

Cevn Vibert

From: Shields, David (Cllr) <Councillor.D.Shields@southampton.gov.uk>
Sent: Tuesday 08 October 2019 10:22
To: Leggett, Steve (Cllr); Windle, Vivienne (Cllr)
Cc: Paffey, Darren (Cllr); Bogle, Sarah (Cllr)
Subject: Legal Position with Regards CPO of Former Civil Service Sports Ground
Attachments: 20090727_EXTRACTS OF EXECUTIVE.docx

Importance: High

Steve/ Vivienne

Some key factual background material that can help us when considering the feedback from the recent engagement exercise prior to formal submission later this year of a planning application which will, of course, itself be the subject of a formal public consultation. [I've also BCC'd a couple of bone fide local resident activists with whom there is a constructive dialogue outside of the glare of an increasingly politicised social media spotlight.]

Following a successful amendment from the Labour Group to the Liberal Democrat 2004/5 budget for additional capital spending to enable a Compulsory Purchase Order (CPO) of the former Civil Service Sport Ground, this was then enacted on 27 July 2009 by the (Conservative) Cabinet whereby the Council acquired the land owned by Bovis Homes using its CPO powers. The Cabinet meeting was attended by Cllr. Jeremy Moulton, member for the Freemantle ward (at that time) and Cabinet Member for Resources.

The Council's legal purpose in making the CPO was expressly to:

1. increase playing fields available to schools within the vicinity of the CPO land to improve the current deficit in existing playing fields available to school's under the Education (School Premises) Regulations 1999
2. provide additional playing field land in connection with the Primary School Review, which created 3 all-through primary schools (including St Marks and Banister), further exacerbating the significant shortfall of school playing field space for junior pupils
3. make provision for after-school and holiday sports activities (and community use where compatible with the playing field use)

Attached are relevant extracts from the minutes of this Cabinet meeting including links both to the covering report and three of the accompanying appendices which are in in the public domain.

I also set out below a summary of internal legal advice which I obtained in 2013 about potential community usage for the field that would be *complementary* rather *ancillary* to the primary use for education/ school playing fields purposes. Here I was advised that:

...the Council's acquisition of the former Civil Service Sports Ground under the strict terms of a CPO authorised in July 2009 was subsequently confirmed by the Secretary of State. The terms of the CPO are limited to those uses set out in the CPO and the Council's 'Statement of Reasons' in support of this. The use to which the site was CPO'd was explicitly for 'Educational Purposes under s.530 of the Education Act 1996'. More specifically the site is restricted to use as school playing fields. The primary purpose of the CPO was to increase playing field provision (team game pitches) to nearby schools and to bring the playing field provision within the vicinity of the site to the minimum standard required by the Education (School Premises) Regulations 1999. Once these minimum

standards are met, the City Council can consider provision of additional playing fields in order to meet wider primary school need for team game pitches.

Only once these considerations have been made would the Council be able to provide a layout compatible with the final objective of the CPO e.g. to provide border 'habitat' areas which fall within the legal definition of a 'playing field' and to permit community use where this would be compatible with that playing field use. Community use that reduces the amount of playing field/ habitat provision or open space would, therefore, be contrary to the terms of the CPO. The Council was only able to justify the making of the CPO on the basis that the City was woefully under-provided for in terms of 'playing field' both within the planning definitions and the definitions under the Education Act and School Premises Regulations.

We should also remember that two of the major policy drivers for the City's CPO were public health-led:

- 1. Tackling the Childhood Obesity Epidemic:** Southampton City Council and the Southampton Physical Education and School Sport Partnership were two of eleven organisations working together under the umbrella of 'Active Southampton' (which sadly, due to the Coalition Government's decision in 2011 to cease funding for School Sports Partnerships, had to be discontinued) where one of the City's key themes was to promote physical activity in order to reverse the rise in the number of the city's children considered obese in year 6. At the time of the CPO there was a Local Area Agreement target to reduce childhood obesity 18.6% to 15.82% by 2010/11. This did not happen and childhood obesity in Southampton – as almost everywhere else in England – continues to rise year-on-year. According to the World Health Organisation this is now a major and growing global public health emergency. *The most recent National Child Measurement Programme data for Southampton (2017/18) show 23.3% of year R children classed as overweight or obese (England 22.4%); in year 6 it was 37.4% (England 34.3%).*
- 2. Promoting Community Safety and Social Cohesion:** the former Civil Service Sports Ground in providing a sports facility can also provide activities extended beyond the school day providing a safe environment for participation with the potential to reduce crime and disorder in the locality. Participation in sports and team games within an area with a significant range of minority ethnic communities will foster co-operation, teamwork and promote better understanding and positive attitudes between different groups.

I'm keen to bear these two considerations in mind as we progress the school expansion project following stakeholder/ community feedback from the recent engagement exercise relating to the design principles.

With thanks and best wishes

Dave Shields

Cllr. Dave Shields, Member for Freemantle Ward

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