

DRAFT MINUTES PENDING CONFIRMATION AT THE NEXT MEETING

BATH AND NORTH EAST SOMERSET

MINUTES OF SPECIAL DEVELOPMENT CONTROL COMMITTEE

Friday, 30th March, 2012

Present:- Councillor Gerry Curran in the Chair
Councillors Neil Butters, Liz Hardman, Eleanor Jackson, Les Kew, David Martin,
Douglas Nicol, Bryan Organ, Martin Veal, David Veale, Brian Webber and Dine Romero (In
place of Lisa Brett)

143 EMERGENCY EVACUATION PROCEDURE

The Senior Democratic Services Officer read out the procedure

144 ELECTION OF VICE CHAIR (IF DESIRED)

A Vice Chair was not required

145 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was received from Councillor Lisa Brett whose substitute
was Councillor Dine Romero

146 DECLARATIONS OF INTEREST

There were no declarations of interest

147 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There were no items of Urgent Business

148 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

The Senior Democratic Services Officer informed the meeting that there were
various members of the public etc wishing to make statements on land at the former
Fullers Earthworks which was the subject matter of this Special meeting and that
they would be able to do so when reaching that item on the Agenda

149 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

There were no items from Councillors

150 LAND AT FORMER FULLERS EARTHWORKS, FOSSEWAY, COMBE HAY, BATH - UPDATE REPORT

The Chair of the Committee introduced the matter and referred to the special meeting of this Committee held on Wednesday 5th January 2012 where Members considered a joint report of the Divisional Director of Planning and Transport Development and the Planning and Environmental Law Manager. He advised the Committee that this report arose from the resolution of its January meeting and its purpose was to update Members on the progress of negotiations to bring forward a Residual Waste Facility (RWF) on land at the former Fullers Earthworks and to address the further points of the Committee's Resolution as set out in this report. The report recommended (1) that the Committee note that material progress had been made in relation to its resolution of 5th January 2012 and that Officers were making progress in negotiations with the site owner's Agent with a view to bringing forward a RWF on this site; and (2) in these circumstances, if the Members agreed with the Officer Recommendation, that the Committee resolve (a) that Officers continue to negotiate with the site owner's Agent to secure the delivery of a RWF on the land; and (b) that, in light of progress on the negotiations, it was not currently considered to be expedient to take enforcement action against the breaches of planning control currently identified at the site as set out in the previous report.

Mr Harwood, the Council's Planning Consultant, reported on the matter by means of a power point presentation and took the Committee through aerial photographs taken over recent years and some taken at the Site Visit attended by Members on 19th March this year. He also referred to the Update Report (attached as *Appendix 1*) advising Committee Members of the introduction of the National Planning Policy Framework (NPPF), reported on further representations received and made reference to a further letter that had been received from Harrison Grant, Solicitors acting on behalf of Protect Bath and Victims of Fullers Earth, which had been addressed to the Chair of the Committee and which it was understood had been sent direct to all the Members of the Committee.

Mr Herbert, the Council's Planning Consultant, updated the Committee reporting, by means of a power point presentation, on the pre-application proposals that had been received. He advised that these would go through the development control process commencing with a Development Team meeting on 17th April, and were accompanied by a request for a Scoping Opinion in order that the Environmental Impact Assessment could be completed. The applicant had indicated that, following the pre-application process, an outline planning application would be submitted in November 2012.

The public speakers made their statements on the matter (the Speakers List is attached as *Appendix 2*) and then the Development Manager commented on some of the issues raised in these statements. On hearing the reports, some Members posed questions to which appropriate Officers responded.

The Chair opened the matter up for debate. Councillor David Veale, as Ward Member for Bathavon West, in which the site is situated, spoke first. He expressed concern regarding the uncertainty felt by residents on apparent inaction by the Council over the coming months and the establishment of the legality of uses of the site. Councillor Martin Veal commented on the proposed RWF and raised concern over the possible date of immunity from enforcement action. He expressed concern

over the Council's time and resources that this matter was taking but appreciated that Officers had been working positively to address the alleged breaches of planning control. There was still some doubt regarding the timescale of the pre-application process and he therefore felt that the Officers' position needed to be strengthened. He therefore moved that an enforcement action plan be proposed by Officers against apparent breaches of planning control which could be considered by the Committee at its May meeting but on the basis that such action could be suspended or delayed if matters could be resolved. This was seconded by Councillor Neil Butters.

The Planning and Environmental Law Manager sought clarity on the motion and after such clarification advised that it would be necessary to consider the expediency of whether or not to take enforcement action and that such an issue could not be predetermined. It would have to be a matter for the Committee at its May meeting to consider this. Members agreed although some Members felt that the current negotiations concerning the RWF shouldn't delay proceedings and progress should be made regarding alleged breaches of planning control. The Development Manager advised that the matter could be returned to the Committee in May at either the ordinary or a special meeting at which various issues could be addressed including policy issues, the expediency of whether or not to take enforcement action against the alleged existing breaches of planning control, an update on progress on negotiations, the immunity issue, the pre-application process and any additional evidence provided. The Chair reminded the Members of the High Court Judge's previous ruling against the Council and therefore it would not be wise to risk being in that situation again. The Planning and Environmental Law Manager advised that the negotiations and the allocation of land in the Joint Waste Core Strategy (JWCS) were material considerations which had to be taken into account. There were other ways open to the Council to reconcile matters such as an application being acceptable to the Council as local planning authority but it was appreciated that Members did have concerns regarding the question of immunity.

In the light of discussion, Councillor Martin Veal amended his original motion by moving the Recommendation in the Report but adding "today" after the words "... not considered expedient to take enforcement action ..." in Recommendation 8.2(b); adding that an update report be submitted to the May Committee to ensure that no immunity occurs, and that the expediency of whether or not to take enforcement action be considered in the light of the update report. The motion was seconded by Councillor Neil Butters.

Members briefly debated the motion. The Development Manager stated that the expediency issue would need careful consideration at the meeting in May. The Chair summed up the discussion and it was accordingly:

RESOLVED

- (1) To note that material progress had been made in relation to the Committee's resolution of 5th January 2012 and that Officers were making progress in negotiations with the site owner's Agent with a view to bringing forward a Residual Waste Facility on this site;
- (2) That Officers continue to work with the site owner's Agent to secure the delivery of a Residual Waste Facility on the land;

- (3) That, in the light of progress on negotiations, it was not considered expedient to take enforcement action today against the breaches of planning control currently identified at the site as set out in the previous report to the Committee;
- (4) That an update report be submitted to the Committee in May to ensure that no immunity from enforcement action occurs in respect of the alleged breaches of planning control; and
- (5) That enforcement action be considered and appropriate weight be given to the issue of expediency in the light of the update report

(Note: Voting: 11 in favour and 1 against)

The meeting ended at 3.40pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services