

AGENDA ITEM No. 10

PART B

EXEMPT MINUTES

NOT FOR PUBLICATION

MINUTES

Meeting: **Urgent Business Items Sub-Committee**

Date: 10.00am Tuesday 20 September 2011

Venue: Aldern House, Baslow Road, Bakewell, Derbyshire

Chair: Mr G Nickolds

Present: Mr P Ancell, Prof J Herbert, Cllr G Purdy.

Apologies for Absence: Cllr A Favell, Mr C Pennell

JOINT REPORT OF HEAD OF PLANNING AND HEAD OF LAW

4/11 CONSIDERATION OF POSSIBLE LEGAL PROCEEDINGS – BROSTERFIELD CARAVAN SITE, FOOLOW (P.4484/RJB/AGM/CP)

It was noted that although this issue would normally be considered by the Audit, Resources and Performance Committee, because of the need to lodge papers in the High Court by 27 September the Sub-Committee had delegated authority to determine the above item as an urgent matter. Although details of the discussion would be contained in the exempt minutes, the Sub-Committee were of the view that, as the decision made by the Sub-Committee did not disclose exempt information as defined in the Local Government Act, the full resolution should be included in the Part A minutes of the meeting .

The Director of Development Planning introduced a joint report of the Head of Planning and the Head of Law setting out proposals to commence legal proceedings to appeal the decision of a planning inspector, dated 16 August 2011, made in respect of land at Brosterfield Caravan Site. The report set out the planning and legal background to the case, which related to a planning approval in 1998 for the change of use of agricultural land to a caravan site. In 2008 Tingdene Parks Limited, who had recently acquired the site, submitted an application for a certificate of lawfulness for the proposed use of the site for the “unrestricted all year round occupation of 20 caravans falling within the statutory definition (i.e. to include mobile “park” homes) of static caravans. The application for a certificate was refused. Following a process of appeal, through an inquiry, a High Court challenge, and the recent inquiry, the inspector in his decision on 16 August allowed the appeal and issued a lawful development certificate.

The report provided legal guidance on the likelihood of a successful challenge to the inspector’s decision and the Sub-Committee discussed alternative courses of action. The Sub-Committee were advised of the likely costs of an unsuccessful appeal. In

considering the risks around pursuing a legal challenge the Sub-Committee were of the view that other options, such as purchase or revoking or modifying the permission should be explored at the same time with a view to bringing a report to a future Authority meeting. In the meantime the Parish Council and the Local Community should be kept informed of progress.

Members received clarification on the nature of the previous challenge, how it had been dealt with by the High Court and how the proposed challenge differed. It was noted that the challenge on this occasion would be on the ground that the inspector made an error of law when interpreting the planning permission.

The Head of Planning provided the Sub-Committee with an update on the outcome of discussions at a recent meeting of the Foolow Parish Council which had considered the issue and had been attended by approximately 45 members of the public.

RESOLVED:

1. **To authorise the commencement of legal proceedings in the High Court to appeal against the decision of the planning inspector dated 16 August 2011 made in respect of land at Brosterfield Caravan Site, Foolow.**
2. **As a matter of urgency to ask officers to simultaneously consider all options for solutions available to the Authority with a view to bringing a report to a full Authority meeting and in the meantime keep the Chair and Deputy Chair of the Authority and the Chairs and Vice-Chairs of the Planning and Audit, Resources and Performance Committees informed of progress.**
3. **To ask the Director of Development Planning, in consultation with the Deputy Chair of the Authority and the Chair of Planning Committee to prepare a statement to communicate to Foolow Parish Council, neighbouring Parish Councils and the local community the decision of the Sub-Committee.**
4. **To include a record of these decisions in the Part A minutes of this meeting.**

The meeting ended at 12pm.