warning period 1st October to 31st March is accepted as being a time of raised flood risk with the intervening period classed as the seasonal safe period , as quoted in writing by the BCKLWN.
 - e. Why is it acceptable for recognised caravan sites to get appropriate consents.
 - f. Replacement builds are deemed acceptable under DM 18; but in essence are new builds ?
 - g. new builds and re-developments now offer far more unique engineering and mitigation measures, why are these not being considered by planning
6. Should the BCKLWN be investigating in modelling the flood risk within DM 18 to enhance the knowledge of events that may be impacting of the catchment future development.
7. Should a more positive approach be taken when considering the future of the DM 18 catchment.
8. Expertise within the BCKLWN Planning department with technical and broad knowledge of flood risk matters which currently does not exist, should a small forum of consultants be placed at the disposal of the BCKLWN Planning Department to assess (assist) planning applications with regard to these matters within DM 18 to advise on the appropriateness of Applications.
9. How is the NFCERMS ('The National Flood and Coastal Erosion Risk Management Strategy Report) being considered in current applications. This report demonstrates DM18 is now out dated. The EA must refer to the latest updated information available to them when commenting on planning applications and by ignoring the latest report from their national body (NFCERMS 2022) they are clearly not doing this. ?