



PLANNING COMMITTEE

WEDNESDAY 24 JUNE 2009

SUPPLEMENTAL COMMITTEE AGENDA

AGENDA - PART I

Note: In accordance with the Local Government (Access to Information) Act 1985, the following agenda item has been admitted late to the agenda by virtue of the special circumstances and urgency detailed below:-

| <u>Agenda item</u> | <u>Special Circumstances/Grounds for Urgency</u> |
|-----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 18. INFORMATION REPORT – Urgent Non-Executive Decision: Wood Farm, Wood Lane, Stanmore | This Urgent Non-Executive Decision was not agreed until after the agenda was printed and circulated. Members are requested to consider this item, as a matter of urgency to enable the decision to be reported to the Committee at the earliest possible opportunity. |
| 19. INFORMATION REPORT – Urgent Non-Executive Decision: Lowlands Road Recreation Ground | This Urgent Non-Executive Decision was not agreed until after the agenda was printed and circulated. Members are requested to consider this item, as a matter of urgency to enable the decision to be reported to the Committee at the earliest possible opportunity. |

- Enc. 18. **INFORMATION REPORT - Urgent Non-Executive Decision: Wood Farm, Wood Lane, Stanmore:** (Pages 1 - 4)
Report of the Director of Legal and Governance Services.

Enc. 19. **INFORMATION REPORT - Urgent Non-Executive Decision: Lowlands Road Recreation Ground:** (Pages 5 - 10)
Report of the Director of Legal and Governance Services.

AGENDA - PART II - NIL



| | |
|----------------------|---------------------------------------------------------------------------------------|
| Committee: | Planning Committee |
| Date: | 24 June 2009 |
| Subject: | INFORMATION REPORT – Urgent Non-Executive Decision: Wood Farm, Wood Lane, Stanmore |
| Responsible Officer: | Hugh Peart - Director of Legal and Governance Services |
| Portfolio Holder: | Councillor Marilyn Ashton - Portfolio Holder for Planning, Development and Enterprise |
| Exempt: | No |
| Enclosures: | None. |

Section 1 – Summary

The Urgent Non-Executive Decision procedure, set out in Part 3 of the Council's Constitution, requires all decisions taken under the procedure to be reported to the appropriate Committee. The Committee is requested to note the action taken under the Urgent Non-Executive Decision procedure, as outlined in Section 2 below.

FOR INFORMATION

Section 2 – Report

CIRCUMSTANCES

- 2.1 On October 2008, the Strategic Planning Committee (“the Committee”) considered an application from C P Holdings Limited for the demolition of buildings, construction of 10 dwellings, refurbishment of house and dairy and associated entrances, roadways and landscape works and change of use of farm to country park / open space at Wood Farm, Wood Lane, Stanmore (ref: P/2203/06).
- 2.2 The Committee resolved to grant planning permission, subject to the prior completion of a Section 106 agreement, dealing with seven separate Heads of Terms within one year from the date of decision and subject to conditions.
- 2.3 The second Head of Term provided that:

“The Council shall be indemnified against any claims against it arising from the provisions of the agreement”.

During negotiations of the Agreement, it was considered that the Head of Term as originally proposed was too wide and the applicant could be liable for more than they intended. It was agreed that the applicant would only be liable for claims made by trespassers for injury during works to the park and not any claim as this was considered to be too wide. The applicant was proposing a variation to this Head of Term to the effect that any third party engaged by the applicant to carry out any of the works on the extension to the Country Park, shall have in place, prior to commencing such works, public liability insurance with a minimum cover of £5 million. The applicant would also covenant to use reasonable endeavours to procure that the Council have the benefit of any collateral warranties provided by such third parties.

It was considered that the proposed variation was acceptable given the importance of the scheme to the Council and provided satisfactory indemnity to the Council from the risk of trespassers on the land.

- 2.4 Sub paragraph b of the seventh Head of Term provided for the:

“Provision of pathways and bridleways as shown on Plan Ref No 1291/200 and 1291/61 within the area as defined as the extension to the Stanmore Country Park”.

It had now come to light that there were no bridleways on the plans referred to in the Head of Term or in any of the drawings submitted to the Council as part of the planning application. Officers were satisfied that it was not it was intention of the applicant to provide bridleways as part of

the scheme. Accordingly the requirement did not serve a genuine planning purpose and deletion was considered acceptable.

ACTION SOUGHT

1. To vary the second section 106 Head of Term referred to in the officer report to the Strategic Planning Committee of 2 October 2008 which required the applicant to indemnify the Council against claims arising from the provisions of the Agreement and replace with the following:

“To procure that any party engaged to carry out any of the works relating to the Stanmore Country Park extension shall have in place, prior to commencement of the works, public liability insurance with a minimum cover of five million pounds (£5,000,000) and to use all reasonable endeavours to procure that the Council’s interest is noted on the insurance policy”.

2. Delete the reference to ‘bridleways’ in sub paragraph b of the seventh Head of Term in the officer report to the Strategic Planning Committee of 2 October 2008.

Date of Request for Action: 16 June 2009

Reason for Urgency: The public inquiry for the called in application commenced on 23 June 2009. The Section 106 agreement needed to be completed before the inquiry opened.

As the next Planning Committee was not until 24 June 2009, nominated Members were requested to agree the action proposed in order to complete the Agreement within the timescales for the inquiry.

Decision: Officer Recommendation agreed.

Section 3 – Further Information

None.

Section 4 – Financial Implications

Name: Sheela Thakrar



On behalf of the Chief
Financial Officer

Date: 15 June 2009

Section 5 - Contact Details and Background Papers

Contact: Vishal Seegoolam, Senior Democratic Services Officer, 020 8424 1883

Background Papers: Individual Urgent Non-Executive Decision Form, as reported.



| | |
|----------------------|---------------------------------------------------------------------------------------|
| Committee: | Planning Committee |
| Date: | 24 June 2009 |
| Subject: | INFORMATION REPORT – Urgent Non-Executive Decision: Lowlands Road Recreation Ground |
| Responsible Officer: | Hugh Peart - Director of Legal and Governance Services |
| Portfolio Holder: | Councillor Marilyn Ashton - Portfolio Holder for Planning, Development and Enterprise |
| Exempt: | No |
| Enclosures: | None. |

Section 1 – Summary

The Urgent Non-Executive Decision procedure, set out in Part 3 of the Council's Constitution, requires all decisions taken under the procedure to be reported to the appropriate Committee. The Committee is requested to note the action taken under the Urgent Non-Executive Decision procedure, as outlined in Section 2 below.

FOR INFORMATION

Section 2 – Report

CIRCUMSTANCES

- 2.1 On 14 May 2008 and 14 January 2009, the Strategic Planning Committee considered an application from Harrow College for its redevelopment in an 8 to 10 storey building on land at Lowlands Road Recreation Ground (ref: P/0707/08) including the replacement and reconfiguration of 0.97 hectares of Metropolitan Open Land and the creation of a new access at Station Approach.
- 2.2 On 14 January 2009, the Committee resolved to grant planning permission, subject to the prior completion of a Section 106 agreement, dealing with fourteen separate matters, within one year from the date of that decision and subject to conditions.
- 2.3 Proposed condition 7 in the Strategic Planning Committee resolution of 14 January 2009, provided:

The access carriageway that forms the current principle (sic) access to the College shall be constructed to base course in accordance with the specification and levels agreed before works commence on the building(s) hereby permitted, and the carriageways and footways completed before any building is occupied in accordance with details to be submitted to, and approved by, the local planning authority. The development shall thereafter be retained.

REASON: To ensure that the traffic generated by the building operations will not interfere with the free flow of traffic on the public highway and that the road and footway shall be of an adequate specification for the anticipated traffic.

Condition 7 was both inaccurate and superfluous. The “current principal access to the College” was unrelated to the proposed College development and would, in fact, be closed on completion of the replacement College building, and then brought within the extended Metropolitan Open Land. Provision for this would be secured by condition. In terms of access to the new College, this would be provided from Station Approach and land currently used by London Underground as a surface car park. No new access carriageway would be formed.

Improvements to Station Approach were being addressed separately in the legal agreement and would require completion of those works prior to the occupation of the new college. The proposed condition did not serve a genuine planning purpose and deletion was considered acceptable.

- 2.4 Proposed condition 19 in the Strategic Planning Committee resolution of 14th January 2009 provided:

Development shall not proceed beyond ground level damp proof course until details of a scheme for generating 20% of the predicted energy requirement of the development from on-site renewable resources have been submitted to and approved in writing by the local planning authority.

REASON: To ensure the development satisfactory level of renewable energy.

In addition, the agreed heads of terms for the legal agreement included a provision relating to renewable energy and required "The College to covenant that at least 20% of the energy used in the development will be generated using renewable energy resources and low carbon technologies".

The head of term in respect of renewable energy, and condition 19 of the list of conditions agreed at the 10th January 2009 Strategic Planning Committee, both dealt with target levels for energy generation to be provided from on-site renewable sources. The College's energy strategy, however, which was set out in the body of the January Committee report, had a different objective, namely to ensure a reduction in carbon dioxide emissions, to be achieved through the use of on site renewable energy sources and passive and energy efficient design measures. This strategy followed a set of principles agreed with officers, and with the GLA.

The S106 agreement had been drafted on this basis, providing for a reduction in CO₂ emissions of between 21% and 33% through a combination of passive design, energy efficiency measures, connection to a Combined Heat and Power system and ground source heat pumps. The level actually achieved would depend on whether the College development was actually linked to the energy system in the proposed Dandara scheme, or to other potential development on the Lowlands Road site, should they go ahead. The agreement as currently drafted, however, was inconsistent with the agreed head of term and with Condition 19 which, in essence, sought to meet an entirely different target.

It is clear that the aim of the London Plan was to ensure that development met target reductions for CO₂ emissions through the use of passive and energy efficient design measures and on site renewable energy sources as opposed to achieving a specified level of on site renewable energy generation. The College's energy strategy had been prepared on this basis, and planning policy requirements would be secured through the S106 agreement. There was no policy basis for setting a 20% target for energy generation from on site renewable sources as set out in Condition 19 and in the head of term in the form agreed by Committee in January 2009.

The deletion of Condition 19 and the variation to the renewable energy had of term as proposed was therefore recommended.

2.5 The head of term relating to Lowlands Recreation Ground stated:

The College to lay out the remodelled Lowlands Recreation Ground to a specification to be agreed with the Council, and to contribute £20,000 towards future maintenance for period of 10 years.

The head of term was ambiguous and had been interpreted differently by the College and Council officers. The College had understood that it required a total contribution of £20,000; officers that it required a contribution of £20,000 per year for 10 years. The College considered that to require payment of £200,000 was excessive and had requested that the Council reconsider.

Maintaining the remodelled recreation ground to a high standard was an important objective, given its Metropolitan Open Land classification and value in framing the proposed College development. It was recognised however that the wording of the head of term was ambiguous and may not have been accepted by the College prior to the application being determined by Committee had they appreciated the Council's interpretation, and the extent of their potential maintenance liability. Officers had reviewed the maintenance requirements and considered that a single commuted payment of £100,000 would provide an appropriate and proportionate contribution to future maintenance costs, well in excess of that currently available for the management for Lowlands Recreation Ground.

As such, the suggested variation was considered acceptable.

ACTION SOUGHT

To amend the decision of the Strategic Planning Committee dated 14 January 2009, in respect of the proposed Harrow College development, as follows

1. Delete conditions 7 and 19.
2. Delete Head of Term in relating to the Lowlands Recreation Ground and replace it with the following:

Lowland Recreation Ground: The College to lay out the remodelled Lowlands Recreation Ground to the specification agreed with the Council and to make a single commuted payment of £100,000 towards future maintenance, to be paid one month after the completion of the remodelled open space

3. Delete Head of Term in respect of Renewable Energy and replace it with the following:

Mitigating Climate Change: A detailed scheme to achieve a 20% reduction in carbon dioxide emissions as measured against the 2006 Part L Building

Regulations baseline target emission rate in Regulated Carbon Dioxide emissions or such other criteria as shall have been previously agreed by the Local Planning Authority

Date of Request for Action: 15 June 2009

Reason for Urgency: The Learning and Skills Council had indicated that capital funding may be made available for those colleges ready to commence development, and had invited Colleges to submit appropriate evidence before the end of May, to enable a funding decision to be taken in early June. Harrow College would be able to start building if, amongst other things, they could complete the S106 agreement and secure planning permission. Negotiations to complete agreement had been finalised and all parties – the College, the Council, and London Underground – were now in a position to sign.

The next available meeting of the Planning Committee was not until 24 June 2009. As such, it would not be possible to vary the conditions and legal agreement head of term, as proposed above, within the timescales imposed by the Learning and Skills Council.

Decision: Officer Recommendation agreed.

Section 3 – Further Information

None.

Section 4 – Financial Implications

The renegotiated proposal gave the Council a single commuted payment of £100,000 as contribution towards future maintenance costs management for Lowlands Recreation Ground which was covered in the body of the report.

| | | |
|----------------------|-------------------------------------|---------------------------------------------|
| Name: Sheela Thakrar | <input checked="" type="checkbox"/> | On behalf of the Chief Financial Officer |
| Date: 15 June 2009 | | |

Section 5 - Contact Details and Background Papers

Contact: Vishal Seegoolam, Senior Democratic Services Officer, 020 8424 1883

Background Papers: Individual Urgent Non-Executive Decision Form, as reported.