


Extraordinary Cabinet



Forest Heath
District Council

Title of Report:	Hatchfield Farm: Secretary of State Decision – Next Steps	
Report No:	CAB/FH/16/042	
Report to and date:	Extraordinary Cabinet	11 October 2016
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Purpose of report:	To consider whether to challenge the decision of the Secretary of State in relation to the Hatchfield Farm application.	
Recommendation:	It is RECOMMENDED that Cabinet resolves to decide whether to pursue a High Court challenge to the Hatchfield Farm planning decision.	
Key Decision: (Check the appropriate box and delete all those that do not apply.)	<p><i>Is this a Key Decision and, if so, under which definition?</i></p> <p>Yes, it is a Key Decision - <input checked="" type="checkbox"/></p> <p>No, it is not a Key Decision - <input type="checkbox"/></p> <p>(a) A key decision means an executive decision which, pending any further guidance from the Secretary of State, is likely to:</p> <p>(i) be significant in terms of its effects on communities living or working in an area in the Borough/District</p>	
Consultation:	<ul style="list-style-type: none"> Previous consultation has taken place on the Hatchfield application as part of the planning and appeal process 	
Alternative option(s):	<ul style="list-style-type: none"> As contained within this Report 	

Implications:			
Are there any financial implications? <i>If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> Any legal challenge at High Court level would have significant financial costs 	
Are there any staffing implications? <i>If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> Potential impact on planning policy resourcing if pursuing a legal challenge 	
Are there any ICT implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any legal and/or policy implications? <i>If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> The NPPF requires the local planning authority to produce an up to date Local Plan – a High Court challenge may delay the production of this plan A High Court challenge to the Hatchfield decision may be submitted by a third party, a matter which is beyond the Council's control. 	
Are there any equality implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i> Failure to produce an up-to-date Local Plan supported by a sound evidence base may result in an unsound development Local Plan or a legal challenge.	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Cost of a High Court challenge	High	Ensure that the cost to the council remains proportionate and kept under review throughout the process	Medium
Significant public opposition. Local Plan documents have the potential to be highly contentious. Whilst every effort will be made to build cross-community consensus, there is a high risk of significant public opposition.	High	Clear communications, from councillors and council staff, will be needed to explain the basis on which a decision is taken. Every effort would also be taken to engage residents throughout the district in the next	High

		stage of the draft Local Plan consultation, starting early next year.	
Legal challenge. As a measure of last resort anyone affected may issue a legal challenge within six weeks of adoption of the Local Plan.	High	Officers will continue to seek to ensure that local plan documents are prepared within the legal framework in order to reduce the risk of successful legal challenge.	Medium
Ward(s) affected:	All Ward/s		
Background papers: <i>(all background papers are to be published on the website and a link included)</i>	Secretary of State's decision on Hatchfield Farm  Decision by the Secretary of State - c		
Documents attached:	None		

1. Key issues and reasons for recommendation(s)

1.1 Hatchfield Farm Secretary of State decision – next steps

- 1.1.1 On 31 August 2016, Forest Heath District Council was informed of the Secretary of State's refusal to grant planning permission for up to 400 dwellings plus associated open space (including areas of habitat enhancement), foul and surface water infrastructure, two accesses onto the A142, internal footpaths, cycle routes and estate roads at Hatchfield Farm, Fordham Road, Newmarket.

As the Local Planning Authority which originally resolved to approve the application, the council, through the executive Cabinet function, could choose to challenge the Secretary of State's decision in the High Court six weeks from the day after the decision (i.e. by 12 October 2016). Before taking that decision, Cabinet members need to consider carefully the potential impacts on residents of Newmarket and the surrounding areas, potential impact on the area's local economy, and costs to the district's council tax payers.

The decision may be challenged by making an application for permission to the High Court under s288 of the Town and Country Planning Act 1990. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. The announcement on 30 September 2016 that Lord Derby will, in partnership with Rural Parish Alliance, challenge the Secretary of State's decision in the High Court is noted.

Following this announcement, legal advice on the options available in terms of pursuing a challenge is being sought. The options are broadly:

- To not pursue a challenge;
- To pursue a challenge and consider the implications of each option for challenge

Cabinet will be updated on the legal advice in respect of the above either before or during the meeting on 11 October.

Cabinet are requested to decide whether to pursue a High Court challenge to the Secretary of State decision in relation to Hatchfield Farm, taking into account the outcomes of the legal advice being sought.