

**MINUTES
COUNCIL**

Wednesday 12 November 2014

Councillor Jenny Hollingsworth (Mayor)

Present: Councillor Meredith Lawrence Councillor Cheryl Hewlett
Councillor Steve Ainley Councillor Sarah Hewson
Councillor Pauline Allan Councillor Mike Hope
Councillor Roy Allan Councillor Paul Hughes
Councillor Bruce Andrews Councillor Phil McCauley
Councillor Patricia Andrews Councillor Barbara Miller
Councillor Sandra Barnes Councillor Richard Nicholson
Councillor Chris Barnfather Councillor John Parr
Councillor Denis Beeston MBE Councillor Michael Payne
Councillor Alan Bexon Councillor Lynda Pearson
Councillor John Boot Councillor Carol Pepper
Councillor Nicki Brooks Councillor Stephen Poole
Councillor Bob Collis Councillor Colin Powell
Councillor Ged Clarke Councillor Suzanne Prew-Smith
Councillor David Ellis Councillor Darrell Pulk
Councillor Andrew Ellwood Councillor Nick Quilty
Councillor Paul Feeney Councillor Roland Spencer
Councillor Tony Gillam Councillor Sarah Tomlinson
Councillor Mark Glover Councillor John Truscott
Councillor Gary Gregory Councillor Henry Wheeler

Absent: Councillor Emily Bailey, Councillor Peter Barnes, Councillor Krista Blair, Councillor John Clarke, Councillor Jim Creamer, Councillor Roxanne Ellis, Councillor Kathryn Fox, Councillor Marje Paling and Councillor Muriel Weisz

47 OPENING PRAYERS.

Reverend Michael Taylor, Mayor's Chaplain, delivered the opening prayers.

48 APOLOGIES FOR ABSENCE.

Apologies for absence were received from Councillors Bailey, Peter Barnes, Blair, John Clarke, Creamer, Roxanne Ellis, Fox, Paling and Weisz.

49 MAYOR'S ANNOUNCEMENTS.

The Mayor spoke about a variety of engagements she had attended in particular the very poignant remembrance event in Arnot Hill Park which was attended by children from Arno Vale Junior School.

The Mayor thanked Colwick Theatre Group for allowing her a guest part in their recent production.

Councillor Parr was thanked for arranging the horse sculpture, as part of remembrance activities, which was taking pride of place in the civic centre foyer.

Finally the Mayor thanked members for their good wishes following her son's recent accident and said that he was feeling much better.

50 TO APPROVE, AS A CORRECT RECORD, THE MINUTES OF THE MEETINGS HELD ON 10 AND 24 SEPTEMBER 2014.

RESOLVED:

That the minutes of the above meetings, having been circulated, be approved as a correct record.

The Mayor invited Councillor Payne to address Council concerning the Daybook based dentist who was under investigation for poor clinical practice. He advised that this was likely to affect a significant number of Gedling residents and that the Council and its partners were doing all they could to reassure, give information to and support those affected.

51 DECLARATION OF INTERESTS.

None.

52 TO ANSWER QUESTIONS ASKED BY THE PUBLIC UNDER STANDING ORDER 8.

Question from Mr Stuart Beniston

"The A W Lymn appeal against refusal of planning permission for a crematorium on Catfoot Lane was turned down on various grounds. In his report, the inspector highlighted several inadequacies in the way both the Lyumn and Westerleigh applications had been handled by the Planning Department. It therefore seems that the Westerleigh permission was approved by a flawed process. However, that permission was subsequently quashed following a legal challenge by A W Lymn. That decision is now being appealed in a higher court, both by the Council and by Westerleigh, due to be heard in early December.

I was told by one of the planning officers that the Council has appealed in order to resolve wider national planning issues. However, if the appeal succeeds, the Westerleigh permission for a crematorium and cemetery

will be automatically reinstated, creating a permanent intrusion into our countryside which may be unjustified.

Is the Council comfortable with adding its weight to the appeal when, according to the Lymn Appeal inspector, the original permission was granted without full and proper consideration of all the issues?

My view is that the Council should now be making every effort to restart the whole process to allow a full evaluation to be carried out, taking account of the Inspector's comments.

To this end, does the Council agree that its appeal should be withdrawn? In that event, it is likely that Westerleigh will continue with their appeal and the wide planning issue will be resolved anyway. Should that not happen, there will be other opportunities to resolve these issues without saddling the Borough with an intrusive development for which the case has not truly been made. "

Answer from Councillor Pulk, Portfolio Holder for Leisure and Development.

It is correct that the A W Lymn application, which was refused by the Council, was considered at a public inquiry in June 2014. The Inspector upheld the Council's refusal of that application and dismissed the appeal.

However, it is not correct to conclude that the Inspector highlighted several inadequacies in the way both the A W Lymn and Westerleigh applications were handled by the Planning Department.

I would point out that the inquiry only considered the A W Lymn application – it did not (and had no jurisdiction to) consider the Westerleigh application. The Inspector made this clear both at the time and in his Decision.

However the Inspector did look at the issue of need, which related to both applications and concluded that 'It may be that there is such a need, but if so, it remains to be demonstrated.' The Council addressed this at the original Planning Committee by producing a joint report on this one issue. The officer recognised that "the decision as to whether need has been proven is extremely finely balanced" but came to the conclusion that the evidence was "sufficient to be regarded as very special circumstances in this instance."

Your question raises separate points:

1. Your view is that the Council should now be making every effort to restart the whole process to allow a full evaluation to be carried out, taking into account the Inspector's comments.

The 'whole process' cannot be re started because, the Westerleigh application is still outstanding. This application was approved by the Council and subsequently quashed by the High Court. The application has therefore been remitted back to the Council for re determination. It is outstanding and will be determined at a future planning committee meeting.

However, I can confirm that when it goes forward for re determination the Inspector's decision will be taken into account because it is a 'material consideration'. Indeed the Inspector in his decision states that the Council would not be bound to follow its earlier decision and that 'any new decision that it might make would have to take account of all the current circumstances, at the time the decision is made...' In view of this, the applicant is about to submit refreshed evidence to reflect changes in planning legislation and material considerations since the original determination.

All other material considerations, which include any relevant parts of the Inspector's decision on the Lymn appeal, will be addressed in the report to committee when the Westerleigh application goes forward for redetermination.

There are no further decisions for the Council in relation to the Lymn proposal – that application remains refused and no other application has been submitted.

2. You ask if the Council is comfortable with adding its weight to an appeal when, according to the Inspector, the original permission was granted without full and proper consideration of the issues.

For the avoidance of doubt, the Council is appealing in its own right, not 'adding weight' to an existing appeal.

The Inspector did not state that the Westerleigh application was granted without full and proper consideration of the issues – the Inspector was solely concerned with the Lymn application.

The main reason that the Council made the decision to appeal is (as you rightly identify) to resolve wider planning issues. The High Court decision interprets the National Planning Policy Framework, the NPPF, in a way which impacts on all cases where there is a change of use within the green belt. Prior to the NPPF a change of use could be 'appropriate' where it maintained the openness of the green belt. Following the High Court decision, the way the NPPF is now interpreted is that any change of use is 'inappropriate' (unless it is one of the few exceptions specifically referred to in the NPPF) which places a higher bar for applicants. The effect of this goes beyond applications for cemeteries – for example, a change of use from an agricultural field to a football pitch. Both uses maintain the openness of the green belt but the use as a football pitch would now be deemed 'inappropriate'.

3. You ask if the Council agrees that the appeal should be withdrawn.

No, the Council does not agree that the appeal should be withdrawn. Counsel's advice remains that the Council has good prospects of success. The Inspector's decision at the Inquiry has no impact on the Council's decision to appeal and nothing else has changed – the reasons for making the decision to appeal remain. In addition, if the Council withdraws now, it will become liable for the costs of the other parties to the appeal.

53 REVIEW OF POLLING PLACES, POLLING DISTRICTS AND POLLING STATIONS

Consideration was given to a report of the Service Manager Elections and Members' Services, which had been circulated prior to the meeting, seeking approval to adopt a new scheme of polling places, polling districts and polling stations for Gedling Borough.

RESOLVED to:

- 1) Adopt the new polling districts, polling places and polling stations set out in the appendix to the report to be used for elections from May 2015;
- 2) Request that the Chief Executive formally publishes the notice of the conclusion of the review and its findings; and
- 3) Note that the Chief Executive is authorised to designate an alternative polling place should one become unavailable at short notice before an election.

54 INDEPENDENT REMUNERATION PANEL - REPORT AND RECOMMENDATIONS FOR 2015/16

Consideration was given to a report of Stephen Bray, Corporate Director, which presented the findings of the Council's Independent Remuneration Panel for the next financial year.

RESOLVED:

- 1) To note the report of the Independent Remuneration Panel;
- 2) That pending the outcome of the strategic review of members' allowances, the allowances be frozen at the current rate and the current scheme of members allowances continues;
- 3) To agree the schedule of members' allowances for 2015/16, as attached at Appendix 2 to the report; and

- 4) To authorise the Council Solicitor and Monitoring Officer to make appropriate changes to Part 6 of the Constitution to reflect the changes to members' allowances agreed.

55 PROPOSED AMENDMENT TO THE CONSTITUTION: STANDING ORDER TO PROHIBIT RECORDING OF PRIVATE MEETINGS

Consideration was given to a report of the Council Solicitor and Monitoring Officer, which had been circulated prior to the meeting, asking the Council to approve an addition to the Procedural Standing Orders in the Constitution to prohibit recording of a meeting where the public are excluded

RESOLVED:

That the matter stand adjourned without discussion to the next ordinary meeting of the Council.

56 TO RECEIVE QUESTIONS AND COMMENTS FROM MEMBERS CONCERNING ANY MATTER DEALT WITH BY THE EXECUTIVE OR BY A COMMITTEE OR SUB-COMMITTEE (STANDING ORDER 11.1).

In accordance with Standing Order 11.1, a number of comments were made and responded to by the appropriate Cabinet Member or Committee Chair.

57 TO CONSIDER MOTIONS UNDER STANDING ORDER 12.

Upon a notice of motion received in the name of Councillor Henry Wheeler a proposition was moved by Councillor Henry Wheeler and seconded by Councillor Paul Hughes in the following terms:-

Recognising that tobacco use remains one of the most significant public health challenges in the UK, costing billions of pounds each year, and that smoking is the single greatest cause of premature death and disease in our communities, causing more deaths in England than any other preventable cause, this Council commits to sign the Nottinghamshire Declaration on Tobacco Control. We will, as local leaders with a commitment to contribute to improving the health of local people, take an active lead on developing and implementing a plan of action to support the reduction of harm caused by tobacco with partners, stakeholders and the wider Gedling Community.

After discussion and on the requisition of two Members the motion was put to a named vote and the motion was carried.

For the Motion

Councillor Steve Ainley

Councillor Sarah Hewson

Councillor Pauline Allan
Councillor Bruce Andrews
Councillor Patricia Andrews
Councillor Sandra Barnes
Councillor Chris Barnfather
Councillor Denis Beeston MBE
Councillor Alan Bexon
Councillor John Boot
Councillor Nicki Brooks
Councillor Ged Clarke
Councillor Bob Collis
Councillor David Ellis
Councillor Andrew Ellwood
Councillor Paul Feeney
Councillor Tony Gillam
Councillor Mark Glover
Councillor Gary Gregory
Councillor Cheryl Hewlett

Councillor Jenny Hollingsworth
Councillor Mike Hope
Councillor Paul Hughes
Councillor Phil McCauley
Councillor Barbara Miller
Councillor Richard Nicholson
Councillor John Parr
Councillor Michael Payne
Councillor Lynda Pearson
Councillor Stephen Poole
Councillor Colin Powell
Councillor Darrell Pulk
Councillor Nick Quilty
Councillor Roland Spencer
Councillor Sarah Tomlinson
Councillor John Truscott
Councillor Henry Wheeler

Against the motion:

Councillor Meredith Lawrence

Abstentions:

Councillor Roy Allan
Councillor Carol Pepper
Councillor Susanne Prew-Smith

RESOLVED that:

Recognising that tobacco use remains one of the most significant public health challenges in the UK, costing billions of pounds each year, and that smoking is the single greatest cause of premature death and disease in our communities, causing more deaths in England than any other preventable cause, this Council commits to sign the Nottinghamshire Declaration on Tobacco Control. We will, as local leaders with a commitment to contribute to improving the health of local people, take an active lead on developing and implementing a plan of action to support the reduction of harm caused by tobacco with partners, stakeholders and the wider Gedling Community

The meeting finished at 7.55 pm

Signed by Chair:
Date: