

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

Minutes of a meeting of the Planning Enforcement Sub-Committee held on
Wednesday, 23 November 2011 at 2.00 p.m.

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

Councillors: Pippa Corney Sebastian Kindersley
Charles Nightingale Deborah Roberts
Hazel Smith

and Councillor .

Officers: Chris Collison Interim Head of Planning
Gary Duthie Senior Lawyer
James Fisher S106 Officer
Jo Mills Corporate Manager, Planning and New
Communities
Ian Senior Democratic Services Officer
Dan Smith Planning Officer
Charles Swain Enforcement Officer

Councillor Surinder Soond was in attendance, by invitation.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. MINUTES OF PREVIOUS MEETINGS

The Planning Enforcement Sub-Committee authorised the Chairman to sign, as a correct record, the minutes of the meeting held on 16 March 2011, subject to

- (a) Councillor Deborah Roberts being listed as having been present.
- (b) A revision of Minute 16 (West Wrating: Camgrain Stores Ltd.) so as to read as follows:

“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 that the absence of an Environmental Impact Assessment was a decisive factor*. 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.”

Councillor Deborah Roberts queried why the current agenda did not contain updates relating to Smithy Fen, Cottenham (Minute 14 refers) or the Q8 Garage, Foxton (Minute 15 refers). Councillor Roberts also raised the issue of Moor Drove, Histon. In response, the Senior Lawyer made the following short statements:

Smithy Fen, Cottenham

The documentation required to enable the Council to proceed was complex in nature.

Officers were at an advanced stage in dealing with this onerous task. Once complete, they would instruct Counsel to Advise and, on the basis of such advice, determine the best course of action for South Cambridgeshire District Council. The Senior Lawyer assured Members that, just because there was nothing for them to determine at this stage, every effort was being made by officers to expedite this matter.

Moor Drove, Histon

Though not on the current agenda, or an item in the minutes of the last meeting, the Senior Lawyer agreed to update Members. The site was being monitored by Enforcement Officers and the Senior Lawyer was awaiting further instructions before proceeding.

Q8 Garage, Foxton

The Senior Lawyer told Members that the planning application was proving more onerous than had been expected. He said that informed and robust assessments had to be made in the absence of any planning harm being identified by the Sub-Committee or of co-operation by the landowner.

The Planning Enforcement Sub-Committee authorised the Chairman to sign, as a correct record, the minutes of the meeting held on 26 May 2011, subject to

5. PLANNING CONDITION ENFORCEMENT REQUIRING SECTION 106 AGREEMENT

The Applicant and Councillor Surinder Soond (Local Member) were in attendance.

The Planning Enforcement Sub-Committee considered a report about officers' unsuccessful attempts to resolve an outstanding issue where an applicant for planning permission had refused to complete the necessary agreement under section 106 of the Town and County Planning Act 1990 to satisfy planning policy SF/10 requiring all residential development to make a payment in lieu of offsite open space.

Councillor Soond said that the Applicant's financial circumstances had changed during the past few years and her current employment situation might also change in the next 2-3 months.

The Senior Lawyer outlined the framework against which the Sub-Committee had to consider its decision. He referred to Condition 11 of the Decision Notice, which required the completion of a Section 106 Legal Agreement securing a sum of money in respect of off-site public open space provision. Such Agreement was needed because the Local Planning Authority was constrained by the Town and Country Planning Act 1990, which prevented it from accepting money in any other way. Pressure to issue Decision Notices within specific timescales meant there was little or no opportunity to complete a Section 106 Agreement beforehand. The Section 106 payment was policy led and designed to mitigate against the consequences for the wider community of granting planning permission. Developers were obliged to discharge planning conditions and failure to do so could invalidate the planning consent.

The Sub-Committee accepted that Condition 11, in effect, represented the Heads of Terms of the required Section 106 Legal Agreement.

Those present considered paragraph 25 of the report and, in particular Option (d), which contemplated waiving the financial contribution altogether. They considered that staged payments over a three-year period was the only concession the Council could now offer, given that Section 106 Obligations had to be met by any applicant falling within the policy. Officers had attempted to resolve this issue but had been unable to reach an agreement with the applicant. Concern was expressed that staged payments should not prejudice

either the Parish Council or South Cambridgeshire District Council. There followed discussion over whether or not the applicant had been made aware of her financial responsibilities, and the issue of the legal fee having been paid but then mislaid.

The Planning Enforcement Sub Committee **agreed** to

- (a) Give delegated powers to officers to negotiate a staged payment agreement to recover the open space contribution via a section 106 agreement
- (b) That such a payment period should be for a period of no more than 3 years (i.e. £748.30 per annum or £62.36 per month)
- (c) Instruct officers to take necessary enforcement action against the applicant should a planning obligation securing the recommended terms fail to be created

6. DATES OF FUTURE MEETINGS

The Planning Enforcement Sub-Committee agreed that room bookings should continue to be made for it to hold meetings during 2012-13 on the third Wednesday of each month, such meetings actually being called only as and when required.

The Meeting ended at 3.05 p.m.
