

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

Minutes of a meeting of the Planning Enforcement Sub-Committee held on
Wednesday, 16 March 2011 at 2.00 p.m.

PRESENT:	Councillor Mervyn Loynes – Chairman	
Councillors:	Pippa Corney Charles Nightingale Hazel Smith	Sebastian Kindersley Deborah Roberts
Officers:	Nigel Blazeby Gary Duthie Saffron Garner Gareth Jones Jo Mills Ian Senior Charles Swain	Development Control Manager Senior Lawyer Senior Planning Assistant Head of Planning Corporate Manager, Planning and New Communities Democratic Services Officer Enforcement Officer

Councillors Simon Edwards and Lynda Harford were in attendance, by invitation.

Apologies for absence were received from Councillor Val Barrett.

11. DECLARATIONS OF INTEREST

There were no declarations of Interest.

12. 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 17 November 2010.

13. COUNCILLOR DEBORAH ROBERTS

Councillor Deborah Roberts made a short statement.

While stating that she did not, in her opinion, have a declarable interest in Minute 14 (Cottenham: Smithy Fen – unauthorised Gypsy and Traveller sites), Councillor Roberts was aware that, were she to participate in the debate and subsequent vote, there might be a perception of bias based on previous history of Committee debates on the subject. Such perception could result in the decision, and South Cambridgeshire District Council as a whole, being Judicially Reviewed. Councillor Roberts stated that she did not want to expose either any decision or the Council to this risk, and announced that, for the duration of the item relating to Minute 14 in Cottenham, she would withdraw to the public gallery, take no part in the debate, and refrain from voting.

14. COTTENHAM: SMITHY FEN - UNAUTHORISED GYPSY AND TRAVELLER SITES

The Planning Enforcement Sub-Committee considered a report about the actions taken and the outcomes of those actions, with a view either to acquiring title to the various consented but presently unoccupied pitches at Water Lane, Smithy Fen, or effectively 'recycling' the planning permissions that relate, so as to avoid the necessity for injunctive proceedings and so as to regularise breaches of planning control relating to 5, 5A, 6, 10, 11 Orchard Drive and 15 Water Lane. The report also examined the decision in respect of the Section 78 Appeal relating to 12 Victoria View, arising from the refusal of planning application S/1178/09/F.

- **12 Victoria View, Smithy Fen, Cottenham**

Officers summarised the circumstances leading up to the Appeal Hearing at which the Inspector had granted planning permission for a chalet, touring caravan and wooden day room. The Senior Lawyer was satisfied that the Inspector had not misdirected herself, and had acted rationally and reasonably in reaching her decision. His advice to Members therefore (a view with which Counsel had concurred) was that there were no grounds upon which South Cambridgeshire District Council could challenge the decision successfully.

Julia Brand, a member of the settled community in Cottenham, addressed the meeting. She made a number of points, including the following:

- the health of the occupier of Plot 12 had never before been considered a material consideration
- the Inspector appeared to give weight to unsubstantiated claims made by the occupier of Plot 12
- allowing the plot to remain would set a precedent and erode the space between the two sites at Smithy Fen
- Inconsistency with previous Inspectors' findings and conclusions related to Smithy Fen

In response, the Senior Lawyer noted that the Inspector, on this occasion, had considered that personal circumstances should be allowed to override the evident planning harm caused by the development. On that basis, no precedent had been set. The Planning Sub-Committee (as it then was) had considered those personal health circumstances to be relevant in June 2007, and the Planning Enforcement Sub-Committee was satisfied that there had been no change since then. The Head of Planning reminded Members that each case was considered on its merits.

The Senior Lawyer explained the basis upon which factors were considered in an evidential context.

Rosemary Jones, another member of the settled community in Cottenham, addressed the meeting. She made a number of points, including the following:

- Why had the District Council decided not to challenge the Inspector's decision?
- What would the Council do to make sure this situation did not arise again?

Jackie Smith, another member of the settled community in Cottenham, addressed the meeting. She made a number of points, including the following:

- Reference to the Traveller site at Dale Farm, Basildon in Essex.

Councillor Lynda Harford, a local Member, addressed the meeting. Her principle concern was that the District Council should be seen to be treating both the settled and travelling communities equally and fairly. She stressed the importance of the Council being in a position, as soon as possible, to offer appropriate alternatives to those Travellers currently on unlawful plots. She said that the Inspector's decision had been influenced by the Council's continuing lack of a Gypsy and Traveller Development Plan Document.

Councillor Simon Edwards, a local Member, reminded those present that Smithy Fen was the second largest lawful Travellers site in the UK. He said that the level of provision for Gypsies and Travellers made by South Cambridgeshire District Council was second only to that made by Fenland District Council. This Council should not be expected to make further provision on behalf of other local authorities.

Summing up the debate, Councillor Sebastian Kindersley said that the Council found itself in an "invidious position". Members of the settled community perceived themselves as not

being treated fairly and justly. They were questioning the Inspector's decision. Councillor Kindersley regretted the fact that that Inspector had "turned on its head" the Council's consistent approach, over several years, to Smithy Fen. He said that not everyone was being treated equally and fairly. The Council must be in a position to regularise the situation at the end of the five-year temporary planning permission granted by the Inspector. With regret, Councillor Kindersley said that South Cambridgeshire District Council had been left with no alternative but to accept the Inspector's decision relating to Plot 12, Smithy Fen, Cottenham.

- **Orchard Drive and Water Lane, Smithy Fen, Cottenham**

The Corporate Manager (Planning and New Communities) reminded Members about the background to this matter, and referred briefly to the Planning Enforcement Sub-Committee meeting in November 2010.

Candy Sheridan, a Gypsy Council officer, addressed the meeting. She referred to the following:

1. Article 8 of the European Convention on Human Rights relating to the Right to Respect For Private Life
2. Equality of opportunity
3. The Homelessness Code of Guidance
4. Evidence of Need for Gypsy and Traveller accommodation and the local shortfall in formal provision including whether temporary provision could be made for these families, whilst permanent sites are brought forward through the plan-making process.
5. Implications of the abolition of the Regional Spatial Strategy
6. The need for South Cambridgeshire District Council to update its information on the families involved, with Candy Sheridan in attendance at interviews to lend assistance to all parties
7. The proper use of public money
8. Judicial Review in respect of Dale Farm, Basildon

Those present discussed a number of issues arising from the points made by Candy Sheridan.

The Corporate Manager (Planning and New Communities) read out a statement from a Cottenham Parish Councillor. It was suggested that any further action should be deferred until the implications for South Cambridgeshire of direct action at Dale Farm had been fully assessed.

Joanna Gordon-Clark, a member of the settled community in Cottenham, addressed the meeting. She made a number of points, including the need for perceived justice.

Those present discussed the possibility of taking injunctive action, and the need to uphold the Council's planning policies.

The Planning Enforcement Sub-Committee:

1. **Resolved** that South Cambridgeshire District Council make an application to the High Court for injunctive relief under Section 187B of the Town and Country Planning Act 1990 to remedy and restrain continuing breaches of development control, against those adults identified as being either an owner and/or an occupier of the plots at 5, 5A, 6, 10, 11 Orchard Drive and 15 Water Lane, and against persons unknown in respect of those plots, upon the completion of updated needs audits, and provided these do not indicate any change in personal circumstances requiring further consideration by this sub-committee:

2. **noted with regret** the outcome of the Section 78 Appeal relating to 12 Victoria View, Smithy Fen, Cottenham, and **agreed** that there were no grounds to appeal to the High Court against the Inspector's judgement.

15. FOXTON: Q8 GARAGE - ENFORCEMENT AGAINST THE SALE OF CARS FROM THE SITE WITHOUT SPECIFIC PLANNING CONSENT

The Planning Enforcement Sub-Committee considered a report about the current situation regarding the alleged unlawful development that is occurring at the Q8 garage on the A10 in the Parish of Foxton.

The occupier of the site was alleged unlawfully to be selling vehicles from the forecourt of the currently unused petrol filling station (PFS) without the specific consent of the Local Planning Authority.

The Head of Planning updated the Sub-Committee about this matter, and summarized the options available to the Council. Members noted, with interest, an additional option that would entail the Council submitting a planning application for retrospective permission. They discussed the question of planning application fees and the danger of setting a precedent were the Local Planning Authority to make an application. The possibility was raised of Foxton Parish Council submitting an application instead. In response, the Senior Lawyer said that the District Council could probably exert greater control if it made the application itself rather than relying on a third party such as the Parish Council. However, it would not be possible to invoice the owner of the Q8 garage because, so far, there was no identifiable planning harm.

A representative of Foxton Parish Council addressed the meeting.

The Planning Enforcement Sub-Committee **instructed** officers to require from the proprietor of the Q8 Garage in Foxton, within ten working days from 16 March 2011, an application for planning permission to regularise the car sale business currently being operated from the site. In the event that no application was forthcoming, the Planning Enforcement Sub-Committee **further instructed** officers to submit such an application as would relate to the land and facilitate the imposition of suitable conditions if approved, in the name of South Cambridgeshire District Council.

16. WEST WRATTING: CAMGRAIN STORES LTD

Members of the Planning Enforcement Sub-Committee had previously received copies of a Judgment dated 22 February 2011 and concerning Camgrain Storage Ltd.

The Senior Lawyer suggested that the Inspector's message seems to have been that the decision made by the Planning Committee was sound on the face of it, but the reasons stated were not. The planning consent had therefore been overturned, and the Planning Committee would be invited to reconsider the matter afresh. He added that service of a Stop Notice would probably be interpreted as being disproportionate, and Members agreed that no enforcement action should be taken on the basis of development already carried out under the terms of planning permission subsequently quashed.

The Meeting ended at 5.00 p.m.
