

Special Cabinet



St Edmundsbury
BOROUGH COUNCIL

Minutes of a special meeting of the **Cabinet** held on
Tuesday 24 February 2015 at 4.45 pm at the **GFR14, West Suffolk**
House, Western Way, Bury St Edmunds IP33 3YU

Present: **Councillors**

Chairman John Griffiths (Leader of the Council) (in the Chair)
Vice Chairman Sara Mildmay-White (Deputy Leader of the Council)

Terry Clements
Anne Gower
Alaric Pugh

Dave Ray
Sarah Stamp
Peter Stevens

By Robert Everitt
Invitation:

In
attendance: David Nettleton

45. **Apologies for Absence**

No apologies for absence were received.

46. **Suffolk Business Park Land Assembly**

The Cabinet considered Report No: CAB/SE/15/016 (previously circulated) which sought approval for the making of a Compulsory Purchase Order (CPO) and associated issues.

Councillor Griffiths, Leader of the Council, drew relevant issues to the attention of the Cabinet. He reminded Members that on 10 February 2015, Cabinet approved in principle, the use of the Council's compulsory purchase powers in relation to the land shown on the plan attached as Appendix 1 to the report. This was because negotiations between the Council, Churchmanor Estates Company PLC and Taylor Wimpey UK Ltd had currently stalled and the land in control of Churchmanor, as agents acting on behalf Rougham Estates, was now the only parcel of land needed to complete the Eastern Relief Road and extension to Suffolk Business Park.

Appropriate attempts to resolve the matter by negotiation had been made to avoid the use of these statutory powers. These discussions with Churchmanor had not to date resulted in a satisfactory resolution to provide the Council

with confidence that the site land assembly would happen without the Council using its compulsory purchase powers.

The costs associated with making the Order fell into two general categories; costs incurred during the process of making the Order and costs relating to the acquisition of the land should the Order be invoked. The Council was in the process of agreeing a mechanism for the cost associated with making the Order to be covered and the options were further expanded upon in the report.

The Cabinet noted that correspondence had been received that morning from CMS lawyers acting on behalf of Churchmanor, in response to the proposed CPO process. The letter and officers' comments would be circulated to Members following the meeting. A meeting between representatives of Churchmanor and the Council had been arranged for the next morning to discuss the matter. The outcome of this, including the response to the letter would be considered before final approval of the recommendations was sought from full Council.

A detailed discussion was held and Members considered that they hoped meaningful negotiations would continue to enable a satisfactory conclusion to be achieved for all concerned. All were in agreement that the entire project in this location needed to come to fruition – the secondary school, the extension to Suffolk Business Park, housing, infrastructure etc and in order to achieve that, this final parcel of land was required.

The Cabinet considered that if it did not seek to use its compulsory purchase powers, this would result in the Eastern Relief Road (ERR) not progressing and funding falling away. Should attempts to resolve the matter by negotiation continue to be unsuccessful, the recommendations would be recommended for approval by full Council at a special meeting on 25 March 2015.

RECOMMENDED TO COUNCIL: That

- (1) it makes the St Edmundsbury Borough Council (Suffolk Business Park Infrastructure) Compulsory Purchase Order 2015 ("the Order") under section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) and the Acquisition of Land Act 1981 and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 and all other enabling powers, for the acquisition of all legal estates and interests in the land and the acquisition of rights within the areas shown hatched on the draft Order map produced as Appendix 1 to Report No: CAB/SE/15/016 with such amendment to the final land take and plot boundaries and to substitute the taking of new rights as an alternative to the acquisition of title as may be considered necessary and approved by the Head of Planning and Growth, the Section 151 Officer and the Monitoring Officer, in consultation with the Leader of the Council, for the purposes of securing mixed use development including the provision of the Eastern Relief Road linking Moreton Hall/Suffolk Business Park at Lady Miriam Way to Junction 45 of the A14 Trunk Road;**

- (2) it notes that the draft Order map shows areas hatched where the intention is for the acquisition of all interests in the land other than those of the acquiring authority;**
- (3) following confirmation of the Order by the Secretary of State, it authorises the use of the General Vesting Declaration procedure and notice to treat, notice of entry and conveyance where necessary in accordance with the Compulsory Purchase (Vesting Declarations) Act 1981 and the Compulsory Purchase Act 1965 to implement the St Edmundsbury Borough Council (Suffolk Business Park Infrastructure) Compulsory Purchase Order 2015;**
- (4) it approves the acquisition and appropriation of the land required for the scheme for planning purposes under the provisions of section 122 of the Local Government Act 1972 and section 237 of the Town and Country Planning Act 1990 in conjunction with (3) above to enable the Council to over-ride private rights, easements and interests (including restrictive covenants etc) affecting the land required for the scheme;**
- (5) it gives delegated authority to the Head of Planning and Growth and Section 151 Officer, in consultation with the Leader of the Council to:**
 - (i) take all necessary steps as soon as is reasonably practical to secure the making, submission, confirmation and implementation of the Order (and, where appropriate, amendments to the Order by way of exclusion of interests in land or the addition of interests in land including the investigation of ownership interests) including the publication and service of all notices and the presentation of the Council's case at any Public Inquiry; and subsequent services of Notices to Treat and Notices of Entry or, at their discretion, the execution of General Vesting Declarations as the case may be if the Order is confirmed;**
 - (ii) negotiate to acquire all interests in the land and new rights within the Order and rights and interests affected by the Order either by agreement or compulsorily, including prior to the making of the Order; and, where appropriate, to agree terms for relocation;**
 - (iii) approve agreements and undertakings with the owners of any interest in the Order and any objectors to the confirmation of the Order setting out the terms for the withdrawal of objections to the Order including, where appropriate, seeking inclusion in and/or exclusion from the Order of land or new rights; and**
 - (iv) in the event that the question of compensation be referred to the Upper Tribunal (Lands Chamber), to take all necessary steps in relation thereto including advising on the appropriate**

compensation payable and to appoint appropriate consultants if necessary to assist and advise in this regard.

47. Eastern Relief Road, Bury St Edmunds: Update

The Cabinet considered Report No: CAB/SE/15/017 (previously circulated) which sought approval for a number of issues connected with progressing the development of the Eastern Relief Road and Suffolk Business Park.

Members were firstly informed of a typographical error within the table contained in paragraph 4.1 of the report. Item 3 made reference to a report marked with an asterisk – this report was CAB/SE/15/016, as previously considered on this Cabinet agenda.

Councillor Griffiths, Leader of the Council, drew relevant issues to the attention of the Cabinet. He stated that:

- (a) a commitment was sought to forward fund electricity costs to serve Suffolk Business Park of up to £4,528,871, including making an immediate financial allocation of £356,186;
- (b) delegated authority was sought to be given to enter into the necessary legal agreement(s) by the Borough Council and the developer/landowner to progress the development of Suffolk Business Park and Eastern Relief Road to enable the Borough Council to realise a return on its previously approved £3 million investment; and
- (c) authority was sought to fund specialist advice of £150,000 in relation to the total project.

On 2 September 2014, the Cabinet resolved that delegated authority should be given to the Head of Economic Development and Growth, in consultation with the Leader of the Council, to make an application to the New Anglia Local Enterprise Partnership (NALEP) for a £3 million loan from its Growing Places Fund for electricity infrastructure works. The Cabinet firstly considered it appropriate to amend the officer delegation contained in the original resolution to refer to the Head of Planning and Growth as the post for the aforementioned no longer existed. It then considered a proposal to increase the amount of the loan agreed in September 2014 to £4,528,871 to ensure that the total costs of these works could be covered by the loan. It was anticipated that Taylor Wimpey would contribute a further £1.4 million in relation to the residential development.

Early discussions with officers had indicated that the electricity infrastructure funding for Suffolk Business Park was the type of project that would be likely to be funded under NALEP's Growing Places Fund programme. It is anticipated the application would be determined at the LEP's next Board meeting on 20 March 2015.

It was proposed that the loan (including interest charges) would be met from commercial lets as they came forward for Suffolk Business Park or by the commercial developer who would be appointed to bring the land forward.

The electricity works were proposed to be phased and therefore the provider would also require payments to be provided in stages. The first payment of £100,000 had already been paid by Taylor Wimpey. The second payment amounted to £129,786 and was required to be paid by 27 February 2015 (as a worst case). The third payment of £226,400 was required in Quarter 2 of 2015. These two outstanding payments equated to £356,186 which full Council was being asked to approve later that evening on the Cabinet's recommendations. This sum would be paid from the existing £3m allocation of funding approved by Council on 23 September 2014 if the loan from NALEP had yet to be remitted to the Council.

In addition, there were a number of areas of specialist advice that were required in connection with the project to ensure the Borough Council was working within the law and maximising its best consideration. The table provided in 4.1 of the report set out the requirement and cost of each element. The total request for this advice was a maximum of £150,000, approval of which was also sought from full Council upon the recommendation of Cabinet.

A detailed discussion was held and Members asked questions on a number of issues including:

- (a) the repayment terms and level of interest on the loan from NALEP (if the application was successful);
- (b) the likelihood of Taylor Wimpey allocating £1.4 million for the electricity infrastructure for the residential development;
- (c) the associated risks involved.

The officers responded accordingly, including that the second payment of £129,786, as extracted from the report above, would not need to be paid until 2 April 2015.

Members supported the recommendations, acknowledging that approval would help enable the entire project to come to fruition, and noted that the decisions required by full Council on this matter would be sought that same evening.

RESOLVED:

That the amendment and clarification of resolutions (1) and (2) at its meeting on 2 September 2014 (minute 42 refers) in accordance with paragraphs 3.2 and 3.3 of Report No: CAB/SE/15/017, be approved.

RECOMMENDED TO COUNCIL: That

- (1) subject to the approval of full Council and the satisfaction of the Section 151 and Monitoring Officers, a commitment be made to the full £4,528,871 million programme of works for the provision of electricity to serve Suffolk Business Park, including an immediate financial allocation of £356,186 currently due on**

27 February 2015, as detailed in Section 3 of Report No: CAB/SE/15/017;

- (2) subject to the approval of full Council and the satisfaction of the Section 151 and Monitoring Officers, delegated authority be given to the Head of Planning and Growth in consultation with the Leader of the Council to enter into an agreement or agreements to be entered into by St Edmundsbury Borough Council (SEBC) and the developer/landowner to enable the development of Suffolk Business Park and Eastern Relief Road to enable SEBC to realise a return on its investment in line with the principles approved in the Medium Term Financial Strategy; and**
- (3) Council be asked to approve the financial allocation of £150,000 towards the costs of specialist advice for this project from reserves.**

The meeting concluded at 5.15 pm

Signed by:

Chairman
