

**BUCKINGHAM TOWN COUNCIL
EXTRAORDINARY MEETING OF FULL COUNCIL
Thursday 8 November 2018**

Contact Officer: Town Clerk

Planning Appeal

**Re:16/03302/APP Land rear of Grand Junction Public House, Buckingham:
Potential Appeal to proposal for Provision of a Care Home and Assisted Living
Apartments Grant of planning permission by AVDC on 26 October 2018**

<https://publicaccess.aylesburyvaledc.gov.uk/online-applications/applicationDetails.do?keyVal=OD8Y20CLH1400&activeTab=summary>

Background

Planning permission for this proposal was granted by Committee, after a history of two previous committee decisions: the first of which was quashed by consent, and the second of which, having been delegated to officers, was returned to committee with a new report to take account of the revised NPPF.

Two grounds for appeal have been suggested:

Ground 1: Misunderstanding the meaning of a policy in the development plan

It was argued by officers that, although the policy wording supported having a car park on the site, there was no explicit wording rejecting other uses, and that therefore there was no conflict. There is some case law which suggests that this is an incorrect interpretation, hence there may be grounds for appeal here.

Ground 2: Misunderstanding the meaning of NPPF paragraph 11

Officers argued that AVDLP policy RA13 is regarded as out of date and given little weight, so that it cannot be regarded as one of the "policies which are most important for determining the application" in the words of NPPF paragraph 11.

However it has been suggested that this ignores the change in the wording of the NPPF this year. The former version did indeed say in paragraph 14 "or relevant policies are out-of-date"; but the wording is now "or the policies which are most important for determining the application are out-of-date". So there may be grounds to argue the wrong balance between policies has been applied.

Junior Counsel

Mr Westmoreland-Smith was recommended by a neighbouring Council and has been involved in similar work in the past. Mr Westmoreland-Smith has confirmed this is something he would be willing and able to assist on, and has quoted a fee of £3000 + VAT for this advice.

At present, there is no budget in the current precept to arrange for this work. So it would be for Full Council to agree to fund the opinion. Clearly it would only be worth funding the opinion if Councillors might realistically be prepared to fund an appeal,

which might quickly cost £30,000 should the opinion recommend this. Should the appeal be successful, costs might be recovered.

Recommendation

Members are recommended to agree to fund legal opinion on this matter up to £3,000.