

PLANNING & DEVELOPMENT CONTROL COMMITTEE
11 DECEMBER 2013

Minutes of the meeting of the Planning & Development Control Committee of Flintshire County Council held at Council Chamber, County Hall, Mold CH7 6NA on Wednesday, 11th December, 2013

PRESENT: David Wisinger (Chairman)

Councillors: Chris Bithell, Derek Butler, David Cox, Ian Dunbar, David Evans, Jim Falshaw, Veronica Gay, Alison Halford, Ron Hampson, Ray Hughes, Christine Jones, Richard Jones, Brian Lloyd, Billy Mullin, Mike Peers, Neville Phillips and Owen Thomas

SUBSTITUTES:

Councillor: Haydn Bateman for Carol Ellis and Richard Lloyd for Gareth Roberts

IN ATTENDANCE:

Head of Planning, Development Manager, Planning Strategy Manager, Senior Engineer - Highways Development Control, Housing Strategy Manager, Team Leader, Senior Planners, Planning Support Officer, Democracy & Governance Manager and Committee Officer

111. **DECLARATIONS OF INTEREST**

Councillor Christine Jones declared a personal interest in the following application due to her husband's employment at the plant:-

Agenda item 6.5 – Full application – Installation of ground mounted solar panels up to 3.804MWp (Peak), power generation capacity and ancillary equipment including two substations and associated cabling at Toyota Motor Manufacturing UK, Tenth Avenue, Deeside Industrial Park, Deeside (051425)

Councillor Mike Peers declared a personal and prejudicial interest in the following application due to his son being employed by the applicant:-

Agenda item 6.7 – General Matters – Demolition of existing vacant properties and redevelopment of site for affordable housing (outline planning permission ref: 046185) at Aston Mead Estate, Hawarden (047780)

112. **LATE OBSERVATIONS**

The Chairman allowed Members an opportunity to read the late observations which had been circulated at the meeting.

113. **MINUTES**

The draft minutes of the meeting of the Committee held on 6 November 2013 had been circulated to Members with the agenda.

Councillor Owen Thomas referred to page 1 and indicated that he had submitted an apology which had not been recorded.

Councillors Ian Dunbar and Billy Mullin indicated that they had not declared an interest in agenda item 6.2 as was reflected on page 1 of the minutes.

Councillor Veronica Gay referred to the fourth paragraph on page 5 and asked what the insinuation was that the Planning Strategy Manager had expressed his disappointment at. The Planning Strategy Manager advised that it was about the comment of Councillor Gay that the report had been written to fit the recommendation. Following a discussion, it was agreed that the fourth and fifth lines in the paragraph be removed and the words 'The Planning Strategy Manager' be included at the start of the sixth sentence.

Councillor Mike Peers referred to the final paragraph on page 12 and asked that the words 'to the right' be removed from the third line. He also referred to the first line on page 13 and asked that the words 'was nonsense' be removed and the words 'when it was acceptable for several vehicles to park there when it was a post office' be inserted after the words 'highway safety'. He also asked that the words 'high hedge' be removed from the eighth line in the same paragraph and that the words 'an adjacent high hedge in third party ownership adjacent to the property' be inserted after the words 'property which had'.

Councillor Peers also referred to the first sentence in the penultimate paragraph on page 13 and asked that the words 'on the advice of the Principal Solicitor' be inserted after the words 'Following a comment from the Chairman' and that the words 'and apologised for using the remark' be inserted at the end of the first sentence.

RESOLVED:

That subject to the above suggested amendments, the minutes be approved as a correct record and signed by the Chairman.

114. **ITEMS TO BE DEFERRED**

The Head of Planning advised that none of the items on the agenda were recommended for deferral by officers.

Councillor Mike Peers referred to agenda item 6.2 (Application for the siting of a wind turbine at Orsedd Farm, Gorsedd – 051315) and said that the report indicated that some information had been requested from Natural Resources Wales and the County Ecologist but had not been received. The officer advised that the visual impact assessment was still awaited. Councillor Peers proposed that the application should be deferred and this was duly seconded.

RESOLVED:

That agenda item 6.2 (Application for the siting of a wind turbine at Orsedd Farm, Gorsedd – 051315) be deferred.

115. **RESERVED MATTERS - DETAILS OF APPEARANCE, LAYOUT, SCALE, LANDSCAPING AND ACCESS SUBMITTED IN ACCORDANCE WITH CONDITION NO. 1 ATTACHED TO OUTLINE PLANNING PERMISSION REF: 041456 AT RHEWL FAWR ROAD, PENYFFORDD, HOLYWELL (051212)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report and drew Member's attention to the additional condition in the late observations. He said that the figures reported in paragraph 7.02 were incorrect and that the proposal was for a total of eleven properties as follows:-

- four x two bed
- two x three bed
- a terrace of three
- and two bungalows.

Mr. T. Bignell spoke against the application and said that Cymdeithas Tai Clwyd had not been fair with the residents about how they would be affected by the application. He referred to the design of the properties and said that the dwellings were intended to be used to house independent disabled adults and would be akin to a transit camp. He said that the development would not bring young people into the area and would not bring new life into the village. Mr. Bignell felt that the applicant was not putting the needs of local people first and suggested that part of the site could have been used as a village hall. He felt that the entrance to the site could not cope with the anticipated increase in traffic and that the access road was just wide enough for two vehicles to pass. He felt that the development of the site would restrict deliveries to the local shops and would create problems for emergency vehicles and said that the road was narrow and uphill. He requested that the application be refused and that only a building to benefit all of the village should be approved.

Councillor Chris Bithell proposed the recommendation for approval which was duly seconded. Councillor Bithell said that the application already had outline planning permission from 2006 and 2010. He felt that the decision to allow the application had been well established and that it should be permitted. Councillor Christine Jones welcomed the application and said that there was a need for more supported living facilities in Flintshire.

Councillor Mike Peers queried the density on the site as based on a density of 30 dwellings per hectare, he said that there should be 17 dwellings on the site. He referred to the payment for open space provision and queried whether this should have been included in the Section 106 agreement as Cymdeithas Tai Clwyd were a non-profit making organisation. He also queried why permitted development rights were to be removed.

In response to the comment from Mr. Bignell about the properties not being for local people, the officer said that the development was a 100% affordable housing scheme and if the properties were not needed by disabled

people then they would be made available to local people. On the issue of the removal of permitted development rights, this was intended to protect the amenity of properties from future developments. He explained that for open market developments, the requirement for open space provision was £1100 per dwelling but this was reduced for 100% affordable sites to £733 per dwelling and he confirmed that this policy had been applied consistently on other applications. On the issue of density, he advised Members that there was a wide variety of housing in the area and that the density applied was in accord with the area and complied with the Unitary Development Plan. In response to a further query from Councillor Peers about whether the residents in the properties would be able to have a garden shed if permitted development rights were removed, the Development Manager said that the residents would need to apply for planning permission so that the impact could be assessed.

RESOLVED:

That reserved matters permission be granted subject to the conditions detailed in the report of the Head of Planning, the additional highway condition in the late observations and subject to the applicant entering either into a Section 106 agreement, providing a unilateral undertaking or the making of an advance payment which provides the following:-

- Ensure payment of a commuted sum payment in lieu of on site public open space provision of £8063, such sum to be used to upgrade existing open public open spaces within the locality. This sum shall be paid upon the occupation of the fifth apartment.

116. **FULL APPLICATION - INSTALLATION AND COMMISSIONING OF A SINGLE 10KW WIND TURBINE AT TYN Y COED, STARKEY LANE, NORTHOP (051151)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

The officer detailed the background to the report explaining that the application had been submitted to the Committee for consideration due to the height of the structure exceeding what could be determined under delegated powers. An objection had been received from Northop Community Council and following consultation with the Head of Public Protection, who had indicated that there would be no adverse impact on the area, the application was reported for approval.

Councillor Derek Butler proposed the recommendation for approval which was duly seconded.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning.

117. **APPLICATION FOR OUTLINE PLANNING PERMISSION - ERECTION OF A DETACHED BUNGALOW AT SUNDOWN NURSERIES, BABELL ROAD, PANTASAPH (051338)**

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 9 December 2013. The usual consultations had been undertaken and the responses received detailed in the report.

Mr. D. Brimble, the applicant, spoke in support of the application, explaining how the family business had been running since the 1950s and then in 1970s production had expanded and a family home had been built on the site. The horticultural market had reduced and in the current economic climate the business had become unviable and had closed. He said that the site was naturally screened and he asked the Committee to agree that the circumstances to build a new dwelling in the countryside were exceptional and permit the application to build a small detached bungalow on the site. Mr. Brimble spoke of other properties in the area which were larger than the proposed bungalow and had been permitted in the countryside. He said that the new dwelling would provide a retirement home for his parents and said that the proposal had the support of Ysceifiog Community Council.

Councillor Jim Falshaw proposed the recommendation for approval against officer recommendation which was duly seconded. He said that the proposal mostly complied with policy HSG5 and that the site should be classed as infill. He spoke of a large property nearby which had been permitted and which was 75% larger than the original footprint. He also referred to policy HSG6 and paragraphs A, B and C of HSG5 and said that the application complied with policy and should therefore be approved.

Councillor Owen Thomas felt that the application was a good opportunity to tidy up the rest of the site and develop part of it. He also referred to other larger executive home properties in the nearby area which had been granted permission. He questioned why the applicant had had to undertake an archaeological survey and the application was still recommended for refusal. He said that a developer should only be asked to undertake the survey via conditions once permission had been granted, not as part of the application stage, as had been requested on this application. The Democracy & Governance Manager reminded the Committee that tidying up the site was not a valid reason to permit planning permission as it would lead to developers deliberately making their sites untidy.

Councillor Chris Bithell said that in planning training, one of the first principles of planning was the presumption against new build in the countryside. He said that it was in local and national policy not to allow new build in the open countryside and that this application should be refused. Councillor Bithell also said that he did not know why the item was on the agenda and why it had a site visit as it was clearly against policy. An application for the same site had been refused in March 2013 due to it being in the open countryside and nothing had changed and Councillor Bithell said that if the applicant had any confidence in the application, they would have appealed the earlier refusal. He asked Members to

refuse the application as approving it would set a precedent and added that the application did not comply with the policies on infill and should be refused.

Councillor Derek Butler concurred that the application did not comply with four fundamental policies. He said that each application had to be treated on its own merits and previous errors of granting permissions for dwellings in the countryside should not be used to make additional errors. He said that the infill policy indicated that there needed to be a continuous frontage of six properties to consider an area as infill and as this was not the case, then the proposal did not comply with the infill policy.

Councillor Mike Peers referred to paragraph 7.08 about any brownfield nature of the site and said that there was little information in the report about this. He also referred to paragraph 7.07 and asked if the issue of an affordable housing scheme to remain in perpetuity had been discussed with the applicant.

In response to the comments made, the officer said that in order to meet the requirement of policy HSG5 on infill, there would need to be a continuous frontage of six houses and as there was not, the application did not comply with policy. The proposal was for a development in the open countryside which was not permitted in local or national policy. On the issue of a brownfield site, he said that Planning Policy Wales guidance advised that brownfield sites should be used where appropriate but excluded land used for agriculture which this land was.

The Planning Strategy Manager said that the applicant had not provided details of exceptional circumstances as to why the application should be permitted and as it was not Unitary Development Plan compliant, it should be refused. The previous permission of a large property in the area which had been referred to should not be taken into account when determining this application and the Planning Strategy Manager reminded Members that in any case two wrongs did not make a right. On the comments made by Councillor Falshaw about the application complying mostly with policy, he said that all criteria had to be met and added that the infill policy had also not been complied with. On the issue of exploring local need, the Planning Strategy Manager said that there was no need to look at this if the first part of the policy had not been met and he added that it was not a material factor that the business had closed down. There was no identifiable group of dwellings to comply with the infill policy and the Planning Strategy Manager said that it had been the applicant's choice to undertake an archaeological survey. He concluded that the application was for a dwelling in the countryside and that it did not meet any exceptional criteria. In response to a question from Councillor Peers about the site being used for a commercial venture, the Planning Strategy Manager said that it was his understanding that horticulture was the same as agricultural use.

In summing up, Councillor Falshaw said that:-

- the application complied with policy HSG5 paragraphs A, B and C;
- there was a small gap between two dwellings so the application therefore complied with the infill policy
- the development did not constitute ribbon development
- the proposal was not obtrusive and was not overdevelopment of the site

Councillor Bithell requested a recorded vote and was supported by the requisite five other Members. On being put to the vote, planning permission was refused by 14 votes to 4, with 2 abstentions. The voting being as follows:-

FOR – GRANTING PLANNING PERMISSION

Councillors: Jim Falshaw, Ray Hughes, Brian Lloyd and Owen Thomas

AGAINST – GRANTING PLANNING PERMISSION

Councillors: Haydn Bateman, Chris Bithell, Derek Butler, David Cox, Ian Dunbar, David Evans, Ron Hampson, Christine Jones, Richard Jones, Richard Lloyd, Billy Mullin, Mike Peers, Neville Phillips and David Wisinger

ABSTENTIONS

Councillors: Veronica Gay and Alison Halford

RESOLVED:

That planning permission be refused for the reason detailed in the report of the Head of Planning.

118. **FULL APPLICATION - INSTALLATION OF GROUND MOUNTED SOLAR PANELS UP TO 3.804MWP (PEAK), POWER GENERATION CAPACITY AND ANCILLARY EQUIPMENT INCLUDING TWO SUBSTATIONS AND ASSOCIATED CABLING AT TOYOTA MOTOR MANUFACTURING UK, TENTH AVENUE, DEESIDE INDUSTRIAL PARK, DEESIDE (051425)**

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 9 December 2013. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report, explaining that the late observations reported that:-

- amended plans had been received
- a document to address the concerns of Network Rail had been received
- responses had been received from Natural Resources Wales, Welsh Water/Dwr Cymru, Liverpool John Lennon Airport and Airbus
- there were no recorded badger setts on site
- two additional conditions were to be included about drainage and surface water.

Councillor Owen Thomas proposed the recommendation for approval which was duly seconded. Councillor Billy Mullin said that this was an industrial site and it fitted in with renewable energy. Councillor Christine Jones gave thanks to the Planning Officer for responding to all of the queries and questions raised at the site visit earlier in the week. The Chairman concurred and said that the officer had worked hard and should be congratulated.

Councillor Richard Jones felt that the application should be deferred to await a response from Network Rail to the document submitted by the applicant's agent which it was reported addressed their concerns. Councillor Ian Dunbar said that the purpose of the panels was to absorb light not reflect it and he agreed with the recommendation of approval. Councillor Derek Butler suggested that the application could be approved with the proviso that if Network Rail still had concerns, then the application could be referred back to the Committee. The Democracy & Governance Manager explained that if a decision was reached on the application, then it could not be re-submitted to the Committee.

The Development Manager said that the additional report submitted by the applicant's agent detailed the nature of glare from such structures and concluded that there should be no impact on train operators. Officers felt that the information provided did not lead them to think that there would be sufficient impact to refuse the application. He suggested that the Committee could approve the application subject to no objection being received from Network Rail in response to the additional information about glare. It was agreed that Network Rail would be given two weeks to respond.

RESOLVED:

That planning permission be granted if no objection is received from Network Rail within two weeks of this Committee meeting in response to the additional information about glare, subject to the conditions detailed in the report of the Head of Planning and the additional conditions in the late observations.

119. **FULL APPLICATION - ERECTION OF A FOUR BEDROOM DETACHED DWELLING AND DETACHED DOUBLE GARAGE AT 37 WOOD LANE, HAWARDEN (051234)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report and explained that the application had been considered under policy HSG3 as the growth figure for Ewloe had exceeded 15%, the property had to meet local need. The proposal complied with space around dwellings and the access and parking complied with policy. Additional conditions were reported in the late observations which included the removal of permitted development rights. The recommendation included being subject to a section 106 obligation that the property should be occupied by the applicants and that 30% of the value of the property be repaid to the Council upon sale of the property.

Mr. I. Warlow spoke against the application and said that he moved into the property in 2010 and that it had a large garden which was not overlooked. He said that the proposed dwelling would overlook rooms in his property and would affect the privacy of him and his family and light pollution would also be extensive. Mr. Warlow said that the applicant had agreed his request to reduce the hedge height to two metres but if it was reduced, it would create additional

light pollution and his property would be more overlooked. He referred to two previous applications in 2005 for seven starter homes and six starter homes on the site, both of which had been refused. Mr. Warlow raised concern about potential parking on the highway and said that he also felt that the proposal amounted to overdevelopment of the site. He said that the application should be refused on the grounds of loss of privacy, noise and light disturbance, loss of nature and increase in traffic.

Mr. C. Shaw, the applicant, spoke in support of the application, and said that he and his family had lived in the area for 15 years. He said that the application was for an affordable property for himself and his family to live in and would comply with policy HSG3. He felt that the garden was a wasted space and that a great deal of thought had been put into the type of property he would like to build. He said that the proposal complied with GEN 1 and the ground floor ridge line was similar to that of 35 and 37 Wood Lane. Mr. Shaw said that there would be a minimum of 3 parking spaces for number 37 and 4 spaces for the new property so there would be no need for parking on the highway; he referred to policies AC13 and AC18. He added that if the hedge height was reduced, the proposed dwelling would have more of an impact on the neighbouring properties. Mr. Shaw said that the proposal also complied with policies D1 and D2.

Councillor Alison Halford proposed refusal of the application, against officer recommendation, which was duly seconded. She said that new information had come to light and if it was taken at face value, it could affect the information contained within the report as the section 106 obligation may not match what the application might wish for. The Democracy & Governance Manager reminded Members that if the Section 106 obligation was not signed, then the Head of Planning had delegated authority to refuse the application. Councillor Halford queried the information in paragraph 7.07 and asked for clarification on the financial circumstances of the applicant. The Planning Strategy Manager said that it appeared that the criteria for affordable housing need had been applied and complied with and that the application for the affordable housing need had been through the process through a registered social landlord. The applicant would have to sign the Section 106 obligation if the application was approved before being able to commence development and if the applicant was to sell the property, then the Council would receive 30% of the value.

Councillor Halford said that the section 106 obligation did not indicate that the applicant had to sell 37 Wood Lane and raised concern that the applicant could keep the property and still build the new property in his back garden. The Planning Strategy Manager explained that it was difficult for officers to comment on the information that Councillor Halford had received because it had not been shared with officers. Following a discussion, it was decided that the meeting be adjourned to allow Councillor Halford to discuss the information with the officers.

The Housing Strategy Manager provided details of qualification for the Affordable Housing Register which was administered by Cymdeithas Tai Clwyd and said that the income, outgoings and size of mortgage was considered in their calculations so as far as access onto the affordable housing register was concerned, the applicant's finances had been considered. The Planning Strategy

Manager said that the applicant had qualified for inclusion on the register and therefore approval of the application was reported.

Following the adjournment, Councillor Halford thanked the officers for the opportunity to discuss the additional information with them and reiterated her proposal for refusal of the application. She commented on the growth of 18% in Ewloe and her concerns about the applicant being able to continue to live in his current property and still build the new dwelling. She felt that the conditions did not cover the circumstances of the application and added that the size of the new house and garage would reduce the amount of sunlight onto the property and garden of number 35.

Councillor Owen Thomas sought clarification on tandem development and said that he felt that the application did not comply with policy. He said that the property should be for a small affordable home not a four bedroom property and raised concern that it was recommended for approval even though there was growth of over 18% in the area.

Councillor Chris Bithell felt that it was backland development and tandem development and he shared the concerns of previous speakers about the size of the property. He said that the policy for affordable housing was for first time buyers not for applicants who already had their own home and he queried whether the fact that the applicant could not afford the mortgage on his current property necessitated the building of a new property. Councillor Bithell felt that a cheaper property could be purchased by the applicant when his current home was sold without the need to build a new dwelling in his garden. He added that he felt that there was no local need.

Councillor Richard Jones said that there was a need to consider whether the principle of development had been established and whether the applicant met the affordable housing criteria. He said that he had questioned how housing need could be accepted if the applicant had a home already but said that the Committee had no other choice than to approve the application as it did meet the principle of development and the affordable housing criteria.

Councillor Mike Peers agreed and said that it was not for the Committee to judge whether the applicant should be on the affordable housing register and what size property he could build. However he raised concern about backland development and asked for clarification on this and on how the affordable housing criteria had been applied.

Councillor Derek Butler suggested that the application be deferred for the Committee to receive further information on backland or tandem development and on the affordable housing criteria. The proposal to defer the application was duly seconded. Councillor Bithell welcomed the deferment to receive additional information but Councillor Jones felt that the information was already before the Committee.

On being put to the vote, the proposal to defer the application for further information on affordability, housing need and backland/tandem development was CARRIED.

RESOLVED:

That the application be deferred for the Committee to receive additional information on:-

- affordability
- housing need
- backland/tandem development

120. **GENERAL MATTERS - DEMOLITION OF EXISTING VACANT PROPERTIES AND REDEVELOPMENT OF SITE FOR AFFORDABLE HOUSING (OUTLINE PLANNING PERMISSION REF: 046185) AT ASTON MEAD ESTATE, HAWARDEN (047780)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report. Councillor Mike Peers, having earlier declared an interest in the application, left the meeting prior to its discussion and was not called back for the remainder of the meeting (where there was no discussion over the three appeal decisions reported).

Councillor Chris Bithell proposed the recommendation to amend the recommendation of the Planning and Development Control Committee dated 2 November 2011, which was duly seconded.

Councillor Owen Thomas said that the application had been approved some time ago but no houses had been built on the site. He queried whether the applicant was landbanking the land and whether the time limit to commence development was indefinite.

The officer drew Member's attention to paragraph 6.02 where it was reported that the planning decision had not been issued yet as there had been land ownership issues and therefore the developer had been unable to commence building and the timing for completion of the development had not yet started.

RESOLVED:

That the recommendation in paragraph 2.01 of the report to the Planning and Development Control Committee dated 2 November 2011 be amended to read:-

'That conditional planning permission be granted subject to the applicant entering into a Section 106 Agreement, Unilateral Undertaking or the direct payment of a commuted sum of £15,393 in lieu of on-site play space provision'.

121. **APPEAL BY J & T GIZZI BUILDERS LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL FOR THE CREATION/ENHANCEMENT OF EXISTING TRACK/DRIVE. EXCAVATION AND REMOVAL OF SOIL/CLAY AND REPLACE WITH HARDCORE AT SPRINGFIELD, NORTHOP ROAD, NORTHOP - DISMISSED (050002)**

RESOLVED:

That the decision of the Inspector to dismiss this appeal be noted.

122. **APPEAL BY MR. STEPHEN DALE AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR A PROPOSED LOFT CONVERSION WITH SIDE DORMER AND EXISTING RIDGE LINE LOCAL TO DORMER TO BE RAISED BY 400 MM AT 50 HIGHLAND AVENUE, QUEENSFERRY - DISMISSED (050542)**

RESOLVED:

That the decision of the Inspector to dismiss this appeal be noted.

123. **APPEAL BY MR. K. PARTINGTON AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF A 3 BEDROOM DETACHED DWELLING WITH GARAGE (FOR DISABLED PERSON) AT 45 BROUGHTON HALL ROAD, BROUGHTON - DISMISSED (050545)**

RESOLVED:

That the decision of the Inspector to dismiss this appeal be noted.

124. **MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE**

There were 13 members of the public and 1 member of the press in attendance.

(The meeting started at 1.15 pm and ended at 3.32 pm)

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Chairman