

## CHERHILL NEW VILLAGE HALL COMMUNITY RIGHT TO BUILD ORDER Final Decision Statement

**Date of publication: 5th April 2019**

### 1. Decision

- 1.1 Following an Independent Examination and a positive referendum result, Wiltshire Council ("the Council") has decided on 5th April 2019 pursuant to section 61E (4) of the Town and Country Planning Act 1990 (as amended), to make the Cherhill New Village Hall Community Right to Build Order (the 'Order').
- 1.2 As a result of making the Community Right to Build Order the proposal within the order (a new village hall on land adjacent to Park Lane, Cherhill), has been granted planning permission.

### 2. Reasons for Decision

- 2.1 Section 61E (4) of the Town and Country Planning Act 1990 (as amended) requires the Council to make the Community Right to Build Order if more than half of those voting in the referendum have voted in favour of the development in the Order being granted planning permission.
- 2.2 The referendum held on 28<sup>th</sup> March 2019 met the requirements of the Localism Act 2011. It was held in the referendum area, the parish of Cherhill (Cherhill ward), and posed the question "Do you want the development in the Community Right to Build Order for Cherhill ward to have planning permission?"
- 2.3 The count took place on 28<sup>th</sup> March 2019 and greater than 50% of those who voted were in favour of the development in the Community Right to Build Order being granted planning permission. The results of the referendum were:

Response	Votes	Percent of total
YES	191	64.3%
NO	106	35.7%
Turnout	62%	

- 2.4 Section 61E (8) of the Town and Country Planning Act 1990 (as amended) states that Local Planning Authority is not subject to the duty to make the Order if it considers that the making of the Order would breach, or otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).
- 2.5 There has been full and adequate opportunity for interested parties to take part in the preparation of the Order and to make their comments known. The examiner concluded that the documents supporting the Order evidence that it has been consulted upon and demonstrates that public consultation undertaken in association with the Order was both appropriate and fundamental to the production of the Order. The Council is satisfied that the Order does not therefore breach Human Rights requirements. The Council therefore considers that the Order does not breach, nor is in any way incompatible with any obligation imposed by the European Union, the European Convention on Human Rights and the Human Rights Act.

- 2.6 The Council considers that the Order meets the basic conditions (set out in paragraph 8(2) of Schedule 4B of the Town and County Planning Act 1990 (as amended)), its preparation process was compliant with legal and procedural requirements, it does not breach the legislation (set out in Section 61E (8) of the Town and Country Planning Act 1990 (as amended)). and confirms that more than half of those who voted in the referendum, voted in favour of making that Order.

### **3. Background**

- 3.1 The designated area for the Order comprises the Cherhill Ward, within the parish of Cherhill, Wiltshire. On 8<sup>th</sup> June 2016, the Council formally approved that the Cherhill Ward Neighbourhood Area be designated for the purposes of a Community Right to Build Order, in accordance with the Neighbourhood Planning (General) Regulations 2012.
- 3.2 The Cherhill Village Hall Charitable Incorporated Organisation (CIO) is the designated 'qualifying body' and constitutes a community organisation for the purposes of undertaking a Community Right to Build Order. The CIO submitted the draft Order, along with supporting documents, to the Council in May 2018 for consultation, independent examination and the remaining stages of the draft Order's preparation in accordance with the Neighbourhood Planning (General) Regulations 2012.
- 3.3 Following submission of the draft Order, the Council publicised the Order and supporting documents and invited representations during the consultation period 11<sup>th</sup> June 2018 to 30<sup>th</sup> July 2018.
- 3.4 In August 2018, the Council appointed an independent examiner, Mr Nigel McGurk BSc (Hons) MCD MBA MRTPI, to examine the draft Order and consider whether it should proceed to referendum.
- 3.5 The examiner's report was received in November 2018 and concluded that the draft Order met the Basic Conditions, without modifications, and should proceed to a referendum. The examiner also recommended that the Cherhill Ward Neighbourhood Area was the appropriate area within which to hold a referendum.
- 3.6 Following the receipt of the examiner's report, in November 2018 the Council published a Decision Statement to confirm that the Council was satisfied that the draft order, with one minor modification to correct an error, complied with the legal requirements and could proceed to referendum. The Council also agreed with the examiner that the Cherhill Ward Neighbourhood Area was the appropriate area within which to hold a referendum.
- 3.7. On the 28<sup>th</sup> March 2019, the Order was successfully passed through in a referendum with 64.3% voting in favour of the development in the Community Right to Build Order being granted planning permission.
- 3.8 On 5<sup>th</sup> April 2019 the Council resolved that the Order be made, granting permission for a new village hall on land adjacent to Park Lane, Cherhill.

### **4. Other Information**

- 4.1 In accordance with Regulation 26(b) of the Neighbourhood Planning (General) Regulations 2012 (as amended), a copy of this Decision Statement has been sent to:
- The qualifying body, namely Cherhill Village Hall Charitable Incorporated Organisation.

- The persons who asked to be notified of the decision
- 4.2 This Decision Statement and the Community Right to Build Order and relevant documents can be viewed on Wiltshire Council's website. This information has also been brought to the attention of people who live, work or carry out business in the neighbourhood area.
- 4.3 Section 61N of Schedule 9 of the Town and Country Planning Act 1990 (as amended) states that any person who is aggrieved by the making of the Cherhill New Village Hall Community Right to Build Order under Section 61E (4) or (8) may make an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (as amended) on the grounds that:
- The decision is not within the appropriate power.
  - A procedural requirement has not been complied with.
- 4.4 Any such application must be made promptly and, in any event, no later than 6 weeks after the date of this Decision Statement, i.e. no later than Friday 17<sup>th</sup> May 2019.

Signed:



**Alistair Cunningham**  
Corporate Director  
Growth, Investment and Place  
Wiltshire Council

Dated: 5<sup>th</sup> April 2019