

NOTICE OF MOTION:

LAND AT WILLOW LANE (FREEMAN'S WOOD), LANCASTER

To consider the motion to be proposed by Councillor Mandy Bannon. Seconded by Tim Hamilton-Cox, Dave Brookes, Abi Mills and Gina Dowding.

"This Council notes that the letter from Council Officers to the Planning Inspector, which has gone online from 3/7/2019, says:

"Land at Willow Lane, Lancaster (Policy DOS5), Local Green Spaces (Policy SC2).

With regard to the Inspector's judgement that available evidence indicates that the area identified as SC2.1 of Policy SC2 and referred to in Policy DOS5 does not fulfil the criteria set out in paragraphs 76 and 77 of the National Planning Policy Framework (2012) for designation as a local green space and accordingly, this site (SC2.1) should be deleted and the policies amended as necessary: The Council accepts the direction of the Inspector and will, through the process of proposed modifications, consult on the removal of the NPPF Local Green Space designation at Freemans Wood, Lancaster, accompanied by the consequent revision to the Local Plan Policies Maps to delete the area identified by Policy SC2.1."

However, Council disagrees with this response. Instead, Council resolves to seek advice from an experienced planning counsel on ways that evidence provided by the planning consultants Satnam on Local Green Space designation for Freeman's Wood can be challenged. Council wishes to defend Freeman's Wood and will seek best advice on how to do this.

The advice sought from counsel will be agreed in conjunction with the cabinet member for Planning and Marsh Ward councillors. Full Council will be informed of the response and will decide on how to proceed accordingly."

OFFICER RESPONSE:

The Motion quotes only two of the three paragraphs from the Council's response to the Planning Inspectorate dated 3 July 2019. Critically the Motion omits the final paragraph, which reads as follows:

"The SC2.1 Local Green Space designation was intended to provide a higher level designation of special protection for a small number of green spaces in the district. The majority of the area identified in the submitted plan as SC2.1 Freeman's Wood NPPF Local Green Space will continue to be identified under Policy SC3: Open Space, Recreation and Leisure. On the Policies Map Policy SC2.1 is overlain on the area otherwise allocated by Policy SC3 as amenity greenspace".

Therefore, the Officer Response to the Inspector notes the Inspector's judgement on this matter. However it then states that the Council will continue to seek protection for Freeman's Wood through Local Plan Policy SC3. Policy SC3 states:

Policy SC3: Open Space, Recreation and Leisure

Existing open space and recreation facilities have been identified on the Local Plan Policies Map. These sites, identified for their recreation, environmental and/or amenity value will be protected from inappropriate development in accordance with relevant national and local planning policy.

In other words, the Council's response indicates that it does not intend allocating the site for development.

With regard to the suggested resolution, there are matters to note:

- (i) The Inspector has already considered the Council's evidence, as advocated by Paul Tucker QC (Head of Kings Chambers' Planning Division and Deputy Head of Kings' Chambers) and Council Officers. The Inspector's subsequent letter to the Council sets out his position; namely that he has not been convinced by the Council's case for making Freeman's Wood a NPPF Local Green Space. This does not necessarily mean that he has agreed with counter-evidence put forward by Satnam.
- (ii) Nonetheless the Inspector has made a decision based upon the evidence presented at the Examination. It constitutes his judgement on the matter, and therefore seeking an opinion from Counsel will have no effect in changing his direction.
- (iii) The Motion asks for advice as to how Satnam's evidence can be challenged. The time for challenging the evidence presented by Satnam was during the Examination Local Hearing Sessions. The Council's QC and Officers did this robustly. Regrettably, no other parties chose to appear at the Examination to explicitly support the Council's position regarding Freeman's Wood.
- (iv) To conclude, the actions within the Motion are not consistent with the Local Plan process. However, the Inspector's judgement to delete Freeman's Wood would be the subject of a (statutory) 6-week consultation, along with the other modifications to the Local Plan. The consultation therefore provides the opportunity for other parties to express comment on the Inspector's decision. The Inspector will then take all comments received during the consultation process into account when he drafts his report regarding soundness.

Section 151 Officer comment:

If the motion is carried, the council would have to incur expenditure on instructing Counsel to give an opinion. Based on previous experience the cost of this exercise is estimated at between £5,000-£7,000.

Given that the expenditure of between £5,000-£7,000 would be contrary to officer advice, a third party may question the value for money associated with such a decision.

Monitoring Officer comment:

The Monitoring Officer has considered the officer response and concurs with the advice provided.