

Agenda Item No: 5

Report to: Cabinet

Date of Meeting: 1 December 2014

Report Title: **Rocklands Caravan Park**

Report By: Simon Hubbard
Director of Regeneration

Purpose of Report

To respond to two consultants reports commissioned to examine the council's handling of planning and licensing issues in relation to Rocklands caravan site.
To respond to the comments of the Save Ecclesbourne Glen Group on the consultants reports.

Recommendation(s)

- 1. To agree the proposed actions in response to the consultants' reports contained in paragraphs 43-54 of this report.**

Reasons for Recommendations

To address the areas of concern identified in the consultants' reports in relation to both planning and licensing matters.

Introduction

1. Members will be aware of issues around Rocklands caravan site. All members will have received e-mail correspondence from the Save Ecclesbourne Glen Group [SEGG] and there has been some media coverage. This report outlines the response to the situation and proposes a number of ways forward.
2. The report addresses interlinked issues:-
 - a. Member and public concern about the planning process for the partially constructed holiday let house at the site.
 - b. Arrangements for caravan site licensing and planning at the site and in particular concerns about its possible impact on the Country Park.
 - c. The landslip affecting part of the south of the site which has impacted heavily upon public access to the Country Park and has (irrespective of planning issues) meant part of the Rocklands site cannot be used to locate caravans.
3. There have been clearly expressed concern around the council's handling of these matters.
 - a. Firstly, some members of the public believe that lack of planning/licensing control (particularly over drainage and run-off) led to the creation of the physical conditions in which exceptionally heavy rain caused the landslide.
 - b. Secondly some believe that the operation of planning and enforcement services has allowed an inappropriate development to be approved and then implemented outside the terms of the original planning permission.
 - c. It has also been claimed that the council's planning and licensing services have not operated effectively and have not been open to appropriate dialogue with residents.
4. As a result independent reviews were commissioned:-
 - a. A procedural review of the planning issues by Mrs Bahcheli of Tezel Bahcheli Limited.
 - b. An independent audit of the caravan site licence conditions for the site by RH Environmental Limited.

Both reports are available on the council's website at www.hastings.gov.uk/ecclesbourneglen

This report responds to the consultant's recommendations. It also identifies the appropriate next steps. In the interests of transparency both consultants' reports were published on the council's website on Thursday, 23rd October 2014. An additional addendum by Mrs Bahcheli covering joint planning/licensing issues was published on 12th November 2014.

5. It was also apparent that the council's system for checking compliance with caravan site licences needed reviewing. However, following enquiries with other licensing authorities it was quickly established that the council does not need assistance with this from a specialist contractor. Full audits of the remaining 4 caravan sites are planned for the New Year and will be carried out by the same contractor who audited Rocklands. They will be shadowed by a council licensing officer who will then take over this work. We're also developing a risk prioritised programme of compliance checks on all our licensed sites that will also be carried out on a routine basis.

Brief Background to Rockland Issues

6. Rocklands caravan site has apparently operated since 1947. It occupies a special location within the High Weald area of outstanding natural beauty and abuts Hastings Country Park. It adjoins a scheduled ancient monument, Hastings Old Town Conservation Area, a nature reserve, a special area for conservation and a site of special scientific interest. The site is currently owned by Mr and Mrs Guilliard who have operated it since 1997.
7. The site is licenced for 82 caravans and mostly caters for owner occupiers of caravans for longer term use rather than tourist caravans. There has been no substantial history of complaints about the operation of the site.
8. Early in 2014 a landslide created additional public interest and concern about the whole Rocklands site and Country Park.
9. The caravan site requires both planning permission and a caravan site licence. The licence sets out obligations on the layout and running of the site but gives permitted development rights to the owner to carry out certain works that are consistent with the licence terms and planning conditions.

Planning Issues

10. The consultant's report gives a more detailed history of planning processes for the house which is a holiday let. The original building was a single storey bungalow. Two attempts to replace it with a 2 storey building were refused, on 13th March 2009 [HS/FA/08/00869] and 19th July 2012 [HS/FA/12/00471]. However, approval was given for a 2 storey holiday let in February 2013 which raised local resident and member concern [HS/FA/12/00952] because there was no substantial difference between the permission refused and that given later by delegated officer decision.
11. The site owners brought forward a further [retrospective] application [HS/FA/14/00406] to reflect what they had in fact built. However, the application was based upon inaccurate drawings and the plans did not properly represent the building constructed. By this point there was significant public interest and the planning committee refused permission for the amended plans. The consultant's view is that this decision was fortuitous given the basis of the application. This means that the owners effectively do not have planning permission for the current construction. This must be addressed either by subsequent planning decision or enforcement action.

12. A planning contravention notice was issued on 2nd July 2014 to prevent any further construction work taking place on the partially built holiday let.
13. The consultant's key conclusions with regard to the application process for HS/FA/12/00952 are:-
 - a. That the pre-application engagement undertaken by planners had been in line with national good practice and guidance as set out in the National Planning Practice Guidance. Concerns had been expressed that this advice was improper, but it was found to be within both national guidance and the council's own policies.
 - b. That the statutory requirements for both advertising the application and consulting on it were met. The council's own statement of community involvement sets out a common standard for this and the consultant's report identifies the limited number of residential properties that were contacted on the basis of that policy - because the area is mainly open space rather than residential.
 - c. That High Weald AONB unit had said they did not object to the application, in stark contrast to their strong opposition against a previous similar application. This appears highly contradictory but the consultant concludes that she didn't believe that any inaccuracies (in the plans) would have led to a misunderstanding of the application. In response to the subsequent 2014 application the AONB unit does not refer to inaccuracies on the plans.
 - d. East Sussex County Council archaeological unit objected to a previous application because of the lack of a heritage statement for the ancient monument. However, the unit did not believe the later proposal would impact on the monument.
 - e. There is no explanation of why the Friends of Hastings Country Park did not respond to the application.
 - f. That the leisure services department had not been formally consulted on this issue.
 - g. The support given by the head of communications and marketing to the application needed a "disclaimer" making it clear this was not pre-empting a planning decision.
 - h. That the application fails to meet the required national expectation because insufficient information was available regarding boundaries, inaccuracies about trees/hedging and lack of information about scale. Some information had been requested but not obtained; however, she concludes that she does not believe there was deliberate obstruction by the applicant or that the limited information led to a lack of objection. The same drawings had resulted in objections in a previous application.
 - i. The application was largely considered under the correct policies but further information should have been sought on ground stability. The applicant had not fully addressed the reasons for refusal of the previous application. Officers should have also considered the impact on the Old Town Conservation Area.

Planning Application HS/FA/14/00406

14. There was a lack of consistency in the application and interpretation of planning policy between considering this application and the one previously refused which

should have been resolved through discussion in the development management team.

15. This application sought amendments to the approved planning permission. The changes requested were presented as a minor amendment showing a change in floor plan, altered windows and an expanded balcony. Although recommended by officers it was unanimously refused by the planning committee contravening Policy EN7 - Conservation and Enhancement of the landscape contained in the 2011-2028 Planning Strategy and being contrary to the National Planning Policy Framework (2012).
16. The consultant came to the following conclusions in respect of the consultation processes involved:-
 - a. The response to the application suggested it was well publicised and that there was no evidence of representations being rejected. A petition was received and 391 objections received.
 - b. There should have been consultation with Southern Water, Building Control and possibly others on issues of land stability given the history of the wider site.
 - c. That although there were faults in the documents the building was there for people to judge its impact.
17. Concerns by SEGG subsequently resulted in a measured survey being undertaken which confirmed the building did not conform to its existing consent. It was 0.55m higher and had a greater footprint, a larger balcony and had been re-orientated on the site. It is fair to say that this survey would not have been undertaken without pressure from the SEGG.
18. A number of inaccuracies on the plans have been raised by the residents. The consultant's view is that the council should have given the existing building more examination and demanded a higher level of information to support the application.

Consideration by Committee

19. The decision of the planning committee was made against officer advice. The consultant identifies:-
 - a. That there was an error in the reported dimensions of the building. This was acknowledged and an apology given.
 - b. The officer report did not take sufficiently into account the changes to the site which altered the visual impact of the building. In particular the changes to vegetation which make it much more visual. The vegetation issue and the change in building size are seen as material considerations which allow a re-examination of stability and landscape context.
20. In the consultant's judgement the council would be justified in seeking a full fresh application embracing issues of landscaping, drainage, stability, levels, impact and conservation.

Enforcement Action

21. The consultant reviewed the resources available to the enforcement team (3 full time). The consultant also reviewed the tools available to either negotiate with a developer or pursue enforcement action.
22. The consultant concludes that the council's response to the issues were appropriate and reinforces the message that "the object is not to punish the perpetrator(s) but to act reasonably in order to secure compliance with planning control". In her view:-
 - a. The steps taken to stop further development were effective and proportionate.
 - b. Council officers could have been more responsive to residents claims (proved right) that the building was outside its tolerances. These claims should have been investigated earlier and this might have allayed some of the subsequent mistrust.
 - c. It is appropriate for the council to seek a fresh application to resolve all the issues affecting the development.
 - d. The application appeared hastily put together and did not reflect the constructed building and the high level of public interest should have stimulated more thorough investigation. Had it been approved it would have been difficult to enforce.
23. Seeking a fresh application is appropriate and enforcement action taken only if one is not forthcoming in a reasonable timescale.

Storage Buildings, Solar Panels and Enforcement

24. The consultant considered concerns about a storage building and the installation of solar panels, neither of which have been the subject of a planning application.
25. It is likely that the owners would receive a lawful development certificate for the storage shed as it has been there for more than 4 years. It is reasonable for the council to await the outcome of an application for a certificate. The consultant concurs that the building, in itself, does not harm the character of the site or the amenity of the area.
26. There are also an array of ground mounted solar panels on the site, which again the consultant viewed as not harming the character and amenity of the area. However, it is appropriate to serve a planning contravention notice (as has been done) and await a planning application to regularise the position.

Loss of Trees

27. The site is unusual in that conditions were applied in previous planning decisions which prevented the removal of trees without the council's consent. This is unusual by modern standards because they are not time limited.
28. Trees have been removed from the site. The owners apparently contacted the council's planners to see if the site was covered by a tree preservation order (TPO) and were told that no further consents were required. Residents and the MP also contacted the council and were told the same thing. However, in April 2014 it was

confirmed that there is an unusual planning condition relating to trees on this site. This does not reflect well as it indicates officers failed to check the situation until pressurised from above and outside to do so. This has led to a spirit of distrust and subsequent complaints about lack of enforcement.

29. The consultant's view is that it is unlikely the council could ever hope to accumulate sufficient evidence to take action on this issue. Additionally, the planning condition set in 1978 and before may not meet the tests set out in the National Planning Policy Framework. Despite the very considerable evidence assembled by campaigners the consultant (and our chief legal officer) do not view this as sufficient to be likely to win at any appeal.
30. The consultant concludes enforcement is of little value at this stage. The need for staff training and improved oversight of response is identified as a need arising from this part of her report.

Overlap between Planning and Licensing

31. There is an overlap between planning decisions and the licensing of caravan sites. This is important in this context because:-
 - a. Campaigners felt that the owners had carried out actions under the license which were not permissible because of planning decisions.
 - b. The caravans put without planning permission at the bottom of the site were serviced by a car park and road which were regarded as channelling water to the proximity of the landslip. In turn this was seen as a potential contributory cause of the slip.
 - c. That the caravan site licence did not reflect the planning consent in relation to the lower part of the site.

A full examination of the licensing issues affecting the site was already underway within the environmental services directorate, in parallel with the Rocklands caravan site licence audit commissioned from an environmental health consultant. Tezel Bahcheli was asked to do a piece of supplementary work to examine the areas where planning and licensing overlap.

32. The site licence is issued by Hastings Borough Council under the Caravan Sites and Control of Development Act 1960. A site cannot be operated without a licence (broadly). At Hastings Borough Council this function is exercised through the environmental health licensing team.
33. Conditions can be imposed or changed on an existing licence, subject to the right of appeal to a magistrates court. A breach can result in a fine if convicted and a council can apply to have a licence revoked after two convictions.
34. A council does not have to apply conditions or indeed inspect sites where it has issued a licence.
35. In 1997 when the current site operators took over the site, the council issued a licence, but there is nothing on file to indicate what conditions were attached or how the site was configured under that licence. There appears to have been a transfer

to Mr. and Mrs Guilliard and their son in 1997. However, the name on the licence incorrectly remained Mr. Tierney until a new licence was issued in 2012. The 1997 licence did include a summary of the transfers between previous site operators between 1971 and 1997. No inspection took place in 2012 and a site plan was requested from and submitted by the licence holders. The drawings submitted and accepted show caravans on the lower slope of the site where the landslip has occurred. It is likely that the caravans had been there some years by this point.

36. The landslip stimulated intense questioning interest in this part of the site. This was on the basis that:-
- a. The site did not have appropriate planning permission for the configuration on the caravan site licence (which is current).
 - b. The caravans caused damage to the amenity value and environment.
 - c. The road and car park, together with the concrete bases for the caravans contributed to the ground saturation and subsequent landslip.
37. It is absolutely clear from the consultant's report that there was no planning permission for caravans to be on the lower part of the site. Indeed she notes "that the planning history revealed consistent resistance of planning consent for caravans in this area, due to the harmful impact this would have on the Country Park and the High Weald Area of Outstanding Natural Beauty. On two occasions planning refusals were upheld or appealed." There was a long planning history showing the intention that the area should be used for recreational purposes. There is approval dated from 1979 for an amenity area and a car park above it and roadway leading to it. In 2012 a licence was issued that was not compliant with the long standing planning consents.
38. The consultant concludes that the following weaknesses existed:-
- a. The 2012 licence did not reflect the planning position and the site plan showed caravans on the lower slopes contrary to the planning consents.
 - b. The licence was issued without inspection.
 - c. No checks were made about the planning consent position with the planning team before issuing the licence.
 - d. There was no proper layout plan.
 - e. That there are no records of the Rocklands site having been inspected though no legal obligation exists for the council to do so.
39. The consultant has acknowledged that caravan sites which do not have catering, bar or leisure facilities are not regarded as having the same risk as other sites in terms of priority for inspection work. However, the director of environmental services agreed that the approach to the inspection of the caravan sites in the Borough needs to be reviewed on a risk prioritised basis and work towards this is progressing.

Other Matters Relating to Licensing of the site

40. There is no concern by the environmental health consultant that the site is improperly run. A key point (reiterated by the planning consultant) is that it is not possible to use the lower ledge area near where the landslip occurred for any purpose without further geotechnical study. This is linked to the issue of further potential landslip which is addressed later in the report.

41. Other issues amongst the 17 recommendations include:-

- a. Inviting the licence holder to submit a new licence and plan. This may involve a reduction in the number of caravans on the site.
- b. New and accurate site plan required.

However, with one exception the reports recommendations are detailed points of a more routine matter.

42. The consultant does make recommendations in relation to groundslip:-

"The council should establish whether the ground conditions at the lower south-eastern part of the site within the licence boundary are suitable for the purposes contained in the licence. This should be determined on the expert advice of a suitability qualified surveyor or civil engineer. Where the ground conditions do not permit its use, the area should be fenced off. Further inspections of ground stability should be carried out on a regular basis".

Response to Planning Consultant Recommendations and Addendum

43. Consultant Recommendation No. 1

The council should improve its examination of planning applications when submitted for validation. Care should be taken that plans are accurate (as far as officers are able) and that the information on planning application forms matches that in the plans. Where specialist information is required, these should be requested at validation stage; for example, tree surveys or geotechnical reports.

Response 1

- i. *The planning service has developed a revised validation checklist and this will be reviewed as part of a subsequent Planning Advisory Service [PAS] review of our overall processes.*
- ii. *Applications will not be accepted where plans are not sufficiently accurate or don't match the application. Staff will be given additional training on this aspect of the planning process.*
- iii. *Additionally the planning service will develop a "route-map" through the planning process whereby it can be clear that the necessary process and documentary evidence is in place.*

44. Consultant Recommendation No. 2

The council could respond in a more positive manner to complaints and reports of breaches of planning control. Responses could be more consistent, decisive and thoroughly researched.

Response No. 2

- i. *It is recommended that Cabinet consider both the need for transparency, good decisions and the needs of staff working in a challenging and pressured environment.*
- ii. *It is recommended that where a challenge is made to a factual statement about planning policy that a review of the file takes place and that all responses be signed off by the development manager. All replies to a Member of Parliament should be reviewed and signed off by the head of service.*
- iii. *Inevitably staff feel pressurised in a period when they are being publically challenged and where mistakes have been made. In some cases this pressure is very personal and public. It is recommended that planning staff are offered specific training both in appropriate customer care but also in complaint handling. This training should be arranged in conjunction with PAS and the council's personnel organisational development team to ensure its appropriateness for the planning context.*

45. Consultant Recommendation No. 3

The Planning Department could undertake a review of the procedure for signing off delegated planning applications to achieve a consistent application and interpretation of planning policy.

Response to No. 3

- i. *The service will review its performance via the PAS quality framework. This includes a randomised sample of delegated decisions. It also includes quality satisfaction surveys of stakeholders including members and neighbours.*
- ii. *The development manager will routinely review 10% of all delegated decisions to ensure a broad standard of consistency.*
- iii. *In normal circumstances the development manager should be expected to decide on issues of consistency and interpretation where they arise.*
- iv. *Where an issue is substantial or significant the matter should be resolved by the head of service, if necessary using external advice.*

46. Consultant Recommendation No. 4

The council could consider a review of its internal consultation procedures, to ensure that all departments with an interest in a planning application have an opportunity to consider the implications of a development proposal.

Response to No. 4

- i. *The establishment of a council wide planning group under the leadership of the head of housing and planning services. This would co-ordinate the input to sensitive or substantial application processes and all those with impact on council property. The performance of this would be part of the lead officers targets. The head of service will determine which applications are of sufficient importance to warrant a meeting of the group.*
- ii. *To help ensure consistency committee reports should now require the signature of the head of housing and planning services. This will ensure that scrutiny is*

given to major reports by someone responsible for the performance of the service but detached from day to day operation. He/she can approach any application in a more detached way. The development manager will review 10% of all delegated decisions to ensure consistency.

- iii. A rigorous internal system of written consultation on applications. Where the planning service has requested input from a service this will be provided through and in the name of the head of service concerned. A response be required even if it was a simple "no comment". Response returns would be reported to the planning committee or recorded in a delegated decision.*
- iv. The performance of service responses to planning requests will be reported annually to planning committee and Cabinet.*

47. Consultant Recommendation No 5

The council may wish to consider a change to its delegated agreement, so that if identical planning applications, previously refused, could be subsequently considered by committee if the recommendation is to be permitted. In reality this is unlikely to be a frequent occurrence.

Response to No. 5

- i. All identical (or practically so) applications following a previous refusal under delegated powers should only be revisited with the written approval of the development manager.*
- ii. Any approval of an identical (or nearly so) application made under delegated powers should be reported to the planning committee with arguments given as to why an earlier decision had been changed.*

48. Consultant Recommendation No. 6

The council should undertake a thorough review of its procedure for granting caravan site licences, that would include consulting other departments, and ensuring reciprocal arrangements when planning applications are received.

Response to No. 6

- i. That a written instruction is given to both the licensing and planning teams that no decision relating to caravan sites should be enacted until the recorded completion of discussion with the other service. This instruction to be put on the physical and electronic files of each service.*
- ii. That a regular scheme of inspections of caravan sites is introduced.*
- iii. The caravan licence for Rocklands is reviewed and either changed or a new one issued. This licence to include areas of planting and vegetation to ensure they can be managed through this system.*

Additional Recommendations

- 49. That Cabinet acknowledge the wider good performance of the development management team and accept that the issues in this report should be addressed in a supportive and inclusive way. The team were runners up in the PAS 2013 Good Planning Department exercise where they were compared with a number of other planning authorities. Work on electronic communications has won recognition as Smarter Planning Champions from the Planning Portal. The team's enforcement activities, particularly grotbusting, has bought recognition from the both the RTPI

and the DCLG and the team has spoken at events on these issues. Whilst accepting that this report identifies the need for improvement it is also important to identify positive aspects of the team's work as well.

50. Both consultants have recommended that a further geotechnical study should be undertaken to examine if and how further landslides might be avoided or minimised. This work will proceed but it is not known how practical or costly any solution may be.
51. That all planning files should be electronically recorded to allow the most rapid response and easiest access to the public and this is considered as part of the council's budget making process.
52. That an action plan is drawn up to implement the recommendations of this report and subsequently identified requirements. This to be implemented through a group to be chaired by the head of housing and planning services.
53. The council should adopt new guidelines on what constitutes a minor amendment (section 73a) and what constitutes a full application (section 91).

Environmental Health Consultant – remaining recommendations

54. That the report of this consultant is noted and the director of environmental services proceeds with its discussion and implementation with the owners.

Save Ecclesbourne Glen Group response

55. SEGG has made its response to the consultant's report in time to be available to Cabinet members. This is most welcome and has meant considerable effort by them.
56. SEGG's response to the Bahcheli report is divided into 3 parts which are available at www.hastings.gov.uk/ecclesbourneglen
 - a. Summary critique of the Bahcheli report [35 pages]
 - b. An annotated copy of an earlier document sent by the Group to Mrs Bahcheli [49 pages]
 - c. Detailed comment on the Bahcheli report [63 pages]

It is not possible to respond to the full 147 pages of submission in a report of this nature.

57. In terms of Mrs Bahcheli's recommendations they now indicate they are in agreement with all of them. However, they have indicated:-
 - a. That they would like to see a stronger response in relation to ensuring the submission of proper documentation and it is hoped this report provides some clarification about the action to be taken.
 - b. More detail is sought in relation to the signing off of delegated decisions and how consistency should be achieved.
 - c. Details of future procedures in relation to sensitive applications or the re-submission of identical applications.

- d. That training proposed for more junior staff on responses to planning enquires might be extended to more senior staff and it is agreed a whole team wide approach to this would be appropriate.

58. However, SEGG is very clear that it does not accept the independence of the review by Mrs Bahcheli and express the view that the review might have been set up to both defend the past performance of the planning team and might contain an element of “predetermination” of a future application. Both of these assertions are absolutely not accepted. The council has employed an independent consultant to carry out an impartial review and identify significant areas which need improvement.
59. SEGG has provided a list of 43 additional recommendations which are attached as an appendix to this report together with initial responses. Where appropriate these have been included in the officer recommendations in this report.

Responses by the Save Ecclesbourne Glen Group to RH Environmental Ltd site audit report

60. SEGG have submitted a report to the council commenting on the Rocklands caravan site compliance audit undertaken for the council by RH Environmental Ltd.
61. They state that they are in broad agreement with its conclusions and look forward to the implementation of its recommendations, which they hope the council will undertake as a matter of urgency.
62. However, they have reservations arising from what they describe as “errors of fact” in the report, and from the impact of some matters referred to in the report on the adjacent Country Park, in particular Ecclesbourne Glen. Their particular concerns relate to the drainage of waste water and sewage, but they also raise several other issues in relation to the caravan site licence and the compliance audit process. The full SEGG response is on the council’s website www.hastings.gov.uk/ecclesbourneglen and is part of the information pack sent to all members.
63. It is worth noting that the brief for RH Environmental Ltd specifically excluded matters of ground stability and site drainage, as the council is seeking information on these matters from the site operators prior to commissioning our own independent specialist advice.
64. Areas of the SEGG report overlap and the same issues are raised in several places. The principal SEGG comments and our response are attached at Appendix 3 to this report.

Next Steps

65. This report is not intended to address the long term future of Rocklands caravan site. However, 3 strands of work are proceeding to address the issues.
 - a. If a further planning application is received for the house then the matter will be resolved through this process, if not received enforcement action will be pursued at the appropriate point.

- b. Further work on stability will need to be undertaken. The council has reports from the owners on drainage and stability. These will need to be reviewed and used in conjunction with a further report commissioned by the council to assess what is practical in terms of stability. This is longer term work and the costs and possibilities are unknown.
 - c. Work is continuing in relation to the re-opening of footpaths in conjunction with the County Council.
66. There seems everything to gain from proceeding with this work in a calm and open way. The level of correspondence, dispute and contradiction has absorbed a huge amount of officer time and filled members e-mail boxes for some months. It is possible some of these matters will end up before the local authority ombudsman if they cannot be resolved. Good ongoing relationships with both the owners and the SEGG will be required.

Implications

67. The report proposes actions which are intended to improve the council's handling of planning and licensing issues and thus better manage the environment. The anticipated planning application and the assessment of the potential for intervention on the landslide will have environmental implications in the future.
68. There are no costs arising out of this report itself. However, there will be costs in the future associated with land stability, improved electronic records, staff training and the involvement of PAS and, the use of the independent consultant to see through a future planning application. Additionally there may be costs associated with the development and implementation of a new risk prioritised caravan site licensing compliance regulatory regime. Some of these matters will need to be considered in the context of budgets beyond this financial year.
69. There will need to be improvements to the council's internal organisation and the report contains proposals for new arrangements to ensure better work between council services. There may also be an implication for planning performance in terms of the speed of dealing with applications as higher standards of documentation are required.
70. There are strong views on this matter and the council has engaged with both SEGG and the caravan park owners. The council will wish to continue this dialogue as the planning and Country Park issues move forward.

Wards Affected

Old Hastings, Ore

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	No
Crime and Fear of Crime (Section 17)	No

Risk Management	No
Environmental Issues	Yes
Economic/Financial Implications	Yes
Human Rights Act	No
Organisational Consequences	Yes
Local People's Views	Yes

Background Information

Tezel Bahcheli Ltd – Procedural Review – October 2014

Tezel Bahcheli Ltd – Procedural Review Addendum – November 2014

RH Environmental – Rocklands Caravan Site Inspection Report

Coffey Geotechnics Limited – Ecclesbourne Glen Landslides report and report appendices

Save Ecclesbourne Glen Group Response to Tezel Bahcheli Ltd:-

- A summary document - "Critique of the Bahcheli Report"
- A detailed document - "Detailed Comments on the Bahcheli Report"
- An annotated copy of SEGG submission document to Mrs Bahcheli

Save Ecclesbourne Glen Group Response to RH Environmental Ltd

Hastings Borough Council website link to reports:-

http://www.hastings.gov.uk/community_living/places_spaces_facilities/allotments_parks_beaches/countryside/hcp_nature/ecclesbourne_glen/

Officer to Contact

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Officer Telephone Number: 01424 451753

TEZEL BAHCHELI LIMITED
List of Recommendations

1. The Council should improve its examination of planning applications when submitted for validation. Care should be taken that plans are accurate (as far as officers are able) and that the information on planning application forms matches that in the plans. Where specialist information is required, these should be requested at validation stage; for example, tree surveys or geotechnical reports.
2. The Council could respond in a more positive manner to complaints and reports of breaches of planning control. Responses could be more consistent, decisive and thoroughly researched.
3. The Planning Department could undertake a review of the procedure for signing off delegated planning applications. This is to achieve a consistent application and interpretation of planning policy.
4. The Council could consider a review of its internal consultation procedures, to ensure that all departments with an interest in a planning application have an opportunity to consider the implications of a development proposal.
5. The Council may wish to consider a change to its delegated agreement, so that if identical planning applications, previously refused, could be subsequently considered by committee if the recommendation is to be permitted. In reality this is unlikely to be a frequent occurrence.
6. The Council should undertake a thorough review of its procedure for granting Caravan Site Licences, that would include consulting other departments, and ensuring reciprocal arrangements when planning applications are received.
7. The Council should review all Caravan Site Licences, including that at Rocklands, to bring them up to date.
8. The Council may wish to consider further geotechnical surveys to establish the suitability of the lower slopes for the removal of debris and/or the future use of the area for an amenity area or play area, within the Caravan Site Licence.

No Change Necessary

9. The Council's pre-application procedures are appropriate and in line with Government advice to improve the quality of decision making.
10. The Council's procedures for consulting on planning applications appears to work well. The procedure accords with national and local guidelines and where applications are in relatively isolated locations, officers consider the correct approach carefully.
11. The Enforcement team appears to work effectively, taking action within the framework required by practice guidance.

Recommendations of Save Ecclesbourne Glen Group [SEGG] in relation to Bahcheli report and initial responses

Additional Recommendations

We agree and welcome the recommendations of the Bahcheli report. However we consider that they address only a small part of the problems and issues that have been raised by the Rocklands affair. We have been requested by HBC and Mrs Bahcheli to make further recommendations. Some of these are no doubt already included in existing policies and standing instructions, however they are not being followed.

1. All planning documents should be physically retained in the archives for 15 years. All documents associated with a planning application should be available online.

Response:

All applications are scanned and electronic copies held. Hard copies of new planning application documents are retained for 3 years which is the normal time for the implementation of planning decisions.

Ultimately all records should be retained electronically to give ease of access but this is subject to resources being available in the future to undertake the work of recording older file contents.

2. Pre-application discussions should be paid for by the applicant. It appears that a lot of pre application is currently given without charging applicants.

Response:

A charge is made for pre-application advice in most cases. No charge is made for pre-application advice to householders or for listed buildings. This situation will be kept under review.

3. Site Notices should be posted closer to the actual development site and from various approaches in addition to the current requirements

Response:

The council does attempt to post notices as closely as possible to development sites. They are displayed on publically accessible land, where possible on a public highway, or at the main access point of a development site.

4. Previous site notices should be distinguishable from a newer one maybe by using colour coding?

Response:

A single colour helps the public immediately identify what a notice is. However, some other distinguishing mark will be considered.

5. The neighbourhood notification notices for sensitive applications, especially those within the vicinity of the Hastings Cliffs SAC, SSSIs, AONBs and SEMs, should be more comprehensive and stipulated in Standing Instruction. They should include councillors, heads of HBC departments, Residents associations and other interested parties.

Response:

The cabinet report proposes improvements to the consideration of sensitive application including between council departments. Councillors receive

weekly lists of all planning applications in their members' bulletin. Any residents associations can create an account in Public Access and receive email updates on applications relevant to their area of interest. A weekly list is also available online.

6. The consultee list for sensitive applications should be broader.

Response:

This appears to be a repetition of 5.

7. HBC should follow its own policies and guidelines. Clearly structured sanctions should be published for officers that fail to do so.

Response:

Clearly officers should follow council policy. The council has clear performance and disciplinary policies which might potentially apply to all officers in the appropriate circumstance. There is no case for making planning staff the subject of additional processes.

8. The same case officer should, where possible be used for repeat cases on the same site.

Response:

It is agreed this is desirable where practicable. Workloads, holidays etc., will not let this be applied all of the time.

9. Identical or very similar applications, where the first was refused, should hold objection comments in abeyance and then reuse them on the subsequent application.

Response:

This would not be lawful all applications must be considered on their own merits. Applications are dealt with on an individual basis at the time they are served on the council. It would not be appropriate or lawful to use dated objections relating to another application.

10. All planning applications on or adjacent to HBC owned property must go the planning committee regardless of the number of objections without any exceptions.

Response:

This would require changes to the council's constitution or planning protocol, not within the Cabinet's control. It would be an unnecessary and onerous strain on the council's resources –some applications adjacent to council buildings might be quite minor – town centre business advertising consents etc. All planning applications made by the council itself, on its own land where there have been objections already go automatically to the planning committee.

11. Drawings/plans may not be accepted unless they meet standards defined by HBC.

Response:

Agreed. This is addressed in the consultant's and cabinet report.

12. Drawings should have dimensions on them.

Response:

Agreed. Drawings should be scalable or have dimensions included.

13. Existing buildings must be shown in comparison to new on all applications.

Response:

Agreed. This is addressed in the consultant's cabinet report.

14. Discharge of conditions needs to be scrutinised properly and by the Planning Committee where the development is sensitive, as defined above.

Response:

It is not viewed as practical for the planning committee to undertake this function.

15. The enforcement policy (2012) should be ratified as soon as possible. Yes. When?

Response:

There is a corporate enforcement policy for the council currently in place. A distinct planning enforcement policy is being developed and will be brought forward for decision by spring 2015.

16. The 21 day consultation period should be extended whenever there is a public holiday within it. Any consultation period over Christmas should be extended by 14 more days.

Response:

As response can be made electronically so a large number of the public can respond at any time, irrespective of holidays. Written submissions received when offices are closed would be treated as admissible.

17. Applications must be properly verified before the consultation process starts.

Response:

Yes. Addressed in report.

18. Application in sensitive areas including any development bordering our Country Park should be dealt with by senior officers.
Cabinet report addressed issues of supervision and involvement by head of service.

Response:

It is not possible or desirable for senior officers to address all applications of all types. All reports are signed off by senior officers. This report proposes structures for dealing with sensitive applications.

19. Applications for sensitive areas, or bordering our Country Park should always go to the Planning Committee without exception.

Response:

This would require changes to the council's constitution or planning protocol, not within the Cabinet's remit. It would be an unnecessary and onerous strain on the council's resources. Sensitive areas could be thought to include all conservation areas as well as environmentally significant areas – this would mean very many planning applications, significant and not significant, all going to the planning committee.

20. Response to public enforcement queries should be double checked by two officers prior to responding.
Response:
This is not proportionate and would impose enormous demands upon the council's staff and budgets. This report proposes a system for checking by senior managers.
21. The online web system for public comments should support formatting of comments. Currently all formatting is lost and thereby the structure of the argument.
Response:
The system the council uses is a common package used by different councils. The council also accepts hard copies and e-mails which can be formatted as required.
22. Direct questions to officers should be answered in a timely fashion.
Response:
The council has a policy for the response to queries and members of the public which seeks a response within 10 working days. This is adhered to whenever possible.
23. Specific questions about planning applications in the public comments stage need to be responded to within 3 days as the window for public comments is 21 days only.
Response:
This would depend on workload and the volume of questions/paper work submitted. Whilst rapid responses are desirable they cannot be guaranteed within the resources available to the service.
24. The delegated officer's report to the Planning Committee should not be submitted until after the closure of the public comments period.
Response:
This is the case except in very exceptional circumstances.
25. A full management review of planning processes, procedures and management should be carried out by an independent management consultancy company.
Response:
PAS will be invited to review the performance of the planning team following the bedding down of the changes proposed in this report during the summer/autumn of 2015.
26. A full, independent public enquiry into the planning department should be carried out.
Response:
A Public Inquiry in the terms suggested would be as response to a major failure or incident within an organisation. There is no legal or practical basis for such a lengthy and expensive process here.
27. Planning should adopt a more receptive manner to complaints made by members of the public.
Response:

Agreed and addressed in report.

28. Identical, previously refused proposals should automatically go to committee, without exception.

Response:

Agreed in principle for sensitive developments and will be referred to working arrangements group for detailed discussion.

29. A proper independent enquiry should be commissioned into the Rocklands affair. The scope should include the full history of Rocklands, the limitations of the Bahcheli review and future applications.

Response:

An inquiry in the terms suggested would be as response to a major failure or incident within an organisation. There is no legal or practical basis for such a lengthy and expensive process here.

30. An independent planning consultant from an external authority should be appointed to replace Mrs Bahcheli as the case officer for all future Rocklands applications.

Response:

There is no reason to replace Mrs Bahcheli who is an independent planning consultant and will act as case officer until the current planning issues are dealt with.

31. Imaginary buildings should not be used for comparison purposes in planning applications.

Response:

The previous planning history (and plans) are sometimes material considerations and this was so in this case.

32. Notification notices to a body such as the Friends of the Country Park, or Resident associations should be posted in a letter addressed to the address of the organisation not an individual.

Response:

Communication is usually addressed to the chair or secretary or other contact provided. Where there is a registered office that the council has been notified of we will use this address.

33. Identical drawing numbers should not be allowed on multiple applications. Identical drawings must not be reused.

Response:

For consistency numbers should be retained where identical drawings are used for different applications.

34. Applicants should be penalised for stating untruths on applications, and applications containing them should be rejected, with further action possibly taken.

Response:

There appears to be no legal grounds for this to take place.

35. Any application bordering HBC property must go to the planning committee without exception.

Response:

This would require changes to the council's constitution or planning protocol, not within the Cabinet's control. It would be an unnecessary and onerous strain on the council's resources –some applications adjacent to council buildings might be quite minor – town centre business advertising consents etc. All planning applications made by the council itself, on its own land where there have been objections already go automatically to the planning committee.

36. When the delegated report recommends approval and the planning committee votes to reject, the planning committee should draft and approve rejection reasons. This should not be left to the planning officer who recommended approval of the application.

Response:

If a member wishes to refuse against officer recommendation they are required to provide reasons. They are able to seek officer advice from both the development manager and principal planning solicitor. The Committee meeting will agree the reasons for refusal.

37. Any conditions imposed on an application must meet the NPPF standards for enforcement and must be capable of being enforced.

Response:

This is planning law at present.

38. Guidelines on what constitutes a minor amendment (section 73A) and what constitutes a full application (section 91) should be codified, approved by Council and followed.

Response:

This is fully supported and will be implemented.

39. LDPs should be available on the web site in a clear fashion stating the start date , end date and any replacement LDPs.

Response:

This is desirable but the position is complex. The plan covers the Hastings Planning Strategy (adopted February 2014), saved policies from the 2004 plan, and the emerging development management plan. These need to be read in conjunction with the national planning policy framework and government on line planning policy guidance. A fuller explanation is available on request. The matter will become clearer after the adoption of the new development management plan, scheduled for early next year.

40. HBC should follow National Policies and guidelines.

Response:

This appears a repetition and the answer can only be affirmative.

41. No changes should be made to any part of an application or its supporting documents once the public consultation process has started (i.e when it has been posted on the planning website). If changes are necessary the application should

either be withdrawn or be extended by a further 21 days and all objectors should be informed of the changes.

Response:

If applied across the board this would be highly damaging for speed and efficiency. Our normal practice is amendments are re-consulted and 14 days allowed for consultation from the date of the amendment the consultation letter makes it clear that any previous objections submitted in relation to that application will be taken into account. The council is subject to targets for processing planning applications.

42. The application should be fully verified, all supporting documents checked, all consultees listed, and all supporting documents made available before the public consultation process begins.

Response:

This appears a repetition and is addressed in the consultants and cabinet report. The delay in response, particularly by statutory agencies mean a blanket application could be damaging to the wider public interest by delaying the decision making process unreasonably. The council is subject to targets for processing planning applications.

43. If an application goes to appeal all objectors should be notified of the appeal process and invited to comment.

Response:

This is current law.

Response of Save Ecclesbourne Glen Group to RH Environmental Consultants recommendations and initial officer responses

Specific SEGG references and responses

1. On pages 5 and 6 of the report there are a number of recommendations to address compliance with the site licence and its conditions. We agree with and support all of them. The following recommendations are in our view urgent and essential: 1 (new licence application), 2 (establishing whether the lower south-eastern part of the site remains suitable for use), 4 (new site plan), 5 (prior approval for changes), 6 (spacing between caravans).

As regards recommendation 9 (amendment of condition regarding roads), we consider that greater attention should be made to run offs, particularly into the Country Park. Licence conditions should stipulate appropriate drainage using sumps to protect run offs into the Country Park

Response:

The council has shared the audit report with the site operators and asked them to comment on the auditors recommendations. They have indicated that they also agree with most of the recommendations, and although some realignment of caravans has commenced, most of the remedial work will be carried out during the closed season.

We also asked the site operators to provide the council with a report regarding the site drainage (surface water and foul), and the stability of the lower part of the site. The council is now seeking independent specialist advice on these 2 reports.

This independent advice will inform how the council decides to proceed in relation to the caravan site licence. Although the site operators have agreed that the licence conditions need to be reviewed and amended, the council needs a better understanding of the site drainage and ground stability issues in order to draft the new licence.

2. As regards recommendation 15 (car parks), we would wish to see the unauthorised car park on the southern slopes removed.

Response:

It is believed the car parks have planning permission. However, further work is needed to confirm if they conform to approved plans.

3. As regards recommendation 16 (recreation space) we would wish to see it stipulated that this area cannot be used for caravans or other infrastructure, since it is the area closest to the Country Park.

Response:

The council also wishes to see this area retained for amenity use and this could be included in the site licence.

4. The area on the southern slopes should be explicitly protected from any use in the site licence terms:
- Tree maintenance and protection should be included in the site licence terms
 - Lighting which affects the Country Park should be controlled

Response:

Although not specifically mentioned in the government circular on caravan site model conditions, we believe that we can include new conditions for the Rocklands site licence to preserve and enhance the amenity of the land, and that they can include lighting and trees.

5. The report makes it clear that the licence is now entirely inadequate in a number of respects, and that the owners of Rocklands are in breach of many of the existing provisions. The findings in respect of breaches are such that there are clearly offences under the Caravan Sites and Control of Development Act 1960. In these circumstances we expect the Council to enter into immediate discussions with the owners, specifying all identified breaches, what must be done to rectify them and the timescales expected. If the owners do not resolve the breaches identified in the report then the council should take the case to the Magistrates Court.

Response:

As mentioned above this process has already started but will not be completed until we have received independent technical advice in relation to the site drainage and ground stability issues.

Summarised SEGG reservations and responses

6. *The SEGG report contains a section setting out reservations about the report under the following headings, and each is supported by a separate appendix. The reservations and our responses are summarised below using the same headings.*

7. Reservations - Planning Issues

Although the report is a compliance audit for the purposes of the existing licence, it highlights several new planning issues which should be investigated by the council's planning department, and which are likely otherwise to be neglected. These are set out in Appendix 1. RH Environmental appears to be unaware of the planning conditions that restrict caravans and infrastructural works on the lower slopes. The sketch of the site set out in Appendix 4 of the report shows the unauthorised row of caravans, in which No.s 74 and 78 have been marked, as if these are authorised standings.

Response:

As suggested by SEGG, RH Environmental Ltd were not aware of the detailed planning consents for the site. They had been briefed to audit compliance with the existing site licence conditions.

8. The report mentions a number of matters that need to be investigated by the council's planning department, since it appears at present that they contravene planning regulations:

- Current Planning Permissions state that one third of the site should be for touring caravans. There are no touring caravans on the site.
- The conversion of the toilet block into a workshop.
- Waste Drainage – the installation of a sump and pump, apparently in 2012
- The installation of lighting on the lower slopes, for the unauthorised caravans.

Response:

These matters are being investigated and where appropriate and will be dealt with via the planning process and/or a future licence agreement.

9. Reservations - Factual Errors

SEGG are concerned about references made about the landslip by the site auditor, the temporary road serving the area from which the caravans were removed, and the reinstatement of the ground affected by the landslip

Response:

As mentioned above ground stability issues were outside the auditors remit and the council is seeking separate expert advice on this.

10. Reservations - Omissions which we believe require further investigation
SEGG raise a range of questions about site drainage (both surface water and foul).

Response:

As mentioned above the site operators have provided a report on site drainage, and the council is seeking independent specialist advice on it.

11. Lighting – Omissions from the report

- This lighting is having a deleterious effect on the SSI/SAC. We believe an investigation into this light pollution and its effects on wildlife should be made.
- All lighting on the lower slopes should be removed.

Response:

As mentioned above, control of lighting will be considered through new site licence conditions designed to preserve and enhance the amenity of the land.

- Was planning permission obtained for the lighting on the lower slopes?

Response:

No planning permission has been granted for lights on the lower slope. This issue will be addressed in terms of the future use of this part of the site and the stability issues through the most appropriate regime, planning or licensing.