

**Minutes of a Meeting of the
Overview and Scrutiny Committee
Worthing Borough Council**

Gordon Room, Town Hall, Chapel Road, Worthing

Monday 21 November 2016

Councillor Roy Barraclough (Chairman)
Councillor Keith Bickers (Vice-Chairman)

Noel Atkins	Nigel Morgan
Paul Baker	Louise Murphy
*Callum Buxton	Luke Proudfoot
**James Doyle	Jane Sim
Alex Harman	*Steve Waight
Kevin Jenkins	Tom Wye
Susan Jelliss	

*Absent

**Councillor Doyle was present but was not acting as a committee member (see declarations of interest)

WBC/OSC/16-17/01	Declarations of Interest / Substitute Members
<p>Councillor Jenkins made a non-pecuniary declaration as ward councillor for Gaisford</p> <p>Councillor Doyle informed the meeting that as a member who had called the item in (the subject of the meeting) he would be absenting himself as a member of the committee.</p> <p>Councillor Smytherman made a non-pecuniary interest as a member of West Sussex County Council.</p>	
WBC/OSC/16-17/02	Public Question Time
<p>There were no questions made by the public.</p>	
WBC/OSC/16-17/03	Consideration of any matter referred to the Committee for a decision in relation to call-in of a decision - Call in - Decision Number W/ENV/005/16-17 - Proposed Fencing at the Manor Sports Ground - Decision of the Worthing Borough Council Executive Member for the Environment
<p>Before the committee was a report by the Monitoring Officer, a copy of which had been circulated to all members and a copy of which is attached to the signed copy of these minutes as item 3. The report before members set out the background to a decision 'called in' by three members of the council. Namely that a decision was made and published on 14 October 2016 by councillor Roberts, Worthing borough council executive member for resources, The decision concerned the proposed erection of fencing at Manor Sports Ground, Worthing and was taken</p>	

following receipt and consideration of an officer report, written by the head of economic growth and the head of environment. The council's monitoring officer received a request for a 'call-in' of the decision from three council Members. The request was accepted by the monitoring officer and referred to the meeting of the Worthing borough council Overview and Scrutiny Committee for consideration.

The chairman of the committee reminded the meeting that the purpose of the meeting was to review the process of decision making and not the decision itself.

The monitoring officer introduced the report to the committee. Members were told that the committee needed to consider whether council policy and the principles of decision making had been complied with when the decision had been taken. If the committee determined that they felt the decision had been made in contravention of policy or the principles of decision making then it should refer the matter back to the decision maker for reconsideration.

The committee had been sent a document purporting to be from the broadwater manor action group and submitted directly to members by email from a witness present at the meeting. The chairman of the committee called a short adjournment for the committee to consider the document. There had been questions raised about the content of the document but the chair stated that he would put those questions directly to the witness concerned during the relevant part of the meeting.

The meeting adjourned at 6.40pm and reconvened at 6.55pm

Members had been given additional written evidence from Councillor Smytherman from Mr Kenneth Hobbs, a copy of which is attached to a signed copy of these minutes.

Representations by those members who called the item in

Councillor Doyle was invited to speak in support of his request for call-in which is summarised as follows:

- Councillor Doyle asked the committee to consider openness and fairness in dealing with sections of the community;
- In other areas of its work such as planning the council was scrupulous and rigorous in carrying out consultation;
- Consultation as set out in the report was flawed. There were two key sets of information: an 800 signature petition against the erection of a fence on the manor ground (an organisation against the fence) and a drop in session that came out in favour of the fence organised by the Bohunt school (an organisation that supported the fence). As an impartial 'fair dealer' the council should not accept either as a final answer as to public opinion on the matter;
- The council should undertake a consultation (not on a PSPO - it was contended that this was a separate matter) to introduce a fair balance between the two sides;
- The decision conflicted with council policy in terms of the local plan. The local plan was omitted entirely from the report to the executive member. Policy 14 stated that there should be no loss of alternative provision of green infrastructure;
- There were a diverse group of users of the manor ground whose use would be hampered by the erection of a fence. To protect the local plan it was important to consider all aspects of the plan;

- Councillor Doyle accepted that the erection of the fence was important to the school but permission should not be given because the alternative was worse. The onus should be to provide good solutions not the 'best of a bad job';
- The suggestion that the school use the Manor ground was brought up late in the process and people were caught unawares by the suggestion. The council should not give way to another organisations processes, it should decide how it could support the community as a whole and how it could support the policy as detailed within the local plan;
- Other schools and sports clubs did not have fences whilst using public green space;
- The council was effectively handing over land to another organisation which took away public voice on how the land could be managed in the future;
- A decision could be found that did not disadvantage everybody. If the process were started again with a consultation and regard to policy a solution could be reached to keep everybody happy;

Councillor Thorpe was invited to speak in support of her request for call-in which is summarised as follows:

- Councillor Thorpe stated that the council had no policy of segregation of public open spaces;
- Councillor Thorpe suggested that there was a lack of evidence of need for the segregation, the school had been operating on the manor ground without incident;
- WSCC planning committee were not aware of the proposal being part of the agreed recommendations;
- Statistics relating to a consultation within the report were confusing, contradictory and biased;
- Councillor Thorpe asked to what extent stakeholder voice took precedent over the voice of residents;
- Councillor Thorpe asked about the alternatives that had been pursued and how these had been communicated the the public;

Councillor Smytherman was invited to speak in support of his request for call-in which is summarised as follows:

- Councillor Smytherman expressed concerns that the decision would set a precedent and would be extended to other green spaces in Worthing;
- The council could carry out a consultation that added value to the decision making process and that the council had a duty to do so;

Representation by the decision maker

The executive member for the environment was invited to make his representation which is summarised as follows:

- The executive member had listened to the arguments of those opposing the fence but he did not agree with them;
- Given the result of previous consultation, petitions, emails from residents and parents of children at Bohunt the executive member felt that on balance arguments from both sides would cancel each other out;
- The use of the ground would not be granted for Bohunt to use exclusively. There would be four gates for access;
- Contrary to some claims, the cricket club had confirmed that dogs ran onto the playing area during games of cricket;

- The Bohunt school had reported incidents of dogs interfering with classes;
- The executive member related communications from parents of children of Bohunt school describing dogs disturbing lessons and of footwear being ruined by dog mess;
- The park has always been a 'dogs on lead' park although this had been ignored by local users. The introduction of a PSPO allowed dogs off leads in the area around the fence and the fence acted as a reminder to walkers that their dogs should remain on leads inside of the fence;
- Bohunt was an educational facility that taught the children and not a third party commercial enterprise as had been suggested by some;

Witnesses called by those members who called the item in

Mr Nicholls, Chairman of the South Broadwater residents association, a witness in support of the call-in was invited to make his representation which is summarised as follows:

- In the previous year they had applied to have the manor ground registered as a community asset, and that the ground was open to the public day round, year round and has a covenant to that effect. The reason for the nomination was to preserve and protect the land for the people of Worthing;
- The report refers to the ground as a school playing field which it was not;
- The resident's association had asked for a public consultation of residents that had been refused by Councillor Roberts, which had left the association disappointed;
- The school had been using the ground without a fence without incident;
- Keeping dogs on leads would not stop defecation;
- It was purported that the fence was ordered before the report was published and a decision was made. A Freedom of information request had been made about the purchase but there had yet to be a reply;

Members were invited to question Mr Nicholls

A Member asked Mr Nicholls to confirm that ward members from Broadwater and Gaisford, WSCC officers and the head of growth and investment had attended. It was put that Members of the association had been spoken to regularly and that there had been an open dialogue between the Council and the association. The member stated that there had been an ongoing consultation on the issue for two years. Mr Nicholls stated that the head of growth and investment had attended an AGM but that the association was calling an area wide consultation.

A Member noted that there had been a full consultation in the summer concerning the imposition of PSPOs in relation to dog walking and asked why Mr Nicholls felt that there had been no consultation. Mr Nicholls told members that he appreciated that consultation had taken place but his organisation was calling for a consultation including all people in the area.

A Member addressed Mr Nicholls on the parameters for his proposed consultation and put it to him that his proposals would miss out the wider population of Worthing and prospective parents for children who might attend Bohunt in the future.

Ms Coburn read a statement on behalf of the manor action group. Which is summarised as follows:

- Broadwater manor was a public sports and recreation ground not a school playing field;

- Bohunt, with the support of West Sussex county Council had attempted to take control of the manor ground;
- The Joint Strategic Committee had decided that the manor ground was not for sale or gift and would remain under council ownership;
- It was asserted that the 'drop in' had been poorly advertised and did not constitute a consultation and the report was disingenuous when it implied that;
- When the installation of the fence had been suggested last year the group had met with representatives of the council and West Sussex county council. It was purported that at the meeting the councils would work with the manor action group on consultation of the proposed plans including as many local residents as possible. Members were told that communication with senior officers had not revealed any plans to abandon plans for a consultation with local residents;
- The manor action group claimed that the consultation on the PSPO was ill advertised and did not constitute a consultation on the erection of a fence;
- Proper processes had not been followed .

The chairman invited the committee to question Ms Coburn but there were no questions

The chairman asked the next witness about the document that had been circulated directly to members prior to the start of the meeting and if he were prepared to either retract or substantiate allegations made within in. After discussion it was established that the author of the document was not one of the witnesses authorised as part of the process and the document had not been submitted by the members that had called the item in in conjunction with the deadlines stipulated by the monitoring officer. With that in mind the Chairman used his discretion and asked members to disregard the document.

Mr Gurney of the broadwater manor action group was invited to make a statement to the committee which is summarised as follows:

- The group was not against Bohunt but the group wanted to protect the public space;
- The council who owned the land should refer to the community if it wanted to change the way the space was being used by way of a proper and detailed consultation with relevant and accurate fact being used;
- It appeared the decision was a 'back-door' decision. That there had been no consultation of note with the local community regarding the installation of a fence despite assurances from the head of economic growth;
- Members were told that a cricket club committee member had asserted that the installation of a fence would get in the way. Members were told that there was a danger of the council being sued as a result of a cricketer being injured by the fence;
- It was purported that a four foot fence with easy access points was not the answer to safeguarding concerns;
- Mr Gurney told members that it appeared that the executive member had not considered all of the relevant information and had not explained why no further public consultation was necessary;
- It was claimed that there had been a lack of transparency over the previous two years;
- The erection of the fence was against the core strategy and policy 14 'green infrastructure'.

A member asked if Mr Gurney could confirm a statement made by the broadwater manor action group that they were not against shared use of the ground, which mr gurney confirmed as correct.

A member put it to Mr Gurney that a quote used in his representation concerning the core strategy was not correct and did not reflect what was written in the document. Mr Gurney told member that he was quoting the words used in the reasons for calling the item in.

Witnesses of the decision maker

The head of economic growth was invited to make a representation which is summarised as follows:

- There would continue to be shared use and public access across the manor ground;
- There would not be a change of use permission required for schools sharing a public open space;
- The joint strategic committee had asked that there be investigation of Dog Control orders and the possibility of zoning of the ground;
- National playing fields guidance identified potential problems of dogs in sports areas;
- The fence did not require planning permission because the council had permitted development rights;
- The fence was not in contravention with the core strategy as there was no material change of use to the manor ground. Planning policy had not been mentioned in the report because there was not a planning issue as far as the planning teams were concerned as far as the loss or change of use of public open space;
- Policy 14 stated that 'Worthing's areas of green infrastructure will be improved and enhanced to maintain their quality and accessibility for residents and visitors.'
- There had been a number of meetings, emails and discussions over two years. There had been postings on facebook;
- There were difficulties carrying out a consultation with such a diverse range of groups who used or could potentially use the manor ground. Should the council just consult with neighbouring properties or engage in a town wide consultation.
- During the preceding two years there had been significant views presented by local groups, sports groups who used the facility and schools that used the facility;
- The report captured some of those consultations that had taken place, there had been strong opinions from the different sides;

Upon answering a question the head of economic growth confirmed that the policy 14 of the core strategy stated that 'The Council will work with its partners and developers to ensure the creation of an integrated network of green infrastructure in Worthing. This will be delivered through a network of multi-functional green space'. A member noted that policy 11 stated that 'In appropriate circumstances the dual use of community facilities will be encouraged.' The head of economic growth stated that the lack of available land in Worthing meant that it was essential that existing facilities were shared. The open space, sport and recreation study had made particular reference about sharing use of existing green space.

A member asked which groups that used the manor ground had been consulted on the issue. Consultation had been sought with the football clubs, the cricket club, the hockey club, whitemead school, bohunt. The council had records of bookings and the park's section had engaged with those groups.

A member noted that two of the twelve core planning principles of the national planning policy framework were relevant namely 'Emphasise enhancing and improving the places in which people live their lives, not scrutiny alone.' and 'Promote mixed use developments, encouraging multiple benefits from urban and rural land'. The head of economic growth stated that the

unique position of Worthing (between the Downs and the Sea) meant that these two core principles were particularly important.

Mr Whitehead, headmaster of the Bohunt school was asked to give a representation which is summarised as follows:

- Members were told that the headteacher had at no point asked for exclusive use of the manor ground;
- It was not Bohunt's aspiration to take over manor ground but it was their aspiration that it provide a green open space for their sports teams;
- The school had been using it for a year. Initially 30 students used the ground at one time and when the school reached its capacity it could mean 180 students using the ground;
- The enhancement for the school would be the quality of lessons that could be provided when not running the risk of interference, particularly from dogs;
- The head teacher could vouch for the fact that dogs interfered with lessons and told members of instances where he had been present when dogs without leads interrupted consecutive PE sessions whilst he was conducting job interviews;
- The fence was a suggested way forward which allowed dog walkers to have off the lead dog walking on one side of the fence whilst sporting activities could take place on the other side of the fence;
- Regarding consultation the head teacher told members that the use of the manor ground had been a topic of constant discussion, at council level, at local level, with parents of students and with local residents. There had been a number of meetings with all different parties and there had been consultation over the summer on the introduction of PSPO's concerning dogs on the manor ground;
- The school wanted to work with local residents and dog walkers but a decision had been made and a line needed to be drawn since the decision had run its democratic course;
- He told members that he felt there had been sufficient consultation and that those interested had an opportunity to have their say and had met sufficiently with councillors;

There were no questions for the head teacher

The head of environment was invited to give a representation to the committee which is summarised as follows:

- For clarification, members were told that the fence had not been ordered but a procurement exercise had been carried out on the proviso that the order of the fence was subject to the decision of the executive member;
- Members were told that the council had approached the Football Association and relevant cricket boards and had received guidance on the required 'runoff' at the side of the playing areas to the fence lines, which the plans had met.

There were no questions for the head of environment.

Questions for those members that called the item in

There were no questions

Questions for the decision maker

There were no questions

Summing up of those members who called the item in

Councillor Doyle summed up as follows

- Councillor Doyle expressed concern that a precedent was being set at how the council dealt with its community assets;
- Councillor Doyle believes that the consultation was flawed and that the consultation on the PSPO was not relevant to the installation of a fence;
- The report to the executive member talked about the hypothetical outcome of a consultation on the fence and it was felt that this was in contravention with the principles of decision making;
- In general, residents were not familiar with the decision making process and would be unaware of the points at which they could engage with the council. The council had not come forward with a consultation on the fence whereby residents could have a say on the decision;
- It was put that dual use of the ground could be achieved but that the council had not undertaken the necessary processes to come to an agreement suitable for everybody.

Councillor Thorpe summed up as follows

- Councillor Thorpe told the committee that she thought the fencing was an expensive solution to dog fouling;
- The executive member was asked to reconsider his decision, to save the money earmarked for the fence and to invest it dog wardens focusing on the manor ground;

Councillor Smytherman summed up as follows

- Councillors were custodians of the Borough and not owners. Councillor Smytherman explained that the fencing of the manor ground could represent a precedent for the same thing to happen at other sports and recreation grounds throughout the Borough;
- Councillors were told that consultation documents could go out with the annual council tax bills.

Summing up of the decision maker

- Councillor Roberts told members that he had listened to the other side of the argument but that he didn't agree with it.

Debate

Members discussed the evidence presented at the hearing and the evidence submitted as part of the report. There was general consensus that a lengthy consultation going back to February 2014 had taken place with the necessary groups. There was further consensus that further consultation would not add value to the decision making process. By unanimous decision it was:

Resolved: that no further action be taken on the call-in.

The meeting was declared closed at by the Chairman at 8:12pm, it having commenced at 6.30pm.

Chairman