



**REPORT of  
THE OVERVIEW AND SCRUTINY COMMITTEE WORKING GROUP**

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**to  
OVERVIEW AND SCRUTINY COMMITTEE  
4 SEPTEMBER 2025**

**MEMBER SCRUTINY REQUEST – COUNCILLOR S J N MORGAN – PLANNING APPEAL  
AT CHURCH ROAD, WICKHAM BISHOPS**

**1. PURPOSE OF THE REPORT**

- 1.1 The purpose of this report is to inform the Committee of its initial assessment of this scrutiny request.

**2. RECOMMENDATION**

That the Committee receives and considers the Working Group's report with a view to concluding this scrutiny item and endorses the proposed revision and strengthening of the Planning Appeals Protocol.

**3. SUMMARY OF KEY ISSUES**

- 3.1 A scrutiny item request was submitted by Councillor S J N Morgan, its receipt being reported to the last meeting of the Committee. At the heart of this request were questions posed to the Assistant Director of Planning and Implementation by Wickham Bishops Parish Council concerning a planning appeal in Church Road, Wickham Bishops as set out in correspondence dated 8 January and 11 February 2025. These were responded to on 30 January and 24 March 2025 respectively.
- 3.2 Three main questions were raised:
- (a) why was it felt that a response had to be given within such a short timeframe given that it was around Christmas holiday period?
  - (b) why was withdrawal of the principal reason for refusal undertaken as part of the Council's response to the appeal when the Planning Inspectorate (PINS) was essentially asking for comments?
  - (c) why was the decision taken to use emergency measures rather than bring the matter back to a planning committee?
- 3.3 The Working Group was mindful of the submission made by Mr Henry Bass in the public speaking session of the last meeting of the Committee. Although also a Parish Councillor, Mr Bass said he was speaking as a lifelong local resident. He had referred to the strong local objection to the development proposal and the decision of the North Western Area Planning Committee to overturn the Officers' recommendation of approval. He too questioned why an extension of time for a response to PINS had not been sought and expressed concern at how this matter had been dealt with under the Emergency Action provision without any consultation

with the Ward Member. He also referred to the inconsistent way in which the application had been handled.

- 3.4 The approach from PINS on 13 December 2024 sought the Council's view on the relevance of the then recently revised National Planning Policy Framework (NPPF) to the appeal. The Parish Council was aware of this and given its wish to have the opportunity to comment, urged the Council to seek an extension of time from the PINS.
- 3.5 The Council had in fact been asked by PINS to comment on the relevance of the revised NPPF to other outstanding appeal cases as well, but this was the only one which had been determined by Committee, in this appeal's case, the North Western Area Planning Committee. A response to PINS would need to be prepared and submitted by 24 December 2024 (due to the deadline set by PINS letter being 27 December 2024 when the Council was closed for the Christmas period) and it was not possible to convene an extraordinary meeting of the Committee within that timescale.
- 3.6 Following legal advice, Officers felt that the only course of action would be for the emergency action powers available to the Chief Executive under the Scheme of Delegation (General Powers) to be utilised, and a response was agreed and submitted after consultation with the Leader of the Council and the Chairperson of the North Western Area Planning Committee as provided for in the Constitution. Officers did point out to the Working Group that a similar approach had been taken earlier this year regarding a site at Tillingham where PINS required an updated view in relation to that appeal.
- 3.7 The Council had previously submitted a Statement of Case defending the reasons for refusal of the application as agreed by Members. The further response to PINS was based on Officers' judgement of the implications of the revised NPPF for those reasons for refusal. To have continued to maintain Reason 1 associated with having a positive Five-Year Housing Land Supply despite the NPPF changes which, in effect, made this negative on 12 December 2024 would have carried the risk of being held as unreasonable behaviour for which an award of costs may have arisen. Clearly, Officers wished to avoid that situation.
- 3.8 On whether the Council should have sought an extension of time to respond it is customary for PINS to set deadlines within the appeal process with the expectation that the parties will comply as required. It was the view of Officers that in their experience PINS was not open to negotiation as to timescales it set, particularly in a case such as this which was progressing towards a decision.
- 3.9 The Parish Council has maintained that the Council could have made a stronger case which, if not altering the eventual decision made by the Inspector may well have had some influence. It regrets also that the two Ward Members were not involved in the emergency action discussions. Some of their questions raised are really aimed at the PINS given that certain matters were outside this Council's control. The Parish Council, while still unhappy with the Council's approach, accepts the position reached and will welcome engagement by the developer at the pre-application stages in the future, which Officers have already confirmed they will facilitate should a pre-application be made.
- 3.10 In terms of how planning appeals are dealt with following a Members' decision to overturn the Officers' recommendation, the Planning Appeals Protocol annexed to the Planning Guidance document in the Constitution provides some clarity, in particular where the Committee at the time of making its decision nominates a

Member or Members to work with Officers and assist in the presentation of / support for the Council's case. It is worth noting that the proposed revisions and strengthening of the Protocol arising from the Working Group's recommendations on the Woodham Mortimer Planning Appeal scrutiny workplan item, particularly around the involvement of the nominated Member(s), and the value of their inclusion in any consultation on proposed emergency decisions / actions, are also relevant to this case. To have this additional clarity built into the Protocol would appear to be a positive response to a common area of concern expressed.

#### **4. CONCLUSION**

- 4.1 The Working Group has made an initial assessment of this scrutiny request. It is considered important in view of the perception that somehow Officers were determined to see that this application was approved despite the earlier Committee decision to convey to the public that the process that was followed was entirely in line with the Council's Constitution and based on legal advice. An explanation of that process and the rationale behind the response given to PINS is to be the subject of a note to be issued to Parish and Town Councils.
- 4.2 Given that there is little scope for further detailed scrutiny, the Working Group endorsed the bringing forward of a strengthened Planning Appeals Protocol resulting from the Woodham Mortimer traveller site/planning appeal scrutiny workplan item to help address a central issue in this scrutiny request, namely the added clarity as to the involvement of the nominated Member(s) in planning appeal matters.

#### **5. IMPACT ON PRIORITIES AS SET OUT IN THE CORPORATE PLAN 2025 - 2028**

##### **5.1 Delivering good quality services**

- 5.1.1 Thorough scrutiny processes support improved performance and efficiency which in turn will contribute to the quality of services provided, and functions undertaken by the Council.

#### **6. IMPLICATIONS**

- (i) **Impact on Customers** – None directly, but individual scrutiny reviews will enable the impact on customers to be assessed.
- (ii) **Impact on Equalities** – Equalities are considered as part of the reporting on review work undertaken by Officers.
- (iii) **Impact on Risk (including Fraud implications)** – Scrutiny reviews enable potential Corporate Risks to the organisation and their mitigation to be identified.
- (iv) **Impact on Resources (financial)** – Scrutiny reviews offer the potential for an assessment of financial impact to the organisation.
- (v) **Impact on Resources (human)** – Scrutiny reviews offer the potential for an assessment of any resource impact to the organisation.
- (vi) **Impact on Devolution/Local Government Re-organisation** – None.

Background Papers: None

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