

MEETING AW.08:1011
DATE 15:12:10

South Somerset District Council

Draft Minutes of a meeting of the **Area West Committee** held at the Henhayes Centre, Off South Street, Crewkerne on **Wednesday, 15th December 2010**.

(5.30 p.m. – 8.40 p.m.)

Present:

Members: Cllr. Kim Turner (in the Chair)

Michael Best	Robin Munday
David Bulmer	Ric Pallister
Geoff Clarke	Ros Roderigo
Carol Goodall	Angie Singleton
Jenny Kenton	Andrew Turpin
Nigel Mermagen	Linda Vijeh (until 6.45 p.m.)

County Council Members:

John Dyke

Officers:

Andrew Gillespie	Area Development Manager (West)
Zoë Harris	Community Regeneration Officer (West)
David Norris	Development Manager
Adrian Noon	Area Lead North/East – Development Control
Neil Waddleton	Section 106 Monitoring Officer
Amy Cater	Solicitor
Andrew Blackburn	Committee Administrator

(Note: Where an executive or key decision is made, a reason will be noted immediately beneath the Committee's resolution.)

87. Minutes (Agenda item 1)

The minutes of the meeting held on the 17th November 2010, copies of which had been circulated, were taken as read and, having been approved as a correct record, were signed by the Chairman, subject to resolution (2) of Minute 79 (Street Markets in Area West) being amended to read as follows:-

“that it be agreed in principle to make funding available to support the delivery of the action plan when agreed”.

the word “agreed” having been substituted for “finalised” at the end of that resolution.

88. Apologies for Absence (Agenda item 2)

There were no apologies for absence.

89. Declarations of Interest (Agenda item 3)

Cllr. Mike Best declared his personal but non-prejudicial interest in planning application no. 10/03721/FUL (erection of 100 no. dwellings together with associated roads, parking, sub-station, open space and affordable housing provision, Bradfords Site, Station Road, Misterton) as comments had been submitted by Crewkerne Town Council on which he also served as a councillor.

90. Public Question Time (Agenda item 4)

No questions or comments were raised by members of the public or parish/town councils.

91. Chairman's Announcements (Agenda item 5)

No announcements were made by the Chairman.

92. Update on the Development of the Community Cars Scheme (Executive Decision) (Agenda item 6)

The Community Regeneration Officer summarised the agenda report, which updated members on the LSP project to develop a network of community car schemes across South Somerset and gave the reasons why the project was now not to be pursued.

The Committee noted the comments of a member who referred to the Government announcement regarding changes to be made to the financing and management of the NHS and to whether there may be an opportunity to seek a contribution under the new regime towards such a project in the future.

- RESOLVED:** (1) that the Committee note the report of the Community Regeneration Officer, which gave the reasons why the LSP project to develop a network of Community Car Schemes across South Somerset was not to be pursued;
- (2) that the £5,000 allocated to this project be returned to the Service Enhancement Budget.

Reason: To agree the return of the £5,000 previously allocated to this project to the Service Enhancement Budget.

(Resolution passed without dissent).

*(Zoë Harris, Community Regeneration Officer - 01460 260423)
(zoe.harris@southsomerset.gov.uk)*

93. Area West Committee – Forward Plan (Agenda item 8)

Reference was made to the agenda report, which informed members of the proposed Area West Committee Forward Plan.

RESOLVED: that the Area West Committee Forward Plan as attached to the agenda be noted.

(Resolution passed without dissent).

*(Andrew Gillespie, Area Development Manager (West) – 01460 260426)
(andrew.gillespie@southsomerset.gov.uk)*

94. Section 106 Obligations (Agenda item 7)

The Section 106 Monitoring Officer summarised the agenda report, which informed members of the action that had been taken since he had been appointed to the post on the 1st April 2010 to ensure that all requirements of Section 106 obligations, including the collection and spending of financial contributions, were monitored. Information was also provided in relation to Section 106 agreements, which had been signed in the last three years in Area West. The Section 106 Monitoring Officer asked members to endorse the actions in respect of the monitoring of Section 106 planning obligations and to comment on the report detail required in the future.

He further reported that this matter was being submitted to all the Area Committees for consideration and that it had been considered so far by Areas East and North. He indicated that comments made by those committees included information on Section 106 agreements specific to their wards being sent to ward members and quarterly monitoring reports being submitted to the Committee.

During the ensuing discussion, the Development Manager and Section 106 Monitoring Officer answered members' questions on specific points of detail relating to particular Section 106 agreements mentioned in the monitoring report attached to the agenda. The officers also noted comments and responded to a number of questions regarding the monitoring of Section 106 agreements generally including the following:-

- the implementation of a system for monitoring Section 106 obligations, together with the appointment of a specific officer to deal with this aspect, was welcomed by members;
- reference was made to trigger points being used in the monitoring of Section 106 agreements to ensure that specified actions/payments took place within the predefined timescale or event, which would include non-financial as well as financial obligations;
- reference was made to the potential for the Council having to refund contributions to developers if not utilised by the appropriate trigger point and to monitoring of the obligations being essential;
- the Section 106 Monitoring Officer confirmed that information held within a number of different services across the Council had been brought together to enable details of agreements to be entered into one system;
- reference was made to the clauses in earlier Section 106 agreements and a member questioned how rigid they were as she felt that they may not necessarily meet the current requirements for sport and leisure facilities in the area to which they related. The Development Manager indicated that generally the requirements of any clause within an existing agreement should be implemented within its strict sense although there may be a degree of flexibility on how contributions could be spent. The Development Manager further referred to the importance of ensuring that Section 106 contributions were targeted where they

were needed. He indicated that when an application was received, relevant services were consulted with regard to what was needed and committee reports would be more focused as to the requirements to be included as part of a planning obligation;

- the Development Manager indicated that the Legal Section usually became involved at the stage of drawing up the agreement once the decision on an application had been made although in some cases they were involved from an earlier stage;
- reference was made to larger residential developments where the package of contributions was based on the viability of a scheme. The Development Manager indicated that where a development could not meet the required obligations but was due to be carried out in different phases then it may be appropriate to include a review mechanism to assess future viability;
- reference was made to the agenda report only showing details of Section 106 agreements over the last three years. The Section 106 Monitoring Officer confirmed that, although the information given covered only the last three years, he was working backwards to include older agreements. He also asked that members let him know if there were specific agreements that were of interest to them;
- a member referred to a Section 106 agreement in which it had been agreed that a sum would be provided to the District Council to adopt the LEAP (Local Equipped Area for Play). She now understood, however, that the Council were no longer adopting LEAPs. The Development Manager confirmed that where such arrangements formed part of an existing agreement they would be honoured;
- a member referred to the development management system that was in place within the Council for major planning applications, which included liaison with services such as the District Council's Sports and Leisure and Strategic Housing Units and the County Council's Highways and Education Departments in respect of contributions to be sought as part of Section 106 agreements. Reference was also made to the Government's Localism Bill and the need to see what bearing that would have on issues with regard to community infrastructure and planning obligations;
- the officers gave information on the action that could be taken in respect of a number of instances that may arise in respect of Section 106 agreements, including requests by developers to reduce payments on grounds of viability, the possibility of proportional payments being made when only part of the development had been built, requests to discharge any planning obligations and the action taken to recover any unpaid amounts from developers;
- reference was made to needing to provide for both strategic facilities as well as those targeted to the local area when assessing the action/contributions to be required as part of planning obligations.

Members further commented on how they wished to have involvement with the monitoring of Section 106 planning obligations as follows:-

- members asked that ward members be informed of Section 106 obligations in their wards. It was suggested that this could be in the form of a 'tick' sheet showing the planning application concerned and the type of obligations that applied, e.g. sports and leisure, affordable housing, highways, education etc.;

- it was asked that where a member also served as a County Councillor, they be sent information relating not only to their District Council ward but also to those wards that fell within their County division;
- members further requested that copies of draft Section 106 agreements be sent to ward members to enable them to have the opportunity to comment. The Development Manager commented that although that could be done, he highlighted that there was a need for clarity of decision when the Committee determined the application;
- it was requested that a monitoring report be submitted to the Committee on a six monthly basis;
- the officers noted the request of members that they be informed of the views expressed by the other Area Committees by way of an item for information.

- RESOLVED:** (1) that the report of the Section 106 Monitoring Officer be noted and the actions taken in respect of the monitoring of Section 106 planning obligations be endorsed;
- (2) that the views of members with regard to their involvement with the monitoring of Section 106 obligations be taken into account as set out above.

(Resolution passed without dissent)

(Neil Waddleton, Section 106 Monitoring Officer – 01935 462603)
(neil.waddleton@southsomerset.gov.uk)

95. Reports from Members on Outside Organisations (Agenda item 9)

No reports were made at the meeting by members who represented the Council on outside organisations.

96. Feedback on Planning Applications referred to the Regulation Committee (Agenda item 10)

There was no feedback to report as there were no planning applications that had been referred recently by the Committee to the Regulation Committee.

NOTED.

(David Norris, Development Manager – 01935 462382)
(david.norris@southsomerset.gov.uk)

97. Planning Appeals (Agenda item 11)

The Committee noted the details contained in the agenda report, which informed members of planning appeals that had been lodged and dismissed.

NOTED.

(David Norris, Development Manager – 01935 462382)
(david.norris@southsomerset.gov.uk)

98. Date and Venue for Next Meeting (Agenda item 13)

Members noted that the next meeting of the Committee would be held at Horton Village Hall, Hanning Road, Horton on Wednesday, 19th January 2011 at 5.30 p.m.

NOTED.

*(Andrew Blackburn, Committee Administrator – 01460 260441)
(andrew.blackburn@southsomerset.gov.uk)*

99. Planning Applications (Agenda item 12)

The Committee considered the application set out in the schedule attached to the agenda and the planning officers gave further information at the meeting and, where appropriate, advised members of letters received as a result of consultations since the agenda had been prepared.

(Copies of all letters reported may be inspected in the planning applications files, which constitute the background papers for this item).

Prior to consideration of the planning application, at the request of the Chairman, the member who had declared an interest at the beginning of the meeting in respect of this planning application (details of which are set out in minute 89 above) did so again bearing in mind that those members of the public who had attended the meeting for the planning application may not have been present at the beginning of the meeting.

10/03721/FUL (pages 1-15) –The erection of 100 no. dwellings together with associated roads, parking, sub-station, open space and affordable housing provision (GR 345407/108646), Bradfords Site, Station Road, Misterton – Betterment Properties (Weymouth) Ltd.

Prior to summarising the details of the application, the Area Lead North/East referred to the previous application relating to this site, which had been considered at the February 2010 meeting of the Committee and had been refused because of its failure to make appropriate provisions for certain planning obligations. He reported that this application was identical but now included a more balanced package of planning obligations.

The Area Lead North/East, in updating members, reported that amended landscaping drawings had been received with which the Council's Landscape Architect was content subject to a condition, the details of which were included within the agenda report. These amended drawings also addressed a resident's concerns about a garage, which was shown on the original landscape drawings but not the layout drawings. The County Archaeologist was also content with the proposals subject to a safeguarding condition being added to any permission.

The Area Lead North/East further reported that Misterton Parish Council had indicated their acceptance of the recommended planning obligations. The Parish Council had also mentioned that they were looking for appropriate bus stop arrangements and the Area Lead North/East reported that it was proposed to provide a drop off point with a shelter on the north bound side of the road, which the Parish Council would be willing to adopt, and with which the applicants were content. With regard to the provision of a MUGA, the Parish Council had indicated that they would want a contribution towards maintenance and it was noted that the applicants were content to make a contribution as part of the Section 106 planning obligations.

The Area Lead North/East further reported that a footpath suitable for walkers and buggies through the public open space on the site to the rail crossing and from the rail crossing to the recreation ground had been requested, which the applicants were content to provide through the Travel Plan. He also reported that he had discussed the affordable housing provision with the Strategic Housing Manager who had indicated that the provision of 10 affordable units as a mix of 2, 3 and 4 bedroom properties was satisfactory and would match need in Misterton. The Area Lead North/East further mentioned that the applicant did not wish to provide the affordable units in collaboration with a RSL (Registered Social Landlord) but they were willing to meet requirements similar to those of RSLs relating to such matters as, for example tenancy agreements, security of tenure and choice based letting. Although the Strategic Housing Manager was disappointed that a RSL would not be involved he had indicated that he would accept the proposed arrangement.

Reference was made to recommended conditions 3 and 4 set out in the agenda report, which required improvements to the pedestrian rail crossing and the provision of a pedestrian road crossing respectively. The Area Lead North/East informed members that it was now considered preferable for those requirements to be included within the Section 106 planning obligations rather than as conditions.

The Area Lead North/East, with the aid of slides and photographs, then summarised the details of the application as set out in the agenda report. In referring to the site plan he showed the public footpath that was to be diverted. He also showed plans of the proposed layout of the site and landscaping together with photographs of the rail crossing and the site generally. In referring to the foot crossing over the railway line he reported that he had discussed the provision of a footbridge, as raised by the Parish Council, with Network Rail and they had restated their position that the proposed improvements to the foot crossing were adequate and that they would not pursue a footbridge. The Committee noted the details of the improvements to the rail crossing that were recommended by Network Rail, which were set out in the agenda report.

The Area Lead North/East referred to the key considerations to be taken into account in determining this application including whether the issues previously considered satisfactory, namely access, design, layout and visual impact remained acceptable and whether the proposed planning obligations acceptably mitigated the impact of the development. He advised that the design and layout were still considered acceptable.

Although there had been a substantial lowering of the planning obligations being sought, the Area Lead North/East explained that the District Valuer had concluded that the current offer by the applicants was reasonable in this case. The Committee noted that the recommendation was one of approval subject to the completion of a Section 106 agreement to ensure that the development provided for those requirements listed in the agenda report with the total contributions not exceeding £400,000. In addition, he referred to the need to include in the Section 106 agreement reference to the bus stop enhancements and provision of the footpath, as referred to earlier in the meeting, together with details relating to the timing of the provision of specific obligations within the agreement. He also recommended that conditions 3 and 4 be deleted as provisions would be made in the Section 106 agreement to cover those matters and that the date of receipt of amended landscape plans be included in condition 2. An additional condition also needed to be included as recommended by the County Archaeologist.

The officers then responded to members' questions on points of detail. Points addressed included confirmation of the position of Network Rail regarding requirements for the foot crossing over the railway line and that a footbridge was not required; provisions for boundary treatment including hedges, it being noted that the applicant was looking at a form of management company with regard to the public open space, which would include the boundaries; confirmation of the position with regard to the acceptance of the delivery of

affordable housing without the collaboration of a RSL; whether a self-closing mechanism for the gate to the foot crossing of the railway line would be accessible for the disabled, the arrangements for the location of bus stops; comparison of the numbers of houses to be provided in respect of this application compared with earlier applications; confirmation that action could be taken to enforce the terms of the Section 106 agreement if it were not complied with and that the applicant would be required to enter into an agreement with Network Rail on the timing of the work to provide the improvements to the footway crossing of the railway line. The date of the appeal (25th January 2011) against the refusal of the previous application was also reported.

The Area Lead North/East asked members for a guide on what would be acceptable as a trigger point for the work to provide improvements to the footway crossing over the railway line, the footpaths through the site to the rail crossing and from that crossing to the recreation ground, and on the provision of the pedestrian road crossing in Misterton.

The Committee then noted the comments of representatives from Misterton Parish Council, Mr. R. England and Mr. P. Braley. Reference was made to the site being a little isolated from Misterton and to the Parish Council wanting residents to feel part of the village and to send their children to Misterton School. A safe route would therefore be essential and the Parish Council was keen for the safest most direct route to be provided from the site to the school together with a firm surface. It was also felt that a gate should be provided in the nearest corner to the railway crossing. Reference was also made to the area outside the school being busy when children were dropped off and to traffic travelling at speed and to some form of calming being appropriate. Concern was expressed about the form of management company that may be used by the developer to manage the public open space and the Parish Council queried whether there would be any safeguards and asked whether they could see the details of any agreement that was made in that respect. It was also felt that the responsibility for the maintenance of hedges would need to be established. It was further indicated that the Parish Council would like to see a bus shelter on each side of the road or arrangements for buses to pull into the station in which case only one would be needed.

The Committee noted the comments of County Councillor John Dyke. He referred to the site being well within the parish of Misterton and to the proposed development representing about a 30% increase in the number of dwellings in the village, which was significant. He also felt that it was important for the development not to be seen as an isolated community in Crewkerne or Misterton. He further commented that although he would instinctively prefer a bridge across the railway line, if Network Rail felt that what was being proposed met their requirements then he would go along with that. He also felt that this had to be balanced against the dangers of the highway. He mentioned that the school in Misterton was one of the first in the County to have a 20 mph zone because of the perceived dangers of traffic. He referred to the viability of the site and to the comments of the District Valuer with regard to that matter. He also referred to the need for a gateway to the site and for overgrown vegetation to be trimmed back and provided they were taken into account he could accept the application. He also felt that the timing of the various infrastructure improvements needed to be right.

Cllr. Angie Singleton, one of the ward members, commented that the development of this site had been anticipated for many years and that it was important to maintain links with Misterton. She was pleased that the path and gateway had been included in the Travel Plan. She expressed her view that there was a need for two bus stops, and shelters if possible, which she felt could be accommodated through the Travel Plan. She referred to the concerns of Misterton Parish Council about the type of management company that may be used to manage the public open space and hoped that they could be consulted. In referring to the improvements to the rail crossing, she remarked that Network Rail were satisfied that the provisions that they had put forward were acceptable. She indicated her support for the application, which she felt should be granted.

Cllr. Mike Best, also a ward member, referred to the placing of the contract for the improvements to the footpath crossing over the railway line being paramount. He further expressed his view that the development was not ideal and was disappointed that some of the affordable housing had been lost. He mentioned, however, that the site was badly in need of development.

Cllr. Geoff Clarke, also a ward member, indicated that he had nothing to add.

Other members also indicated that they felt that the application could be granted. Discussion ensued and suggestions were put forward with regard to the appropriate trigger points that should apply to the provision of the infrastructure improvements. The Committee also noted the comments of a member who expressed concern that the developer was not prepared to work together with a RSL and did not feel that the application satisfied policy HG7. The Development Manager reported that the Area Lead North/East had met with the applicants and the Strategic Housing Manager, who had indicated that he was satisfied with the proposed arrangements. Although noting that matter it was considered that there should not be a reference to the application satisfying policy HG7. Discussion also took place on the total contributions in respect of the planning obligations not exceeding £400,000 and a member commented that the sum was at current value and it was considered that provisions should be made to enable a review of the obligations to take place in relation to later phases of the development when economic circumstances may be more favourable.

Members felt that the application could be supported and having considered the various points raised during the meeting agreed that the application be granted subject to the prior completion of a Section 106 planning obligation and conditions as set out in the resolution below.

The officers noted the request that Misterton Parish Council be consulted regarding the details to be included in the Section 106 planning obligations in respect of the arrangements for the future management of the open space, although it was recognised that they were not a party to the agreement.

The Area Lead North/East referred to the appeal into the refusal of the previous application relating to this site (08/04348/FUL) which was to be dealt with through a Public Inquiry. He asked members to agree that the decision made at this meeting in respect of the current application (10/03721/FUL) be used to guide officers in preparing for the appeal.

- RESOLVED:** (1) that planning permission be granted subject to:-
- (a) the prior completion of a Section 106 planning obligation (in a form acceptable to the Council's Solicitor(s)) before the decision notice granting planning permission is issued to :-
 - (i) deliver 10 of the new houses as affordable units for rent (of a size, location and tenure to be agreed by the Strategic Housing Manager);
 - (ii) provide for improvements to the footpath crossing over the railway line as requested by Network Rail and to specify timing and provide for agreement of detail. Timing to require letting of contract prior to commencement and works to be completed prior to occupation of 20th house;
 - (iii) provide a pedestrian crossing in Misterton, near the school and to specify timing and provide for

agreement of detail. Timing to require completion prior to occupation of any dwelling;

- (iv) provide a MUGA within the existing Misterton Parish Recreation Ground and maintenance;
- (v) deliver Travel Planning measures as agreed by the Development Manager in consultation with the County Travel Plan Co-ordinator, including bus stop enhancement/provision (on both sides of the road) and footpaths through the site to the rail crossing and from the rail crossing to the recreation ground. To specify timing and provide for agreement of detail. Timing to require completion prior to occupation of any dwelling;
- (vi) ensure contributions towards sports and leisure facilities in Misterton/Crewkerne as identified by the Leisure Policy Co-ordinator;
- (vii) agree the future management of the on-site public open space including hedges;

the total contributions not to exceed £400,000 at current value subject to the future review of the obligations in relation to later phases of the development;

- (b) conditions 1-2 and 5-22 and informative notes 1-3 as set out in the agenda report;
 - (c) the inclusion of the date of receipt of revised landscape plans (8th December 2010) in condition 2;
 - (d) the deletion of conditions 3 and 4 set out in the agenda report, these matters now being included within the Section 106 planning obligations;
 - (e) the inclusion of an additional condition requiring archaeological monitoring of the site as requested by the County Archaeologist in a letter dated 26th November 2010;
- (2) that the reference to the application complying with policy HG7 in the justification for the granting of the application be deleted;
 - (3) that the decision made in respect of this planning application be used to guide the officers in preparation for the appeal in respect of application no. 08/04348/FUL.

(11 in favour, 0 against)

(David Norris, Development Manager – 01935 462382)
(david.norris@southsomerset.gov.uk)

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 Chairman