

Special Meeting of the Select Committee on Environment – 15th May 2007

Report of the Acting Lead Officer

Call-in of Decision re Visibility Splay at Land at Bromsgrove Street, Halesowen

Purpose of Report

1. To consider a decision proposed by the Cabinet Member for Personnel, Law and Property, as described below, which has been called in at the request of the Chairman of the Select Committee on Environment.

Background

2. A decision proposed by the Cabinet Member for Personnel, Law and Property to approve the application for a restrictive covenant on the land at Bromsgrove Street, Halesowen on terms and conditions to be negotiated and agreed by the Director of Law and Property, has been called in by the Chairman of the Select Committee on Environment in accordance with Select Committee Procedure Rule 15(c). A copy of the Decision Sheet, numbered LP/11/2007, is attached.
3. Select Committee Procedure Rule 15(d) provides that, if, having considered the decision, the Select Committee are still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to the full Council. If referred to the decision maker, they shall then reconsider within a further five working days, amending the decision or not, before adopting a final decision.
4. In March 2006 the Directorate of Law and Property received an application from a developer either to purchase Council owned land at Bromsgrove Street, Halesowen to provide a visibility splay or to obtain the Council's permission to do so on Council owned land.
5. The developer had received planning permission for the adjoining land back in 2001 for a new day nursery and one of the conditions of his planning permission was that he must provide a visibility splay on the Council-owned land.
6. The attached plan (Appendix 1) shows the site of the proposed day nursery and the triangular area of Council-owned land for the proposed visibility splay.
7. In accordance with normal practice the application was circulated to Council Directorates for comment. There were no objections to the proposal as long as a range of key conditions were met.

8. The application was also referred to the Halesowen Area Committee who considered it at meetings held on the 12th September 2006, the 22nd November 2006, the 24th January 2007 and the 14th March 2007. The reports to each of these meetings and the relevant minutes are attached at Appendix 2.
9. The final recommendation of the Area Committee at its meeting on the 14th March 2007 was that the application be refused though no reason for the recommendation is recorded in the minutes.
10. The application was then presented to the Cabinet Member for Personnel, Law and Property as the land in question is held by the Directorate of Law and Property. As is usual in decisions of this type the Decision Sheet provides a brief history of the application, summarises the views received from directorates and sets out the recommendation of the Area Committee.
11. After due consideration the decision of the Cabinet Member, in consultation with the Director of Law and Property, was to approve the application by allowing a restrictive covenant for the land on terms and conditions to be negotiated and agreed by the Directorate of Law and Property. In accordance with the views of the Director of the Urban Environment one of the key terms and conditions would be a requirement that the applicant comply with the planning conditions included in the planning permission for the day nursery and, in particular, the condition regarding the provision of the visibility splay.
12. In accordance with the constitution then a series of questions are outlined in Appendix 3.
13. The Decision Sheet was finalised on the 17th April 2007 and on the 20th April 2007 it was called-in by the Chairman of this committee as a result of various representations that she had received with regard to the potential loss of trees protected by a Tree Preservation Order and the extent of earth moving that would be required for the provision of the visibility splay. The representations are set out in an e-mail dated the 20th April 2007 sent to the Leader of the Council by the Halesowen Abbey Trust and the e-mail is attached at Appendix 4.
14. The effect of a call-in is to delay the implementation of a decision until it has been scrutinised by the Select Committee who may then make a recommendation to the decision maker who will take this into account before a final decision is reached.
15. A response by the Director of Law and Property is currently being prepared and will be sent to members separately.
16. The Cabinet Member for Personnel, Law and Property and the Director of Law and Property will be attending the Special Meeting of the Select Committee. In addition, the Chairman of the Halesowen Area Committee, the applicant, Mr R McNaughton and Mr Freer of the Halesowen Abbey Trust have been invited to attend.

Finance

17. The financial implications in relation to the proposed decision are as contained in Section 3 of Decision Sheet LP/11/2007

Law

18. The provisions regarding call-in are contained in Section 15 of the Council's Select Committee Procedure Rules. These are contained in the Council's Constitution, which was adopted by the Council on 29 April, 2002. The legislative provisions regarding the constitution of the Council are contained in the Local Government Act, 2000.
19. The legal implications regarding the proposed decision are as indicated in Section 4 of Decision Sheet LP/11/2007.

Equality Impact

20. The proposals in this report comply with the policies of the Council regarding equality and diversity.

Recommendation

21. It is recommended that the Select Committee scrutinise the decision with regard to the land at Bromsgrove Street, Halesowen and submit a recommendation to the Cabinet Member for Personnel, Law and Property. This is in accordance with the call in arrangements prescribed in the Council's constitution.



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List of Background Papers

1. None