

LOWER PENN PARISH COUNCIL

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MEETING of the PARISH COUNCIL held on THURSDAY 7 DECEMBER 2023 at the VICTORY HALL, LOWER PENN

PRESENT:

Cllr Mrs B Southall – Chair
Cllr Ms H Fuller – Vice-Chair
Cllr Mrs K Brazenell
Cllr K Crane
Cllr D Everett
Cllr S McKewen

District Councillor R Reade
Ms Kelly Harris – Lead Planning Officer- District Council
Ms Helen Benbow – Development Team Manager District Council

12 Members of the Public

		Action
160/23	APOLOGIES Received from Cllr Mrs Taylor, Cllr Mrs Wilson and Staffordshire Police.	
161/23	MINUTES Proposed by Cllr Mrs Brazenell and seconded by Cllr Ms Fuller and carried that the minutes of the Council Meeting held on 2 November 2023 be approved and signed as a true and correct record.	
162/23	DECLARATION OF INTERESTS D. Cllr Reade declared an interest in any discussion relating to the Local Plan	
163/23	CO-OPTION OF PARISH COUNCILLOR With the approval of all councillors, the Parish Council co-opted a new councillor to the Parish Council – Mr Ken Crane. Councillor Crane signed his Declaration of Acceptance of Office in the presence of all councillors and undertook to observe the Code of Conduct. Cllr Crane was given a Declaration of Pecuniary and Other Interest form for completion within 28 days for submission to the District Council.	
164/23	POLICE REPORT 03/11/2023 - 07/12/2023 Received and circulated. No burglary, vehicle crime or anti-social behaviour reported.	
165/23	DISTRICT COUNCIL OFFICERS' SESSION The Chairman welcomed officers from the District Council and confirmed that the Q & A session would not be open for public participation. Details of the session are attached at the end of the minutes.	

166/23	<p>LOCAL PLAN D Cllr Reade did not leave the room. Officers confirmed that the Plan had been paused in January 2023 but had been ‘un-paused’ in June this year and the District Council is currently preparing a new plan for Spring 2024, although any national policy that is released will be taken into account and implemented. Officers also gave details of the current land supply which stands at 4.5 years but which may alter when the Government releases its new strategy.</p>	
167/23	<p>COUNTY COUNCIL REPORT No report available.</p>	
168/23	<p>DISTRICT COUNCIL REPORT</p> <ul style="list-style-type: none"> ▪ Three Ridings – retrospective application now submitted. ▪ Winander – security fencing installed – Cllr Reade agreed to follow this up with Enforcement. 	RR
169/23	<p>PUBLIC PARTICIPATION</p> <ul style="list-style-type: none"> ▪ Winander – Concerns regarding the protection of the land around the tree covered by the TPO and the reasoning behind the provision of security fencing. ▪ Rugby Club– the Chair said that she had spoken to the Club who confirmed that the shed, which is used for storing Rugby equipment, was built 10-15 years ago and is therefore immune from enforcement action. ▪ Old Wulfrunians Club – District Council has confirmed that this is a new building and does not benefit from PD rights and the Club has been asked to submit a retrospective planning application no later than 3 January 2024. ▪ Pot Holes – the situation has not improved, particularly along Springhill Lane, and the Chair urged residents to continually report these to the County Council. 	RR
170/23	<p>PLANNING App No: 23/00994/FUL Retrospective application for detached garage – Three Ridings, Radford Lane The Meeting agreed to object to this application as the siting of this new garage is highly visible, out of character and detrimental to the street scene and openness of the road. The garage appears to be in front of the building line of adjacent properties, which will negatively impact on the surrounding area.</p> <p>PLANNING APPLICATIONS PENDING App No: 23/00464/FUL Replacement Dwelling – Radford Lodge, Radford Lane App No: 23/00782/FUL Replacement Single Dwelling – 83 Springhill Lane App No: 23/00928/FULHH Ashmore Nurseries, Radford Lane</p> <p>APPLICATION APPROVED 23/00853/FULHH Replacement extensions – 125 Springhill Lane</p> <p>APPLICATION REFUSED 23/00897//FULHH Extensions/garage conversion – 86 Springhill Lane</p> <p>59 Springhill Lane The Secretary of State has no jurisdiction to accept an appeal and will take no action.</p> <p>APPEALS 58A Springhill Lane: Appeal for Outbuilding and boundary fence</p> <p>APPEAL ALLOWED Hip to Gable roof conversion in loft space to provide additional storey – 119 Springhill Lane</p> <p>MATTERS ARISING</p>	Clerk

171/23	<p>Enforcement Issues: Sandhills Nursery (19/00048)– Breach of Condition Notice 4 Case Ref: 22/00132/BOC Condition 4 BREEAM – given to mid-January 2024 to comply.</p> <p>Three Ridings, Radford Lane Unauthorised structure under investigation.</p> <p>AFC Wulfrunians, Castlecroft Road The Club has been asked to submit a retrospective planning application no later than 3 January 2024.</p>	
172/23	<p>Severn Trent Water-Expansion of Drainage Scheme – Lower Penn/Railway Walk District Cllr Reade advised that he is meeting with STW to discuss the effect the works will have on residents in Lower Penn. Work is anticipated to begin in February 2024. Cllr Reade agreed to forward the name of the company carrying out the works to the Clerk.</p>	RR
173/23	<p>Dimmingsdale Bridge Update required from County Cllr Mrs Wilson regarding dangerous steel protruding from the ground and the poor condition of pavements following recent water leaks.</p>	Clerk
174/23	<p>Broken Railings – Dimmingsdale Update required from County & District Cllr Mrs Wilson.</p>	Clerk
175/23	<p>Battery Storage Facilities Officers from the District Council were asked if the involvement of the Fire & Rescue service on safety issues would be adopted within the District Council’s policy on battery farms and Ms Harris replied that officers would be encouraged to give this consideration. The Chairman said that she had contacted Cllr Mrs Wilson regarding a pre-application for a battery storage facility at Pool Hall, Lower Penn (23/00473/EIASCRC) although to date she had received no reply. Officers confirmed they would make enquiries into this.</p>	Clerk
176/23	<p>Temporary Caravan - The Lindens, Penstone Lane District Cllr Reade to follow up the temporary consent licence at end of December.</p>	
177/23	<p>Community Speedwatch/Speeding Issues The Neighbourhood Speed Check Initiative had declined the nomination of Radford Lane as being of concern as it had been found not to meeting the required criteria. S.I.D’s – Chairman to obtain quotations.</p>	RR
178/73	<p>Fly Tipping/Litter Incidents appeared to be on the increase and residents were urged to report this.</p>	BS
179/23	<p>Victory Hall Nothing to report.</p>	
180/23	<p>Castlecroft Playing Field Cllr Ms Fuller reported that she had met with Forest of Mercia representatives and additional trees had been planted. The Chairman said that she would make enquiries into the apparent use of the playing field by the football club.</p>	BS
181/23	<p>Repair Café To be brought forward to next meeting.</p>	
	<p>Heritage Assets List of suggested Heritage assets within Lower Penn be sent to District Council.</p>	

182/23	White Posts – Springhill Cross Roads Cllr Ms Fuller is meeting with 2 companies to obtain quotes for replacement of posts.	Clerk																														
183/23	ANY OTHER BUSINESS St Dominic’s Grammar School A number of complaints had been received regarding the speeding of the school bus through Springhill Park and it was agreed that this would be reported by the affected residents initially and then taken up by the Parish Council if necessary.	HF																														
184/23	Staffordshire Parish Councils Association The Meeting agreed that enquiries would be made into becoming a member of the SPCA.																															
185/23	ACCOUNTS 2024/25 Budget Cllr Mrs Brazenell presented the draft budget for the year 2024/25 and it was unanimously approved and agreed. The Clerk to advise the District Council of the Precept requirements of £17,260 pa. for Lower Penn Parish Council.	Clerk																														
186/23	The following accounts were presented for payment and cheques signed accordingly: <table border="0" style="width: 100%;"> <tr> <td style="width: 35%;">BG Ground Maintenance</td> <td style="width: 35%;">November Account</td> <td style="width: 30%; text-align: right;">£135.00</td> </tr> <tr> <td>Ms H Fuller</td> <td>Reimb. Craft decorations</td> <td style="text-align: right;">£44.96</td> </tr> <tr> <td>Mrs J Footman</td> <td>Clerk’s Qtrly Salary</td> <td style="text-align: right;">£1648.40</td> </tr> <tr> <td>Bluelight Design</td> <td>Updates to website</td> <td style="text-align: right;">£45.00</td> </tr> <tr> <td>DBS (Midlands) Ltd</td> <td>For Qtrly HMRC Payment</td> <td style="text-align: right;">£238.50</td> </tr> <tr> <td>Mrs J Footman</td> <td>Qtrly Accomodation Payment</td> <td style="text-align: right;">£105.00</td> </tr> <tr> <td>Phoenix Web Solutions</td> <td>S/M business Hosting - Bank Transfer</td> <td style="text-align: right;">£60.00</td> </tr> <tr> <td></td> <td>Reimb. To Mrs J Footman</td> <td></td> </tr> <tr> <td>Phoenix Web Solutions</td> <td>Standard SSL – Bank Transfer</td> <td style="text-align: right;">£40.00</td> </tr> <tr> <td></td> <td>Reimb. To Mrs J Footman</td> <td></td> </tr> </table>	BG Ground Maintenance	November Account	£135.00	Ms H Fuller	Reimb. Craft decorations	£44.96	Mrs J Footman	Clerk’s Qtrly Salary	£1648.40	Bluelight Design	Updates to website	£45.00	DBS (Midlands) Ltd	For Qtrly HMRC Payment	£238.50	Mrs J Footman	Qtrly Accomodation Payment	£105.00	Phoenix Web Solutions	S/M business Hosting - Bank Transfer	£60.00		Reimb. To Mrs J Footman		Phoenix Web Solutions	Standard SSL – Bank Transfer	£40.00		Reimb. To Mrs J Footman		Clerk Clerk Clerk Clerk Clerk Clerk Clerk Clerk
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	FINANCIAL RISK ASSESSMENT Nothing to report	Clerk																														
187/23	DATE OF NEXT MEETING PLEASE NOTE NO MEETING HELD IN JANUARY 2024																															
188/23	Thursday 1 February 2024 at the Victory Hall commencing at 7.15pm Signed: Chairman Dated: LOWER PENN PARISH COUNCIL – PC MEETING 7TH DECEMBER 2023 1. There is no mention of FWD provision or drainage scheme on the original planning application for the Nursery - 18/00354/FUL. Why was the planning application validated and approved, without this information.																															

This part of the validations guidance referred to sits within the “local” requirements and not “national”. As such they are discretionary, and a decision made by the case officer. In this case as the premises was a new build, Building Regulations would cover matters of foul drainage. However, it is worthy of note that this planning application approval was not the implemented scheme.

2. Why was this not made a condition of the approval?

Application 19/00048/FUL was refused by the Council so no conditions were associated with this application. The lack of foul drainage information formed a reason for refusal.

The inspector however noted the following in allowing the appeal:

Para 18. With respect to drainage matters. The existing drainage provision system serving the building is suggested by the appellant to have been in use for around 24 months. However, there is no indication from the Council or statutory consultees this arrangement is acceptable, factoring the proximity of controlled waters.

Para 19. Nevertheless, based on the evidence before me there is no reason to discount that adequate drainage provision for wastewater would not be able to be managed or adapted in line with local requirements. Whilst there are separate consenting regimes to cover this issue, they are complementary to the controls within the planning system.

Para 20. Therefore, subject to a condition which ensures appropriate details can be agreed and implemented the development would be able to provide adequate drainage. This would be in accordance with Policy EQ7 of the CSDPD which aims to protect ground water from pollution and to secure appropriate drainage infrastructure for all new development.

The following condition was added to the grant of permission:

Condition 9. Within 2 months of the date of this decision, details of the long-term management and maintenance of foul sewage drainage provision serving the development shall be submitted to and approved in writing by the local planning authority. Within 2 months of approval the agreed foul drainage details shall then be installed, managed, and maintained in accordance with the approved details for the life of the development unless written consent is given to any variation.

3. Have the EA been notified of the approved FWD decision?

The LPA do not notify consultees of decisions specifically but they are publicly available on line.

4. In the interest of transparency, will the report that informed the officer’s decision to discharge condition 9 be made public?

There is no officer report associated with condition applications.

5. What exceptional circumstances did the developer provide (as required by the EA in their comment in April 2023) to overcome the requirement for a ‘sustainable waste solution’ in the greenbelt? (which is also contrary to one of the Council's own policies on sustainable development.)

This consultation response does not refer to Green Belt specifically. The drainage hierarchy was followed, and this decision was based on the drainage strategy submitted to the LPA (public document). EA state in their consultee response that the proposed drainage scheme was acceptable subject to assessment of the drainage strategy by the LPA.

6. Given the council now deems the FWD solution to be acceptable, and that the refusal of the appeal of 22/01049/VAR was partly based on the unsuitability of the FWD in place, how would a repeat application to increase the number of places be treated?

Any further application would have to be treated on its own merits with all material considerations assessed. Without specific detail on proposals it is impossible to comment any further and neither is it appropriate to pre-determine any future planning application.

7. The inspectorate gave the developer until June 2021 to comply with BREEAM. Why have proceedings not been started for breach of conditions?

In planning enforcement terms the LPA has to be seen to act reasonably with the landowner to address any breach of planning control. In this case, the applicant was actively working towards rectifying the outstanding BREEAM matter. As such it is appropriate to agree an extend timeframe. It is only when negotiations breakdown or progress cannot be demonstrated that formal court action is taken.

(Does this somewhat flexible approach reflect the council's general attitude towards sustainable development? What will happen in Jan 2024 when the new time line expires?).

The planning agent has advised of a start date for the BREEAM works and that these will take up to 6 months. The LPA will be actively monitoring the progress up until the agreed January date. At this time a decision will be made as to the next appropriate course of action.

8. Which of the 9 conditions, outlined in the officer's report on appeal 19/0048/FUL, were met, as specified and within the timeframe?

Conditions 4 (BREEAM), 6 (Travel Plan), 7 (electric vehicle charging), 8 (cycling) and 9 (drainage) were all subject to further submitted detail to be sent to the LPA within 2 months of the date of the permission (permission date 21st April 2021).

Application 19/00048/COND was submitted on the 9th June 2021 to provide details relating to conditions 4, 5, 6, 7, 8 and 9.

9. Why is the developer continuously granted extensions by SSDC to comply with conditions, when timelines had already been set by the planning inspectorate?

As previously stated the LPA is duty bound to act positively and proactively with the land owner and their agent to progress matters with regards to breaches of planning control. The LPA has to act reasonably in order to negotiate a positive outcome. Formal action is only undertaken when discussions break down or progress cannot be demonstrated.

10. What are the penalties for developers when the DC's own planning policies and procedures are not met?

More context is required here for a comprehensive answer. Application for development are assessed on their merits against both national and local planning policy. If there are breaches of planning control following determination of any application again these will be reviewed on a case by case basis, it is not a one size fits all in terms of approach.

11. During the build, when the DC was informed by residents of breaches of planning policy, residents were repeatedly told by Enforcement, the sitting Parish Council at the time and the then District Councillors that the developer continues the build "at their own risk". So far, this risk has only worked in his favour. What can be done in the future to ensure that builds are stopped and appropriate changes are made to ensure compliance?

The progression of works without the relevant consent is very much at the landowner's risk. The LPA will always make that clear. However, powers are limited to stop notices (temporary and permanent) but the serving of this type of notice is infrequent. The legislative requirement sets a high bar for a notice of this kind to be successful without legal challenge. Within the context of this site, where planning permission had been granted previously, representing a fallback position, a temporary stop notice would not have been an appropriate tool. The local planning authority has to ensure that a temporary stop notice's requirements prohibit only what is essential to safeguard amenity or public safety in the neighborhood; or to prevent serious or irreversible harm to the environment in the surrounding area. Given this was a consented site, this test would have been unlikely to be met.

12. At a recent council training session on 106 agreements emphasis was made that the council would rather police developments by way of conditions. In the case of the nursery (and for example the number of places) would it not have been better to use a 106 so that the developer cannot come back to vary or discharge the conditions?

A S106 is not appropriate for restriction in numbers as in this case. Legal agreements are needed when there are variables including 3rd parties or sites/land/matters outside of the control of the applicant. In this case restricting place numbers was in accordance with the conditions test and was used by the planning inspector as the appropriate mechanism. It is possible in planning law to vary any planning condition, this is appropriate as situations upon development may change. It is also possible to vary any S106 agreement through a deed of variation. As such in the English planning system no mechanism is preventable from change or challenge.

13. When will the court decision report be made public for the 'road to nowhere'?

The Court result is in the public domain. On 2 October 2023, the case officer provided all nine complainants listed on the Enforcement file with an update of outcome of the court hearing:

The defendant did not attend, and the matter therefore proceeded. The defendant was found guilty in their absence. The Court imposed a fine of £2500 a victim surcharge of £1000 (40%) and allowed the costs of £3224 in full. The total sum was payable within 28 days which has been paid in full. The court decision is public information and has publicised in the Express and Star and other Planning publications.

14. What are the next steps (on the 'road to nowhere' and have the DC set a timeframe?

The agent acting for the landowner informed the council that the work to remove the unauthorised section of road would take place in December. If the necessary work to comply with the enforcement notice has not been undertaken by 2 January 2024, the council will consider returning the matter to court to prosecute for the continued failure to comply with the enforcement notice.

15. How will SSDC ensure in the future that their own planning policies and procedures are followed by developers?

Through the assessment of planning applications against both national and local planning policy and enforcement investigations/action as appropriate.
