

**PLANNING COMMITTEE MEETING – 4<sup>TH</sup> MARCH 2015**

**Amendment/De-brief Sheet**

**MINOR APPLICATIONS**

**OFFICER NOTE**

In the light of a decision involving Oxfordshire County Council at the High Court the Council is no longer able to seek contributions towards the costs of monitoring planning obligations.

I have set out a summary of the decision below.

The effect of this judgement is that we need to remove the clauses relating to monitoring costs from draft s106 Agreements and should be referring to them in relation to reasons for refusal on grounds related to the Planning Obligations Strategy.

The following item on this agenda is affected by this change:

Agenda Item 14      Paragraphs 8.29 and 8.30 deleted

Where necessary amendments have been made to recommendations as set out on this Amendment Sheet.

**Summary of High Court Decision**

In *Oxfordshire County Council v Secretary of State for Communities and Local Government and others* [2015] EWHC 186 (Admin) the High Court has considered whether monitoring costs included as a planning obligation in a section 106 agreement were "necessary to make the development acceptable.

The High Court has held that the administrative and monitoring costs incurred by a local planning authority (LPA) in ensuring that planning obligations were observed were not capable of being a planning obligation in their own right.

It is part of the normal, everyday functions of an LPA to administer, monitor and enforce planning obligations in section 106 agreements. The payment of a monitoring and administration fee listed as a planning obligation in a section 106 agreement could not be recovered. The planning obligation failed the test in regulation 122 of the Community Infrastructure Levy Regulations 2010 (SI 2010/948) as it was not "necessary to make the development acceptable in planning terms". (*Oxfordshire County Council v Secretary of State for Communities and Local Government and others* [2015] EWHC 186 (Admin).)

**CIRCULATION:**      First

ITEM:                    APPLICATION REF:        **14/2021/FUL**

Location:                51A Hartington Grove

Target Date:            11.02.2015

To Note:

Amendments To Text:

Pre-Committee Amendments to Recommendation:

**DECISION:**

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CIRCULATION:        First

ITEM:                    APPLICATION REF:        **14/1653/FUL**

Location:                Land To Rear Of 551-555 Newmarket Road

Target Date:            16.12.2014

To Note:

- 1.0     Since completion of the committee report, the applicants have submitted additional highway information. The information is attached to this amendment sheet. The highway authority has made no further comment, having already indicated that it did not have concerns about the development proposed.
  
- 2.0     Since completion of the Committee report, an additional representation from the occupiers of 547 and 549 Newmarket Road, and 30A Ditton Walk. This representation has been sent to Committee members. The issues raised in the representation can be summarised as follows.
  - Proposal would be contrary to policy 3/10 of the Cambridge Local Plan 2006, because of loss of privacy, overshadowing, visual domination, and harm to the character of the area.
  - Submitted site section is inaccurate
  - Submitted shadow plans are inaccurate (wrongly represent building heights, plans rotated by 15%), times shown highly selective)
  - Officer's report is inaccurate and subjective
  
- 3.0     Assessment of the points raised in this additional representation.
  
- 3.1     **Policy 3/10.** In my view, it is arguable whether this application can be described as involving the subdivision of an existing plot, as the land does not

form part of a rear garden, and has not done so for some time. However, even if it is considered to fall within the scope of policy 3/10, all the criteria listed in that policy have been addressed in the report.

- 3.2 **Loss of privacy.** Loss of privacy does not depend on the proximity of new development, it depends on the new opportunities afforded for overlooking. In this case, the proposal has been configured to avoid opportunities for overlooking of nearby properties, as detailed in paragraphs 8.12 to 8.15 and in proposed conditions 16 and 17.
- 3.3 **Overshadowing.** I cannot confirm whether the shadow diagrams submitted are, as asserted by the respondent, rotated through 15° from their true bearing. However, shadows cast at midday 21<sup>st</sup> December on the diagrams appear to lie due north, in line with the site plan, which suggests that the diagrams are correctly aligned. I will seek confirmation from the applicants on this issue and report any additional information to Committee. I agree that the majority of the shadow diagrams submitted are of no relevance, because the impact of the development on morning sunlight to Nos. 30 and 30A Ditton Walk is the only significant issue in this respect. However, the few diagrams which are relevant show that any overshadowing impact of the proposal on No.30A would be limited to short periods before 0900, and would be confined to parts of spring and autumn. In my view, this is not sufficient to provide a reason to refuse permission. There does not appear to be any impact on sunlight to any other property.
- 3.4 **Sense of enclosure.** I agree that the proposed buildings are in places close to the site boundaries. I do not consider that the extent, position, or configuration of the gable walls cited by the respondents would create an unacceptable sense of enclosure. This issue is also considered in paragraphs 8.12-8.16 of the Committee report.
- 3.5 **Character of the area.** I have addressed this issue in Paragraphs 1.2, 8.5, 8.8 and 8.10 of the report. I do not accept the view that the proposed development would be detrimental to the character of the area; it is my view that this is an appropriate response to the existing pattern of backland development. The fact that the buildings at 30 and 30A have been in situ for some time does not alter my view on this.
- 3.6 **Site sections.** I have re-measured the drawings, and the height of the proposed houses is shown consistently as 5.4m, on both the site section and the elevational drawings. I am at a loss to understand the respondent's assertion of inconsistency here. I do not have accurate elevational drawings of No.30A Ditton Walk, so I cannot confirm whether it is only 4.4m high. Were this to be correct, the 300mm discrepancy would not alter my judgement on the proposal.
- 3.7 **Distances to rear.** The phrase from Para 1.1 cited by the respondent refer to the extent to which the site can be seen from the opposite side ('beyond the rear boundary of the site'). It does not refer to the distances from 547 or 549

Newmarket Road, or 30A Ditton Walk.

- 3.8 **Height.** I accept that the phrase 'appear close to two-storey in scale' is a subjective judgement. I remain of the view that although the proposed houses may be as much as 1m higher than 30 and 30A Ditton Walk, they are of a comparable scale.
- 3.9 **Backland development.** I have addressed this issue under 3.5 above.
- 3.10 **Similarity of scale.** I have addressed this under 3.8 above.
- 3.11 **Unobtrusiveness.** I accept that it is a subjective judgement to say that the proposed houses would be 'low and unobtrusive', but it is a judgement to which I adhere.
- 3.12 **Proximity to rear garden of 549 Newmarket Road.** The report states that the main area of the first-floor element of Plot 1 would be 8m away from the boundary with No.549. This is correct. A small part of the building – the western gable, would be much closer. This point of the representation refers again to overlooking. The proposed house on Plot would overlook the rear garden of No.549 only obliquely, because the windows which face directly towards it would be obscure glazed. The distance along the oblique line of site from the unobscured window of the bedroom in the western arm of the house on Plot 1 to the rear elevation of No.549 would be 20m.
- 3.13 **Proximity of Plot 2.** This is a parallel to the explanation I have given in Para 3.12 above.
- 3.14 **Proximity of Plot 3.** The small discrepancies in distances here result from the position along the boundary fence at which the measurement is taken. I have taken these measurements directly opposite the centre of No.30A, which seems the most relevant point, and at that point the dimensions I have given are accurate.

Amendments To Text:

Pre-Committee Amendments to Recommendation:

**DECISION:**

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CIRCULATION: First

ITEM: APPLICATION REF: **14/1618/FUL**

Location: 265 Queen Ediths Way

Target Date: 10.12.2014

To Note:

Amendments To Text:

Pre-Committee Amendments to Recommendation:

**DECISION:**

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CIRCULATION: First

ITEM: APPLICATION REF: **14/1252/FUL**

Location: Citylife House, Sturton Street

Target Date: 30.09.2014

To Note:

The proposed hours of operation are those set out in condition 9.

Amendments To Text:

Pre-Committee Amendments to Recommendation:

**DECISION:**

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CIRCULATION: First

ITEM: APPLICATION REF: **14/1450/FUL**

Location: Land To The Rear Of 241 Milton Road

Target Date: 25.11.2014

To Note:

Amendments To Text:

High Court Decision - Paragraphs 8.29 and 8.30 deleted

Pre-Committee Amendments to Recommendation:

**DECISION:**

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CIRCULATION: First

ITEM: APPLICATION REF: **14/1549/FUL**

Location: 15 Swann's Road

Target Date: 29.11.2014

To Note:

Amendments To Text:

The twelfth storage container has been removed from the site. Therefore, eleven storage containers are on site as proposed.

Pre-Committee Amendments to Recommendation:

**DECISION:**

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CIRCULATION: First

ITEM: APPLICATION REF: **14/1510/FUL**

Location: Jesus College, Jesus Lane

Target Date: 12.12.2014

To Note:

Amendments To Text:

Pre-Committee Amendments to Recommendation:

**DECISION:**

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CIRCULATION: First

ITEM: APPLICATION REF: **14/1511/LBC**

Location: Jesus College, Jesus Lane

Target Date: 12.12.2014

To Note:

Amendments To Text:

Pre-Committee Amendments to Recommendation:

**DECISION:**

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CIRCULATION: First

ITEM: APPLICATION REF: EN/0378/14

Location: 45 Elfleda Road, Cambridge,

Target Date: n/a

To Note:

The developer has requested deferral of the application from March Committee until Mid-June due to their absence overseas. E-mail below. Officers have advised that the case has been ongoing since October 2014 and the developer has been advised numerous times that formal action could result if a revised application was not submitted.

2 March 2015

Dear Ms Lamb

I still do not appear to have received a confirmation of receiving my e-mail to you, which I am forwarding under cover of this message.

In view of both the importance of this matter, and of the timescale, please acknowledge safe receipt without delay.

Yours faithfully

S. Baibekova

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**From:**

**To:** [lisa.lamb@cambridge.gov.uk](mailto:lisa.lamb@cambridge.gov.uk)

**Cc:**

**Sent:** Sunday, 1 March 2015, 23:24

**Subject:** 45 Elfleda Road

1 March 2015

Dear Ms Lamb

I write with reference to your letter dated 13 February regarding the meeting on 4 March.

A friend has now interpreted the URL that you give in your letter - because you have chosen to write in a sans-serif typeface (e.g. not this one, or Times New Roman), he has established that it must end in capital 'I' lower-case 'd', not lower-case 'l' followed by lower-case 'd', because this is 'Id', abbreviating 'Identity'.

I might have realized myself what was going on, but going to this URL does not bring up an error-message, but says 'No meetings are available for browsing' :

<http://democracy.cambridge.gov.uk/ieListMeetings.aspx?Committeeld=181>

Consequently, I have gone the entire weekend (it is now past 10.00 p.m.) when I could have been looking at this paperwork, and preparing for the meeting : I have been under the impression that the vague assertion that 'The report should be published one week before the meeting takes place' meant that you had failed to oblige, since you had failed to commit yourself to do so in good time.

The URL contains the word 'democracy', but it is hardly very democratic to write something about my case and not properly facilitate my looking at it (I leave aside those who do not, or will not, use the Internet). I had been willing to make ready for this meeting, despite what I go on to say, but, as it is, I do not know how it can now be reasonable to expect me to do so.

On the day of this meeting, I have to travel to London to catch a pre-booked flight to Canada on 5 March (booked on 22 January) that necessitates leaving Cambridge the previous day. Before then, I am supposed to prepare for, and attend, this meeting at the same time as making all necessary arrangements for being away for nearly two months (my flight back is on 28 April).

As I have said, the flights were already booked, but I had been prepared to do my best. In the circumstances, I feel that I can no longer do so and that it is not in the interests of justice to do other than postpone the meeting at which my case is considered until after I have made my trip, and returned, safely :

Moreover, my friend, an ex-solicitor (who has looked at this with me and helped me prepare this e-mail), advises me that, to attend a hearing of this kind (as I may need to appeal), I need to seek representation at it from someone who practises planning law (or, at least, receive some advice beforehand). However, I clearly do

not have the time now to do so.

Obviously, with appropriate assistance from my friend, I can hope to be in contact with a suitable representative in my absence, and he or she can make a site-visit and carry out an inspection without my needing to be in the UK.

That said, I also may need to meet the person, because not everything can (even if he or she has Skype) necessarily be done using it, e.g. sharing documents that do not take the form of e-mail or the like.

Accordingly, I ask that the relevant meeting to which consideration of my case is adjourned should take place no earlier than six weeks from the intended date of my return to the UK.

I ask that my case be removed from the business for the meeting on 5 March, because I simply cannot be expected to attend, and I will object most strongly, given the above, if this is not respected.

Please acknowledge safe receipt of this e-mail.

Yours faithfully

S. Baibekova

Amendments To Text:

Pre-Committee Amendments to Recommendation:

**DECISION:**