

Runnymede Borough Council

PLANNING COMMITTEE

Wednesday 28 April 2004 at 7.30 p.m.

in the Council Chamber

at the Civic Offices, Addlestone



Members of the Committee

Councillors G.B. Woodger (Chairman), Mrs. J. Norman (Vice-Chairman), A. Alderson, Mrs. F.J. Barden, J.B. Dean, J.M. Edwards, J.R. Furey, Mrs. L.M. Gillham, C. Knight, H.W.V. Meares, R. Pate, D.W. Parr, N. Thewlis, A.P. Tollett, and J.R. Whiteley.

## A G E N D A

Notes:

- i) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- ii) The relevant 'background papers' are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Mr. B.A. Fleckney, Administration and Leisure Department, Committee Section, Civic Offices, Station Road, Addlestone (Tel. Direct Line: 01932 425620). (Email: bernard.fleckney@runnymede.gov.uk).**
- iii) Agendas and Minutes are available on a subscription basis. For details, please ring Mr. B.A. Fleckney on 01932 425620.
- iv) **Public speaking on planning applications only is allowed at the Planning Committee. For details please contact Mrs T. Eeles, Administrative Section of the Technical Services Department. (Tel Direct Line: 01932 425174)**
- v) In the unlikely event of an alarm sounding, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate.

## **LIST OF MATTERS FOR CONSIDERATION**

### **PART I**

#### **Matters in respect of which reports have been made available for public inspection**

	<u>Page</u>
1. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP	3
2. MINUTES	3
3. APOLOGIES FOR ABSENCE	3
4. DECLARATIONS OF INTEREST	3
5. PLANNING APPLICATIONS	3
6. GREENSIDE, CHESTNUT AVENUE, VIRGINIA WATER	3
7. REVISED PLANNING BEST VALUE PERFORMANCE INDICATORS	6
8. APPEAL DECISION	7
9. PLANNING APPLICATIONS DETERMINED BY DIRECTOR OF TECHNICAL SERVICES	7
10. EXCLUSION OF PRESS AND PUBLIC	8

### **PART II**

#### **Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection**

- a) Exempt Information  
(No reports to be considered under this heading).
  
- b) Confidential Information  
(No reports to be considered under this heading)

1. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP

2. MINUTES

To confirm and sign the Minutes of the meeting of the Committee held on 31 March 2004 as a correct record. These Minutes were included in the April Council Summons/Minute Book.

3. APOLOGIES FOR ABSENCE

4. DECLARATIONS OF INTEREST

If Members have an interest in an item please record the interest on the form circulated with this Agenda and hand it to the Legal Representative or Committee Administrator at the start of the meeting. A supply of the form will also be available from the Committee Administrator at meetings.

Members who have previously declared interests which are recorded in the Minutes to be considered at this meeting need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have an interest becomes the subject of debate, in which event the Member must leave the room if the interest is personal and prejudicial.

5. PLANNING APPLICATIONS (DTS)

A list of the planning applications to be determined by the Committee is attached.

If Members have particular queries or interests in certain applications, the application files will be available for inspection and Officers present from 7.00 p.m. prior to the meeting in the ante room of the Council Chamber. This will be an informal opportunity for Members to see further details of applications and representations and to discuss and clarify issues. Copies of all letters of representation will also be placed on the table in the Chamber prior to the meeting and will be available for inspection by Members.

**OFFICERS' RECOMMENDATION that –**

**the said applications be determined as indicated and any permission granted be subject to the conditions authorised.**

**(TO RESOLVE)**

Background Papers

A list of background papers is available at the Technical Services Reception.

6. GREENSIDE, CHESTNUT AVENUE, VIRGINIA WATER (DTS)

1. Purpose of Report

1.1 **To inform the Committee of the present situation with applications to demolish this listed building and erection of a replacement dwelling, and seek views about the expediency of action against the owner at this stage.**

2. Background Information

2.1 An application for Listed Building Consent for the complete demolition of this Grade II Listed Building was originally received in February 2002. The application was reported to this Committee in April 2002, recommended for refusal.

2.2 The Committee determined to grant consent, which then required a prior referral to the Secretary of State, to enable him to decide whether to intervene or not. The application was referred to GOSE in May 2002. In late September 2002, GOSE indicated that it was a matter to be determined by this Authority and the consent was issued in October 2002.

2.3 In January 2003, the Twentieth Century Society challenged this decision by means of an application to the Courts for Judicial Review. In late January 2003 this Committee agreed to consent to the earlier decision being quashed, as did the applicant.

- 2.4 This meant that the original application remained undecided, and additional information was sought from the applicant. A planning application for a replacement dwelling (RU.03/0999) was also submitted in August 2003.
- 2.5 Both these applications were reported to this Committee in November 2003, recommended for refusal. The Planning Committee again determined to grant consent for the demolition of the listed building, and permission for a replacement dwelling.
- 2.6 At the Committee meeting, Officers reminded the Committee that the Listed Building Consent application would again be required to be referred to the Secretary of State. Several days later, over the following weekend, the owner caused the building to be demolished, causing national publicity.
- 2.7 In November 2003, the application was referred to GOSE. In December, a Direction was received which directed the Council not to grant planning permission for the replacement dwelling without special authorisation.
- 2.8 In March 2004, GOSE confirmed that the Secretary of State had decided to call-in the application for Listed Building Consent for his own determination. It will be determined following a public inquiry which has yet to be arranged, but it is unlikely to be held before October 2004, with a decision not expected until early 2005.
- 2.9 In early April, Officers were advised by the owner's solicitors of the intention to seek judicial review of the Secretary of State's decision to call-in the application. Runnymede Borough Council is also cited in a secondary role for its decision to refer the matter to the Secretary of State. Officers will give a verbal up-date at the meeting as to the present position.

### 3. Report

- 3.1 Given that the Secretary of State normally has a 28 day period to determine whether or not to intervene, it is disappointing that on both occasions a decision took nearly four months, and that the decisions were contradictory. Nevertheless, a final decision following the public inquiry must now be awaited.
- 3.2 Given that the unauthorised demolition of a Listed Building is a criminal offence, English Heritage, the Twentieth Century Society and others have been urging that action be taken against the owner, and there is also considerable public interest in this matter.
- 3.3 The Officers view has been that consideration of such action would be premature until it was known, firstly whether the application was to be called-in or not, and secondly, if it was, the outcome of that process.
- 3.4 If it was to be proved that the owner was guilty, it is considered that the Court's view of suitable punishment would rest to some extent at least on consideration of whether the Local Planning Authority, or the Secretary of State had determined whether Listed Building Consent for demolition should be granted or not.
- 3.5. Past experience of enforcement proceedings is that the Courts are loath to deal with planning matters where there are outstanding appeals or other issues to resolve.

### 4. Legal Implications

- 4.1 The view remains that consideration of prosecution or enforcement action against the owner for demolition of the Listed Building would be premature until the outcome of the Listed Building Consent application is known. It is considered that the reasons for any delay would be respected by the Courts, and would not prejudice any future outcome. The offence is not one which must be prosecuted within a limited timescale.
- 4.2 English Heritage have themselves powers to instigate prosecution, if they consider the Council's action unreasonable.
- 4.3 Whilst the Committee was favourably inclined to grant consent for the building's demolition, there will, no doubt, be concerns about the manner of its removal without adherence to due process, and this will need to be considered at a future date.

- 4.4 However, it is understood that since the demolition, the owner has been living in a separate and free-standing annex, located within the grounds of the former house. The annex is lawfully ancillary to the main dwelling. However, clearly the main dwelling itself has now been demolished, leaving only the annex. Use of the annex as an independent dwelling in its own right is a material change of use requiring planning permission, which has neither been sought nor granted.
- 4.5 Whilst this may be acceptable as a temporary arrangement, there is concern that over a period of time, as the complex legal arguments are made, this unauthorised use could become lawful (if the use continues for a four-year period) and result in an additional dwelling on this plot, which would be inappropriate development in this Green Belt area.
- 4.6 It is therefore considered that enforcement action is appropriate to safeguard the Council's position regarding future immunity from enforcement. It is however considered reasonable to allow the owner to remain living at the site until the position regarding the outstanding applications at the site are resolved. It is therefore recommended that a two year period for compliance be given.
- 4.7 Members should have in mind the owner's human rights to enjoy his property and the right to respect for his private and family life and his home. These rights can be interfered with provided that such interference is in accordance with the law and the proposed action is proportionate to the aim of protecting the Green Belt and necessary in the general interest.
5. Resource Implications
- 5.1 The fees for Counsel for the Public Inquiry will come from the existing appeals budget. Given the recommendations made on the application, there will be a need to employ planning consultants to represent the Council. This will again initially come from existing budgets, but a supplementary estimate is likely when a clearer picture of the likely costs emerges. The costs are likely to be in the region of £30,000.

**OFFICERS' RECOMMENDATION that -**

- i) no enforcement or prosecution action be instigated against the owner in relation to the Listed Building demolition, until the Secretary of State's decision is known;**
- ii) following receipt of the Secretary of State's decision, a further report be brought to this Committee to consider enforcement or prosecution options; and**
- iii) the Director of Administration and Leisure be authorised to issue a notice under Section 172 of the Town and Country Planning Act 1990 in relation to the unauthorised use of an outbuilding as an independent residential dwelling, requiring this use to cease within two years of the notice being effective.**

**Reason for Issuing Enforcement Notice**

**The independent residential use of the outbuilding is tantamount to the creation of a new dwelling in this Green Belt area. This is considered unacceptable for the following reason:**

**The site lies within the Green Belt where new dwellings are not normally permitted. This unauthorised use is therefore considered contrary to Policies PE1 and PE2 of the Surrey Structure Plan 1994 and Policy LO4 of the Surrey Structure Plan (Deposit Draft) December 2002 and Policy GB1 of the Runnymede Borough Local Plan Second Alteration April 2001 and the advice in Planning Policy Guidance Note 2: 'Green Belts' as it represents inappropriate development harmful to the openness of the Green belt in this sensitive countryside area and no very special circumstances have been submitted to outweigh the harm to the green belt caused by these inappropriate developments.**

- iv) the Director of Administration and Leisure be authorised to take appropriate action including carrying out any prosecution in the event that the Notice, once effective, is not complied with.**

**(TO RESOLVE)**

Background Papers

Relevant papers from files RU.02/0237 and RU.03/0999

7. REVISED PLANNING BEST VALUE PERFORMANCE INDICATORS (DTS)

1. Purpose of Report

- 1.1 **To inform Members of revised BVPI's relating to the Planning Service for 2004/05, and to agree local targets for BV 204: Percentage of Appeals Allowed, and BV205: Quality of Service checklist.**

2. Background Information

- 2.1 Members will be aware that the office of the Deputy Prime Minister regularly reviews Best Value Performance Indicators (BVPI's) and some which are no longer seen appropriate are deleted, and others introduced. Whilst this means that less meaningful indicators are no longer used, it does make year on year comparison of service performance more difficult.
- 2.2 The new BVPI's and deleted ones are effective from 1st April 2004 and will be included in this Committee's Service Plan.

3. Report

- 3.1 The following Planning BVPI's are deleted:

BV107 : Planning cost per head of population  
BV188 : Number of planning decisions delegated to Officers as a percentage of all decisions.

- 3.2 There are two new planning BVPI's, the first (BV204) is the percentage of appeals allowed against the Authority's decision to refuse on planning applications. This means that the lower the percentage allowed, the more successful a Council is in defending its decisions to refuse permission.
- 3.3 In the year 2002/03, the national average of planning application appeals allowed was 35%. During the same period, Runnymede figure was 24% and this compared with the Surrey average of 31%. The Council's success rate is therefore higher than the Surrey average, and considerably higher than the national average.
- 3.4 The target for this BVPI is to be set locally, and it is recommended that it be set at 25% of appeals allowed (i.e. that the Council successfully defends 75% of refusals of planning permissions).
- 3.5 The second new BVPI (BV205) is a percentage based on the score of achievement of a number of criteria judging quality of service. These are detailed in full at Appendix 'A'.
- 3.6 The first element of this is 15 criteria relating to the processing of planning applications. The second is 21 criteria on the capability for an electronic planning service.
- 3.7 Each of the first 15 criteria requires a 'yes' or 'no' answer. A 'yes' answer attracts a score of 1. In terms of the 21 criteria for an electronic service, the points awarded are as detailed below:

<u>Criteria Achieved</u>	<u>Points Awarded</u>
21	3
15 - 20	2
11 - 14	1
0 – 10	0

- 3.8 The maximum total score is therefore 18, and the BVPI is calculated as a percentage of this possible total. Runnymede currently achieves 14 out of 15 for the first section, and 15 out of 21 for the second. It therefore has a score of 16 out of 18 or 89%.
- 3.9 By the end of the financial year, it is anticipated that all 15 of the first criteria will be achieved, and 20 out of the second, increasing the score to 17, or 94%. It is recommended that this be adopted as the target.

**OFFICERS' RECOMMENDATION that -**

**The following local targets be adopted for these new BVPI's for 2004/05:**

**BV204 : Percentage of appeals allowed : Target 25%**

**BV205 : Quality of Service checklist : Target 94%**

**(TO RESOLVE)**

Background Papers

BVPI's for 2004/2005 : Supplementary Guidance and Feedback Document : ODPM

8. APPEAL DECISION

The Planning Inspectorate has recently determined the appeal mentioned below. The appeal decision is available for inspection in the Members' Room.

<u>Site Development</u>	<u>Decision</u>
Cedar Bank, Hamm Court, Weybridge - planning appeals regarding demolition of the existing dwelling and erection of a two-storey replacement dwelling (02/1436 and 03/0353).	DISMISSED

**(FOR INFORMATION)**

Background Papers

Appeal decision.

9. PLANNING APPLICATIONS DETERMINED BY DIRECTOR OF TECHNICAL SERVICES

A list of planning applications recently determined by the Director of Technical Services under his delegated powers is attached at Appendix 'B'. If Members have any particular matters they wish to raise, prior notice to the Chairman would be of assistance.

**(FOR INFORMATION)**

Background Papers

None

10. EXCLUSION OF PRESS AND PUBLIC

If the Committee is minded to consider any of the foregoing items in private it is the

**OFFICERS' RECOMMENDATION that -**

**the press and public be excluded from the meeting during discussion of the following report under Section 100A(4) of the Local Government Act 1972 on the grounds that the report in question would be likely to involve disclosure of exempt information of the description specified in appropriate paragraphs of Part I of Schedule 12A of the Act.**

**(TO RESOLVE)**

**PART II**

**Matters involving Exempt or Confidential information in respect of which reports have not been made available for public inspection**

a) Exempt Information

(No reports to be considered under this heading).

b) Confidential Information

(No reports to be considered under this heading).