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1 March 2010

To: Chairman – Councillor Robert Turner

Members of the Planning Enforcement Sub-Committee – Councillors Val Barrett,
Pippa Corney, Sally Hatton, Sebastian Kindersley, Charles Nightingale and
Hazel Smith

Quorum: 3

Dear Councillor

You are invited to attend the next meeting of **PLANNING ENFORCEMENT SUB-COMMITTEE**, which will be held in **SWANSLEY ROOM, GROUND FLOOR** at South Cambridgeshire Hall on **TUESDAY, 9 MARCH 2010 at 2.00 p.m.**

Members are respectfully reminded that when substituting on committees, subcommittees, and outside or joint bodies, Democratic Services must be advised of the substitution *in advance of* the meeting. It is not possible to accept a substitute once the meeting has started. Council Standing Order 4.3 refers.

Yours faithfully
GJ HARLOCK
Chief Executive

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AGENDA

PAGES

Public Speaking

Those not members of the Planning Enforcement Sub-Committee wishing to address the meeting should first read the Public Speaking Protocol, attached to the electronic version of this agenda on the Council's website.

1. Appointment of Vice-Chairman

2. Apologies for Absence

To receive apologies from sub-committee members.

3. Declarations of Interest

4. Minutes of Previous Meeting

To authorise the Chairman to sign the minutes of the meeting held on 26 January 2010 as a correct record.

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5. **Unauthorised wall at Mill Farmhouse, 87 Middlewatch, Swavesey** 5 - 8

6. **Anti-Social Behaviour Act 2003 - Section 69 - high hedge situated at The Willows, 90 Earith Road, Willingham - Verbal Update**

7. **Date of Next Meeting**

The next scheduled meeting of the Planning Enforcement Sub-Committee will be on Tuesday 20 April 2010 starting at 2.00pm.

EXCLUSION OF PRESS AND PUBLIC

The law allows Councils to consider a limited range of issues in private session without members of the Press and public being present. Typically, such issues relate to personal details, financial and business affairs, legal privilege and so on. In every case, the public interest in excluding the Press and Public from the meeting room must outweigh the public interest in having the information disclosed to them. The following statement will be proposed, seconded and voted upon.

"I propose that the Press and public be excluded from the meeting during the consideration of the following item number(s) in accordance with Section 100(A) (4) of the Local Government Act 1972 on the grounds that, if present, there would be disclosure to them of exempt information as defined in paragraph(s) of Part 1 of Schedule 12A of the Act."

If exempt (confidential) information has been provided as part of the agenda, the Press and public will not be able to view it. There will be an explanation on the website however as to why the information is exempt.

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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

Minutes of a meeting of the Planning Enforcement Sub-Committee held on
Tuesday, 26 January 2010 at 2.00pm

Councillors present: Val Barrett Pippa Corney
Sebastian Kindersley Charles Nightingale
Hazel Smith

Officers: Gary Duthie Senior Lawyer
Saffron Garner Senior Planning Assistant
Philip Readman Assistant Enforcement Officer
Ian Senior Democratic Services Officer
Charles Swain Principal Planning Enforcement & Monitoring
Officer

Councillor Deborah Roberts was in attendance, by invitation.

Apologies for absence were received from Councillors Janice Guest and Robert Turner .

1. ACTING CHAIRMAN

In the absence of Councillor Robert Turner, Planning Enforcement Sub-Committee Chairman and Councillor Janice Guest, Planning Enforcement Sub-Committee Vice-Chairman, it was proposed, seconded and agreed that Councillor Pippa Corney be elected Acting Chairman of the meeting.

2. ACTING VICE-CHAIRMAN

In the absence of Councillor Janice Guest (Planning Enforcement Sub-Committee Vice-Chairman), it was proposed, seconded and agreed that Councillor Val Barrett be appointed Vice-Chairman of the meeting.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. MINUTES OF PREVIOUS MEETING

The Planning Enforcement Sub-Committee authorised the Chairman to sign, as correct records, the minutes of the Planning Sub-Committee meetings held on 19 May 2009 and 21 May 2009.

5. NAME CHANGE, TERMS OF REFERENCE AND PUBLIC SPEAKING

The Senior Lawyer reminded members that, at its meeting on 10 June 2009, the Planning Committee had resolved to

- endorse revised terms of reference for the Sub-Committee
- endorse public speaking at Sub-Committee meetings, as set out in the protocol
- rename the Planning Sub-Committee as the Planning Enforcement Sub Committee

The Planning Enforcement Sub-Committee **noted and agreed** the revised terms of reference, which were as follows:

“The [Planning Sub-Committee] will:

- (a) Work with the relevant Portfolio Holder to provide an overview of the Council's planning enforcement policies and procedures, bringing forward recommendations for changes for the Portfolio Holder and Cabinet's consideration as appropriate; and
- (b) Make determinations in respect of formal enforcement action in respect of breaches of planning control referred to the Sub-Committee by the Corporate Manager for Planning and Sustainable Communities. In making such referrals, the Corporate Manager will take the following matters into account:
 - (i) the extent of the likely harm to the character and amenity of the area concerned and the physical, social and economic well-being of communities within and around it.
 - (ii) the implications of enforcement action on the Council's resources balanced against the benefits likely to be generated from such action.
 - (iii) the extent to which there is difference of opinion between officers, parish councils and Local Ward Members on the expediency of enforcement action.
- (c) Receive reports on the progress of cases determined in (b) above”

6. Q8 GARAGE, FOXTON AND ENFORCEMENT AGAINST THE SALE OF CARS FROM THE SITE WITHOUT SPECIFIC PLANNING CONSENT

Terry Beresford (site owner) and Councillor Deborah Roberts (local Member) addressed the meeting.

The Planning Enforcement Sub-Committee considered a report about the unlawful development at the Q8 garage on the A10 in the Parish of Foxton. Members noted that the occupier of the site was selling vehicles unlawfully from the forecourt of the currently unused petrol filling station, and that this represented a change of use for which there was no specific consent from South Cambridgeshire District Council as Local Planning Authority.

The Senior Planning Officer said that the matter could be resolved simply through submission, by the site owner, of a satisfactory planning application for the sale of cars, as had already been stated in correspondence and during face-to-face discussions. Referring to the recent report in the *Cambridge News*, she confirmed that at no time had the District Council suggested that the business might be closed down as a direct result of the outstanding need for planning permission.

Upon a proposal from Councillor Charlie Nightingale, seconded by Councillor Hazel Smith, the Planning Enforcement Sub-Committee **resolved** that the Council invites the owner of the Q8 Garage, Foxton to submit a planning application, within three months from 26 January 2010, for permission to sell cars from the site. Should no such application be registered within that period, the Sub-Committee authorised officers to issue and serve an Enforcement Notice with a 3-month compliance period.

7. ANTI-SOCIAL BEHAVIOUR ACT 2003 - SECTION 69 - HIGH HEDGE SITUATED AT THE WILLOWS, 90 EARITH ROAD, WILLINGHAM

The Planning Enforcement Sub-Committee considered a report about a Remedial Notice, issued under section 69 of the Anti-Social Behaviour Act 2003, in respect of a high hedge situated at The Willows, 90 Earith Road, Willingham, Cambridgeshire.

The Enforcement Officer reported verbally that the owner of the hedge had now agreed to comply with the terms of the Notice by 1 March 2010. He added that, should there be no compliance by then, the Council had sufficient legal authority to take immediate direct

action without further notice.

Members noted the implications of carrying out tree and hedge work during the commonly recognised bird-nesting season.

Upon a proposal from Councillor Sebastian Kindersley, seconded by Councillor Val Barrett, the Planning Enforcement Sub-Committee **noted** the intention of the owner of the hedge to comply, by 1 March 2010, with the terms of the Remedial Notice, issued on 15 May 2007. Failing such compliance, and subject to advice from the Council's Ecology officer relating to the bird-nesting season, the Sub-Committee **authorised** officers to take immediate direct action in order to enforce compliance with the Remedial Notice.

8. DATES OF FUTURE MEETINGS

The next Planning Enforcement Sub-Committee meeting had been scheduled for Tuesday 9 March 2010, starting at 2.00pm in the Swansley Room.

The Meeting ended at 2.25 p.m.

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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Enforcement Sub-Committee 9 March 2010
AUTHOR/S: Executive Director (Operational Services) / Corporate Manager
(Planning and Sustainable Communities)

**PLANNING (LISTED BUILDING AND CONSERVATION AREAS) ACT 1990
UNAUTHORISED WALL AT MILL FARMHOUSE, 87 MIDDLEWATCH, SWAVESEY**

Purpose

1. This item is to inform Members about an unauthorised wall at Mill Farmhouse, 87 Middlewatch, Swavesey and to seek authority to serve a Planning Enforcement Notice for the removal of the wall.

Background

2. In July 2009, the Conservation Assistant saw that a new brick wall had been erected within the curtilage of Mill Farmhouse, a Grade II listed building, without the benefit of Planning Permission. A post and rail fence and gate had been approved as part of a scheme for a new car lodge (S/0362/09/F & S/0363/09/LB) but this was not implemented and the applicant built a wall instead. The wall is not attached to the listed building and therefore Listed Building Consent was not required.
3. The wall is located between the car lodge and the listed farmhouse and runs along the frontage of Middlewatch. At this point, the road is passing from the edge of the village centre towards the open countryside. An open fence is in tune with the semi-rural nature of the immediate area whilst a wall gives a more urban and built up character.
4. The wall is considered to harm the setting of the listed building at Mill Farmhouse, 87 Middlewatch, Swavesey by virtue of its inappropriate materials and detailing. The new wall has been constructed from narrow reclaimed 18th century bricks that vary in colour from buff to pink and red. Some of the bricks are darker in colour, probably due to soot, while others have limewash or paint on them resulting in a speckled appearance. The bricks have been laid in a traditional bond but the use of reclaimed bricks that have lost their sharp edges has resulted in wide uneven mortar joints, whereas traditionally built walls had narrow joints. The mortar has some lime in it but is a different colour to the recent repairs on the house and probably contains some cement. In addition the mix has very little sharp sand and therefore lacks texture and the joint has a smooth finish that is flush with the face of the bricks and not set back as with a traditional detail. The overall effect is that although the wall has been constructed using reclaimed bricks from the site the use of painted and sooted bricks and inappropriate mortar mix and joint detailing has resulted in an untraditional appearance that detracts from the setting of the grade II listed building.
5. On 5 August 2009, the Conservation Manager notified the Enforcement Service that a breach had occurred and that an Enforcement Notice should be served for the removal of the wall.

6. On 10 August 2009, the Assistant Enforcement Officer wrote to the owners at Mill Farmhouse, 87 Middlewatch, Swavesey informing them that the Council was considering taking action to ensure the removal of the wall. This letter was returned as the address was inaccessible and another letter was sent on 17 September to the owners at their current address. A retrospective application for Planning Permission (S/1450/09/F) was received on 2 October to regularise the unauthorised wall. The application also included new gates to the access. The application was refused on 2 December 2009 as *“the wall and gates would adversely affect the semi-rural setting of the Grade II listed farmhouse by virtue of their materials and design which are urban in character and appearance to the location and type of building.”* An instruction was sent to Legal Services on 22 December 2009 seeking an Enforcement Notice.
7. There is a history of carrying out unauthorised works on the site and the owners are fully aware of the need to gain Planning Permission and Listed Building Consent prior to carrying out works. On this occasion they chose again not to follow the system and erect a wall without approval.

Relevant Policies or Legislation

8. The relevant policy is CH/4 of the South Cambridgeshire Local Development Development Control Policies DPD 2007 (DPD) - Development within the Curtilage or Setting of a Listed Building.
9. The wall is within the curtilage of the grade II Mill Farmhouse but is not located in a Conservation area.
10. There is an existing approval for a post and rail fence and therefore the demolition of the wall will not affect the security of the site. A period of one month is suggested for the demolition of the wall.
11. The person responsible for taking remedial action is the owner or occupier of land in question and is obliged to carry out the works specified in the enforcement notice. The timescale within the Enforcement Notice takes into consideration the time that will be necessary to construct a replacement post and rail fence as approved under S/0362/09/F & S/0363/09/LB.

Considerations

12. Although the owner of the property was refused retrospective Planning Permission on 22 December under reference S/1450/09/F, the wall has not been removed and an Enforcement Notice is sought for its demolition.
13. The owner has the right to appeal the refusal of the retrospective application within six months of the date of the refusal but an appeal has not been lodged.
14. The local member, Councillor Sue Ellington, is of the view that “the wall is not only attractive but also provides security and privacy to the site. It is built from bricks found on the site and matching to surrounding building. The other reason for refusal of the original application for the wall was that the farmyard would have had open view over the countryside which the wall would preclude. The fact is that a stable has been built behind the old farmyard with a bungalow which totally precludes any view over the countryside does not appear to have been taken into account. The Local Member has reported that that she has “received many comments from local residents and Swavesey Parish Council that they would prefer the wall to remain and

do not wish to see it demolished. Indeed there is credulity that SCDC would force the owner to demolish it”.

Options

- 15. (a) Issue an Enforcement Notice for the demolition of the wall or
- (b) Take no further action, which would result in the wall remaining unauthorised

Implications

16. Financial	Preparation of legal documents, Council defending appeal
Legal	Drafting documents in accordance with the Town and Country Planning Act, consideration of expediency or not issuing a notice and being challenged by a third party
Staffing	SCDC frontline staff consisting of planning enforcement officers, legal and conservation staff, Appeal Officer and associated staff
Risk Management	-
Equal Opportunities	Equal opportunities applied in line with guidelines set down

Consultations

- 17. Local Member (Councillor Ellington)
 Chairman of Planning Committee
 Enforcement Officer
 Executive Director (Operational Services)
 Corporate Manager (Planning and Sustainable Communities)
 Conservation Manager

Effect on Strategic Aims

18.	Commitment to being a listening council, providing first class services accessible to all.
	Report generated following concerns of the local member
	Commitment to ensuring that South Cambridgeshire continues to be a safe and healthy place for all.
	N/A
	Commitment to making South Cambridgeshire a place in which residents can feel proud to live.
	N/A
	Commitment to assisting provision for local jobs for all.
	N/A
	Commitment to providing a voice for rural life.
	Protecting existing communities, villages and the countryside.
	N/A

Recommendations

- 19 That an Enforcement Notice is approved for the demolition of the wall.

Reason:

The wall is considered to harm the setting of the Grade II listed building by virtue of its materials and detailing and, as such, is contrary to Policy CH/4 of the South Cambridgeshire Local Development Control Policies DPD 2007 (DPD)

Background Papers

The following background papers were used in the preparation of this report:
Local Development Framework Development Control Policies 2007

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