

Planning Committee

Use of Emergency Powers

17 July 2013

Report of Chief Executive

PURPOSE OF REPORT

The purpose of this report is to advise Members of the use of emergency powers to issue the planning application ref 13/00372/OUT Care Home at Skimmingdish Lane Bicester.

This report is public

Recommendations

The Planning Committee is recommended

- (1) to note the Report

Background

This report is to set out and explain the reasons why emergency powers were used to issue the planning permission for development at Skimmingdish Lane, application ref 13/00372/OUT, considered by this committee at the last meeting.

Performance Measures

The Government introduced through the Growth and Infrastructure Bill amendments to the Town & Country Act 1990 by inserting new provisions 62A to 62 C. These new provisions to allow the Secretary of State to designate Local Authorities who are 'not adequately performing'. Once designated, applicants may choose to make applications direct to the Secretary of State. In practice such applications would be made to the Planning Inspectorate.

Given the difficult economic climate the Council has over the last few years pursued an approach to major developments of seeking to achieve permissions where possible even if that meant allowing applications to go over the 13 week target for determination. This approach has enabled a significant number of permissions to be achieved.

However the criteria now introduced for Authorities that are not adequately performing are based on speed of determination of major applications over the previous two years and appeal performance. The measures require an average of 30% of major applications to be dealt with within 13 weeks. The review of the Council's performance has revealed that it could be caught by the criteria related to speed of determination of applications. As a result

measures have been put in place to ensure performance is improved on major developments to avoid being designated as a 'not adequately performing authority'. These measures have included ensuring all major applications in this quarter, where possible are determined within the target timescales.

Care Home at Skimmingdish Lane Bicester

This application was considered by the Committee at the meeting on the 13th June 2013. The resolution was to grant planning permission subject to;

- 1) The applicants entering in to an appropriate legal agreement to the satisfaction of the Council relating to rescinding the planning permission to develop the land to the east of the building for B1 use and to provide two bus stops in the vicinity of the site
- 2) The Environment Agency receiving sufficient information to enable them to remove their objection
- 3) Conditions, including a condition added by the committee requiring the provision of a crossing

The application reached its 13 week deadline on the 17th June 2013. On the 17th the Council had received an undertaking with regard to bus stops and the Environment Agency had agreed the amendment to the wording of a condition to remove their objection. The only matter outstanding was therefore the agreement to rescind the earlier permission. The applicants were happy to undertake this but could not meet the 17th June deadline.

Discussions with the Council's Solicitor revealed that the requirement to have a legal agreement rescinding the earlier permission could be secured by a condition requiring the agreement to rescind the previous permission prior to work commencing. This provided the necessary safeguard that both permissions could not be implemented. However this approach differed from the committee resolution, although achieving the same end.

As the issues with the application were resolved and it was possible to still issue the permission to meet the application target, the Chair of the Planning Committee as asked if there would be any objection in this case to the Chief Executive using her emergency powers to enable the permission to be issued. In this case there was no objection and emergency powers were used to enable the permission to be issued within target.

Conclusion

It is unusual for emergency powers to be used in these circumstances. However it is important that the Council avoids being designated as a poorly performing authority as this could result in the Council losing the ability to determine major applications.

Consultations

None

Implications

Financial

If the Authority was designated it could lose income from major applications, if applicants choose to apply direct to the planning inspectorate. Avoiding being designated prevents this occurring.

Comments checked by Kate Drinkwater– 01295 222188

Legal

The correct process has been followed in granting the

planning application as set out above and therefore there are no additional impacts arising from this report.

Comments checked by Nigel Bell Law and Governance – 01295 221687

Risk Management

The correct process has been followed in granting the planning application as set out above and therefore there are no additional impacts arising from this report.

Comments checked by Nigel Bell Law and Governance – 01295 221687

Document Information

Appendix No	Title
None	
Background Papers	
None	
Report Author	Jenny Barker Team Leader Development Control & Major Developments
Contact Information	jenny.barker@cherwell-dc.gov.uk 01295 221828