

AGENDA ITEM: 7

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Meeting	Cabinet Resources Committee
Date	16 February 2006
Subject	Barnet Football And Cricket Club, Barnet Lane
Report of	Cabinet Member for Resources
Summary	This report details the emergency decision taken by the Director of Environment in seeking an injunction to prevent Barnet Football Club (Holdings) Ltd and The Barnet Club Ltd (Barnet Cricket Club) from commencing works relating to the installation of revised parking and access arrangements for Barnet Football Club and associated works on land owned by the council and leased to the cricket club and to adjacent public open space, and to an area of land owned by Barnet Football Club (Holdings) Ltd without receiving necessary permissions.

Officer Contributors	Director of Environment
Status (public or exempt)	Public
Wards affected	Underhill
Enclosures	None
For decision by	The Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	N/A

Contact for further information: Graham Beattie, Director of Environment – 9 359 7856

1. RECOMMENDATIONS

- 1.1 That the Committee note the action taken by the Director of Environment, in accordance with the emergency powers granted to all Chief Officers and following discussion with the Chairman of the Committee, to secure a without notice injunction preventing The Barnet Club Ltd. and Barnet Football Club (Holdings) Ltd from commencing works relating to the installation of revised parking and access arrangements for Barnet Football Club and associated works on land owned by the council and leased to the cricket club and to adjacent public open space, and to an area of land owned by Barnet Football Club (Holdings) Ltd scheduled to commence on Monday 9 January 2006.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Decisions of Cabinet Resources Committee meeting held on 5 January 2006.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Corporate Plan commits the council to 'plan and manage land use and development in Barnet to enhance the quality of life and provide tangible benefits for the community'.
- 3.2 The UDP states 'The Council has consistently safeguarded the green belt by resisting inappropriate development and will continue to do so, in accordance with government guidance.'

4. RISK MANAGEMENT ISSUES

- 4.1 The previous report to this committee on this matter on 5 January identified the possibility of work commencing without the relevant consents in place as a real risk. The court action taken in the absence of an undertaking from The Barnet Club Ltd. and/or Barnet Football Club (Holdings) Ltd has protected the council from this risk.

5. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

- 5.1 The Barnet Club Ltd. and Barnet Football Club (Holdings) Ltd have agreed to pay the court's costs which will be assessed by the court if it is not possible to agree a negotiated settlement. This is confirmed in the final court order obtained on Friday 13th January.

6. LEGAL ISSUES

- 6.1 None other than what is contained in the body of the report.

7. CONSTITUTIONAL POWERS

- 7.1 Constitution – Council Procedure Rules – Financial Standing Orders and Rules for Disposal of Land and Real Property.

- 7.2 Constitution – Part 3 Responsibility for Functions – Section 3.6 Functions delegated to the Cabinet Resources Committee – All matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the council.
- 7.3 Constitution – Part 3 responsibility for Functions – Section 6.1 functions delegated to Chief Officers – Chief Officers can take decisions, in consultation with the Cabinet Member concerned in cases of emergency.

8. BACKGROUND INFORMATION

- 8.1 Cabinet Resources Committee considered an urgent report at its meeting on 5 January 2006 which outlined the application from The Barnet Club Ltd. to carry out work on the northern boundary of the land let to the cricket club, for which council's consent as landowner is required, to include work to the southern access road within Barnet Football Club's Underhill site and works to a small area of the council's adjacent public open space. A copy of the committee's decisions is attached to this report.
- 8.2 As the works relate to and impact upon land owned by the council and leased to the cricket club and to public open space, a range of permissions are necessary including planning and landlord's consent. Authority to dispose of Green Belt land is also required.
- 8.3 The applicant was advised of the committee's decision the following day, 6 January, and an undertaking sought from the applicant's agent that work would not begin until all consents had been received. No such undertaking was offered. To the contrary the council was advised that work would start the following Monday 9 January, unless the council accepted responsibility for the safety of spectators at Barnet Football Club's ground or took out an injunction preventing the works.
- 8.4 The council could not assume responsibility for the safety of spectators. Therefore in accordance with the emergency powers granted to all Chief Officers in the council's Constitution, and following discussion with the Cabinet Member for Resources, the Director of Environment instructed the Deputy Borough Solicitor to seek an injunction at the High Court. A without notice injunction was granted against Barnet Football Club (Holdings) Ltd. and The Barnet Club Ltd. by the High Court on the evening of 6 January 2006 with a return to court date of Friday 13 January 2006. The interim injunction prevented The Barnet Club Ltd and Barnet Football Club (Holdings) Ltd from carrying out any works in relation to the installation of revised parking and access arrangements for Barnet Football Club and associated works without the prior consent of the London Borough of Barnet.
- 8.5 The without notice injunction was an interim order which needed to be extended, discharged or dealt with by an agreement between the parties. Agreement in the form of a Consent Order between all the parties was reached on Thursday 12th January 2006. The Barnet Club Chairman and the Chairman of the Barnet Football Club (Holdings) Ltd both gave a written undertaking to the court on

Friday 13th January to ensure that the Club applies for the necessary consents and that they refrain from doing any work until such time as the relevant permissions have been received.

- 8.6 The court approved the injunction on 13 January and issued a final injunction in the same terms as the without notice injunction with the addition of a clause that the Defendants pay the Council's costs to be assessed by the court if not agreed by the parties. This order is in force and binding. Should either party undertake the works referred to in it without the Council's permission, they will be in breach of the consent order and potentially liable to be brought before the court for contempt of court which carries a penalty of imprisonment.

9. LIST OF BACKGROUND PAPERS

- 9.1 Letter from the Director of Environment to all members of Cabinet, Cabinet Resources Committee and Cabinet Overview and Scrutiny Committee dated 13 January 2006.
- 9.2 Order for an Injunction before the issue of a claim form, Friday 6 January 2006.
- 9.3 Final Court order 13th January 2006

Legal: SAM
CFO: JB