

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

Minutes of a meeting of the Planning held on
Wednesday, 3 July 2013 at 10.00 a.m.

PRESENT: Councillor Robert Turner – Chairman
Councillor Lynda Harford – Vice-Chairman

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| Councillors: | David Bard | Val Barrett |
| | Brian Burling | Tumi Hawkins |
| | Caroline Hunt | Sebastian Kindersley |
| | Deborah Roberts | Neil Scarr |
| | Ben Shelton | Hazel Smith |
| | Nick Wright | |

Officers in attendance for all or part of the meeting:

David Bevan (Conservation Manager), Nigel Blazeby (Development Control Manager), Gary Duthie (Senior Lawyer), John Koch (Planning Team Leader (West)), Ray McMurray (Principal Planning Officer (East)), Ian Senior (Democratic Services Officer), Paul Sexton (Principal Planning Officer (West)), Charles Swain (Enforcement Officer), Andrew Winter (Senior Planning Officer) and Kate Wood (Planning Team Leader (East))

Councillors Peter Johnson, Ray Manning and Bridget Smith were in attendance, by invitation.

10. GENERAL DECLARATIONS OF INTEREST

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| Councillor Brian Burling | Non-pecuniary interest in relation to applications S/0681/13/FL and S/0825/13/FL both in Over (Minutes 17 and 18 refer) by virtue of having been present at the Over Parish Council meetings at which the applications had been discussed. However, he had not taken part in those discussions, did not vote, and was now considering both matters afresh. |
| Councillor Lynda Harford | Non-pecuniary interest in relation to S/0255/13/FL in Caldecote (Minute 13 refers) by virtue of having been present at the Caldecote Parish Council meeting at which the caravan park had been discussed, She had not expressed any opinion and was considering the matter afresh. |
| Councillor Tumi Hawkins | Non-pecuniary interest in relation to S/0255/13/FL in Caldecote (Minute 13 refers) by virtue of having been present at the Caldecote Parish Council meeting at which the caravan park had been discussed, She had not expressed any opinion and was considering the matter afresh. |

Councillor Sebastian Kindersley

Non-pecuniary interest as an elected Member of Cambridgeshire County Council in all items where that Authority is a statutory consultee and, specifically, as the local County Councillor for Little Gransden (Minute 12 refers) by virtue of his acquaintance with a number of individuals directly linked with this matter, and Great Eversden (Minute 14 refers), both of which fall within his Electoral Division of Gamlingay.

Councillor Nick Wright

Non-pecuniary interest in relation to S/0255/13/FL in Caldecote (Minute 13 refers) by virtue of having been present at the Caldecote Parish Council meeting at which the caravan park had been discussed, He had not expressed any opinion and was considering the matter afresh.

And

Non-pecuniary interest in relation to S/0681/13/FL in Over (Minute 17 refers) by virtue of having been acquainted with the applicant in the past.

11. MINUTES OF PREVIOUS MEETING

The Committee authorised the Chairman to sign, as a correct record, the Minutes of the meeting held on 5 June 2013.

12. TREE PRESERVATION ORDER AT LITTLE GRANSDEN (TREE PRESERVATION ORDER 01/12/SC AND REFUSAL OF APPLICATION TO FELL C/11/17/063/01-9424 - CLAIM FOR COMPENSATION)

Victoria Seabright (landowner), Rachel Bolt (Legal Advisor to Mrs. Seabright), Margaret MacQueen (representing Mrs. Seabright's property insurer's), Lance Gill (Structural Engineer advising the insurers) and Councillor Bridget Smith (a local Member) addressed the meeting.

The Committee considered a report on the claim for compensation received on 6 June 2013 following the confirmation on 5 September 2012 (Minute 50 refers) of Tree Preservation Order 01/12/SC and refusal of Application to Fell C/11/17/063/01-9424.

Following private advice given by him to a Councillor in relation to a complaint of bias, the Senior Lawyer addressed the Committee about its composition. The concern here arose not from an Interest, but related to an "exchange of views" between the Councillor and the landowner during a site visit last year, which had then resulted in formal complaints having been made by both parties. The Senior Lawyer, citing the Case of R (Berky) v Newport City Council, advised that the law on predetermination and bias had developed such that the participation of one member who might be adjudged not to have an open mind would not necessarily, of itself, render the committee's decision vulnerable to challenge, but

might do so if the vote was extremely close or if it could be shown an inappropriately participating member had materially influenced the voting of others. Councillors were reminded that the majority had been just two votes when the Tree Preservation Order was confirmed and a similarly close vote today could expose the committee to risk where a perception of possible bias had been notified. The Senior Lawyer told the Committee that he wanted its decision to be safe in legal terms but it was a matter for the committee as to whether it considered its composition to be safe in the circumstances.

Councillor Deborah Roberts informed the Committee that she was the Councillor to whom the Senior Lawyer had referred. She said she would not withdraw willingly to the public gallery. Councillor Roberts denied any allegation of bias, stated that the events concerned had been some time ago and had not been initiated by her in any event; further, she could judge the matter on its merits. Following further statements, Councillor Roberts called upon her fellow Committee members to determine whether or not she should remain a full voting member for this agenda item.

The Senior Lawyer advised the Committee that it mattered not who had initiated the confrontation that gave rise to the concern; the issue was that the confrontation had occurred and whether, and to what extent, this fact meant that the business could not be decided fairly by an involved member.

Councillor Nick Wright proposed that Councillor Roberts withdraw to the public gallery, on the basis she had argued with the landowner during the site visit. This proposal was not seconded.

Councillor Ben Shelton concluded that Councillor Roberts would be able to consider the matter afresh and should remain in her seat as a full Committee member. Councillor Val Barrett agreed with this view.

Upon a show of hands, members of the Committee voted to allow Councillor Roberts to take a full and active part in considering Tree Preservation Order 01/12/SC in Little Gransden, and to vote.

The Committee was addressed by the property owner, Mrs Victoria Seabright, and by her solicitor, Ms Rachel Bolt. Additionally, members heard from Mr Lance Gill, a structural engineer who had designed an underpinning scheme for the house that he estimated could be installed for approximately £110,000 plus VAT and professional fees, subject to securing the necessary listed building consent. All speakers were questioned by members.

During debate, the Senior Lawyer informed the Committee that a key issue for consideration at this meeting was the material change in circumstances represented by the significantly increased level of costs reflected in the formal claim for compensation submitted by the landowner. Members discussed the level of costs now indicated in comparison with those estimated at the time the Tree Preservation Order was confirmed and felling consent refused.

Councillor Roberts proposed that the matter be deferred in the interests of democracy to allow time for the Council to seek professional advice from its own structural engineer in order to corroborate the claim or otherwise comment upon it. This proposal was not seconded.

The Conservation Manager referred to the update report and public representations received and circulated to Committee members. Nine further public representations had been received so recently that it had not been possible to circulate them – the

Conservation Manager summarised these, including one from Councillor Robin Page. He also referred to correspondence between South Cambridgeshire District Council's Senior Lawyer and Richard Buxton (a Solicitor representing unnamed clients).

Councillor Bridget Smith (a local Member) said that there had been no change in the trees' importance. The Committee should now be considering an application to fell. There had been undue haste in presenting this item to Committee. As a result, Little Gransden Parish Council had not had time to convene a meeting to consider its response. This was not the action of a 'Listening Council'. Councillor Smith asked that further consideration be deferred to allow full consultation to take place.

Councillor Brian Burling called on the Committee to revoke the TPO. In itself, this would not lead to removal of the trees – it would be for the landowner to decide whether or not to fell the trees.

Councillor Wright said that the claim now formally made represented a significant risk to the Authority.

The Senior Lawyer summarised the legal process involved.

Following some other brief comments, the Committee agreed to **revoke** Tree Preservation Order 01/12/SC relating to one Cedar tree and one Wellingtonia tree at the Old Rectory, Little Gransden because potential compensation for the cost of underpinning the property, for which South Cambridgeshire District Council would otherwise be liable, had now risen to a level that Members considered outweighed the amenity value of the trees.

13. S/0255/13/FL - CALDECOTE (ADJ CASA DE FOSETA, ST NEOTS ROAD)

Catherine Hills, Bill Maughan and Colin Fotland (supporters of the proposal) and Saskia Barker (Caldecote Parish Council) addressed the meeting.

The Committee gave officers **delegated powers to approve** the application, contrary to the recommendation in the report from the Planning and New Communities Director, subject to the outcome of enquiries with appropriate Registered Social Landlords and steps made necessary by the application being contrary to local planning policies. In Members' opinion, the proposal was sustainable and did not conflict with Policy DP/1 of the South Cambridgeshire Local Development Framework 2007. In addition, they felt that the proposal was not inconsistent with Policy HG/2 of the LDF, relating to housing mix.

14. S/0902/13/FL - GREAT EVERSDEEN (42 WIMPOLE ROAD)

Kieran O'Callaghan (objector) and Don Proctor (applicant's agent) addressed the meeting.

The Committee gave officers **delegated powers to approve** the application, subject to no material objections being raised, and to the Conditions referred to in the report from the Planning and New Communities Director.

15. S/0552/13/FL - IMPINGTON (24 HEReward CLOSE)

Thomas Grocutt (objector), Jason Tyers (applicant's agent) and John Dunn (Great Eversden Parish Council) addressed the meeting.

The Committee gave officers **delegated powers to approve** the application, subject to the prior completion of a Legal Agreement under Section 106 of the Town and Country Planning Act 1990 securing financial contributions towards the provision of community

facilities, public open space and refuse bins, and to the Conditions set out in the report from the Planning and New Communities Director.

16. S/1131/12/FL- WATERBEACH (THE TRAVELLERS REST, CHITTERING)

Councillor Peter Johnson (a local Member) addressed the meeting.

The Committee gave officers **delegated powers to approve** the application, subject to the prior completion of a Legal Agreement under Section 106 of the Town and Country Planning Act 1990 securing financial contributions towards the provision of affordable housing, public open space, community facilities and refuse bins, and to the Conditions referred to in the report from the Planning and New Communities Director.

17. S/0681/13/FL - OVER (LAND OPPOSITE 55 FEN END)

The Committee **approved** the application subject to the Conditions set out in the report from the Planning and New Communities Director.

18. S0825/13/FL - OVER (ALWYN PARK, WILLINGHAM ROAD)

Phil King (Willingham Parish Council) and Councillor Ray Manning (a local Member) addressed the meeting.

The Committee **refused** the application contrary to the recommendation in the report from the Planning and New Communities Director. Members agreed the reasons for refusal as being the cumulative scale of Gypsy and Traveller development in, and adverse impact on, the village of Willingham, and the loss of touring caravan facilities should the proposal proceed.

Councillor Deborah Roberts did not take part in the debate and did not vote.

19. ENFORCEMENT ACTION UPDATE

The Committee **received and noted** an Update on enforcement action.

20. APPEALS AGAINST PLANNING DECISIONS AND ENFORCEMENT ACTION

The Committee **received and noted** a report on Appeals against planning decisions and enforcement action.

The Meeting ended at 1.45 p.m.
