

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

Minutes of a meeting of the Planning Enforcement Sub-Committee held on
Wednesday, 17 November 2010 at 2.00 p.m.

PRESENT: Councillor Mervyn Loynes – Chairman
Councillor Val Barrett – Vice-Chairman

Councillors: Pippa Corney
Sebastian Kindersley
Hazel Smith
Sally Hatton
Charles Nightingale

Officers: Gary Duthie
Gareth Jones
Jo Mills
Philip Readman
Ian Senior
Charles Swain
Senior Lawyer
Head of Planning
Corporate Manager, Planning and New
Communities
Assistant Enforcement Officer
Democratic Services Officer
Enforcement Officer

Councillor Lynda Harford was in attendance, by invitation.

Apologies for absence were received from Councillor Deborah Roberts.

8. DECLARATIONS OF INTEREST

There were no declarations of interest.

9. MINUTES OF PREVIOUS MEETING

The Planning Enforcement Sub-Committee authorised the Chairman to sign, as a correct record, the minutes of the meeting held on 21 July 2010.

10. COTTONHAM, SMITHY FEN - UNAUTHORISED GYPSY/TRAVELLER SITES

The Planning Enforcement Sub-Committee considered a report relating to Plots 12 Victoria View, 15 Water Lane, and 5, 5A, 6, 10 and 11 Orchard Drive, all at Smithy Fen, Cottenham, as remain either in active residential occupation or developed for residential occupation in breach of planning control, following the Sub-Committee's resolution on 21 July 2010 to enforce against continuing breaches. The report highlighted the specific and relevant circumstances to be considered in each case, and sought approval for the commencement of immediate High Court proceedings against those in occupation and / or control of the six plots pursuant to Section 187B of the Town and Country Planning Act 1990 for an Injunction requiring the cessation of any continuing unauthorised residential occupation and the removal of all associated caravans, mobile homes, residential paraphernalia, surfacing and / or hard-standings, and any other built or engineered development facilitating or intended to facilitate residential occupation.

In introducing the report, the Senior Lawyer explained that Injunctions were discretionary remedies and that, in the context of the current matter, the High Court was unlikely to exercise its discretion in the Council's favour where Plot 12 Victoria View was concerned, in view of the ongoing Section 78 appeal against refusal of planning permission for the use of that plot. He then referred to the land ownership records held by H.M. Land Registry, which records revealed that Plot 12 in fact consisted of two parcels of land, one owned by Daniel Flynn and the other by Margaret Flynn. The Senior Lawyer reminded

Members about who occupied the Plot, and explained that whilst Land Registry information was intended to be conclusive as to evidence of ownership, the occupiers of plots here were not necessarily the plot owners in these terms.

The Senior Lawyer then advised that, in making its decision, the Planning Enforcement Sub-Committee must balance planning expediency with the consequences for affected individuals, taking into account their personal circumstances. Since the meeting in July 2010, officers had spoken with as many as possible of those occupying the Plots referred to in the report so that Members could make a balanced decision based both on personal circumstances and the public interest.

In response to a question from Councillor Sebastian Kindersley, the Senior Lawyer confirmed that, acting in its capacity as Local Housing Authority, the Council had no specific duty to offer non-bricks and mortar accommodation in the discharge of its general duties under homelessness legislation so far as Gypsy or Traveller applicants may be concerned although the authority would need to be mindful that there may be an aversion to living in built housing that might result in harm. He also confirmed that, while the appendices to the report contained exempt information (as defined), the information therein had been obtained directly from the subject individuals, with the exception of the education and welfare report.

Joanna Gordon-Clark, a nearby resident, addressed the meeting. She informed Members about the impact that the Smithy Fen Travellers site had had on her own property, particularly since 1994. She claimed to have lost the peaceful enjoyment of her orchard land as a result of the nature of enforcement measures taken by South Cambridgeshire District Council.

Candy Sheridan, a Gypsy Council officer representing the subject individuals at Smithy Fen travellers site also addressed the meeting. She welcomed the fair and balanced report prepared by the Corporate Manager (Planning and New Communities) and Senior Lawyer. She did, however, have reservations about the call for consistency, arguing that eviction should not be considered the only option, and urging Members to consider the impact of their actions on the families affected. Mrs. Sheridan referred to the Council's Vision of making South Cambridgeshire a safe and healthy place in which to live, and said this applied to everyone. She spoke about the cultural approach to education and the aversion to "bricks and mortar". Were the Council to identify alternative land, the subject individuals would move there.

Councillor Kindersley reminded those present about the need to treat all members of the settled and traveller communities equally and fairly. He noted that the Needs Audit had revealed that at least one child of school age was not currently in school, and wondered why the Local Education Authority was not applying the same rules as it would do within the settled community. He also noted that medical care was available everywhere, as evidenced by the fact that the occupiers of Plot 12 Victoria View were currently not in residence. In response, Candy Sheridan referred again to cultural factors relating to Travellers' attitudes to continuing formal education and to care within the travelling community. She commented that the availability of vacant plots in Water Lane presented an ideal opportunity to meet the aspirations both of the settled community and of the subject Traveller families. The Senior Lawyer pointed out that the plots in Water Lane, though not currently occupied, were owned by people other than those subject of the current discussion and, therefore, it would not be easily open to anyone displaced by any action commenced by the Council to relocate to these. He suggested two possible alternative courses of action to perhaps make these plots available: compulsory purchase or rescission of existing planning consents for the six vacant plots under Sections 97 or 102 of the Town and Country Planning Act 1990, with an equivalent number of planning

applications being sought to regularise the existing unauthorised uses, subject to assessment against material considerations that then related. Both courses would result in the need for the Council to pay compensation to the owners and the Sub-Committee heard that if any pitches were to be acquired compulsorily and made available for active occupation, a rent would likely be payable. Candy Sheridan told the Chairman that she was willing to liaise between the Council and the various owners of the vacant plots, describing the situation as "so solvable". Her only proviso was that this relocation within the Smithy Fen site must be a permanent solution, providing certainty for those affected.

Councillor Lynda Harford, a local Member for Cottenham, addressed the meeting. Though a member of Cottenham Parish Council, she made it clear that she had not been authorised to speak on that Council's behalf and was therefore commenting on behalf of the local settled community and in a personal capacity. She said that any contravention of planning law should be dealt with appropriately, and irrespective of unavoidable delays in finalising the Council's Gypsy and Traveller Development Plan Document. There had been no material change in circumstance since the meeting in July 2010, and the District Council should now act without delay in order to regularise the situation and minimise costs. Councillor Harford congratulated officers for their efforts to resolve this matter, and welcomed the intervention from Candy Sheridan. She concluded by agreeing that everyone must be treated equally and fairly.

Members discussed the question of compulsory purchase. The Senior Lawyer said that it could take up to four months to make the vesting order but considerably longer to resolve the compensation issues if these were contested. The alternative of a 'consent swap' could also work, subject to agreement being reached over valuation and subject to resolution of the planning issues.

In reply to a question from the Chairman, the Head of Planning indicated the location of the vacant plots and noting the disparity between the potential number of displaced families and the number of vacant plots available, he suggested it might be possible to sub-divide one of the plots into two.

The Corporate Manager (Planning and New Communities) pointed out the need to identify proposals at Smithy Fen as capital expenditure within the budget currently being considered for 2011-12. It was established that the subject individuals would have no objection to renting their new plots from the District Council, so long as they could be confident that the arrangement would be long-term. Candy Sheridan reminded Members that the preference was for freehold ownership however and, if that could be negotiated, then so much the better.

In response to a question from Councillor Sally Hatton, it was clarified that although the vacant plots were not presently in active occupation, the planning permissions that served to authorise occupation had been implemented and the use rights were accordingly available in perpetuity..

The Chairman reported that both Councillors Simon Edwards and Tim Wotherspoon (local Members for Cottenham) supported the recommendation contained in the report.

Members discussed the idea of endorsing the recommendation contained in the report subject to the suspension of implementation to allow Candy Sheridan enough time to liaise with the affected individuals. At Candy Sheridan's request, Members agreed that the suspension should be for a period of four months.

Upon the proposal of Councillor Sebastian Kindersley, seconded by Councillor Charles Nightingale, the Planning Enforcement Sub-Committee **resolved** unanimously that

1. An application, suspended for four months to facilitate the consideration of compulsory purchase powers and/or rescission of consents under Sections 97 or 102 of the Town and Country Planning Act 1990, be made to the High Court for injunctive relief under Section 187B of the Town and Country Planning Act 1990 to remedy and restrain then continuing breaches of development control, against those adults identified in this report and appendices as being either an owner and/or an occupier of the plots at 15 Water Lane, and at 5, 5A, 6, 10 and 11 Orchard Drive, and against persons unknown in respect of those plots; and
2. A further report be submitted to the Sub-Committee upon determination of the Section 78 Appeal presently running in respect of plot 12 Victoria View, with recommendations dependant upon the outcome of that Appeal.

The Meeting ended at 3.20 p.m.
