

HAM PARISH COUNCIL

MINUTES OF A PLANNING MEETING

A planning meeting of Ham Parish Council took place at 7pm on 8th March 2021 over Zoom video conference.

Present: Mr C Dean (Chairman), Lady Walker (Vice-chairman), Mr J Marriage, Mr M Humphreys and 19 members of the public.

1. Apologies

None.

2. Declarations of Interest:

None.

3. Matters Arising:

The Chairman asked if the minutes from the planning meeting on the 21st December could be signed off. All councillors concurred.

The Chairman summarised recent applications that had been granted approval by Wiltshire.

4. Manor Farm Covenant

The Chairman asked if everyone could be brief and to the point, and to avoid interruptions.

The Chairman began by reading out a summary.

“The Parish Council met on August 10th last year to vote on two matters, firstly the restrictive covenant covering the Manor Farm site, and secondly the planning application, 20/04932/FUL, made by Fiona and Iain Lindsay.

The restrictive covenant was created in 2011 and basically said that no building was allowed outside the envelope of buildings as defined in the planning application accepted by Wiltshire at the time. This covenant is between the owners of Manor Farm and Ham Parish Council. A deed of variation was agreed in 2014 by both parties to enlarge the single-storey projection from the main house.

On the 17th of June last year Fiona and Iain submitted a planning application to Wiltshire for a single storey annex to the south of the main building. Planning permission already existed for a two-storey annex to the east of the main building. The location of the new annex was outside of the envelope allowed by the restrictive covenant and as a result Fiona and Iain asked the Parish Council to consider an amendment.

The Parish Council received various submissions that were against the planning application, and notably a letter signed by all six nearest neighbours. The primary concern of the near neighbours was the potential for further development of the site.

As a result of the strong feelings presented on paper and publicly the council voted unanimously not to amend the covenant, and as a result objected to the planning application itself.

On the 15th of February Wiltshire gave approval for the application with some conditions. It is important to note that the officer's report addresses many of the concerns raised during the planning process which involved several shifts in design and location.

In addition, a Section 106 document has been signed between the Lindsays and Wiltshire which prevents the original annex being built if they build the new one.

On the same day, the Parish Council received representation from Fiona and Iain's solicitors which threatened legal proceedings against the council if the decision not to amend the covenant was not reversed. I am pleased to say that following extensive conversations Fiona and Iain agreed to withdraw the legal obligations that were being imposed, for which I am very grateful.

The meeting this evening is to re-consider the decision made last year not to allow any amendments to the restrictive covenant."

The Chairman then asked Fiona Lindsay to speak.

Fiona Lindsay explained that full planning permission had been granted to build the annex to the south of the main property and continued by explaining why this new location was preferable and highlighted the planning process that was followed, and the changes made during this. She finished by asking the Parish Council to consider an amendment to allow the small annex being proposed, as a replacement for the original two storey annex, and confirmed that she was happy to pay for any associated legal costs.

The Chairman then invited comments from the floor.

Michael Marriage asked for clarification for the reasons behind the change of site location. Mrs. Lindsay explained that as a single storey annex was required this would take up more ground space than a two storey and simply would not fit in the original location.

Jethro Marriage asked for further information about why the covenant was created. Robin Buchanan Dunlop responded and provided some history to the original covenant, explaining that the core reasons were the building of such large houses on agricultural land and the difficulty in reaching consensus between the village and the owner, Paul Clarke. However, a bargain was struck with Paul Clarke, in return for allowing a covenant on the two sites involved, Ham Parish Council would support the planning application. He continued to explain that with regards to the Manor Farm site, Manor Farm Barn has been built with a small variation in the covenant in 2014. He summarised by explaining that the covenant was there to prevent building outside of the agreed template of the original planning permissions.

Jethro Marriage asked for further clarification about the location of the original annex, and Robin Buchanan Dunlop responded by saying it was partially about creating a square of buildings, reflecting the original U shape of the farm, and of screening the road from the large windows on the main house.

Alistair Taylor appealed for a common sense approach on both sides.

Martin Humphries read out a prepared statement:

“A few years ago the parish council was asked to set up a covenant on a piece of land by the concerned people who were worried that if the plot fell into the wrong hands we might be subjected to development that would destroy the picturesque of Ham. This was duly done, and a lot of time was spent setting it up and it was signed by everyone here present and more.

What I fail to understand is how people do not understand why the Parish Council has taken this stand. Some people think that we are being grossly unfair as if we had taken an opinion on whether it should or should not happen. This is wrong on every front. There are people on both sides of this debate who have very strong feelings on this issue. Do you really think that I mind if a building is moved from A to B. the answer is no. Do you think we enjoy being in the middle of this, the answer is definitely not.

The fact of the matter is that we were asked to put this in place, which was done. A few years later it is to be changed by concerned parties. In effect you are asking for us to have an opinion. It's fine for this. It's not fine for that. All we are trying to do is uphold a binding agreement that was drawn up for the right reasons. The fact that the nice people want to change it is beside the point. All we are doing is trying to stick to a principle.

You have these rules to protect this and what we have. If someone wants to start building something that spoils your access then you would be the first people to come to the Parish Council to protect you. It is a very very difficult situation. And we are damned if we do and damned if we don't. This is not good.”

Mike Fowler, the architect and agent, explained that the most important question to ask is what the harm is in varying the covenant. He went on to say that this was the first time he or the Lindsays had been allowed to speak on this matter in advance of a vote. In addition, he said that both himself, and the applicants had been bullied by certain people in the village, and that there is a chasm in the village with two sides and he hoped his army was the larger. He continued to say that this covenant does not change anything, it only varies where the annex will be placed and is not for an open market house or a steppingstone for something bigger or something that could be sold separately. He also explained that it could not be used to prevent possible future planning applications, that it was to protect what was there and not look into the future.

The Chairman responded on the question about being prevented from speaking on two previous occasions and explained that with regards to the occasion at the quarterly meeting two weeks previously, Manor Farm was not on the agenda and it would therefore have been

inappropriate to discuss it. He continued to say that in addition it would not have been a suitable meeting anyway as it was a quarterly meeting, not a planning meeting, and no vote of any sort was taking place on the matter. The Chairman went on to explain that last year, during the meeting in August, as Mr. Fowler was aware, the covenant was discussed first, and he was given an opportunity to speak but did not, then a vote was taken, the result of which was not to allow any amendments. As a result, the discussion that followed about the planning application itself was not opened to the floor as the council had no choice but to object.

Michael Marriage asked if the new annex could be sold separately, explaining that much of the concern was whether the annex was integral to the current dwelling. Mike Fowler confirmed that it was ancillary to the main house and that regardless, it would devalue the site overall and would very unlikely be given planning permission as a separate residence. Fiona Lindsay added that there was a Section 106 in place on the planning permission in question that prevents the annex being sold separately.

Katie d'Ath explained that she felt that given planning permission had been granted by Wiltshire that this discussion may be a moot point, as the covenant may be overruled, and that as a result it was better to reach agreement.

Jethro Marriage asked if there were any comments from those who were against amending the covenant.

Susie Phillips voiced her support for the current application subject to controls over further development. Fiona Lindsay then explained that the present covenant prevented exactly this.

Caroline Taylor echoed Jethro Marriage, asking if any other near neighbours had comments.

George Clowes responded and explained that they had bought Hill House recently and were advised by their solicitors of the covenant and therefore felt they were protected from any further development at Manor Farm, and that naturally they were very concerned by the planning application and potential amendment to the covenant. He also explained that whilst conversations had taken place with the Lindsays that these were after the application had been submitted.

Susie Phillips echoed again her support for an amicable solution.

George Clowes re-iterated that they had never objected to the wish of the Lindsays to accommodate their mother, but merely to the positioning of the annex, and that he felt it was a shame no dialog had been entered into between the meeting last August and this one, in order to reach a compromise.

The Chairman asked that the meeting move to a close and requested that the Lindsays confirm that if any amendment was voted for they would cover any legal costs that resulted. Fiona Lindsay agreed.

The Chairman asked each councillor in turn for their vote.

The council voted unanimously to amend the covenant to reflect the planning permission granted by Wiltshire.

The Chairman explained that this had been a difficult planning process for many and asked for ideas and help in the future to avoid such heated discussions.

The Chairman thanked everyone for attending the meeting.

5. Any Other Business

None.

The meeting ended at 7:46pm.