

2nd July 2008

YOU ARE HEREBY SUMMONED to attend a MEETING of WESTBURY TOWN COUNCIL to be held at THE LAVERTON, BRATTON ROAD, WESTBURY on MONDAY, 7th JULY 2008 at 7.00 pm.

Yours faithfully

Town Clerk

Public Forum

Register between 6.50 pm – 7.00 pm
Maximum input per person – 5 minutes
Forum not to exceed 30 minutes

**Petitions/Depositions to be lodged with the Town Clerk
at least five working days prior to the Meeting.**

A G E N D A

Prayers

- 1. TO RECEIVE APOLOGIES (if any) AND REASONS FOR ABSENCE.**
- 2. DECLARATIONS OF INTEREST (if any) AND REASONS.**
- 3. MINUTES.** To approve as a correct record the Minutes of the Annual Town Council Meeting held on the 7th May 2008; copies of these Minutes have been circulated to each Member and in accordance with Standing Order No. 13(a) may be taken as read.
- 4. MATTERS ARISING FROM THESE MINUTES (if any). Note: no new decisions can be taken.**

Appointment of representatives on other bodies (T.1855). Letter from the Westbury Bypass Alliance. (See attached.)

- 5. LAFARGE CEMENT UK, WESTBURY CEMENT WORKS.** To consider the fact that the Lafarge cement works in Westbury has been issued with a written warning by the Environment Agency for exceeding its permitted limits in its emissions of dioxins and furons on one occasion earlier this year, and to request and/or receive a full explanation and reassurance from the management at Lafarge that they are doing their best to avoid any further breach of the limits - Cllr R Hawker.

Mr Jim Cross, Works Manager, Lafarge Cement (UK) will be making a Presentation on this item.

6. POLICE REPORT:

a. **Report – PC Nick Holt, Community Beat Manager.**

b. **Presentation – “Moonfest” Music Festival on the 29th, 30th & 31st August 2008 at the Stormore Farm site. Police Inspector Steve Douglas and Festival Organiser, Mr John Green, will be in attendance.**

7. WILTSHIRE COUNTY COUNCILLORS’ REPORTS. Members wishing to ask questions of the County Councillors are requested to give prior notice to County Cllrs C S W Newbury and Miss F Rhé de Philipe, or to the Clerk for onward transmission.

8. MINUTES of COMMITTEES. To receive and consider Minutes and recommendations of the following Committees:-

Highways, Planning & Development Committee	-	19.05.08
Highways, Planning & Development Committee	-	16.06.08
General Purpose Committee	-	02.06.08

9. MATTERS ARISING FROM THESE MINUTES (if any). Note: no new decisions can be taken.

10. WILTSHIRE COUNTY COUNCIL (WCC) – PARISH ELECTIONS – 2009 OR 2013? To consider Westbury Town Council’s response to this question. (See attached.)

11. NEW UNITARY AUTHORITY – DELEGATION OF SERVICES. To consider the following motion put by Cllr S Andrews:

“This Council agrees to forward to the Delegation Team the agreed list of services that Councillors would like further details about with regard to the possible delegation of those services.”

Cllr Taylor to present in Cllr Andrews’s absence. (See attached.)

12. LEIGH PARK DOCTORS’ SURGERY SITE. To consider the following resolution submitted by Cllr R Hawker:

1. To write formally to Persimmon Homes confirming:

a. a bid from the town council, on behalf of the local community, for the freehold of the Doctors Surgery Site at Leigh Park, Westbury, in the sum of £1,000 (One Thousand Pounds), SUBJECT TO CONTRACT;

b. that our sole intention is to put the site to use as a doctors surgery (with or without ancillary medical or health-related uses, such as a dentist surgery) as soon as practicable when a suitable medical practice confirms and shows it is ready and able to construct and use a surgery on the site; and

c. that, if necessary, the council will put in place suitable legal arrangements to ensure this (b above) at the time (eg. a charitable trust with suitable objects designed to allow and ensure this purpose).

2. If the bid is accepted under the terms of the S.106 Planning Agreement, which requires Persimmon to offer the site for 4 years at "market value" (ie. the best bid they can get for the specific use of doctors surgery on the site at Leigh Park), to proceed to acquire, hold and preserve the site for the benefit of the local community for use as a doctors surgery (with or without medical or health related ancillary uses) until a suitable medical practice is ready to use the site appropriately.
3. If Persimmon fails to accept any bid to use the site for constructing and running a doctors surgery, to ask the planning authority to take enforcement action to ensure that the highest or sole bid is treated as the correct and relevant evidence of "market value" for this specific site.
4. If legal advice at the time is that the council needs to hold the land via a charitable trust, to set up and / or use an appropriate trust with the council acting as sole trustee.
5. Once the appropriate arrangement is established for holding the land as intended, to proceed with the land transfer and pay the agreed sum.
6. If and when the land is transferred to the control of the council, to seek suitable bids for the site on a continuing basis from any medical practice prepared to set up and run a doctors surgery (which may include ancillary medical or health-related uses such as dentist).

Cllrs R Hawker and C Finbow to present this item. (See attached additional information.)

13. CLERK'S CORRESPONDENCE (if any).

- a. **WCC – Formal Consultation on Proposed Electoral Divisions for New Unitary Wiltshire Council (T.1837).** (See attached.)
- b. **Wiltshire College, Westbury.** The Clerk to report.
- c. **WSYP News' – Available in the Clerk's Office.**

14. THE LAVERTON INSTITUTE TRUST MANAGEMENT COMMITTEE. Cllr I Taylor to report.

15. TOWN CENTRE VIABILITY GROUP. Any key decisions taken for approval – Cllr Mrs S Ezra.

16. WHITE HORSE AREA ACTION GROUP. Cllr Mrs G Denison-Pender to report.

17. COMMUNICATIONS BY THE TOWN MAYOR. To receive such communications as the Town Mayor may wish to lay before the Council.

18. PAYMENT OF ACCOUNTS. To approve the list of payments made since the last Meeting or to be made and to confirm the action of the Chairman and one other Member in signing the necessary orders for payment, Business Pass Cash/Visa Cards (if any) transactions, and staff remunerations (Payline):-

2 nd June 2008	-	£53,818.61
7 th July 2008	-	As presented

19. STATEMENT OF ACCOUNTS 2007/08. The Clerk to report.

20. WEST WILTSHIRE DISTRICT COUNCILLORS' REPORT ON DISTRICT COUNCIL MATTERS.

Members wishing to ask questions of the District Councillors are requested to give prior notice to the Councillor concerned or to the Clerk for onward transmission.

PLEASE NOTE THAT AT PART II ITEMS IT WILL BE RESOLVED THAT MEMBERS OF THE PRESS AND PUBLIC WILL BE INSTRUCTED TO LEAVE.

Please attach this email to the Agenda papers for information.

The local doctor's, Westbury Group Practice, has indicated that it may not be in a position to proceed with a bid within four years. The intention of this resolution is to preserve the site for as long as it takes to find a practice that will use the site for building and running a surgery.

The reality is that the council will not need to pay anything if another party steps in with a higher offer. If the council does need to proceed to buy the site at the end of the four year period, this whole arrangement can be reviewed at that time anyway. By passing this resolution now, we simply preserve the ability to act, buy and preserve the site if necessary.

The relevant clause in the S.106 Agreement says:

" The Doctor's Surgery

The Owner hereby covenants and agrees with the Council that:

the Doctors Surgery Site as identified on Plan1 shall be offered for sale on the open market immediately prior to the Commencement of the Development and offers shall remain open for a period of four (4) year from the date that it is first offered for sale and the terms of reference shall reflect the market value of the Doctors Surgery Site on offer "

There is no requirement for a building to be constructed within four years.

The four years started in January this year when the relevant planning permission was implemented as a result of the commencement of construction of houses in the Cedar Tree Field and flats near the Local Centre shops at Leigh Park, Westbury. This time period of four years simply relates to the time Persimmon has to market the site to find the best bid.

It is important to understand that the official definition of open market value for any land assumes a willing and able seller and a willing and able buyer of the specific land in question (ie. the seller will sell and the buyer can proceed to buy and use the land as intended) and that the land is offered on the open market for an adequate period.

Market value is the highest likely bid under these circumstances only. Four years is easily enough time to find bidders if any exist.

The open market value of a doctors surgery site which is not available for any other planning use cannot be measured by reference to land values for other uses (eg. residential, retail or pub development). Only bids for the restricted planning use are relevant.

It is only appropriate to value the site with reference to other planning uses if the site can be used for those other uses. But this site cannot be used for any other planning use because:

1. only a doctors' surgery use is envisaged in the local Development Plan (and this is unlikely to change);
2. it is reasonable to assume that local councillors will always insist on retaining this use until the planned Leigh Park surgery is built as part of the intended Leigh Park Local Centre development;
3. local doctors believe that the site will be required as a surgery to serve the nearby area in due course (which may be more than four years).

So, if after a period of four years there is only one bid for the land for use as a doctors surgery, that bid, by definition, is the highest bid and is the market value.

If Persimmon refuse to sell at the highest bid they receive (ie. "market value"), the planning authority can step in to take enforcement action by referring to the arbitration clause in the S.106 Agreement. Inevitably, this would lead to a suitably-experienced chartered valuation surveyor

asking to see the market evidence that Persimmon has, which will be the bids they have received for the site after marketing the site correctly.

Regards

Cllr Russell Hawker
Chartered Valuation Surveyor.