

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

Minutes of a meeting of the Planning Sub-Committee held on
Thursday, 30 November 2006 at 10.10am

PRESENT:	Councillor Dr DR Bard – Chairman Councillor Mrs DP Roberts – Vice-Chairman	
Councillors:	SGM Kindersley Mrs DSK Spink MBE	Mrs HM Smith NIC Wright
Officers:	Gareth Jones Tony Marks Ian Senior Kirsty Simmons Colin Tucker Tim Wetherfield	Corporate Manager for Planning & Sustainable Communities Enforcement Officer - Development Control Democratic Services Officer Corporate Project Officer Head of Legal Services Head of Policy and Communication

Councillors NCF Bolitho, Mrs A Elsby, RMA Manning and MJ Mason were in attendance, by invitation.

Apologies for absence were received from Councillors JP Chatfield, Mrs PS Corney and SM Edwards.

1. DECLARATIONS OF INTEREST

Councillors Dr DR Bard, SGM Kindersley, Mrs DP Roberts, Mrs HM Smith, Mrs DSK Spink and NIC Wright declared personal interests by virtue of having met, in an official capacity, many of the individuals referred to in the agenda.

Councillor N Bolitho declared a personal interest by virtue of having been landlord to the landowner referred to in Minute no. 4 (Land at the Orchard, Smithy Fen, Cottenham) for a short time during the late 1990s.

Councillor SGM Kindersley declared a personal interest as a Cambridgeshire County Councillor.

In connection with Minute no. 5 (Traveller sites in Willingham), Councillor RMA Manning declared a personal interest as a member of Willingham Parish Council.

In connection with Minute no. 3 (Pine View, Smithy Fen, Cottenham), Councillor MJ Mason declared a personal interest as a member of the Old West Internal Drainage Board.

In connection with Minute no. 6 (Moor Drove, Histon), Councillor MJ Mason declared a personal interest as a member of Histon Parish Council.

2. MINUTES - 11 OCTOBER 2006

The Sub-Committee agreed that the Minutes of the meeting held on 11th October 2006 were a true and accurate record.

3. UPDATE - PINE VIEW, SMITHY FEN, COTTENHAM

The Planning Sub-Committee considered a report setting out details of the land clearance operation undertaken at Pine View, Smithy Fen, Cottenham on 30 and 31 October 2006 and informing Members about the current situation on the site.

The Head of Planning Services recorded his appreciation of the co-operation received from the police. While heralding the success of the operation, he acknowledged that there were lessons that could be learnt from it, such as the desirability of greater preparatory contact with the 'settled' community and residents on authorised plots elsewhere on the site.

The Head of Legal Services referred Members to ongoing legal action at Smithy Fen, in which South Cambridgeshire District Council was an interested third party.

Councillor SGM Kindersley stressed that the Council regarded all breaches of planning law with equal severity, and would pursue enforcement regardless of who was in breach. Leading the tributes to the officers involved with the site clearance, he urged them to monitor the situation surrounding the recently constructed bund, seeking to prosecute anyone identified as engaging in fly-tipping there.

The Sub-Committee agreed that the operation had been an excellent example of how partnership working, involving in this case the District Council, Cottenham Parish Council and others, could achieve sought-after results.

The Corporate Projects Officer updated Members about the efforts of Cambridge Water to re-connect a number of residents at Smithy Fen. While there had been a few incidents involving protests by a small number of travellers, water engineers had not encountered any problems. Councillor MJ Mason explained that the way in which the land would be drained, and the identity of the party or parties responsible for payment of the drainage rate depended on whether that land was considered to be agricultural land or a brown field site. He added that both the Council's Land Drainage Manager and the Old West Internal Drainage Board must be consulted before any remedial steps were taken.

Councillor NIC Wright said that one of the issues to be learnt from this operation was that of having a clear plan for the site's subsequent use. At Pine View, the methods used had resulted in the loss of top soil, which would make it very difficult for vegetation to grow there. By way of a solution, he suggested the sowing of a wild flower mix and eventual development of a grass meadow.

Councillor N Bolitho (a local Member for Cottenham), conveyed the gratitude of Cottenham Parish Council for the manner in which matters had been resolved. He observed that the drainage problems could become a health and safety issue, to which the Corporate Projects Officer responded that, because those problems were not on land within the ownership of South Cambridgeshire District Council, the Authority (where appropriate) would have to rely on the 'well-being' powers available to it under Section 2 of the Local Government Act 2000.

Councillor RMA Manning, speaking in his capacity as Environmental Health Portfolio Holder, acknowledged the problems caused by fly-tipping. He urged officers to work with Travellers to isolate and take action against the perpetrators.

The Head of Policy and Communication reminded Members about their responsibilities

under the Council's Race Equality Scheme, Travellers constituting an ethnic minority group.

Having considered the views of residents, outlined in paragraphs 19 to 22 of the report from the Strategic Officers' Group, and the longer-term options, listed at paragraph 26 thereof, the Planning Sub-Committee **RESOLVED**

- (1) that the situation at Pine View, Smithy Fen, Cottenham be monitored following the short-term action taken and, should water begin to gather again, the Chairman of the Planning Sub-Committee be authorised to instigate the most effective action recommended by the Council's Land Drainage Manager and the Old West Internal Drainage Board, together with the consent of the Planning and Economic Development Portfolio Holder (as the relevant budget holder);
- (2) that the Head of Legal Services be authorised to exercise the Council's powers under section 2 of the Local Government Act 2000, where appropriate, relating to issues or work at Pine View;
- (3) that the successful enforcement action and scale of work carried out so far be recognised and applauded and, other than the drainage issue at Resolution 1 above, that no further action be taken at Pine View until the issue of land ownership has been resolved through the courts; and
- (4) that, taking into account concerns expressed at paragraph 20 of the report, the needs of those at Victoria View, Smithy Fen, Cottenham be explored in a separate report once the Appeal decisions were known, with a view to identifying the most appropriate course of action.

4. LAND AT THE ORCHARD, SMITHY FEN, COTTENHAM

The Planning Sub-Committee received the observations of the owner of the Orchard, Smithy Fen, Cottenham, set out in a report (amended on 28th November 2006) prepared by the Head of Legal Services further to the report from the Strategic Officers Group to the Sub-Committee meeting on 11th October 2006.

The Head of Legal Services said that no further comments from the landowner would be reported to the Sub-Committee, but added that, should any exist, then she should write independently to all six Members of the Planning Sub-Committee.

Councillor SGM Kindersley stated that the Council should ensure that it acted fairly at all times. It should consider using its powers under Section 2 of the Local Government Act 2000 only in respect of land cleared as part of the Pine View clearance operation, and not otherwise. He expressed concern at setting a precedent and added that, as Members had agreed on 20 April 2006 to encourage the landowner to seek a possession Order against the occupiers of the Orchard by 31st December 2006, it should take no further action until after that date.

It was noted that the landowner could apply to the County Court for a Warrant of Execution, whereupon the Bailiffs would clear the land. The cost of this application would be a small fraction of any cost that would be incurred by the Council if it exercised its Section 2 powers.

The Planning Sub-Committee noted the landowner's comments contained in the amended report from the Head of Legal Services, expressed its gratitude to the landowner for allowing the Council and its contractors to enter onto her land in order to

clear the illegal encampments from Pine View, and **RESOLVED**

- (1) that no action be taken on the Orchard land before 31st December 2006;
- (2) that the landowner continue to be encouraged to enforce the possession order, enabling the County Court bailiffs to take action on the land; and
- (3) that, following 31st December 2006 and the resolution of issues at Orchard Drive, Smithy Fen, Cottenham, a report be presented to the Planning Sub-Committee outlining the options available to the Council, including the well-being powers contained in Section 2 of the Local Government Act 2000, and the possible use of injunctions.

5. TRAVELLER SITES IN WILLINGHAM

Officers reported verbally on the current situation in Willingham.

The Head of Planning Services explained that the Council's aim was to control the situation in the village in a manner that reflected Government guidelines and, with that in mind, the Gypsy and Traveller Development Plan was crucial. It was important to concentrate on "hot spots" within Willingham, rather than on particular individuals. A report would be presented to the Cabinet in due course, setting out a number of options available to the Council and the resource implications of these. Members would then need to prioritise the actions they wished to pursue.

Councillor RMA Manning (a local Member for Willingham) called for equity in the distribution of Traveller sites, saying that villagers were perfectly content with the presence of Travellers in principle, but were growing increasingly concerned at the sheer numbers in Willingham. There seemed to have been some flexibility in the definition of 'Traveller', and sub-division of permitted sites by those being granted planning permission. Willingham Parish Council had interpreted temporary planning consent as 'de facto' permanent permission by virtue, for example, of landscaping Conditions that implied a longer-term presence. Councillor Manning highlighted the pressures on the local area and, in particular, on local facilities such as the primary school. Teachers there were hard-pressed to contend with an increasing school roll and widening ability gap among the pupils. The primary school was a feeder school for Cottenham Village College, so the difficulties were then being passed on to a neighbouring Parish. Councillor Manning thanked the Head of Legal Services for his efforts in obtaining an Injunction on land in the village, and added that such steps, ultimately, could only enhance relations between the Traveller and settled communities in Willingham. The Head of Legal Services in turn thanked Councillor Manning for his help.

In reply, the Head of Planning Services assured Members that landscaping Conditions were a standard practice and were intended only to soften sites. Since landscape was not a significant planning issue in relation to the acceptability of applications, in no way should landscape Conditions be seen as making permanent planning consent more likely. The Chairman suggested that the local primary school should be able to apply for more resources without adversely affecting its OFSTED commitments.

Councillor Mrs Roberts acknowledged that there was a desperate need for new sites, but suggested that the developing situation in Willingham was making parish councils elsewhere in the District cautious about making land available. This situation was not in the best interest of either the settled community or of Travellers, and organisations such as the Ormiston Trust should be contacted with a view to seeking solutions that would meet the aspirations of all concerned.

Councillor Kindersley stressed the importance of the 'local connection', and urged Members to recognise that the Human Rights legislation had some advantages. He expressed a hope that extra resources could be found from somewhere and re-directed to the County Council's Traveller Education Unit. This, in part, should help to address the difficult decisions being faced currently at Willingham Primary School. Councillor Mrs Spink reminded Members about the difficulty of obtaining additional school resources unless there were special circumstances, such as the existence there of pupils who had been statemented.

On the issue of division of sites, officers agreed that greater liaison was needed between those overseeing the Council's planning and site licensing functions so that the intention of the Local Planning Authority was not frustrated. District and County Councillors should also seek to enhance their joint working practices.

The Planning Sub-Committee **RESOLVED**

- (1) That the Council continue, for the time being, its policy of granting temporary planning consent, in appropriate cases, to Travellers in Willingham;
- (2) that South Cambridgeshire District Council seek a closer working relationship on Traveller issues with Cambridgeshire County Council, both at officer and Member level;
- (3) that the Head of Legal Services be instructed to seek Counsel's Advice in connection with obtaining injunctions in so-called 'hot spot' areas; and
- (4) that the Head of Legal Services be instructed to continue with the practice of obtaining injunctions against individual Travellers as and when required, in consultation with the Head of Planning Services, the Chairman and Vice-Chairman of the Planning Sub-Committee and the local Member or Members.

6. **EXCLUSION OF PRESS AND PUBLIC**

Upon the proposal of Councillor Mrs DP Roberts, seconded by Councillor SGM Kindersley, the Planning Sub-Committee **RESOLVED** that members of the Press and Public be excluded for the first part of Item 7 (Moor Drove, Histon) in accordance with Section 100 (A) (4) of the Local Government Act 1972 (As Amended) on the grounds that, if present, there would be disclosure to them of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A to the Act.

The Chairman invited those Members of Council present, who were not members of the Sub-Committee, to remain in the room.

7. **MOOR DROVE, HISTON**

Due to the late availability of essential information to be referred to, this report had not been published with the original agenda and, therefore, had not been in the public domain for the statutory period. The Chairman apologised for this but, in view of the timescales involved, agreed that the Sub-Committee should consider the report at this meeting on the ground of its urgency.

The Head of Legal Services highlighted the action taken by the Council to date. The Head of Planning Services added that officers were engaged in a two-pronged approach, seeking enforcement while, at the same time, trying to resolve matters before

enforcement became inevitable.

Members discussed

- Current legal and enforcement action, including against 'persons unknown' and against all illegal activities, including the scrap metal operation
- The effectiveness of pre-application discussions in the context of timescales and officer time
- "what if" scenarios
- needs impact assessments
- the number of caravans on-site, possible Traveller motives, and the implications for highway safety
- the need to address disability equality issues
- the importance of continuous monitoring of the situation
- relative responsibilities to find alternative sites, and the financial implications for the Council of not doing so
- the possible prosecution of contractors delivering hardcore to illegal sites

Officers reminded Members about the need for the equal and fair treatment of all Travellers, regardless of origin.

Having taken Counsel's Advice into account, the Planning Sub-Committee **CONFIRMED** its instructions, issued at its meeting of 11 October 2006, that proceedings be issued in the High Court to bring about a cessation of all unlawful activities on site.

Upon the proposal of Councillor SGM Kindersley, seconded by Councillor Mrs DP Roberts, the Planning Sub-Committee **RESOLVED** that the site occupiers be invited to attend pre-application discussions with officers while preparations continue for injunctive action, if necessary.

8. **DATE OF NEXT MEETING**

The Sub-Committee agreed that its next meeting should be convened as and when matters had progressed sufficiently to warrant such a meeting.

The Meeting ended at 12.48 p.m.
