

TO: PLANNING COMMITTEE
23 APRIL 2015

BINFIELD HOUSE NURSERY – APPLICATION 13/00966/FUL
Director of Environment, Culture and Communities

1 INTRODUCTION

- 1.1 The purpose of this report is to appraise the Committee of an urgent action decision taken by the Director of Environment, Culture and Communities relating to the application for planning permission for development at Binfield House, Nursery.

2 SUPPORTING INFORMATION

- 2.1 The application for planning permission for the development of Binfield House Nursery was last considered by the Committee at its meeting on 26 February 2015. The Committee resolved to approve the application subject to a number of conditions, including a condition in the following terms:-

“41. The development shall not be begun unless and until all parties with any legal or equitable interest in the application site have entered into an Agreement pursuant to Section 106 of the Town and Country Planning Act 1990 in terms set out in the proposed Section 106 Agreement annexed to this permission, and the title to such area of land has been properly deduced to the Council”.

- 2.2 Although the large majority of part of the application site is currently owned by the Council a relatively small part is owned by third parties. Following the Committee meeting a draft Section 106 Agreement was prepared. The applicant's solicitors requested that the land in third party ownership be excluded from the Section 106 Agreement. After consideration by the Borough Solicitor it was determined that the exclusion of the land in third party ownership would not undermine the effect of the proposed planning obligations in the draft Section 106 Agreement.
- 2.3 Acting upon the advice of the Borough Solicitor and with the concurrence of the Chairman of the Committee a decision was made under the Council's urgent decisions procedure (Section 6.4, Part 2 of the Council's Constitution) to amend proposed Condition 41 such that the Section 106 Agreement will apply to land shown on a plan annexed to the Section 106 Agreement (which excludes the third party land). The decision was required to be taken before 6 April as otherwise the development would have been subject to the CIL Charging Schedule.

3 EQUALITIES IMPACT ASSESSMENT

- 3.1 Not required.

4 STRATEGIC RISK MANAGEMENT ISSUES

- 4.1 None.

Background Papers

File of Borough Solicitor (exempt).

UNRESTRICTED

Contact for Further Information

Vincent Paliczka, Director of Environment, Culture and Communities – 01344 351750
Vincent.paliczka@bracknell-forest.gov.uk

Alex Jack, Borough Solicitor – 01344 355679
Alex.jack@bracknell-forest.gov.uk

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