

Warrington Borough Council

Stockton Heath Primary School Action Group



FAO: Richie Wells

Cecilia Rathe
Head of Service
(Solicitor to the Council
and Monitoring Officer)

Date: 8 February 2007
Our Ref: CR/JD

Corporate Services Directorate
P.O. Box 13
Warrington
WA1 1BN

Dear Sir

**RE: DECISION OF THE DEVELOPMENT CONTROL COMMITTEE
ON THE 1 FEBRUARY 2007 WITH RESPECT TO STOCKTON
HEATH COMMUNITY PRIMARY SCHOOL - APPLICATION
REFERENCE 2006/09551.**

Your letter to all of the Borough Councillors dated the 4 February 2007 has been drawn to my attention. I am writing to advise that before any decision is referred to the Scrutiny Committee for consideration it must be referred to me by five separate Councillors from two political parties. In my role as Monitoring Officer I must then assess whether the call-in to the Scrutiny Committee is valid in accordance with Article 6 of the Constitution.

I am writing to advise that, at the date of dictation, no such request has been received by myself. I must also advise that even if such a request was received by myself it would not be valid. Article 6 only allows the call-in of a decision and referral of the decision to a Scrutiny Committee where the decision has been made either by the Executive Board or by individual officers of the Council. There is no power to call-in a decision of a Regulatory Committee such as the Development Control Committee.

In any event I am given to understand that the issue of whether the arguments expressed by the supporters of the proposal were material planning considerations was discussed before the Committee and the Committee were made aware of arguments for and against that contention. The Borough Council does not have the power to decline to hear an application which has been made to it by one of its own Departments. Although Section 70A of the Town and Country Planning Act 1990 would ordinarily apply to repeat applications and give the Local Authority the power to decline to hear them Regulation 5 of the Town and Country Planning Regulations 1992 (SI 1992/No. 1492) expressly states that Section 70A will not apply to applications of this sort. Hearing this application was therefore not an abuse of this Local Authority's legal powers but was in fact in compliance with the Regulations which govern applications of this sort.

Yvonne Bottomley
Strategic Director
Corporate Services

Chief Executive
Diana Terris

cont

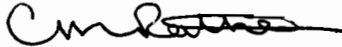
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contact please dial (01925) 444400



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In all the circumstances if you are dissatisfied with the decision of the Development Control Committee on the 1 February 2007 I would advise that you take independent legal advice as to the options open to your group in challenging that decision.

Yours faithfully



Cecilia Rathe
Solicitor to the Council and Head of Corporate Governance

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