

Knutsford Town Council

Town Clerk: Adam Keppel-Green

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Lorraine O'Donnell
Chief Executive
Cheshire East Council
Westfields
Middlewich Road
Sandbach
CW11 1HZ

Friday 11th December 2020

Dear Ms O'Donnell,

FORMAL COMPLAINT REGARDING THE PROPOSED DISPOSAL OF PUBLIC OPEN SPACE AT LONGRIDGE, KNUTSFORD

For the past three years, Knutsford Town Council has repeatedly attempted to have meaningful engagement with Cheshire East Council concerning the proposal (and subsequent decision) to dispose of an area of public open space in Knutsford. The Town Council has sought to cooperate with Cheshire East Council and have the two parts of the local government family work together on resolving a significantly contentious issue for our residents.

It is with regret that we feel compelled to submit a formal complaint regarding Cheshire East Council's handling of the matter and the lack of transparency.

History of the Issues

In the first stages of the preparation of a new Local Plan, no housing was proposed for this site and at a public meeting held in support of consultation on the Local Plan at the St John's Wood Community Centre in October 2012, the former leader of Cheshire East Council Michael Jones stated that there would be no house building on Longridge. However, during the initial examination of the Local Plan, the Inspector required the north of the borough to accommodate additional houses and a consultation on proposed new sites was held in early 2016. PSS607 (now LPS38) was proposed for allocation as housing (150 homes) and safeguarded land and through this consultation the community of Knutsford responded positively to the proposal recognising that, if done right, additional development in this area had the potential to deliver investment into a deprived part of the town. The Town Council's response to the consultation was:

[the safeguarded portion of the site] should be allocated for housing instead of safeguarded to ensure the community and economic benefits of development can be achieved in this part of town. [...] and the public open space to the south-west of PSS607 should be allocated as protected open space in addition to its greenbelt protection.

This response, and the response of the community in supporting the development, was predicated on the understanding that the development would fully integrate with the existing estate as shown on early

masterplans (Annex A shows the masterplan from January 2013). The masterplan showed a development with two access roads and a community plaza linking with the existing square.

In March 2016, the Town Council's Neighbourhood Plan Committee received a presentation from Emery Planning (agents for Dewscope, owners of the development site) on their development proposals. It was through this presentation that the Town Council discovered the proposal to build an access road over the Longridge/North Downs playing field.

This playing field had been identified by the Town Council for improvement and in 2014 the Town Council had written to Cheshire East Council to formally request that the two open spaces either side of the road on Longridge be transferred to the Town Council under the devolution of assets agenda.

After receiving the presentation from Emery Planning the Town Council contacted Cheshire East Council to ask if they were aware of the proposal and to remind the council the Town Council sought to have management of the land to improve it as an open space. The Town Council received a response from Heather McMannus of Engine of the North which stated:

[...] any transfer is considered subject to several key points being addressed, one of which is that there would be no positive value lost to CEC as a result of the transfer. In this particular case, you will be aware that the site is currently being considered as part of a housing allocation in the local plan, which could create significant value in the site, and as such, this will need to be factored into any consideration by members.

In a written submission to the Local Plan Inspector in August 2016 with regards PSS607 Emery Planning stated:

2.17 *The majority of the site is owned by Dewscope Ltd. Cheshire East Council owns the remaining frontage of the site to Longridge, and also the existing open space immediately to the southwest. The Council's property development company, Engine of the North, are actively promoting the site alongside Dewscope Ltd, and an agreement in principle has been reached to promote and eventually dispose of the site to a developer should the site be allocated.*

2.19 *Dewscope and Engine of the North consider the site to be viable with the full level of planning obligations likely required by the plan. The site is greenfield and there are no insurmountable constraints to delivery. We have submitted documentation relating to technical matters in our previous representations, including ecology, along with an illustrative masterplan.*

In a similar submission to the Inspector, Engine of the North promoted the inclusion of the playing fields for development:

13.41 *The council owned playing fields immediately to the south-west of the site are being promoted for development by Engine of the North. We consider they should be removed from the Green Belt and included within the Longridge allocation (CS50). The land could be used to provide a primary or secondary access to site CS50. The site could also be developed as part of site CS50, or indeed in its own right.*

In June 2017 the Town Council was alerted to a planned decision to dispose of land at Longridge and following further investigation this was confirmed to be relate to the public open space. A meeting was held with the head of the assets department, Andy Kehoe, in July 2017 and the Town Council was advised

of a covenant on the land which was understood to prevent the building of an access road to the development site. It was stated that it would be difficult to work out all those holding the benefit of the covenant, but Cheshire East Council refused to provide the Town Council with a copy of the covenant. It was also stated that allowing an access road to facilitate the building works would greatly decrease the potential value of the covenant to the potential beneficiaries and therefore reduce substantially the cost of getting it set aside.

The Town Council obtained the Land Registry title documents for the covenanted land and detail of the covenant itself, dated 1977. The benefit of the covenant was originally held by Manchester City Council (the original developer of the Longridge housing estate) and through the sale/transfers of parts of the estate was now shared with Great Places and a number of individual homeowners. The Town Council compiled a comprehensive schedule of every covenant beneficiary using the Land Registry title information.

At a meeting in September 2017 the Town Council was advised that the beneficiaries were identifiable and that Cheshire East Council's legal department had 'investigated' the covenant; at this stage the Town Council offered to lead on a local solution and coordinate a meeting with all beneficiaries with a view to arranging the discharge of the covenant. The Town Council was also informed that a 'compromise' proposal had been suggested by borough councillors Tony Dean and Hayley Wells-Bradshaw of disposing of part of the open space to facilitate the road, but not the whole site.

The then Town Mayor, Cllr Neil Forbes, attended the October 2017 Cabinet meeting to express the Town Council's strong objection to the disposal of any part of the playing fields. In his representations to the Cabinet Cllr Forbes again offered a solution to the covenant with the Town Council facilitating the beneficiaries' agreement its discharge. Cabinet resolved that the Executive Director of Place explore options for facilitating access over the covenanted land but at the same time authorised the Portfolio Holder for Regeneration to make a decision on the disposal of the land following a consultation.

In a report to the Cabinet for this meeting it was stated:

- 3.5 *[...] it is unknown who now benefits from the right to enforce the covenants effecting the grass verge and indeed whether the covenants remain enforceable and investigating the same could lead to significant cost risks and delays to the scheme.*

The Town Council met with Cllr Ainsley Arnold (Portfolio Holder for Regeneration) and senior officers in February 2018, again setting out our offer to assist with discharging the covenant. This meeting being unsuccessful, in May 2018 the Town Council met with former Leader Cllr Rachel Bailey and on offering support to discharge the covenant were told the onus of discharging the covenant should fall upon the developer.

In July 2018, Cheshire East Council published a report which stated:

- 3.3.1 *The extent of the benefitting land is not identified and whilst further work on this issue has been undertaken by external legal advisors, significantly more work would be needed to define the exact extent of this.*

- 6.1 *Further work and external legal advice strongly indicates that there is no prospect of gaining access across the Green Land.*

The Town Council wrote to Cllr Ainsley Arnold, setting out that the extent of the benefitting land was clearly defined in the covenant and that we had identified every beneficiary. The majority of the

benefitting land was owned by Great Places Housing Association which had confirmed to the Town Council in principle agreement to assist in the release of the covenant for £1 and in responding to the disposal consultation reiterated this directly to Cheshire East Council.

At the decision meeting in October 2018 it was reported that:

External legal advice and Counsel advice had been sought in relation to the covenant on the green land and whether access across the land was feasible given the restrictions on the use of the land. The advice received was that the building of a structure would be a breach of the covenant and that the chance of success at Tribunal to make a change to the covenant was poor.

In June 2019 we wrote to new Leader Cllr Sam Corcoran calling for his administration to review the decisions to which we received a dismissive reply from Andy Kehoe. In October 2019 we met with Deputy Leader Cllr Craig Browne and senior officers where we again called for the matter to be revisited and the onus of discharging the covenant to be placed on the developers. Cllr Browne undertook to charge officers with investigating this. At this meeting we stated that if it could be proved that this was the only way to deliver the development, we would likely stand down our opposition. A response to this meeting was received six months later when in April 2020 we were informed by Lee Beckett:

Following a lengthy exercise, further work and obtaining further fresh external advice the conclusion to this exercise is that the proposal remains the correct course of action to deal with this matter.

We sought clarification on this statement and an explanation as to why it is not possible to transfer the covenanted land to the developer and placing the onus on them to discharge the covenant. In June 2020 we received a repetitive response stating:

As set out previously the Council has sought new, additional, professional and legal advice on this matter. You will be aware and recall from earlier discussions on this matter that there are certain elements of professional advice the Council receives that we are not able to share with third parties, including yourselves, even on a confidential basis as suggested in your email.

Following the completion of this piece of work, this has been carefully considered by the Deputy Leader and the Portfolio Holder. The conclusion of this work and their review of the work is that the approach to take is to continue the properly made decision on this matter, made in 2019 by the then Portfolio Holder.

Our Complaint

The Town Council has been extremely disappointed by the non-collaborative approach Cheshire East Council has taken in its decision-making processes. The Town Council does not feel that its views, and those of the residents of Knutsford, have been properly considered and the council cannot understand why Cheshire East Council has been so tenacious in its desire to dispose of an area of public open space which the public so vehemently oppose. The Town Council has not been convinced that all options have been explored to overcome the covenant but that instead Cheshire East Council has taken the option that is easiest and possibly most financially beneficial to it. There is considerable concern in the community about the matter and the Town Council seeks that Cheshire East Council, as a public body representing residents "Residents First", would want to dispel such concerns.

The Town Council remains of the view that the responsibility (and cost) for discharging the covenant should be on the developer of the housing site which will generate significant profits. We do not understand why Cheshire East Council is refusing to share the legal advice it states it has received which apparently make this a non-viable strategy. If the Town Council was permitted access to this advice it would enable us to support the approach Cheshire East Council is taking – as we have stated all along we are looking to ensure the housing development proceeds but in the most appropriate way for Knutsford.

The apparent obfuscation leads us to conclude that Cheshire East Council either has something to hide or ulterior motives. It calls in to question:

- A) When did the council first become aware that the covenant would prevent access to the development site?
- B) What chain of events led up to the Town Council's Neighbourhood Plan Committee receiving the presentation from Emery Planning (agent for the site owners) on their development proposals given it was through this presentation that the Town Council discovered the proposal to build an access road over the Longridge/North Downs playing field.
- C) Why was the landlocked development site put forward when there was a known legal obstacle to it being developed?
- D) Why has Cheshire East Council never contacted Manchester City Council (one of the beneficiaries of the covenant) to discuss the matter?
- E) What direction was given to Cheshire East Council's wholly owned development company, Engine of the North, that would lead to it proposing to develop allocated playing fields in a town where there were plentiful alternative sites for development?
- F) Why does the council continue to refuse to share information with another government body (the Town Council) when it claims this settles the matter?

Yours sincerely,



Adam Keppel-Green
Town Clerk

KEY

-  Community Hub and Traffic Calming Zone
-  Proposed Housing Development
-  Public Open Space
-  Existing Trees/ Vegetation
-  Pedestrian Access
-  Site Boundary
-  Brook
-  Vehicular Access
-  Ponds
-  Proposed Trees/ Vegetation



LONGBRIDGE, KENTFORD	
INDICATIVE MASTERPLAN	
Client	Apex
Date	Jan 2013
Scale	1:1250 @ A1
Drawn by	CAW
Checked by	1881.83
Author	
Project Manager	
Project Engineer	
Project Architect	
Project Planner	
Project Surveyor	
Project Designer	
Project Drafter	
Project Checker	
Project Approver	
Project Sign-off	