

Minutes

PETITION HEARING - CABINET MEMBER FOR FINANCE, PROPERTY AND BUSINESS SERVICES

3 July 2013

Meeting held at Committee Room 5 - Civic Centre,
High Street, Uxbridge UB8 1UW



	<p>Committee Members Present: Councillor Jonathan Bianco</p> <p>LBH Officers Present: James Rodger, Nicole Cameron and Nikki O'Halloran</p>	
1.	<p>TO CONFIRM THAT THE BUSINESS OF THE MEETING WILL TAKE PLACE IN PUBLIC. (Agenda Item 1)</p> <p>RESOLVED: That all items be considered in public.</p>	Action by
2.	<p>PINN MEADOWS - PETITION REQUESTING THAT THE COUNCIL VOLUNTARILY REGISTER PART OF ITS LEGAL INTEREST IN THE SITE AS A VILLAGE GREEN (Agenda Item 3)</p> <p>It was noted that Councillor Bruce Baker had emailed to apologise for being unable to attend the meeting. In his email, Councillor Baker advised that, during his eleven years as a Ward Councillor for Eastcote and East Ruislip, there had been a number of planning applications that had been submitted to build inappropriate structures on King's College Playing Fields. He acknowledged that local residents felt strongly that this local facility should be protected from such developments and that granting village green status would give it that protection. Councillor Baker advised that the Council aimed to protect and support its residents and he fully supported the thousands of local residents that had signed the petition.</p> <p><i>One of the petition organisers had emailed the Council to advise that the petitioners would not be attending the Petition Hearing and had raised a number of issues in relation to the report. Mr James Rodger, the Council's Head of Planning, Sports and Green Spaces, and Ms Nicole Cameron, the Council's Planning Lawyer, addressed each of the points raised as follows:</i></p> <ul style="list-style-type: none">• <i>"Council's decision "to change their petition rules retrospectively to prevent our petition being presented to a full council meeting." – Officers believed that the petitioners had faced no prejudice as it was likely the matter would have been transferred from full Council to Councillor Jonathan Bianco as the Cabinet Member with the relevant portfolio and the required knowledge and experience to deal with the issue;</i>• <i>"i) The report lacks balance as it concentrates solely on managerial reasons why officers advised the Council against voluntary registration of Pinn Meadows as a Village Green. It contains no</i>	Action by

information on the background or reasons for our request. Nor does it state the significant benefits which would accrue to the local community from Village Green designation. This appears to be contrary to the Wednesbury principles.” – Officers advised that all Cabinet reports (including those considered at Petition Hearings) must indicate the issue to be raised, the Council’s powers and responsibilities for the issue raised and the options for action. They noted that this report reflected these requirements in full. Furthermore, the petition organiser (or their representative) was able to address the Petition Hearing, which enabled them the opportunity to argue their case or promote a particular issue – thus adhering to the Wednesbury Principles;

- *“(ii) The report states on page 2 that there are no proposals within the Council’s Local Plan to “depart from the planning policies which currently protect Pinn Meadows”. This is manifestly incorrect as it ignores the proposal which has recently gone out to consultation to change the designation of this land from Green Chain to Metropolitan Open Land, to which we have submitted an objection.”* – Officers stated that, although the Council had a Green Chain Policy and other Borough strategies and policies, these were local policies which were not reflected or recognised in the Mayor’s London Plan. It was believed that designation as Metropolitan Open Land would mean that the land would be covered by the London Plan and that this would therefore afford the area more protection. It was anticipated that a report would be submitted for consideration at Cabinet at its meeting on 26 September 2013 seeking approval to designate a number of locations across the Borough as Metropolitan Open Land;
- *“(iii) The report on page 2 states “therefore, there is no current threat to Pinn Meadows in either the short or long term”. This is also clearly wrong as it completely ignores the repeated submissions of planning applications for development of a second fenced off and floodlit all-weather hockey pitch.”* – It was acknowledged that there had been three planning applications submitted for an all-weather hockey pitch on the Kings College Playing Fields and that these had all been withdrawn which meant that there was no right of appeal. Officers advised that there could hypothetically be further applications submitted but that none had yet been received by the Council;
- *“(iv) The report on page 2 states “If the Council was to voluntarily register the land as a village green, then this could set an undesirable precedent or expectation that the Council should voluntarily register all of its public open spaces as a village green.” Surely, the Council should judge each case on its merits. For example, Pinn Meadows is situated on a floodplain, so it is totally unclear what use the council may wish to put the land to in the future which would be restricted by Village Green as only water compatible development is permitted under EA guidelines. However, any merits or considerations for registration of Pinn Meadows as a village green are entirely absent from the Council officers’ report.”* – Officers advised that registering the land as a village green would result in the Council needing approval from the Secretary of State for any work carried out on the site, e.g., digging drainage ditches to alleviate flooding on the pitches or resurfacing

the car park. Officers noted that the Council had an obligation to complete a range of work (including drainage work) as set out in the Flood and Water Management Act 2010. Concern was expressed that having to seek approval from the Secretary of State could result in additional costs, time delays and additional work for the Council;

- “v) *The report on page 3 states "to allow the cabinet member an opportunity to meet with petitioners to discuss their concerns in detail". This statement is grossly misleading as it implies that the petitioners would be allowed to discuss the matter with the cabinet member. We do not believe the petition process permits this but only a 5 minute statement by the lead petitioner to which the cabinet member may then respond as he chooses. No opportunity for discussion is envisaged in the Council's petition procedures.*” – Officers advised that the Council’s Constitution allowed the petitioner organiser (or their representative) to address the Petition Hearing for up to five minutes and may answer questions from the Cabinet Member for up to three minutes. It was noted that the Cabinet Member had the discretion to extend these time limits if reasonable to do so;
- “vi) *The report on page 3 under legal comments states "Pinn Meadows is owned in freehold by the Council". However neither here nor anywhere else in the report is any mention made of the original purpose of the purchase for open space purposes, the restrictive covenants relating to its use, or use of Pinn Meadows since its purchase for open space purposes, nor that this has been placed under further threat by proposals from the Hockey Club for a second all-weather pitch.*” – Officers advised that the Cabinet Member must base his decision on the current facts, policies and land use as the social, economic and environmental needs of the Borough had changed since the purchase of the freehold. That said, officers noted that the land was still being used for its original purpose. It was thought that the fact that the Council wanted to designate the land as Metropolitan Open Land was an indication of the Council’s intention to protect the land as this would mean that the land would have the same status as Green Belt land – this was a relevant fact that could be taken into account by the Cabinet Member when making his decision. The decision should not take into account any restrictive covenants that might burden the land. In any event, officers advised that refusing to register a village green would not be an act contrary to any covenants regarding use of the land as open space;
- “vii) *The report on page 4 paragraph 5 of the legal comments states "it should be noted that de-registration would therefore be very difficult to achieve. Therefore, if at a later date the Council wished to change the area of land let to the existing or a future tenant, it would find it very difficult to do this." Whilst this appears to be given as a reason for not supporting voluntary registration we would wish to argue that this is exactly the reason why such registration is considered so important to the overwhelming majority of local residents to provide added protection for the retention of this highly valued area of open space against any further development or disposal.*” – Officers stated that registering the land as Metropolitan Open Land would give it the same status as Green Belt land and it

would be recognised within the Mayor's London Plan. This would afford the area additional protection with regard to any planning applications that were submitted for the site without the Council losing its future ability to use and manage the land; and

- *"viii) The report on pages 4 and 5 the planning service comments refer to the existing Green Chain Policy but again make no mention of the proposals recently put out to consultation to re-designate Pinn Meadows as Metropolitan Open Land. The comments state "it is considered that the new policy relating to Green Chain Land, such as Pinn Meadows, is robust and acts to adequately protect this open space from inappropriate development." FoPM considers however, that not only is the statement about policy incorrect as it is subject to current proposals by the Council itself for change but also it is as yet untested. The Hockey Club have stated it is their intention to submit a further (fourth) planning application and even if this is refused by the Council it could still be subject to an appeal which would be decided outside the Council's powers by a planning inspector."* – Officers believed that their responses to previous points covered this issue.

Other comments expressed at the meeting included the following:

- *Those present advised that they drew comfort from the support that the Council was affording the petitioners but expressed concern that the threat was greater than first thought as the Hockey Club had stated that it was determined to build a new pitch on the King's College Playing Fields;*
- *Concern was expressed that, although the current administration supported the petitioners in their objection to a new all-weather hockey pitch being built on this site, there were no guarantees that a subsequent administration would be as supportive; and*
- *Although Metropolitan Open Land status could allow development to support sport whereas village green status would not.*

Councillor Jonathan Bianco listened to the concerns raised by the observers and responded to the points raised. He advised that, with regard to speaking rights at Petition Hearings, it was true that only the petition organiser (or their representative) and Ward Councillors were permitted to speak and that there were time limits. However, Councillor Bianco stressed that all Cabinet Members were flexible with these speaking rights in meetings as they were keen to ensure that they received a rounded picture of the petitioners' concerns.

With regard to the submission of planning applications for works on the King's College Playing Fields, Councillor Bianco advised that the Council did not know: whether or not the Hockey Club would submit another application; whether or not any such application would be approved; whether such an application, if refused, would be appealed; and whether or not any appeal would be allowed by an Inspector. It was noted that Planning Committees could only refuse an application based on planning reasons, not just because the Members (or residents) did not agree with the application. Each application would have to be decided on its merits.

The Cabinet Member advised that he had been involved in this issue

for some time and had had conversations with representatives from the Ruislip Rangers, Eastcote Hockey Club and the Friends of Pinn Meadows. He went on to state that the Council owned the land and, as such, acted as the Hockey Club's landlord. Councillor Bianco advised that, even if an application to build an all-weather pitch was permitted on the site, building work could not commence without the permission of the landlord and he, as the relevant Cabinet Member that would need to make the decision, would not permit the work to be undertaken unless the tenant had gained the support of the local people - it was noted that there would be no right of appeal to his decision in relation to this matter. He also stated that the Council wholeheartedly supported the provision of sporting facilities and that, during discussions with the Hockey Club, the Council had offered to help it find an alternative location for a new all-weather pitch.

Councillor Bianco stated that Metropolitan Open Land status would afford the land an extra layer of protection as it would have the same level of protection as green belt land, which would not impose the significant day-to-day restrictions on the Council that village green designation would. For example, if there were a flood on the Playing Fields of a similar scale to the floods in the 1970's, the Council would be expected to act promptly. However, if the land had village green status, the Council would not be able to do anything until it had gained permission from the Secretary of State. Furthermore, village green status would only be permitted on the leased areas of King's College Playing Fields with the permission of the lessee. This meant that, if they refused, the pitches which were leased to the Hockey Club would not be included in the village green status and they could continue to submit applications for all-weather pitches as long as they fell within the boundary of the leased land.

It was noted by the Cabinet Member that the biggest protection that the petitioners had was that the Council was the landlord for the leased pitches and would not give permission for the pitches to be built on, even if planning permission was granted. On top of that, further earlier protection could be built in by designating the area as Metropolitan Open Land so that it had the same status as Green Belt and was recognised in the Mayor's London Plan. Councillor Bianco believed that this course of action would offer more protection to the land than designating the area as a village green.

Officers advised that the third planning application submitted by the Hockey Club had been contrary to Green Chain Policy. Although an Inspector would not have to put any weighting on the Council's Green Chain Policy, they would have had to put weighting on it if it were Metropolitan Open Land as it would be contrary to the Council's Local Plan and to the Mayor's London Plan.

Councillor Bianco advised that the Council always put its residents first in everything that it did and felt that Metropolitan Open Land status would afford the Council more room to control the future of the land whilst still protecting it for all residents. It was thought that this was a sensible and more practical alternative to village green status that would support the petitioners to achieve the same outcome.

RESOLVED: That the Cabinet Member:

- 1. held a Petition Hearing to enable consideration of petitioners' request that the Council voluntarily registered its legal interest in part of the site as a village green.**
- 2. instructed officers that the site should not be voluntarily registered as a village green.**

REASONS FOR RECOMMENDATION

The petition received entitles the petitioners to be heard at a petition hearing in accordance with the Council's Constitution. A summary of the consequences of registration is set out under the Legal section of this report. It is considered that the consequences of registration are undesirable and would adversely affect the Council's future ability to use and manage its land in a way that responds to changing circumstances. Officers are of the view that registration of the land as a village green would place an undesirable fetter on the Council's ability to deal with and manage the site.

The Council has robust planning policies in place that are designed to protect public open space from inappropriate development. Although it is noted that planning policy is subject to change, such changes are necessary from time to time in order to meet changing social, economic and environmental needs of the Borough and the country. There are no proposals within the Council's emerging Local Plan (which, once adopted, will cover a 15 year period) to depart from the planning policies which currently protect Pinn Meadows from inappropriate development. Indeed, the relevant policies are likely to be strengthened rather than weakened going forward. Therefore, there is no current threat to Pinn Meadows in either the short or long term.

Whilst it is noted that the Council does have an ability to voluntarily register the land as a village green, it should be noted that the Growth and Infrastructure Act 2013 signals a policy direction of the Government that the Commons Act 2006 should not be used as a tool to frustrate development proposals.

If the Council was to voluntarily register the land as a village green, then this could set an undesirable precedent or expectation that the Council should voluntarily register all of its public open spaces as a village green. This could affect the Council's ability to manage its public spaces efficiently and in a way that responds to changing needs.

ALTERNATIVE OPTIONS CONSIDERED

The Cabinet Member could agree to the principle of registering the land as a village green and could recommend voluntary registration to the Council's Cabinet.

The meeting, which commenced at 7.00 pm, closed at 8.15 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Nikki O'Halloran on 01895 250472. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.