

MUNICIPAL YEAR 2006/2007 REPORT NO. 181

MEETING TITLE AND DATE:
Cabinet – 13.12.2006

REPORT OF:
The Director of Finance and
Corporate Resources

Contact officer:
Mark McLaughlin 020 8360 6293
Mark.mclaughlin@enfield.gov.uk

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| Agenda – Part: 1 | Item: 7 |
| Subject: MANAGEMENT OF THE GREEN BELT | |
| Wards: | |
| Cabinet Member consulted: Cllr Lavender | |

1. EXECUTIVE SUMMARY

This report advises on the outcomes of a review undertaken by an independent consultant in response to concerns about the management of the Green Belt. The report recognises the pressures now faced being placed on the Green Belt; the fact that the management of the Green Belt has been under-resourced, and the problems that this has allowed to develop. A series of actions are recommended, including the securing of expert external management of the Council's Green Belt Estate.

2. RECOMMENDATIONS

- 2.1 To approve implementation of the actions detailed in the summary of the consultant's report in Appendix A
- 2.2 To approve engaging an external consultant to:
 - a. Take immediate conduct of the management of the Green Belt portfolio.
 - b. Make proposals on engagement of an external company to undertake the longer term management of this estate.
- 2.3 To note the assurances of improved performance with regard to the collection of Business Rates and Planning Enforcement within the Green Belt estate.
- 2.4 To note compliance with the Audit Commission's recommendations that the Council improve its processes to enable business rate amendments resulting from changes to planning permissions to be identified and actioned on a timely basis.

3. BACKGROUND

- 3.1 Issues relating to, and resultant from, the sale of properties (over the period since 1993) by the Council in the South Barvin Farm area have become apparent. These have included issues raised by residents and ward councillors. The issues also raise wider concerns about the management of the Green Belt by the Council. The principal properties at South Barvin Farm are:
- 3.2 In response to these concerns Richard Greeves BSc (Hons) MRICS of Dalton Warner Davis was appointed (under the terms of the Consultant Framework Agreement) to identify the issues arising from the transactions which have taken place in the South Barvin Farm area. A detailed report has been produced, leading to a comprehensive action plan that is reported in a separate delegated authority report.
- 3.3 The consultant was also asked, separately and following from the specific work on South Barvin, to advise on best practice for future transactions of this nature and also for the future management of the Council's green belt estate. A summary of the Dalton Warner Davis Report is attached at Appendix A, including solutions and lessons to be learned. Although issues relating to Planning Enforcement and the collection of Business Rates are discussed, the causative events stem from the management of the Green Belt estate by the Property Division, and it is vital that these concerns are acted upon. The author identifies a need for "a more rigorous and intensive property management and planning enforcement regime, together with the strategic masterplanning of future disposals". The aim is to avoid any repetition of the problems experienced at South Barvin farm in respect of Council land holdings in the future. The consultant identifies the most significant situation affecting South Barvin Farm as the volume of vehicular traffic generated by St. John's School through its expansion beyond the pupil numbers allowed in its Planning consent.
- 3.4 The consultant's main findings were that more robust procedures were needed in the property management regime for the Green Belt, that there was a need for more stringent Planning Enforcement in the Green Belt; and a need for better communication between Property Services and Revenues and Benefit. The under-resourcing of the management of the Green Belt had led to the under-inspection of the estate. This was one of the main reasons why the consultant recommended intensification of management via the engagement of external managers. The consultant also makes recommendations concerning the intensification of Planning Enforcement and Business Rates Inspection.
- 3.5 The detailed advice in the report is of significant value in identifying the actions needed to put right the current problems, but also to prevent this type of

situation arising again, and in any way compromising the Council's objectives for the Green Belt. It includes:

- Proposed changes to the Council's approach to sales transactions;
- Seeking external expert management of the Green Belt estate.

4. SPECIFIC PROPERTY ACTIONS

There are a number of actions relating to individual properties are not considered in this report. They will be recommended via a delegated report for portfolio decision, included a detailed action plan for each new individual property.

5. MASTERPLANNING

The Dalton Warner Davis report specifies a series of pre-disposal actions, focussed on the preparation of a master plan designed to identify longer-term problems, which might arise from incremental (over time) disposal recommendations. This approach is likely to lead to increased costs, which can be charged against the respective sale, but will bring ongoing management benefits. The new approach to masterplanning is designed to protect the Green Belt from inappropriate use. For example the masterplan for each farm will set a guideline for the extent of non-agricultural activities and identify future potential disposal and development prospects. Infrastructure issues such as drainage, sewage disposal, supply of utilities and vehicle access will be addressed.

6. MANAGEMENT OF THE GREEN BELT

6.1 The Greeves Report makes a series of recommendations for the management of the Green Belt estate, including improvements to internal communications between Council Departments.

6.2 The major recommendation relates to the management of the Green Belt estate itself. Cabinet is asked to approve the recommendation to outsource management of the portfolio to specialist external consultants as follows:

- A one-year appointment pending preparation of a full specification of the Council's objectives for the long-term management of this important amenity;
- Tender process for long-term management (a 5 year contract) compliant with OJEU procedures.

This process is in hand using the OGC framework for "Estates Professional Services Framework". It will be personally conducted by the Director of Finance & Corporate Resources. Seven providers have been approached and four have indicated that they would wish to invited to tender for the work,

which includes in a mixture of activities within an area of some 5,000 acres: 11 farms, a nature reserve, 4 golf courses, 2 equestrian centres, a stud, a riding school, a hotel, St. John's School and a number of other properties. The project plan for the one-year consultancy has been drawn up and it is hoped that the name of the successful consultant can be reported to the Cabinet meeting.

Have used the OGC Framework to appoint a consultant, as outlined above, for one year, but with clearly defined targets as indicated in the Dalton Warner Davis reports and on enforcement issues generally. The Council can use this first year to undertake an OJEU compliant procurement exercise to identify and appoint a firm to meet the fully developed specification for the Management of the Green Belt.

7. PLANNING ENFORCEMENT ISSUES

- 7.1 It is recognised that prior to 2004-5 Planning Enforcement was weak in many respects. In recognition of the need to improve the function was incorporated within the Envirocrime Team within the Environmental Health & Regulation, Street Scene & Waste Division of ESSP. Planning Enforcement is now rigorous, focussed and operates as an effective unit within the constraints of the Planning law framework.

8. BUSINESS RATES ISSUES

- 8.1 As a result of correspondence from a member of the public containing allegations that the Council has not collected business rates on a number of properties, the Audit Commission made enquiries into the matter.
- 8.2 Following the review, the District Auditor wrote to the Council advising he did not believe that this matter calls for further action on his part. He did however recommend that:
- any potential loss to the business rate pool from the additional rateable value now identified be reported to the Council.
 - the Council needs to ensure that its processes enable business rate amendments resulting from changes to planning permissions to be identified and actioned on a timely basis.
- 8.3 Appendix B sets out the additional rateable value identified in the green belt during the last twelve months and quantifies the loss to the business rate pool resulting from the delayed assessment of these properties. There is no financial loss to Enfield Council arising from the identification of these assessments as any additional income would be paid into the Government's NNDR Pool.
- 8.4 With regard to the identification and actioning of new or amended business rate assessments closer working arrangements have been put in place

between Property Services and Revenues and Benefits, to ensure that information is shared in a timely manner.

9. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS

9.1 Financial Implications

The current rental income from the Green Belt estate is £600,000 (varying slightly year-on-year). The principal financial implication in revenue terms will be the cost of engaging external managers for the Green Belt estate. This is as yet unknown, however the cost will be contained within the net budget of the Property Division, including through taking budget control action as required.

The outsourcing of the management of the Green Belt estate means that there is an opportunity to restructure the management of the remainder of the Commercial Estate (i.e. the Industrial, Commercial and Retail properties). This is likely to feature the redundancy of one post and negotiations are current with the officer concerned. This will be achieved under delegated authority as a portfolio report.

9.2 Legal Implications

The Borough Solicitor has been closely involved throughout the process of the Dalton Warner Davis Review and supports the recommendations. There are no specific implications.

Background Papers

Summary of the Dalton Warner Davis Review (Appendix A)

South Barvin Farm Review

Summary

November 2006



1. Introduction

Enfield Council commissioned an independent review of the management and disposal policy for South Barvin Farm as part of a wider review and strategy for the green belt.

Richard Greeves BSc (Hons) MRICS of Dalton Warner Davis conducted the review and interviewed a range of residents, councillors and Council officers. This public document summarises the results. The full document, which contains commercially sensitive and personal information has been reported to the Council.

2. South Barvin Farm

The review has focused on land and buildings immediately north of The Ridgeway, formerly part of South Barvin Pedigree Dairy Farm.

It comprised:

- St Nicholas House – leased to St John’s Senior School in September 1993
- 1 and 2 South Barvin Farm Cottages – 2 freehold private dwellings sold in September 1999
- South Barvin Farmhouse – a freehold private dwelling sold in May 2000
- North Lodge Farmhouse – a freehold private dwelling sold in February 2002
- South Barvin Farm Barn – a freehold private dwelling sold in May 2003

3. Why review South Barvin Farm?

A series of long standing problems relating to vehicular traffic, sewage disposal and other issues has led to worsening relationships between the residents, the school and the Council.

Council officers and councillors have spent many hours trying to resolve the issues but, at present, many problems persist.

4. Why dispose of the properties?

Enfield Council has a disposal programme to sell or lease operational properties which are surplus to requirements or non-operational properties where it is decided that the receipt would offer greater benefit to the Council than any rental income.

The Council has pursued the correct line of approach in terms of a generic disposals policy to maximise capital receipts. It is the problems arising from the execution of the policy which is the subject of this review.

5. St John’s Senior School

The most significant situation affecting South Barvin Farm in terms of severity and the number of affected parties is the volume of traffic generated by the school.

Enfield Council conducted a traffic survey in 2004 which observed 87 vehicles turning into the site during the busiest 30 minute period (8.15am to 8.45am). This has caused the following problems:

- Backing up of vehicles along the private road and The Ridgeway, causing access problems for North Lodge Farm House and South Barvin Cottages.
- Noise and pollution
- Increasing the risk of road traffic accidents on The Ridgeway

5.1 Why have these problems developed?

The School has failed to meet the obligations in its original lease or planning permission. In particular:

- The school has erected temporary classrooms and possibly a car park without planning permission.
- The maximum number of pupils was originally set at 175, however there are now 240 on the roll. The Head has also admitted that the school has expanded to a 3 form entry which, if unchecked, would result in the school growing to around 335 pupils.
- Planning consent required a travel plan including the operation of a mini bus system for the collection of children and a permanent one way system throughout the opening hours of the school with clear signage. The travel plan has not been submitted, there is no evidence of a minibus operating and whilst a temporary one-way system has now been introduced, the Council has put up signage at its own expense.
- The school has also failed to meet its repairing obligations in the lease.

The Council served a Breach of Condition notice and enforcement notice on 18 November 2005. Section 146 Notices were served on 20th January 2006 and 17th March 2006 alleging breach of lease covenants and seeking forfeiture of the lease.

The Section 146 Notice has been challenged by the tenant and the school has appealed against the Enforcement Notice which will be determined by a Public Inquiry by the Secretary of State. The Breach of Condition is still outstanding.

5.2 Actions

If the school complies with these Notices, reduces pupil numbers to 175, produces an acceptable Travel Plan and makes the one-way system operate throughout the day, all significant travel problems should be alleviated.

If the School is allowed to operate with pupil numbers in excess of 175, new access routes or additional parking would need to be considered, in addition to the existing requirements for a travel plan and one-way system. Both these options would incur significant costs.

5.3 Lessons to be learnt

The Council should ensure that its tenants' lease obligations are enforced and fully prosecute unauthorised development.

6. Drainage

Four properties have experienced problems with sewage disposal: South Barvin Farmhouse, South Barvin Barn and 1 and 2 South Barvin Cottages. Many of the problems relate to a defective septic tank, the new sewage treatment plant and the responsibility for replacement/repairs.

6.1 Actions

The Council needs to review the sewage treatment plant and ensure it meets appropriate standards. If the sewage treatment plant fails to work or significant remedial works are required, then a feasibility study needs to be undertaken as to the cost of extending the main sewer. The Council would mitigate the costs of this by seeking contributions from all parties. The Council should then ensure that all properties are connected to the relevant system.

6.2 Lessons to be learnt

The Council should ensure a detailed drainage plan is produced prior to any sale to ensure the location of all drainage pipes and septic tanks/sewage treatment works are known. Thereafter a 'drainage management plan' should be written setting out the required solution and future responsibilities for repair and replacement.

7. Boundary disputes

In the past there have been disputes between the owners of 1 and 2 South Barvin Farm Cottages and the owner of South Barvin Farm as to the boundary between their respective properties. In November 2001, the Council found that the rear fence which forms the boundary between 1 and 2 South Barvin Farm Cottages and South Barvin Farm was in accordance with the scale plan in the transfer document. However, a subsequent inspection in March 2003 showed that the owners of 1 and 2 South Barvin Farm Cottages had erected a new fence beyond the boundary of their property.

In addition an area of land belonging to 2 South Barvin Farm Cottage was not formally transferred upon the original sale and so Duchy of Lancaster consent is awaited on the transfer. However, Duchy consent is being withheld due to ongoing disputes over restrictive covenants (see section 8).

7.1 Actions

The boundaries are now all in their correct place. Pressure needs to be applied to the Duchy of Lancaster to authorise the transfer of land.

7.2 Lessons to be learnt

The Council should ensure a land survey for each property prior to sale so that everyone is clear of legal boundaries.

8. Duchy of Lancaster restrictive covenants

There is a dispute between the Council and the Duchy of Lancaster over whether the consent given to historic disposals covered their change of use. The problem appears to have originated due to a change of personnel, and subsequently policy and practice with regard to the granting of Duchy consent, at the Duchy of Lancaster when the previous incumbent retired.

7.1 Actions

Counsel's opinion is being sought on the implications of the Duchy's stance on future land sales

8.2 Lessons to be learnt

The Council could not have anticipated or prepared for the Duchy's change of attitude. In future, where Duchy of Lancaster consent will be required for a disposal, any change of use will need to be explicitly stated and consent obtained in order to avoid any uncertainty.

9. Other issues

Other issues relate to using a single agent to act on behalf of both the Council and its tenant in the sale of a freehold, leading to a conflict of interest. It is recommended that the Council uses a separate agent. Where a property is damaged in the course of disposal, the Council should either remove from the market, repair and then re-market or else re-market in its damaged condition.

9.1 Actions

Action is now being taken against the illegal occupation of Council owned land and buildings at North Lodge Farm House. Enforcement notices should be served on South Barvin Farm Barn for breaches in planning and conditions. The Council should also review the ownership of stopped up land adjacent to 1 and 2 South Barvin Farm Cottages. It is recommended that all buildings on the green belt estate are inspected quarterly in respect of both planning and tenancy compliance.

10. Conclusion

Many of the issues related to South Barvin Farm would have been avoided if a masterplan had been drawn up prior to any disposal. This would have identified issues such as drainage and boundaries and how the residents would interrelate. It is recommended that in future, the Council draws up such a masterplan before embarking on green belt disposals.

It is also recommended that the Council develop a rigorous property management and planning enforcement regime, thereby developing a 'zero tolerance' reputation which is likely to influence behaviour borough-wide.

Appendix B

Quantification of potential loss to the business rate pool.

1. General Business Rate Information.

| | |
|---|----------|
| Total rateable value 2005 list – England | £47,090m |
| Total rateable value 2005 list – Enfield LB | £215m |
| No. of hereditaments 2005 list – Enfield LB | 6,723 |
| Net debit to collect 2006/07 | £79.3m |
| Non domestic rate multiplier 2005/06 | 42.2p |
| Non domestic rate multiplier 2006/07 | 43.3p |

2. Additional business rate assessments identified within Green Belt during the last twelve months which could not be backdated.

| | £RV | Rates per annum 06/07 £ | Estimated loss due to late assessment £ |
|---------------|--------|----------------------------|---|
| Farm shop | 4,150 | 1796.95 | 8,756 |
| Storage unit | 42,000 | 18,186.00 | 26,586 |
| Warehouse | 22,750 | 9,850.75 | 2,400 |
| Livery stable | 7,000 | 3,031.00 | 8,862 |
| Total | | | *46,604 |

* The estimate is based on 2005 list valuations and 05/06 multiplier and is likely to be higher than if the properties had been assessed in the 2000 valuation list. The loss to the pool would have spread over 5 financial years.