

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

At a meeting of the Planning Sub-Committee held on
Friday, 4 August 2006 at 10.00am

Councillors: SGM Kindersley Mrs DP Roberts
Mrs HM Smith Mrs DSK Spink MBE
NIC Wright

Councillors SM Edwards, MJ Mason, CR Nightingale and TJ Wotherspoon were in attendance, by invitation.

Apologies for absence were received from Councillor Dr DR Bard.

1. ELECTION OF CHAIRMAN

Councillor NIC Wright nominated Councillor Dr DR Bard as Chairman of the Sub-Committee. This was seconded by Councillor Mrs DP Roberts and, there being no further nominations, it was

RESOLVED that Councillor Dr DR Bard be elected Chairman of the Planning Sub-Committee for the coming year.

2. APPOINTMENT OF VICE-CHAIRMAN

Councillor Mrs DSK Spink nominated Councillor Mrs DP Roberts as Vice-Chairman of the Sub-Committee. This was seconded by Councillor NIC Wright and, there being no further nominations, it was

RESOLVED that Councillor Mrs DP Roberts be appointed Vice-Chairman of the Planning Sub-Committee for the coming year.

In the absence of Councillor Dr DR Bard, Councillor Mrs DP Roberts took the Chair as Acting Chairman of the meeting.

3. DECLARATIONS OF INTEREST

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

4. MINUTES OF THE PREVIOUS MEETING

The Planning Sub-Committee received and noted the Minutes of the meeting, held on 26 May 2006, of its predecessor, the Development and Conservation Control (Advisory) Committee. Those Members of the Sub-Committee, who had previously served on the Advisory Committee, authorised the Acting Chairman to sign the Minutes as an accurate record.

5. TERMS OF REFERENCE OF THE PLANNING SUB-COMMITTEE

At its meeting on 1 June 2005, the Development and Conservation Control Committee had established the Development and Conservation Control (Advisory) Committee by Resolving:

- (1) That an Advisory Committee be established;

- (2) That the role of that body be to focus on enforcement issues on traveller sites, and to evolve a course of action prior to make a recommendation for action by the Development and Conservation Control Committee;
- (3) That it be responsible for determining enforcement action on traveller sites in line with strategy developed by the Cabinet;
- (4) That all Members of Council be invited to attend meetings, and be encouraged to assist in developing recommendations to the Development and Conservation Control Committee;
- (5) That the new body be called the Development and Conservation Control (Advisory) Committee; and
- (6) That the Advisory Committee consist of the Chairman and Vice-Chairman of the Development and Conservation Control Committee, and those four other members of the Development and Conservation Control Committee whose Executive functions relate to Leader of the Council and to the portfolios for Planning and Economic Development, Environmental Health and Community Development.

At its meeting on 7 June 2006, the Development and Conservation Control Committee appointed the Chairman and Vice Chairman of the Development and Conservation Control Committee (Councillors NIC Wright and SGM Kindersley), and re-appointed Councillors Dr DR Bard, Mrs DP Roberts, and Mrs DSK Spink to the body formally known as the Development and Conservation Control (Advisory) Committee, but now to be a Sub-Committee with executive powers. The Committee elected Councillor Mrs HM Smith as the sixth Member of the Sub-Committee.

At its meeting on 27 June 2006, full Council resolved to rename Development and Conservation Control Committee as the Planning Committee. Accordingly, the Development and Conservation Control Sub-Committee became the Planning Sub-Committee.

The Planning Sub-Committee agreed that its Terms of Reference should reflect those originally drawn up for the Development and Conservation Control (Advisory) Committee.

The Planning Sub-Committee **RESOLVED**

- (1) That the role of the Planning Sub-Committee should be to focus on regulatory issues on traveller sites, and to develop an appropriate course of action
- (2) That it be responsible for determining regulatory action on traveller sites in line with strategy developed by the Cabinet;
- (3) That all Members of Council be invited to attend meetings, and be encouraged to assist in developing the Council's regulatory approach to Travellers

6. PINE VIEW, SMITHY FEN, COTTENHAM

Following the High Court decision on 7 June 2006, the Planning Sub-Committee considered a report on the Council's options in respect of Travellers encamped illegally on land at Pine View, Smithy Fen, Cottenham.

The Head of Planning explained how the decreasing opportunities for the travellers to contest the Council's determination to regularise the planning land use issues at Smithy Fen was demonstrating the effectiveness of its realistic and gradual approach.

The Assistant Solicitor noted that the dates for compliance had not yet been reached and, following discussion, it was deemed inappropriate to make any specific decisions on future action against particular persons until it was known what the facts were at those times. It would then be necessary to identify any material changes in circumstances before proceeding. However, Members were minded to look at the options available and take a view on the course of action that could be followed in the event of future breaches.

The Assistant Solicitor referred to Section 178 of the Town and Country Planning Act 1990, which stated that:

“(1) Where any steps required by an enforcement notice to be taken are not taken within the period for compliance with the notice, the local planning authority may—
(a) enter the land and take the steps; and
(b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

The alternative option would be to seek enforcement by the Court of the non-compliance with the Injunction Order - that is, to bring proceedings for Contempt of Court. The Assistant Solicitor highlighted paragraph 14 of the report, explaining that the Council would have to identify all of the individual plots of land, and the people involved (including persons unknown). It would have to prove that each of those persons was aware of the Injunction, and was in contempt of court. She stated that it was important that close monitoring of the site take place and that the planning enforcement team ensure that copies of the Injunction were always posted on the site.

At all times, the Council must act, and be seen to be acting, with reasonableness and proportionality.

The Assistant Solicitor explained that any action that the Council might take under Section 178 of the 1990 Act would be independent of any Court, and the sanction of the Court was not required. In other words, the Section 178 power was a 'stand alone' provision.

The Assistant Solicitor briefly outlined the various aspects of enforcement action which might prove necessary depending on what steps had or had not been taken by particular defendants at particular times in reference to the requirements of the Court set out in the Injunction.

In reply to a question from Councillor Wright, the Head of Planning said that, while the Council was unable to offer an alternative traveller site to those evicted from Smithy Fen, it would treat all such cases as falling under its Homelessness policy. While he accepted that traditional housing failed to address the needs and lifestyle of travellers, the courts had determined that, as a temporary measure, such housing would serve to discharge the Local Authority's immediate responsibility. It would be important for the Council to have regard to the findings of the Needs Assessment before deciding on its next steps.

There was some concern about the consequences for other unlawful traveller sites in the District should travellers be evicted from Pine View.

Those present discussed the desirability of setting up further meetings of the Planning Sub-Committee in September and October to consider what action, if any, should be taken in the light of the deadlines mentioned in Clause 1 sub-clauses (a), (c), (d) and (e) of the Court Order dated 7 June 2006 (paragraph 14 of the Head of Planning's report).

Councillor Kindersley said that the Court had been generous in setting deadlines so that the affected travellers had plenty of time in which to comply fully with the Injunction. He urged the Council to send a clear message as to the likely consequences of non-compliance with it. Those present identified a number of ways of achieving this: these included contact with other members of the travelling community and with official traveller representatives, and liaising with the producers of Rokker Radio, a programme aimed specifically at gypsies and travellers and broadcast by BBC Radio Cambridgeshire and other BBC local radio stations across the eastern region. The Head of Policy and Communication undertook to investigate the feasibility of burning the message to a CD for distribution to traveller organisations, Cambridgeshire County Council, neighbouring local authorities, and others as appropriate. This message should be written by officers in consultation with the Chairman and Vice-Chairman of the Planning Sub-Committee. There was discussion and argument as to the simplest and quickest way to prepare future news (and audio) releases. While Members accepted the need to maintain a clear separation of responsibility between policy and regulatory issues, Members agreed that the Council's Member spokesman on all traveller issues should be the Leader of Council and, should the Leader and the Chairman of the Planning Sub-Committee cease to be the same person, that he should consult the Sub-Committee Chairman before making statements on regulatory matters.

It was important to treat everyone in a fair and consistent manner and proceed with sensitivity. Planning law had to be enforced equally.

Members asked officers to find out from travellers lawfully encamped at Smithy Fen what form of amenity area they would like once the 'wedge' between the two legitimate sites had been cleared. Compulsory purchase should not be dismissed as an option at this stage.

Councillor Edwards urged the Sub-Committee not to consider Section 178 of the 1990 Act as the only method of dealing with the situation.

The Sub-Committee considered the resource implications, and the Corporate Projects Officer confirmed that these remained the same as reported to Members at the meeting of the Development and Conservation Control (Advisory) Committee on 26 May 2006.

The Acting Chairman thanked the Head of Planning and the Assistant Solicitor for their clear advice and assistance during the meeting.

It was **RESOLVED**

1. that if, prior to 7th September 2006, any of the Defendants were found to have breached parts (a) (excepting the excluded Defendants and Plots listed therein); (b) or (f) of the Injunction Order, they should, subject to consideration of the evidence, be subject to committal proceedings in the High Court for Contempt of Court;
2. that if, after 7th September 2006, any or all of Defendants 2-7, 18, 28 and 29 were found to be in breach of parts (a) or (b) of the Injunction Order, they should, subject to consideration of the evidence, be subject to committal proceedings in the High Court for Contempt of Court;

3. that if, after 7th October 2006, any or all of the Defendants listed in parts (c), (d) and (e) were found to be in breach of the relevant parts of the Injunction Order, they should, subject to consideration of the evidence, be subject to committal proceedings in the High Court for Contempt of Court;
4. that action be taken, including possible action under section 178 of the Town and Country Planning Act 1990, to ensure compliance with the enforcement notices, if required and appropriate;
5. that all these actions have regard to proper consideration of the needs assessment of each individual traveller concerned;
6. that the Legal Section of South Cambridgeshire District Council be authorised to seek and pay for external support, if and when required; and
7. that further meetings of the Planning Sub-Committee be convened on Friday 8th September 2006 and as soon as possible after the 7th October deadline in order to reassess matters and to review circumstances in the light of the two deadlines contained in the Court Order dated 7th June 2006.

7. UPDATE ON PROGRESS SEEKING FURTHER PRE-EMPTIVE INJUNCTIONS

The Head of Planning advised that, due to a shortage of resources, it had not been possible to progress a review of sites for which an injunction might be sought preventing the establishment of Travellers sites without planning permission. He suggested that, initially, the focus of any resources available should be on any site which might be affected by the agreed action at Pine View, Cottenham, followed in the longer term by other obvious areas of pressure. The reasoning was that the illegal occupation at Pine View was nearing the end of all the legal processes and remaining occupants would have to move shortly.

The Sub-Committee

RESOLVED that officers liaise with the Chairman of the Sub-Committee and the relevant portfolio holder in order to pursue injunctions preventing the establishment of Traveller sites without planning permission at specified sites or precise locations as necessary and when resources allow.

8. EXCLUSION OF PUBLIC

RESOLVED that under Section 100(A)(4) of the Local Government Act 1972, the Press and public be excluded from the meeting during consideration of the following item on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 6 of Part 1 of Schedule 12A of the Act.

9. LAND ADJACENT TO MOOR DROVE, COTTENHAM ROAD, HISTON

This item had not been published with the original agenda and, therefore, had not been in the public domain for the statutory period. However, in view of the timescales involved, the Acting Chairman considered that waiting until the next scheduled meeting of the Planning Sub-Committee would be impractical, and agreed that the Sub-Committee should consider the verbal report at this meeting on the ground of its urgency.

The Assistant Solicitor informed the Sub-Committee about a request from the applicant's legal advisers for a delay in taking action for breach of an enforcement notice, following Development and Conservation Control Committee's decision to decline to determine the application. This would allow the applicant's legal advisers time to review their client's position in light of the Committee decision as set out in the Minute of 5 July 2006, which had been clarified and confirmed by the Committee on 2 August 2006. In particular, it would allow them time to consider whether or not to pursue an action for Judicial Review of that decision, bearing in mind the availability of those legal advisers during the holiday period.

Legal and practical implications were considered, and the Sub-Committee

RESOLVED that no action to deal with the breach of Enforcement Notice 19/03 be taken before 15 September 2006, and that no decision be made about the form of action to be taken until further legal advice had been received.

The Meeting ended at 12.05 p.m.
