

QUESTIONS TO EAST DORSET DISTRICT COUNCIL ON TRAFFIC CALMING AT FURZEHILL

The Structure Plan requires the development of the redevelopment of the Council Site at Furzehill to lead to Traffic calming to be implemented.

However the developer claims that, as the redeveloped site will generate less traffic than the old council site, they do not have to pay for traffic calming.

Consequently the question and supplementary question, which are shown below with the answers were asked of the full council, to ensure that if the developer did not have to pay that the council would pay as the council directly benefit from the redevelopment.

The formal answers given will give Dorset Council very little scope for not paying for traffic calming, if the developer does not have to.

QUESTION TO FULL COUNCIL 10 December 2018

At the last full council meeting the following question was presented.

The Question was: ***Is there any absolute legal reason why some of the proceeds of the sale cannot be used for traffic calming at Furzehill as mentioned in the Core Strategy Document, if the developer does not fund the traffic calming?***

I have now managed to read the minutes of the 29th October and I do not believe the primary question was answered.

The answer could have been a simple YES or NO.

From my research anyone can offer to pay for road improvements, provided they are designed, approved and implemented by the relevant Highways Authority, in which case I do not think giving a clear simple answer should have been difficult.

As EDDC or its successor could also use its general funds for the traffic calming, I have reworded the question.

Is there any absolute legal reason why EDDC or its successor cannot pay for traffic calming at Furzehill as mentioned in the Core Strategy Document, if the developer does not fund the traffic calming? Provided of course that the improvements are designed, approved and implemented by the relevant Highways Authority.

Geoffrey Chopping

Answer for Mr Chopping at full Council meeting 10th December 2019

No, there is no absolute legal reason why EDDC or its successor cannot pay for traffic calming measures in Furzehill as mentioned in the adopted Core Strategy. As Mr Chopping correctly states: any public body e.g. Parish or Town Council can offer to pay for road improvements, provided they are designed, approved and implemented by the relevant Highways Authority. Any traffic calming measures deemed necessary for the development would be dealt with in detail through the planning process.

Cllr Robin Cook
Portfolio holder for Planning

SUPPLEMENTARY QUESTION TO FULL COUNCIL

10 December 2018

East Dorset District Council wrote the core strategy.

East Dorset District Council is the planning authority.

East Dorset District Council and its successors should profit from the sale and the redevelopment of the former council offices.

Consequently, East Dorset District Council and its successors are surely obliged to ensure their core strategy is implemented in full.

Otherwise the planning decision could be open to a legal challenge via a Judicial Review.

Surely it would be easier for East Dorset District Council and its successors to agree to pay for the traffic calming.

QUESTION:

Provided East Dorset District Council and its successors have a simple means of ensuring that their own obligatory core strategy requirements can be fully complied with; can East Dorset District Council state any legal grounds there are for East Dorset District Council and its successors having the right to ignore their own core strategy requirements.

Geoffrey Chopping

REPLY:

The content, of the full response letter from Councillor Robin Cook, is shown below. It did contain the following statement:

“To address your question specifically I do not believe there are grounds where East Dorset District Council or its successors would have the right to ignore its own policy.”

Councillor Robin Cook

Council Offices

Furzehill

Wimborne

Dorset BH21 4HN

30th January 2019

Dear Mr Chopping

Traffic Calming Measures - Furzehill

Further to your question at full Council please see my reply as set out below. Just to repeat your question I have set it out as follows:

East Dorset District Council wrote the Core Strategy, East Dorset District Council is the Planning Authority, East Dorset District Council and its successors should profit from the sale and development of the former council offices site. Consequently East Dorset District

Council and its successors are surely obliged to ensure the Core Strategy is implemented in full. Otherwise the planning decision could be liable for a legal challenge via a judicial review. Surely it would be easier for East Dorset District Council and its successor to agree to pay for the traffic calming. So the actual question, provided East Dorset District Council and its successors have a simple means of ensuring that their own obligatory core strategy requirements can be fully complied with can East Dorset District Council state any legal grounds there are for East Dorset District Council and its successors having the right to ignore their own core strategy requirements? I understand that might be a bit difficult to give me an off the cuff answer! I am quite happy to accept in writing later.

First of all and as a general point most planning applications are open to judicial review if there is a sound legal point to argue. In this case you are asking about the specific sentence in policy RA2 which says "Redevelopment should support the implementation of traffic calming measures through the village". I think in hindsight that the policy could have been worded better if it had said at the end of the sentence "should the Highway Authority deem such improvements necessary" because although the policy covers the point that redevelopment should support traffic calming, if the Highway Authority do not deem them necessary then the Council cannot provide them of their own volition as they do not have responsibility for the Public Highway.

What will practically happen with any planning application is that statutory bodies such as the Highway Authority will be contacted to advise on any impacts of the development as part of the consultation process. Furthermore, I would sensibly expect the developer to have studied the policy and to have held discussions with the Highway Authority about the need for improvements and mention those requirements in the planning application. If improvements are required by the Highway Authority then I anticipate that planning permission would be contingent upon contributions being made by the developer which would be included in legal agreements annexed to the permission.

To address your question specifically I do not believe there are grounds where East Dorset District Council or its successors would have the right to ignore its own policy. As part of the planning application process due consideration will need to be given to policy RA2 and if the Highway Authority deem such improvements necessary then there will be a mechanism to ensure that the measures are implemented, supported as appropriate, by the developer. If traffic calming is not deemed necessary by the Highway Authority then the Council will not be under any obligation to provide them and indeed will not be permitted to provide them. As long as the Planning Authority (whether it is East Dorset or the new successor Council) gives due consideration to the policy in consideration of the Planning Application then I believe that it will have acted in accordance with the Core Strategy and the success of any resulting Judicial Review on this point would be very remote.

Yours sincerely

Cllr Robin Cook
Stour Ward District Councillor for East Dorset
Portfolio Holder for Planning