

Extraordinary Cabinet



Forest Heath
District Council

Minutes of a extraordinary meeting of the **Cabinet** held on
Tuesday 11 October 2016 at **6.00 pm** at the **Council Chamber, District
Offices**, College Heath Road, Mildenhall, IP28 7EY

Present: **Councillors**

Chairman James Waters

David Bowman
Andy Drummond

Stephen Edwards
Lance Stanbury

In Attendance:

Ruth Allen
Andrew Appleby
Chris Barker
John Bloodworth
Rona Burt
Louis Busuttil

Simon Cole
Brian Harvey
Victor Lukaniuk
Carol Lynch
Nigel Roman

236. **Apologies for Absence**

Apologies for absence were received from Councillor Robin Millar.

237. **Open Forum**

Hatchfield Farm: Secretary of State Decision – Next Steps (Report No: CAB/FH/16/042)

The following non-Cabinet Members spoke on this item (as summarised below):

(a) Councillor Rona Burt

Councillor Burt addressed the Cabinet and expressed her disappointment with the Secretary of State's decision to refuse planning permission for 400 homes at Hatchfield Farm, Newmarket. She referred to the former Secretary of State's previous statement in relation to planning matters where he had stated that "*locally elected members should make the decisions on planning applications in their District.*"

Councillor Burt explained that the villages which she represented within her Ward were now all very concerned regarding this decision and the impact that this would have on their villages. Councillor Burt also

raised her concerns of the impact which this decision would have on the Council's housing figures within its Local Plan.

(b) Councillor Carol Lynch

Councillor Lynch addressed the Cabinet and explained that she had previously represented Newmarket on the Council for 16 years and had also been the lead Member for Housing. She expressed her gratitude to the Secretary of State for being mindful regarding housing development in Newmarket, but there was a need for housing, albeit of a sensitive nature. There were no available brownfield sites in Newmarket which can be used for the provision of additional housing. It was very important to keep the paddock land, along with the continued support of the Council's Horseracing Policies, as they were paramount to the protection of the horseracing industry. The Hatchfield Farm site was in the right location for the provision of additional housing in the town.

Councillor Lynch also referred to the importance of horseracing to Newmarket, but there needed to be a balance between horses and the people. In her view, the surrounding villages and other settlements were being asked to allocate too much additional housing.

Councillor Lynch concluded by requesting for the Cabinet to continue to support the decision of the Council's Development Control Committee for the approval of planning permission for 400 homes at Hatchfield Farm, Newmarket.

(c) Councillor Victor Lukaniuk

Councillor Lukaniuk addressed the Cabinet and stated that if Members believed the decision to approve planning permission for 400 homes at Hatchfield Farm, Newmarket, had been the right decision, then the Council should challenge the Secretary of State accordingly.

(d) Councillor Ruth Allen

Councillor Allen addressed the Cabinet and stated that the residents of Newmarket considered that the town needed growth and Hatchfield Farm was an ideal location for these homes to be built. The development also offered additional cycle routes and footpaths and improved highway infrastructure. Councillor Allen considered that the residents and the horseracing community should be able to work together, in harmony, to make this development work effectively.

Councillor Allen stated that this decision by the Secretary of State should be challenged by the Council, which would show to the residents of Newmarket that the future development of the town was a priority.

(e) Councillor Andrew Appleby

Councillor Appleby addressed the Cabinet and stated that the horseracing industry was valued by the Council, however, the decision

to over-rule the Council's planning decision for the approval of 400 homes at Hatchfield farm, Newmarket and the subsequent Planning Inspector's conclusions endorsing the Council's decision, was unlawful. In particular, the current Secretary of State's view was inconsistent with the former who had accepted that 1,200 homes would not prejudice the horseracing industry.

Councillor Appleby concluded that the Council must have faith in its own planning decisions, along with the Planning Inspector's conclusions and he believed that the Council must challenge the decision by the Secretary of State to refuse planning permission for 400 homes at Hatchfield Farm, Newmarket.

(f) Councillor Simon Cole

Councillor Cole addressed the Cabinet and stated that he considered the Council should challenge the Secretary of State's decision to refuse planning permission for 400 homes at Hatchfield Farm, Newmarket. One of the reasons for this was that the Council had made a democratic decision to approve this planning application, being the Local Planning Authority and that the challenge would reinforce this democratic decision.

In his view, he considered that the development at Hatchfield Farm would not damage the horseracing industry, but in fact would damage it more if these homes were not built. It appeared that the Jockey Club was not totally adverse to house building at it was currently looking itself to build 100 homes in Hamilton Road, as housing was needed in the town.

Councillor Cole concluded that the Council should challenge the Secretary of State's decision to refuse planning permission for 400 homes at Hatchfield Farm, Newmarket.

238. **Public Participation**

Hatchfield Farm: Secretary of State Decision – Next Steps (Report No: CAB/FH/16/042)

The following members of the public spoke on this item (as summarised below):

(a) Councillor Bill Rampling (Chairman, Moulton Parish Council and on behalf of the Forest Heath Rural Parish Alliance)

Councillor Rampling addressed the Cabinet and confirmed that he was representing the Forest Heath Rural Parish Alliance and Moulton Parish Council who were supporting Lord Derby in challenging the Secretary of State's decision. He hoped that the Cabinet would also take the decision to join this challenge.

Councillor Rampling then asked a question of the Portfolio Holder, Councillor Lance Stanbury, this being:

'If the challenge was unsuccessful and the Secretary of State ruling stood, would the Council, as the Local Planning Authority, have to start the local plan process again?.'

Councillor Rampling further stated that the Council's Core Strategy was based on the premise that the majority of the houses to be built would be in the most sustainable locations, ie the three market towns (Brandon, Mildenhall and Newmarket). However, Brandon was severely constrained for ecological reasons and if Newmarket could only be developed according to the wishes of the horseracing industry, where were the new houses going to be built.

Councillor Lance Stanbury then replied to the question raised and confirmed that the local plan process would not have to be started again. The Council's Local Plan Working Group would be exploring all available options for growth within the District. Councillor Stanbury also stated that, at this stage, he was unable to confirm where the new homes were to be built as this was subject to due process, however, he would be speaking to this point later in his address to the Cabinet.

(b) Dr Allan Marchington (Resident of Herringswell)

Dr Marchington addressed the Cabinet and requested that the Council continued to support the decisions made regarding the provision of homes at Hatchfield Farm, Newmarket. He explained that, over two years ago, a democratic decision had been made, based on evidence, to approve 400 homes on Hatchfield Farm by the Council's Planning Committee. This decision had been challenged by the horseracing industry and by the local MP, who requested for this decision to be called-in by the Secretary of State. Following a public enquiry, the Planning Inspector agreed with the Council's decision and had determined, based on evidence, that 400 homes at Hatchfield Farm would not be detrimental to the horseracing industry.

In August 2016, the Secretary of State refused planning permission for 400 homes at Hatchfield Farm, due to the perception of damage to the horseracing industry from this application, thereby overruling both the Council and the Planning Inspector's decisions. The effect of refusing this planning permission now meant that Newmarket would not receive the much needed infrastructure improvements, contributions towards primary education and provision of additional sports/community facilities.

Dr Marchington requested that the Council continued to follow the sequential process of the local plan and to support its local residents in their desire for sustainable development. He requested for the Cabinet to stand by the Council's decision to provide housing on Hatchfield Farm, to prevent the situation whereby the perception of damage was allowed to determine where housing was provided in the District. In his view, there was no evidence to support this perception and should be challenged and requested that the Cabinet considered joining Lord

Derby and the Rural Parish Alliance in a High Court challenge of the Secretary of State's decision.

(c) Councillor Rupert Osborn (Chairman, Worlington Parish Council)

Councillor Osborn addressed the Cabinet and explained that his representations were of his own personal views as a resident of Forest Heath and as Chairman of Worlington Parish Council.

Councillor Osborn stated strongly that the Council should support Lord Derby in his appeal against the Secretary of State's decision to refuse planning permission for 400 homes at Hatchfield Farm, Newmarket. Having read in detail, the comprehensive report of the Planning Inspector, Councillor Osborn was of the opinion that the development should have been allowed. All the relevant issues had been explored in the Planning Inspector's judgment, which had concluded that there would be no negative impact on the horseracing industry. Councillor Osborn considered that with the proposed infrastructure changes and provision of new and much needed affordable homes in Newmarket, the impact of this development would have been positive and would have assisted with encouraging people to be able to both live and work in the town.

Councillor Osborn also referred to the wider planning consequences for the District, as a result of the Secretary of State's decision. He expressed his concerns in relation to the planning constraints already in existence which prevented development, along with concerns that further restrictions in Newmarket could mean that the surrounding towns/villages may have to take further additional development. The village of Worlington was already being affected by increased traffic and any additional development may make this situation worse.

Councillor Osborn concluded by stating that the Council had previously decided that development on Hatchfield Farm was appropriate. Therefore the Council should support Lord Derby in his appeal, for the sake of the District as a whole.

(d) Ralph Brownie (Resident of Cavenham)

Mr Brownie addressed the Cabinet as a ratepayer from the village of Cavenham.

Mr Brownie acknowledged the responsibilities and difficulties placed upon the Council when trying to provide significant numbers of additional housing within the District. The proposals for 400 homes at Hatchfield Farm had met all the criteria for a sustainable development, in an ideal location which offered both infrastructure improvements and opportunities for employment. This location was also already adjacent to existing cycleways and public transport routes in the town.

By adopting the Hatchfield Farm proposals, the Council would also have had the opportunity to access S106 monies for the improvement of access along the A142/A14 intersection. The modelling of the

proposed infrastructure improvements, by Suffolk County Council, had shown that the overall movement of traffic would have been of benefit to all road users, including the horseracing community.

Mr Brownie raised concerns on the already increased traffic levels on the roads, particularly from small/medium sized developments which were bringing more cars to each and every village in the County. A significant amount of this additional rural traffic was as a result of commuting into the main towns, such as Newmarket.

Mr Brownie referred to the future medium/long term plans for Newmarket, which included the increasing of facilities, such as an uphill gallop, with the express objective of increasing the number of associated horseracing training opportunities within the town. Therefore, unless homes were placed within an accessible and sustainable location, such as Hatchfield Farm, there would continue to be a problem of ever increasing traffic on both rural roads and arterial routes throughout the town.

Mr Brownie concluded that that the Council had a duty to its ratepayers to challenge the Secretary of State's decision to refuse planning permission for 400 homes at Hatchfield Farm, Newmarket.

239. Hatchfield Farm: Secretary of State Decision - Next Steps (Report No: CAB/FH/16/042)

Councillor Lance Stanbury, Portfolio Holder for Planning and Growth, presented this report in which the Cabinet were requested to decide whether to pursue a High Court Challenge to the Secretary of State's decision to refuse to grant planning permission for up to 400 dwellings, with associated infrastructure, in relation to Hatchfield Farm, Newmarket, taking into account the outcomes of the legal advice sought (this legal advice was subsequently circulated at the meeting).

Councillor Stanbury explained the Council's frustrations, as the Local Planning Authority, as to the effect of the refusal of this application on the Forest Heath district as a whole. Since the Secretary of State's decision, work had been undertaken in the consideration of the available options and how these would affect all of the Council's communities, in order to be able to make the right decision for everyone in Forest Heath. Councillor Stanbury then outlined these options and the subsequent effects (whether positive or negative).

If the Council was to enter into a High Court Challenge then this would positively maintain that Newmarket was the most sustainable town and location for growth and there was likely to be less challenge to the Local Plan from Lord Derby and other interested parties.

The challenge would incur further legal costs to the council tax payer. There would be a further delay to the completion of the Local Plan, which could not be adopted by the end of 2017 as planned. Not being able to adopt the Plan would mean the loss of the New Homes Bonus and also under new planning legislation, the Secretary of State could intervene with the Plan if progress

was not made. It would also leave the Council open to speculative planning applications in the District, as the Plan would be out-of-date.

If the Council was not to enter into a High Court Challenge then there would be no additional cost to the council tax payer. The Council would be able to continue with the Local Plan for adoption by the end of 2017. Taking into account the planning permissions granted since April 2016, the Council only needed to find sites to accommodate 145 homes to make up for the loss of the Hatchfield Farm site (this equated to less than 10 homes a year over the remaining 15 years of the Plan period). However, Lord Derby and other interested parties could still decide to challenge the Local Plan.

Therefore, Councillor Stanbury firstly proposed to the Cabinet, that Forest Heath District Council did not seek to challenge the Secretary of State's decision in regard to Hatchfield Farm development, but remained an interested party in the claim of Moulton Parish Council, on behalf of themselves and the Rural Parish Alliance and the Earl of Derby.

Councillor Stanbury then went on to highlight the opportunities which he considered were now available. He explained that the Secretary of State had recognised that Newmarket was a unique place and of great importance to the national economy and a meeting was being arranged with him to discuss Newmarket in the wider setting.

There was a huge opportunity for all parts of the community to work together to create a new prospectus for Newmarket and its community (ie businesses, the local community, the Town Council and established working groups) to feed into the preparation of the new Local Plan. Such a process and prospectus would provide valuable evidence to support the next Local Plan, which would commence in early 2018. Therefore, Councillor Stanbury secondly proposed to the Cabinet, that Forest Heath District Council led a process looking to the future of the town and for the Cabinet to invite the whole community to join with the Council and work together to develop an existing new Prospectus for Newmarket, that brought together all the different planning and visioning work that was taking place across the town and district.

The remaining Cabinet Members then took the opportunity to also speak on this item and supported Councillor Stanbury's proposal not to seek to challenge the Secretary of State's decision, for the reasons previously stated and also supported the proposal for the creation of a new prospectus for Newmarket.

Prior to the voting on this item, the Council's Lawyer advised the Cabinet that as an application to challenge the Secretary of State's decision had to be made by the deadline of 12 October 2016, the Chairman of the Overview and Scrutiny Committee had agreed that the decision should be exempted from the Call-in procedure, as it was both reasonable for the Council to take such a decision now in all the circumstances and to the decision being treated as a matter of urgency (in line with Part 4: Overview and Scrutiny Committees Procedure Rules; paragraph 14.4 of the Council's Constitution).

The proposals made by Councillor Stanbury were then seconded by Councillor Andy Drummond and with the vote being unanimous, it was

RESOLVED:

That:-

1. Forest Heath District Council does not seek to challenge the Secretary of State's decision in regard to the Hatchfield Farm development, but to remain an interested party in the claim of Moulton Parish Council, on behalf of themselves and the Rural Parish Alliance and the Earl of Derby.
2. Forest Heath District Council to lead a process looking to the future of the Town. The Cabinet to invite the whole community to join with the Council and work together to develop an exciting new Prospectus for Newmarket that brings together all the different planning and visioning work that is taking place across the Town and District.

The Meeting concluded at 6.45 pm

Signed by:

Chairman
