

CABINET PRIORITISATION SUB COMMITTEE

WEDNESDAY, 18 JANUARY 2017

PRESENT: Councillors Simon Dudley (Chairman), Phillip Bicknell (Vice-Chairman), David Coppinger and Derek Wilson

Also in attendance: Councillors Carwyn Cox and David Evans

Officers: Russell O'Keefe, Wendy Binmore, Matthew Tucker, Victoria Goldberg and Arron Hitchen

APOLOGIES FOR ABSENCE

None received

DECLARATIONS OF INTEREST

None received.

MINUTES

RESOLVED UNANIMOUSLY: That the minutes of the meeting held on 13 October 2016 be approved.

ST UNAUTHORISED TRAVELLER DEVELOPMENT AT SHURLOCK ROAD, WALTHAM LAWRENCE

Members considered the unauthorised Traveller development at Shurlock Road, Waltham St Lawrence.

The Chairman of the Planning & Housing Overview & Scrutiny Panel had agreed to the report being added to the agenda as it had not previously been listed on the Forward Plan.

The Mayor had agreed to a waiver of the call-in process as any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests.

Councillor Cox confirmed he was not sitting on the Panel as he was in attendance in his capacity as Ward Councillor. He confirmed that Cllr Derek Wilson was attending as his substitute.

Members agreed to move part of the discussion into Part II following the Legal Officer's advice after he had received representations from the occupants of the unauthorised Traveller development's solicitor.

Cllr D. Wilson gave Members of the sub Committee a brief history of the site at Shurlock Road and stated that the unauthorised Travellers site had been present since December 2009. Following various legal challenges, the occupiers had tried to obtain permission to stay on the site. Temporary permission was granted for Mrs Eastwood to remain on site with planning applications for five other plots dismissed at

appeal. Cllr D. Wilson explained that as the site had been occupied since 2009, the Council had given appropriate time for the travellers to move from the site and that if the Sub committee decided to take appropriate action, then they would be given 48 hours notice that the Borough would be evicting them.

Victoria Goldberg, Team Manager – Enforcement confirmed that approximately £160k had been spent so far trying to remove the Travellers from the site. The Chairman stated that once the Travellers had been moved, the costs would be in the region of £280k. Cllr d. Wilson confirmed that after the site was vacated, the site would need clearing and the contract was to restore the site back to grass land. The restoration was included in the costs.

The Legal Officer stated he had received late representations in the last hour on behalf of the occupants; he handed copies of the representations to the Sub Committee and highlighted the main key points.

The Team Manager for Enforcement confirmed that the 20 school children at the site would continue to be educated by the Borough if they remained within the Borough's boundary. Some of the children were home schooled, but for the ones that were not, as long as the families remained within the Borough, the Council would be liable for their home to school transport costs if Admissions were unable to find them suitable spaces at schools local to where they were residing. Arron Hitchen, Senior Enforcement Officer directed Members to page 45, points five and six where the information was confirmed. The Chairman stated that he would prefer the Royal Borough to pay the costs of travel to school so that the children had continuity of education, as long as they remained within the Borough. Cllr D. Wilson suggested adding the paying of home to school transport costs to the recommendations.

The Legal Officer read out correspondence from the representative of the Travellers and flagged up that local authorities had historically failed to carry out their legal obligations towards Travellers. The correspondence went on to list supportive points for the occupants, including points which the occupants considered the Council had to take into account when deciding whether to proceed with direct action. These points included Article 8 of the European Convention of Human Rights, genuine consideration of pitch provision, the Equality Act 2010, identified need for pitches, and the fact that the Council has not provided additional pitches in the area. The Legal Officer advised Members to treat the best interests of the children on site as a primary consideration, by identifying what those best interests require and assessing whether the strength of any other consideration, or the cumulative effect of other considerations, outweigh the child's best interests. The Legal Officer advised the Sub Committee to keep the best interests of the children in the forefront of their minds when taking any decision in relation to the site.

The Legal Officer confirmed that the Travellers' representative had submitted that 28 days notice to vacate was reasonable. The Senior Enforcement Officer stated that the Travellers would have had knowledge of the Cabinet Prioritisation Sub Committee meeting taking place as the Enforcement Team wrote to them requesting any information or representations they felt should be submitted to the Council prior to the meeting. He added that in 2013, the Council agreed to take direct action and that the Council was doing so again at this meeting. The Travellers had received a lot of notice to provide additional information prior to the decision being made. The Legal Officer said he had set out in correspondence that on the previous occasion in 2013, twenty-eight days notice was reasonable and he felt the same applied now. Cllr Coppinger

felt they should be given 14 days notice to allow enough time to move in an orderly fashion which would help the children with the transition.

The Team Manager for Enforcement explained that the offer made by the Travellers was a material consideration. The Legal Officer stated the offer could be discussed in Part I and confirmed the offer was that the occupiers offered to move off the land after the Court of Appeal decision and then would take a further 28 days to move. He confirmed that direct action could be taken prior to the Court of Appeal decision but that the occupants' solicitor had said in his submissions that such action would be premature pending the court action. The Chairman stated that the concern with the offer was the legal position which was costing the tax payer £160k. One potential course of action was to decide to take direct action with a 14 day notice period. If the Council was satisfied that the Travellers offer was genuine, the Council would not take any further action providing they waived further action at their disposal. The Borough could take direct action without waiting for the Appeal decision.

Cllr Cox stated he had concerns with the offer as there was no way of ensuring their undertaking was legally binding and this would be subject to some serious negotiations with officers and the occupants. Material considerations had to be reviewed in detail so that would need to be discussed in Part II with the decision made in Part I.

The Sub Committee agreed that the decision whether or not to take direct action be recorded in Part I.

RESOLVED UNANIMOUSLY:

That Cabinet Prioritisation Sub-Committee notes the report and:

- i) The Council takes action under Section 178 of the Town and Country Planning Act 1990 to carry out all steps required by the Enforcement Notice to clear the site and resolve the breach of planning control with a notice period of 14 days.**
- ii) The Council continues to engage the services of Shergroup Enforcement.**
- ii) All key operational decision making be delegated to the Head of Planning, in consultation with the Lead Member for Planning and the Council's Monitoring Officer in association with any legal advice from Select Business Services: Legal Solutions during the site clearance, to take such action to ensure the termination of the unauthorised development at Shurlock Road including, but not limited to, specific tasks as so described in the report.**
- iii) That Members reject the offer from the occupants to clear the site 28 days following the Court of Appeal Ruling.**
- iiii) That a working group comprising the Lead Member for Adult Services and Health (including Sustainability), the Lead Member for Planning along with the Head of Planning be set up in order to monitor the situation of the Travellers**

The Mayor had agreed to a waiver of the call-in process as any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests.

LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PUBLIC

RESOLVED UNANIMOUSLY: That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the remainder of the meeting whilst discussion takes place on item 6 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1-7 of part I of Schedule 12A of the Act

The meeting, which began at 1.30 pm, finished at 4.01 pm

CHAIRMAN.....

DATE.....