

## ILLOGAN PARISH COUNCIL

Minutes of the Planning & Environmental Services Committee held on Wednesday 20<sup>th</sup> November 2019 at 6.30pm in Penwartha Hall, Voguebeloth, Illogan

**PRESENT:** Cllr Mrs Ferrett (Chairman), Md Cadby (not a member of this Committee), Crabtree, Ekinsmyth (not a member of this Committee), Ford, Holmes, Mrs Lang (from point mentioned), Pavey, Miss Pollock (not a member of this Committee), Mrs Share (not a member of this Committee), Szoka, Mrs Thompson (not a member of this Committee), Weatherburn (not a member of this Committee and from point mentioned) and Williams.

**IN ATTENDANCE:** Ms S Willsher, Clerk; Mrs J Curtis, Administration Assistant; Cllr Desmonde, Cornwall Council (from point mentioned); and 4 members of the public (from and to points mentioned)

The Chairman explained the safety procedures.

### **PM19/11/15 TO RECEIVE APOLOGIES FOR ABSENCE**

There were no apologies received; all members were present.

### **PM19/11/16 MEMBERS TO DECLARE DISCLOSABLE PECUNIARY INTERESTS AND NON-REGISTERABLE INTERESTS (INCLUDING DETAILS THEREOF) IN RESPECT OF ANY ITEMS ON THE AGENDA AND ANY GIFTS OR HOSPITALITY WORTH £25 OR OVER**

Cllr Szoka declared a non-disclosable interest in the planning application for Land South of Stores House.

### **PM19/11/17 TO CONSIDER APPLICATIONS FROM MEMBERS FOR DISPENSATIONS**

There were no applications for dispensations.

### **PM19/11/18 PUBLIC PARTICIPATION ON ITEMS ON THE AGENDA (MAXIMUM OF 10 MINUTES – EVERY SPEAKER HAS A LIMIT OF 3 MINUTES UNDER THE COUNCIL’S STANDING ORDERS)**

#### **PA19/09316 – The Annexe, Little Trengale**

A member of the public made the following comments against the planning application for the certificate of lawfulness for Little Trengale (PA19/09316):

- The land on which the property stood was grade 2 agricultural land and was outside the settlement boundary for Parkland in the Illogan Parish Neighbourhood Development Plan.
- planning permission was granted to build a garage and store but only with certain conditions, namely it was for the enjoyment of the residents of Trengale and not available for letting.
- Current legal opinion comments “widening permitted development rights to the extent that was now being canvassed by the current Government rather made a nonsense of the whole concept of permitted development”.
- The lawfulness of a change of use or other development was not dependent on the issue of an LDC. By section 171B Town and

Country Planning Act 1990 it became lawful on the expiry of the 4 year or 10-year rule. However, if an enforcement notice was issued and came into effect because no effective appeal was made within the time period then the enforcement notice would effectively trump any immunity from enforcement or lawful development that could have been called in aid in an appeal. It is impossible to go behind the enforcement notice once it had come into effect.

- Section 191(2) Town and Country Planning Act 1990 says that a CLUED cannot be issued if the uses or operations that were subject of the application constitute a contravention of any enforcement notice then in force.
- No mention was made in the statement by Montagu Town Planning Ltd of the enforcement notice, which clearly was an oversight, but the Council, in the absence of evidence to the contrary, could grant such a certificate.
- An enforcement notice was made in 2014 by Cornwall Council and was noted in the Planning Committee minutes of Illogan Parish Council of the 3<sup>rd</sup> September 2014. Thus, the current application must fail. (Section 171 Town and Country Planning Act 1990 and General Permitted Development (England) Order (2015)).

#### **PA19/08730 – Land South of Stores House**

The applicant reported that it was a re-submission of the reserved matters application to address issues raised from a neighbouring dwelling. The scale of the property had been reduced. The property had also been moved half a metre forward and 1m West away from neighbouring dwellings. More detail of the borders and screening has been included in the plans. They had met with the Cornwall Council Planning Officer and discussed the proposals.

**PM19/11/19**

#### **TO DISCUSS PLANNING APPLICATIONS RECEIVED UP TO THE DATE OF THE MEETING (CLLR WILLIAMS)**

- IPC2019/058  
PA19/09316  
Mr and Mrs Flockhart, The Annexe, Little Trengale, Parklands,  
South Drive  
Certificate of lawfulness for existing use of building as a  
dwelling house**

Cllr Mrs Lang entered the meeting during this item at 6.36pm.

It was proposed by Cllr Ford, seconded by Cllr Pavey and

**PM19/11/19.2**

**RESOLVED**

**that Illogan Parish Council does not support the planning application for The Annexe for the following reasons:**

- **The land is outside the settlement boundary as defined in the Illogan Parish Neighbourhood Development Plan;**
- **The legal position is not clear;**

- There is already an enforcement notice issued;
- The land the property is situated on is Grade 2 agricultural land;
- Planning permission was granted to build a garage and store but only with certain conditions namely it was for the enjoyment of the residents of Little Trengale and not available for letting;
- Current legal opinion comments "widening permitted development rights to the extent that is now being canvassed by the current Government rather made a nonsense of the whole concept of permitted development".
- The lawfulness of a change of use or other development is not dependent on the issue of an LDC. By section 171B Town and Country Planning Act 1990 it became lawful on the expiry of the 4 year or 10-year rule. However, if an enforcement notice was issued and came into effect because no effective appeal was made within the time period then the enforcement notice would effectively trump any immunity from enforcement or lawful development that could have been called in aid in an appeal. It is impossible to go behind the enforcement notice once it had come into effect.
- Section 191(2) Town and Country Planning Act 1990 says that a CLUED cannot be issued if the uses or operations that were subject of the application constitute a contravention of any enforcement notice then in force.
- No mention is made in the statement by Montagu Town Planning Ltd of the enforcement notice, which clearly is an oversight, but the Council, in the absence of evidence to the contrary, could grant such a certificate.
- An enforcement notice was made in 2014 by Cornwall Council and was noted in the Planning Committee minutes of Illogan Parish Council of the 3<sup>rd</sup> September 2014. Thus, the current application must fail. (Section 171 Town and Country Planning Act 1990 and General Permitted Development (England) Order (2015)).

On a vote being taken on the matter there were 7 votes FOR and 0 votes AGAINST.

**ii. IPC2019/059  
PA19/08730**

**Mr Dustow, Land South of Stores House, Churchtown, Illogan  
Application for approval of all Reserved Matters in respect of  
PA18/05493 (Outline planning for single residential dwelling)**

Cllr Szoka left the meeting.  
1 member of the public entered the meeting at 6.40pm.  
Cllr Weatherburn entered the meeting at 6.40pm.

It was proposed by Cllr Williams, seconded by Cllr Pavey and

**PM19/11/19.3 RESOLVED** that there are no objections to the planning application for Land South of Stores House subject to the demands of Cornwall Council Highways being met and Highways being satisfied with the visibility splays.

On a vote being taken the matter was unanimously approved

iii. **IPC2019/060  
PA19/09424  
Mr and Mrs Rideout, 33 Kennedy Close, Illogan  
Proposed front and rear single storey extensions with proposed covered carport**

2 members of the public left the meeting at 6.43pm.  
Cllr Szoka re-entered the meeting.

It was proposed by Cllr Williams, seconded by Cllr Crabtree and

**PM19/11/19.4 RESOLVED** that there are no objections to the planning application for 33 Kennedy Close.

On a vote being taken the matter was unanimously approved

iv. **IPC2019/061  
PA19/08802  
Mr Roberts, Regbetin, Trevelyan Road, Illogan  
Removal of existing sectional garage/outbuilding and timber lean-to and erection of a single storey extension**

It was proposed by Cllr Williams, seconded by Cllr Ford and

**PM19/11/19.5 RESOLVED** that there are no objections to the planning application for Regbetin. It is also noted that there were no measurements included on the plans.

On a vote being taken on the matter there were 7 votes FOR and 1 vote AGAINST.

**PM19/11/20 TO DISCUSS PLANNING APPLICATIONS RECEIVED (CLLR MRS FERRETT)**

- i. IPC2019/062  
PA19/09702  
Ms Tibbs, 7 Church Road, Illogan  
The replacement of the existing single storey extension with a two-storey extension**

1 member of the public entered the meeting at 6.50pm.

It was proposed by Cllr Mrs Ferrett, seconded by Cllr Ford and

**PM19/11/20.2 RESOLVED that there are no objections to the planning application for 7 Church Road.**

On a vote being taken the matter was unanimously approved.

- ii. IPC2019/063  
PA19/09407  
Mr Simmons, 12 Primrose Gardens, Marys Well, Illogan  
Insertion of window to replace garage door**

Cllr Desmonde entered the meeting at 6.52pm.

It was proposed by Cllr Mrs Ferrett, seconded by Cllr Pavey and

**PM19/11/20.3 RESOLVED that there are no objections to the planning application for 12 Primrose Gardens subject to the office being a home office and not creating any additional business traffic.**

On a vote being taken the matter was unanimously approved.

**PM19/11/21 DATE AND TIME OF NEXT MEETING**

The next meeting would be held on Wednesday 4<sup>th</sup> December 2019, 7pm in Penwartha Hall.

There being no further business the Chairman closed the meeting at 6.58pm.

Signed: .....

Date: .....