Update on Committee's Concern regarding Sport England Advice

A report by Head of Planning Applications Group to Planning Applications Committee on 8 February 2017.

Update on Committee's concern regarding the delay to planning decisions as a result of Sport England consultation views

Recommendation: The Committee's notes the response from the Minister of State for Housing and Planning and supports the Head of Planning Applications Group in seeking a meeting with Sport England at a senior level to discuss the concerns and how we might work together to address them in order to speed up the planning process and ensure that sporting facilities are appropriately maintained.

Local Members: N/A **Classification:** Unrestricted

Background

1. At the meeting of 16th November 2016, the Committee resolved that the Chairman be requested to write on the Committee's behalf to the Secretary of State for Communities and Local Government in respect of the delay in implementation caused by Sport England's objection to a proposal at Charing Primary School and at similar proposals across the county. (Minute 55 (4) (C)).

2. Members may recall that the application was for a permeable tarmac playground to be used as a multi-use games area and trim trail at Charing Primary School, on land at the edge of the playing field. It was being reported to the Committee solely on the grounds of the objection from Sport England. The Parish Council attended the Committee meeting and spoke in favour of the development.

3. The Chairman wrote on 24th November 2016 to the Secretary of State for Communities and Local Government drawing attention to the Committee's concern regarding the delay to delivering important educational facilities as a result of the manner in which Sport England views are addressed during the planning application process. Where Sport England raises an objection to a proposal and the planning authority is satisfied having considered all material planning considerations that planning permission should be granted then there is no discretion, the application must be referred to the Secretary of State (SoS) via the Department of Communities and Local Government (DCLG).

4. The Town and Country Planning (Consultation) (England) Directions 2009 clarifies the arrangements and criteria for consulting the Secretary of State (SoS). The purpose of the direction is to give the SoS the opportunity to consider whether to exercise their call in powers and therefore determine the planning application. Referrals have to be made for those developments that fall within the 2009 Direction and where the local planning authority is minded to grant planning permission. In the case of Kent, where there is no delegated authority to determine applications where there are material planning objections, then the application also has to be reported to the Planning Applications Committee.

5. A copy of the letter and the reply from Gavin Barwell MP, Minister of State for Housing and Planning and Minister for London are attached at Appendix 1. Whilst recognising the importance of safeguarding facilities for sport use, the Chairman's letter drew attention to the Committee's responsibility in not compromising existing and potential sports facilities, but recognised that it has to do so in the context of other policy

objectives. This includes the great importance that the Government attaches to ensuring that there are sufficient school facilities to meet community needs and Government expectation that sustainable development should be determined without delay.

6. Where Sport England raise objection to a proposal, officers seek to resolve the concerns of Sport England on an individual basis. Where this is not possible a reasoned case is provided to Sport England, the Planning Applications Committee and the Secretary of State via DCLG. On no occasion, has the latter not been persuaded by the case put before them by the County Council, such that the application has been recovered for a decision by the SofS. As a result, it is considered that the existing process of addressing the views of Sport England and the referral process is unreasonably delaying the delivery of important community facilities.

7. This reporting and referral process delays the determination of the application and in the case of Charing added some 6 weeks to the planning process. This is at a time when planning authorities are being strongly encouraged not to hold up development.

8. In his reply, the Minister of State for Housing and Planning confirmed that the SofS is very selective about calling in applications and, in general will only do so if they raise issues of more than local importance and those issues need to be decided by him rather than the local planning authority. He noted the Committee's concern and that on this occasion, DCLG dealt with the referral in a timely manner of 11 days. In addition, he suggested that the concerns raised could usefully be considered when the 2009 Consultation Direction is reviewed The Minister also suggested that this Council may wish to seek a meeting with Sport England at a senior level to discuss the concerns of this Committee.

9. There is no current date set for a review of the 2009 Consultation Direction. I will however ensure that the concerns raised above will be incorporated into any future review responses and in the meantime will draw attention to the matter at appropriate discussions with DCLG and peer group to raise awareness. With regard to a meeting with Sport England, I recommend that a meeting be arranged.

Recommendation

10. I RECOMMEND that Committee's notes the response from the Minister of State for Housing and Planning and supports the Head of Planning Applications Group in seeking a meeting with Sport England at a senior level to discuss the concerns and how we might work together to address them in order to speed up the planning process and ensure that sporting facilities are appropriately maintained.

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APPENDIX 1

The Rt Hon Sajid Javid MP
Secretary of State for Communities &
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Date: 24 November 2016

Dear Sajid

I am the Chairman of the County Council's Planning Application's Committee which is responsible for determining planning applications for, amongst others, the County Council's school development proposals.

I have been requested to write to you on behalf of my Committee about concerns that have arisen as a result of objections received from Sport England to a number of school development proposals. The most recent was for a playground at Charing Primary School on the edge of the playing field adjoining the school's buildings which is to be used as a multi-use games area and marked out for netball. This will provide the school with an all year round useable space for sport as well as for informal play. If it had not been for Sport England's objection my officers could have dealt with this application under delegated powers. It would not otherwise have been necessary to report it to my Committee and a decision could have been issued at the end of September.

The enclosed copy of the committee report provides details of the proposal and considers the objection from Sport England. It will be noted that Sport England was only prepared to reconsider its objection if the playground was relocated or it was fenced and floodlit. My Committee did not consider either option was appropriate in this case for the reasons set out in the report. Moreover the objection has further delayed a final decision being made on the application since it has now been sent to the National Planning Casework Unit as required by the Town and Country Planning (Consultation) (England) Direction 2009 for consideration on your behalf. A decision is not expected until late December 2016.

We have had other recent cases where there has been some encroachment necessary onto school playing field for essential school development where Sport England has maintained an objection despite the school still having more than adequate playing field remaining for their needs. I understand that we have several other applications that will be coming forward to the committee where Sport England has similarly objected.

There is clearly a balance to be struck as part of the planning process in these matters and we do not take lightly the planning policy objectives that provide for protection of playing fields. On the other hand we are also mindful of the great importance that the Government attaches to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities, and that great weight should be given to the need to create, expand or alter schools. It has therefore been necessary to set aside Sport England's objection on a number of cases recently but that has not been without ensuring that the school's sporting facilities would not be diminished or that that sufficient playing field remains for the required pitches, running tracks, etc. None of the applications have subsequently been called in following the referral process. However, it has resulted in unnecessary delays in the decision making process and ultimately the provision of important education facilities which are usually subject to tight deadlines in terms of funding and delivery.

It seems to me that something needs to be done to remove what is clearly an impediment to the efficiency of the planning process, particularly in the light of the Government's ongoing aims to speed up the time it takes for decisions to be made on planning applications. Certainly it would help if Sport England were able to adopt a more pragmatic approach to much needed school development proposals. After all they are not about the disposal of playing fields for speculative development as occurred in the past, which the current provisions for consulting Sport England were rightly introduced. In the absence of a change in approach it would help if there was more discretion given to local planning authorities when applications to which Sport England has objected were required to be referred. An amendment to the Town and Country Planning (Consultation) (England) Direction 2009 to this effect could provide a way forward and enable more timely decisions to be made on such applications.

I would be most grateful to hear your views on this matter and hope it will be possible to effect a significant improvement in the situation that currently prevails for the benefit of the Community, Applicants, Sport England and Planning Authorities.

Yours sincerely

John Davies
Chairman of the Planning Applications Committee
Kent County Council

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Department for Communities and Local Government

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19 DEC 2016

Thank you for your letter of 24 November to The Rt Hon Sajid Javid MP, about Kent County Council planning application, AS/16/1148; construction of a multi-use games area at Charing Primary School, Charing, Kent, and Sport England's representations on planning applications affecting playing fields. I am replying as the Minister for Housing and Planning.

Your Council referred the application to the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2009, on 18 November. The purpose of the Direction is to give the Secretary of State the opportunity to consider whether or not he wishes to call-in applications which fall within its scope for his own decision. He is very selective about calling in applications and, in general, will only do so if they raise issues of more than local importance and those issues need to be decided by him rather than the local planning authority. In this case it was decided that the Secretary of State should not intervene. He was content that the application should be determined by your council.

I note that Sport England has objected to a number of school proposals in your area and note your concerns in this respect, as well as your concerns about the referral process generally potentially delaying planning decisions. The referral was received by the Department on 21 November 2016, and the decision not to intervene was issued on 2 December 2016. I hope you agree that in this case, my officials dealt with your council's referral in a timely manner.

I am always interested to hear views on how the planning system is operating and how it might be changed, and your views will be taken into account when we next review the 2009 Consultation Direction. Your council may also wish to seek a meeting with Sport England at a senior level to discuss your concerns, and how you might work together to address them.

In the meantime, I hope you will understand that I am unable to comment on this particular planning decision, as I must avoid prejudicing the Secretary of State's position.

Yours sincerely

GAVIN BARWELL MP