

APPEALS PANEL NO. 3

MONDAY 12 JANUARY 2015 AT 2.00 pm

PRESENT: Councillors Collier, Bell and Stothard (Chairman)

OFFICERS: Director of Governance
Property Services Manager
Surveyor
Committee Clerk

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF INTEREST

There were no declarations of interest in respect of the complaint.

3. PUBLIC AND PRESS

RESOLVED - That in accordance with Section 100A(4) of the Local Government Act 1972, the Public and Press were excluded from the meeting during consideration of the following item of business on the grounds that it involved the likely disclosure of exempt information, as defined in Paragraph Number 1 of Part 1 of Schedule 12A of the 1972 Local Government Act.

4. COMPLAINT REGARDING THE SALE OF LAND AT LONNING FOOT

Consideration was given to complaint regarding the sale of land at Lonning Foot.

The Chairman introduced the Panel and outlined the purpose of the meeting and procedure to be followed. He confirmed that all those present had seen the relevant documentation, copies of which had been circulated.

The appellant introduced himself and his wife to the Panel.

The Chairman asked the appellant to summarise the complaint as clearly as possible. The appellant explained that he was aware that a neighbour had lodged a similar complaint and that a further hearing to consider that complaint was to be held later in the month. The appellant advised that he was happy to wait until the Panel had considered evidence at that hearing before making a final decision and acknowledged that the letter advising him of that decision may be out with the timescale as indicated within the procedure note included within the document pack.

The appellant outlined the issues which related to the sale of a piece of land and that he believed the Council had not acted transparently and had not received the best price for the land.

The appellant had submitted an unconditional offer for the land for which a higher offer had been submitted. The appellant did not withdraw his offer and believed that when a higher offer and subsequent sale fell through he should have been advised and his offer should have been considered. The land was eventually sold for a lower value than the appellant's bid to a

person who had links with the agent who had initially been responsible for the marketing of the land. At a meeting with Officers the appellant had been advised that the agent's contract had been terminated by that point and the final invoice paid so there was no conflict of interest. When the appellant was advised by the purchaser that he had bought the land the appellant's wife had spoken with the Surveyor and been advised that the land had been sold subject to contract and that she would advise the appellant's wife if the sale fell through.

The appellant was not happy with the manner in which the sale had been conducted and believed that the Council had not been transparent in their actions and that the best value for the land had not been realised.

In response to a query from a Member the appellant confirmed that the agent's "For Sale" sign was still in place, with a "Sold" sign attached to one side, until the end of September 2014 which was some time after the land had been brought back in-house. At the end of September 2014 surveyors marked out the correct boundaries on the land which had previously been disputed. Within 48 hours of the boundary being marked out the purchaser had spoken with the appellant and his neighbours and advised that he had bought the land for a lower price than that submitted by the appellant.

The appellant advised that the land was also still being advertised on the agent's website at the end of September 2014. He believed that those who had made enquiries with the agent previously should have been notified when the sale fell through or that sale by sealed bids could have been carried out. The appellant confirmed that no effort had been made to notify previous bidders and that he had never withdrawn his offer.

The appellant believed that the manner in which the sale had been handled was not transparent and that procedures should be put in place to ensure a similar incident does not happen in future.

The Panel thanked the appellant for his input and he and his wife left the hearing at 2.55 pm.

The Panel invited the Property Services Manager to the meeting.

At the request of the Chairman the Property Services Manager outlined the issues around the sale of the land and confirmed that the sale had not been handled any differently to any other sale of Council land. The Property Services Manager explained that at the time the land was purchased the agent was no longer acting on behalf of the Council and their invoice had been paid in full. The contract with the agent was terminated as contracts had been exchanged for the sale of land and Officers believed that the services of the agent were no longer required.

The Property Services Manager advised that when the sale of the land was taken back in-house the agent had advised of other offers they had received but did not supply details of who had made those offers.

At the request of the Panel the Property Services Manager explained that the reasons why a lower offer had been accepted and confirmed that Officers believed they had made the best judgement with the information available to them.

The Property Services Manager confirmed that payment for the land had been made.

The Chairman queried what sort of pressure Officers had been working under as stated within the report. The Property Services Manager explained that the department had to meet targets to deliver the sale of assets.

The Property Services Manager confirmed that whilst the Council had control over the land they had no control over the agents. He agreed that the agents should have removed the "For Sale" sign and the information on the website when the sale of the land was taken in-house.

The Property Services Manager explained that Officers did not know the relationship between the purchaser of the land and the agent and believed that the sale had been transacted in a right and proper manner.

The Panel invited the Director of Governance and the Surveyor into the meeting.

A Member stated that no-one had told the appellant that the land had been taken off the market and suggested that a procedure should be put in place to keep those people who's bids had not been successful informed of the situation. The Director of Governance explained that the appellant would have been advised by the agent that his bid was not successful and communication would have ended at that point. The land then went back onto the market and was subsequently sold. The sale of the land had been ongoing for some considerable time and the Director of Governance believed that the appellant would have been aware that the land had been put back on the market.

The Director of Governance explained that a firm offer had been made for the land and Officers were anxious not to potentially derail the sale by going back to other people who had previously made bids for the land.

The Chairman stated that the "For Sale/Sold" sign was still on the land and on the agent's website even after the sale of the land had been taken in-house. There was no indication that the sale of the land had been taken in-house. That would give the impression that the agent was still responsible for the land. The Chairman suggested that a protocol should be put in place to ensure that if the sale of land/properties were taken from an agent checks should be made to ensure any signage and information on that agent's website was removed.

The Director of Governance explained that the land was a small part of the Council's asset disposal programme and the Council had a small property team to deal with that programme. The department had the skills to deal with the sale of those assets but not the capacity or resources and for that reason agents were usually commissioned to act on behalf of the Council.

The Property Services Manager advised that whilst it would be feasible to advertise land being sold by the Council on its website not many people checked the Council website for the sale of land.

The Panel thanked the Officers for their input and they left the hearing at 4.00 pm.

The Panel then considered the evidence that had been presented to them, prior to and during the hearing and:

RESOLVED – 1. that the complaint would not be upheld as the Panel believed that the Council and its Officers had carried out its duties in an open and appropriate manner, that all matters had been dealt with fairly and that the correct procedures had been followed by Council Officers.

2. That the Panel would recommend that the Director of Governance checks that the protocol currently in place when transferring the sale of property from an agent to in-house was robust.

[The meeting ended at 4.15]