

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

26 October 2005

Report of the Chief Solicitor

Part 1- Public

Matters for Information

1 BEECHIN WOOD FARM PLATT – MR TERRY’S CROWN COURT APPEAL

Members will recall that the Council successfully prosecuted Mr Terry in the Sevenoaks Magistrates Court for failing to comply with an enforcement notice requirement to restore land at Beechin Wood Farm. Mr Terry appealed his conviction to Maidstone Crown Court and that appeal was heard on 10 and 11 October. I have to report that Mr Terry’s appeal was successful.

The Judge said that “the question for the court was whether it could be satisfied so as to be sure that the land had not been restored to its former level. Work had been done in that the sides of the bund were removed and efforts were made to restore the land to its previous level. The Council relied on Mr Odling, a nearby resident, who was naturally horrified to find a 30 foot bund outside the boundary of his property”. The Judge went on to say that Mr Odling firmly believed the land has not been restored to its previous level, but that he (the Judge) had to approach this evidence with caution. The Judge reminded himself that “these were criminal proceedings and was unable to say that the charge was proven”.

Obviously this is a disappointing result, but Counsel advises that he not sure what could have been done to improve the prospects of conviction. The Court had clear evidence in the form of photos taken by Lesley Wetherill and direct evidence from Mr Odling that there remained a large flat area on the land. Counsel felt that the Court formed the view that we were quibbling. Obviously this does not rule out further action, but Officers are giving careful thought as to the next steps. An appeal from the Crown Court is by way of case stated to the Divisional Court and would have to show an error of law which Counsel advises is unlikely to succeed.

Background papers:

contact: Ian Henderson

Nil

Duncan Robinson
Chief Solicitor