

## Minutes

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

24 February 2016



Meeting held at Council Chamber - Civic Centre,  
High Street, Uxbridge UB8 1UW

	<p><b>Committee Members Present:</b> Councillors Jonathan Bianco (Chairman)</p> <p><b>LBH Officers Present:</b> Raj Alagh, Borough Solicitor Danniel Kennedy, Head of Business Performance, Policy and Standards Mike Paterson, Head of Tenancy and Estates Management Charles Francis, Democratic Services Officer</p>
9.	<p><b>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING</b> <i>(Agenda Item 1)</i></p> <p>There were no Declarations of Interest made.</p>
10.	<p><b>TO CONFIRM THAT THE BUSINESS OF THE MEETING WILL TAKE PLACE IN PUBLIC.</b> <i>(Agenda Item 2)</i></p> <p><b>RESOLVED:</b> That all items be considered in public.</p>
11.	<p><b>TO CONSIDER THE REPORT OF THE OFFICERS ON THE FOLLOWING PETITIONS RECEIVED.</b> <i>(Agenda Item 3)</i></p>
12.	<p><b>PETITION REQUESTING THAT GARAGES IN ST HELEN'S CLOSE, COWLEY BE DEMOLISHED AND REPLACED BY A PARKING AREA FOR RESIDENTS</b> <i>(Agenda Item 4)</i></p> <p>Councillors Richard Mills and Brian Stead attended the meeting.</p> <p>In accordance with the Council's Constitution a representative of the petition was invited to address the meeting.</p> <p>Concerns and suggestions from petitioner included the following:</p> <ul style="list-style-type: none"><li>• The petition contained 30 signatures and requested the Council demolish garages No's 1 - 8 and 9 - 12 St Helen Close, Cowley and replace these with much needed additional parking for the residents.</li><li>• If these garages were demolished, they would provide car parking spaces for another 5 cars.</li><li>• The petitioner did not agree with the Council's proposal for garages 9-12 which was to refurbish and bring them back into use so that they would then be available to rent.</li><li>• St Helen's Close was already heavily congested.</li></ul>

- Children were playing on the roofs of the garages and the residents of 30 and 31 had suffered from anti-social behaviour.
- The abandoned garages had attracted fly tippers.
- Why had residents had to ensure the eye sore of abandoned garages for 10 years?
- There did not appear to be demand for garages in the area and some residents had been in regular contact with the Council about the lack of repairs and lack of demand.
- The residents directly affected by the garages would not be able to afford to rent the garages at market rate and these would only be used by residents from other areas.
- The refurbishment could not be justified on financial grounds and residents should be provided with the parking spaces they had requested.
- The area was meant to provide affordable housing and the rental values of the garages would exceed the means of most residents living in St Helen Close.

The Ward Councillor made the following points:

- Lots of information had been provided to the Council and Ward Councillors.
- Ward Councillors agreed that the garages were in a poor state of repair.
- There was the proximity to the University to consider.
- The recommendation in relation to garages 1 to 8 was well received.
- In relation to the proposal for garages 9 to 12, these could not be used in their current condition.
- Ward Councillors requested that further clarification should be sought on the rental of garages 9 to 12.
- It was a question of conflicting priorities. On the one hand residents had requested permanent parking but this needed to be balanced against the capital burdens to the Council.

The Cabinet Member, Cllr Jonathan Bianco, listened to the concerns and responded to the points raised.

Cllr Bianco sympathised with the views of petitioners and agreed that some action was required.

Noting the separate proposals, he appreciated the Council was the freehold owner of the two garages sites and the demolition of garages 1-8 for a small residential development would allow limited parking on a temporary basis on the open space left after the garages had been demolished.

As such, this course of action would partly meet residents wishes in the short term, however, the parking spaces created would only be available on a temporary basis. In the longer term, he highlighted that the proposed scheme for a small residential development would contribute towards housing need within the Borough, but would not meet the petitioner's request for permanent residents parking.

In relation to garages 9-12, he highlighted the proposal was to refurbish these and bring them back into use so they could generate revenue for the Council and in doing so, this course of action would not meet the petitioners' needs.

Speaking in general terms, Cllr Bianco highlighted how garage use had changed over time and how the advent of larger vehicles meant many garages could no longer be used for their original purpose. In cases where there was an opportunity to develop land, he explained the Council was obligated to explore a number of options to ensure it delivered best value to residents.

Concluding the discussions, Cllr Bianco confirmed that no decision would be taken at the meeting. Instead, he instructed officers to undertake further investigations on the status of surrounding garages and to report back to him before any decision was taken. Cllr Bianco stated that when this information had been considered he would make a final decision and inform the petitioner in writing.

**Resolved - That the Cabinet Member:**

- 1. Met the petitioners and considered their request that the Council demolishes garages No's 1 - 8 and 9 - 12 St Helen Close, Cowley and replaces with additional parking for the residents**
- 2. Asks officers to verify what the position is with surrounding garages and report back to the Cabinet Member to inform his final decision.**
- 3. Having taken into account the information requested above, that a final decision be taken and for this to be provided to the petitioner in writing in due course.**

**REASONS FOR RECOMMENDATION**

To allow the Cabinet Member to discuss in detail with petitioners their concerns and to consider their request that the Council demolishes garages No's 1 - 8 and 9 - 12 St Helen Close, Cowley and replaces with additional parking for the residents

**ALTERNATIVE OPTIONS CONSIDERED / RISK MANAGEMENT**

- 1) These were discussed with petitioners during the course of the meeting.

13. **PETITION REQUESTING THAT THE COUNCIL PERMIT THE NANAKSAR PRIMARY SCHOOL PERMANENT BUILDING TO BE ERECTED AND TO ALLOW FOR THE RECEPTION INTAKE FOR 2016/2017 TO BE APPROVED** (*Agenda Item 5*)

No ward Councillors attended the meeting.

In accordance with the Council's Constitution a representative of the petition was invited to address the meeting.

Concerns and suggestions from petitioner included the following:

- The petition contained over 1,000 signatures and requested the Council permit the Nanaksar Primary School permanent building to be erected and to allow for the reception intake for 2016/2017 to be approved.
- The petition stated that *"the Education Funding Agency had initially approved the funding for the school building to be erected on the Guru Nanak Sikh Academy school field. The school produced great academic results and gained a good rating by Ofsted for a school that is only in its infancy. Despite this, the Education Funding Agency had refused to further fund the build due to Hillingdon Council not authorising the permission required. In response to the lack of support from the local authority, parents from both NPS and GNSA have*

*turned to the community for their support."*

The Cabinet Member, Cllr Jonathan Bianco, listened to the concerns and highlighting the current position, made the following points:

- The issues preventing progress on erecting the permanent Nanaksar Primary School buildings were :
  - (a) The EFA needed to lift the Financial Notice served in April 2014. To do this, the requirements of the Notice would need to be fully met (including the discharge of the Lloyds Bank loan).
  - (b) The tenant under the Council's 2003 lease (currently believed to be the Trustees of Nanaksar That Isher Darbar) must discharge the Lloyds Bank loan to enable the granting of two new 125 year leases.

The Cabinet Member explained that neither of these actions (above) were within the control of the Council and key to both was the discharging of the Lloyds Bank loan. The Council had confirmed in principle that it was prepared to grant the 125 year leases. However, this would require the surrender of the current 2003 lease and the new leases would have a standard prohibition on the charging of the whole or part of the land. It must be recognised that the Council's freehold land could not be charged in any future dealings by the School.

As an impasse prevented the petitioners' request from moving forward, the Borough Solicitor summarised the legal position as follows:

The Borough Solicitor had recently checked the current position with the EFA, who had confirmed that the terms of the Financial Notice which it served back in April 2014, particularly in relation to the discharge of the Lloyds Bank loan, had still not been complied with. In the circumstances, the EFA was maintaining its position that it was not prepared to invest any funding in the school until such time as the requirements of the Financial Notice had been fully met. This was a matter outside of the Council's control.

As is stated in the body of the report, the Council granted a lease dated 9 September 2003 to the Trustees of the Guru Nanak Sikh College in relation to the playing fields for a term of 125 years. However, the lease commencement date was 4 May 1994, some 9 years before the actual completion date of the lease. There was no prohibition in the lease against charging the whole of the playing fields and therefore, the Council's consent in its capacity as Landlord was not sought, and indeed not required, prior to the securing of the Lloyds Bank loan on its land.

Section 77[7] of The School Standards and Framework Act 1998 defines playing field land as being *'land in the open air which is provided for the purposes of physical education or recreation, other than any prescribed definition of land'*. The playing fields in question clearly fall within this definition.

Schedule 3, paragraph 7 of the 1998 Act provides that a trustee of a voluntary aided school [which the Guru Nanak Sikh College was before it converted into an academy] can borrow to provide facilities at a school but cannot use any school assets or school revenue, as a form of security. All loans must be free standing and have no financial impact on a school and the school should not take on the burden of the loans in terms of paying out money or selling assets. The Secretary of State's consent is required

before these rules can be relaxed.

In spite of enquiries which had been made by the Council, it has been unable to conclusively establish whether the Secretary of State's consent was even sought, let alone obtained, by the Guru Nanak Sikh College prior to the charging of the Council's playing fields by the Lloyds Bank loan. What is clear, however, is that land in the Council's ownership has had to bear the burden of a financial charge being registered against it and its continued existence and direct link to the Financial Notice is, through no fault of either the Council or the EFA, preventing the achievement of the very outcomes which are the subject of this petition. On this basis, the petition had to be dismissed at this time.

**Resolved - That the Cabinet Member:**

- 1. Met the petitioners and considered their request that the Council permit the Nanaksar Primary School permanent building to be erected and to allow for the reception intake for 2016/2017 to be approved.**
- 2. Having taking into consideration the current legal position, the Cabinet Member confirmed that the Council was not in a position to grant the petitioner's request to permit the Nanaksar Primary School permanent building to be erected**
- 3. If a material change in circumstances were to occur at some point in the future, a new valid Cabinet member petition would entitle a representative of the petition to present their case and the position could be reconsidered.**

**Reasons for recommendation**

To allow the Cabinet Member to meet the petitioners to consider the petition.

**ALTERNATIVE OPTIONS CONSIDERED / RISK MANAGEMENT**

- 1) These were discussed with petitioners during the course of the meeting.**

The meeting, which commenced at 7.00 pm, closed at 7.55 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Jon Pitt on 01895 277655. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.