



Rutland County Council

Catmose Oakham Rutland LE15 6HP.

Telephone 01572 722577 Email governance@rutland.gov.uk

Minutes of the **TWO HUNDRED AND TWENTY SEVENTH MEETING** of the **COUNCIL** held virtually via Zoom on Monday, 22nd March, 2021 at 7.00 pm

PRESENT:

Mr E Baines (Chairman)	Mr G Brown
Mr O Hemsley	Mr J Dale
Mrs L Stephenson	Mr A Walters
Mr R Coleman	Mr D Wilby
Mr P Ainsley	Mr D Blanksby
Mr A Brown	Ms J Burrows
Mr N Begy	Mr K Bool
Mr W Cross	Mrs J Fox
Mrs S Harvey	Miss M Jones
Mr A Lowe	Ms A MacCartney
Mr M Oxley	Mrs K Payne
Mrs R Powell	Mr I Razzell
Miss G Waller	Mrs S Webb
Mr N Woodley	

OFFICERS PRESENT:

Mr M Andrews	Interim Chief Executive
Mr P Horsfield	Monitoring Officer
Mrs P Sharp	Strategic Director for Places
Mr S Della Rocca	Strategic Director for Resources
Mrs J Morley	Governance Officer

IN ATTENDANCE Mr V King Legal Advisor, Weightmans Solicitors

1. APOLOGIES

No apologies were received.

2. CHAIRMAN'S ANNOUNCEMENTS

The Chairman recognising that there were strong feelings on either side of the debate, expressed his wish that the debate be conducted in a courteous and respectful manner. He believed that every Councillor would vote in the way that he or she felt was in the best interests of the County.

Councillors were reminded that the debate was whether or not to accept the terms of the Housing Infrastructure Funding (HIF) Agreements and was not about the allocation of the St George's site. That issue had been debated when Council decided to submit

the Local Plan and would be debated again when Councillors met to consider whether or not to adopt the Local Plan.

The Chairman advised Members that, as there was a necessity to make a decision that evening, amendments to recommendations 1, 2 and 5 would not be permitted as these could not be made unilaterally by the Council and therefore would negate the motion put before them. In the same vein, a motion to defer the decision would also not be permitted.

3 ANNOUNCEMENTS FROM THE LEADER, MEMBERS OF THE CABINET OR THE HEAD OF PAID SERVICE

There were no announcements from the Leader, Members of the Cabinet or the Head of Paid Service.

4 DECLARATIONS OF INTEREST

There were none.

5 PETITIONS, DEPUTATIONS AND QUESTIONS FROM MEMBERS OF THE PUBLIC

2 deputations and 5 questions had been received from members of the Public and, in accordance with the virtual meeting procedure rules, these had been published on the website and circulated to Councillors before the meeting.

Before the first speaker was invited to give his deputation, the Chairman proposed that Procedure Rules 28, 29 and 58 were suspended for the meeting.

Suspending Procedure Rules 28 and 29, that restricted the time allowed for deputations and questions, would enable all the deputations and questions submitted to be heard and as Chairman, Councillor Baines was particularly in favour of this in light of the fact that the matter before Council was proposed to be heard in confidential session.

Suspension of Procedure Rule 58 would mean the cut-off time would not be enforced and so Council could continue to sit beyond 10pm, if necessary, to ensure that Council's consideration of the matter was finalised that evening.

Councillor Bool seconded the motion and a vote was taken.

Council voted unanimously to suspend Procedure Rules 28, 29 and 58.

Deputations:

The first of the deputations, (appended to the minutes) was delivered by Mr M Touchin on behalf of the Campaign for the Protection of Rural England.

Councillors did not ask any further questions of Mr Touchin.

The second deputation (appended to the minutes) was received from Mr R Camp on behalf of Manton Parish Council.

Councillors did not ask any further questions of Mr Camp.

Questions:

Mr D Hodson asked a question (appended to the minutes) on behalf of Greetham Parish Council.

Councillor G Brown, Portfolio Holder for HIF and the Local Plan, responded to the question by stating that Council had approved the draft Local Plan for submission to the Planning Inspectorate following the Regulation 19 consultation and this included the allocation of the brownfield site at St. George's Barracks (SGB) for the new Garden community. The decision in front of Councillors was whether to accept £29.4m of HIF monies to support delivery of approved Local Plan policies. If Council voted against accepting the HIF monies then, as many different parties had assessed, the SGB Garden Village would no longer be viable unless alternative ways could be found to meet the £29.4m gap, and Local Plan Policies H2 and H3 could still be met.

It was likely that should the HIF monies not be accepted the Local Plan would need to be withdrawn from the Planning Inspectorate for review and modification in order to meet the requirement for 160 homes per year. Councillor Brown further stated that it could take up to three years to get to the point the Council was currently in which would result in the Council not having a five year housing land supply; there would then be a presumption in favour of development and a real risk of uncontrolled development.

There was no supplementary question from Mr. Hodson.

Ms J Stuttard then asked a question (appended to the minutes)

Councillor G Brown, Portfolio Holder for HIF and the Local Plan, responded to the question by stating that 14 hectares of employment land had been set out in the Local Plan and the Council's vision was to have 1 job created per household as reflected in the Masterplan.

The vision for the business zone at SGB remained unchanged because of Covid, and indeed the pandemic had acted as a catalyst for more people to work from home. The strategy was for there to be a community that supported home working, had collaborative community workspaces and space for a range of larger businesses. The Council's preference was for high value businesses which offered opportunities for advancement and they had been working with the Greater Lincolnshire Local Enterprise Partnership to develop and implement plans not only to support Rutland's economic recovery, but to prioritise investment infrastructure such as the employment zone at SGB.

In response to a supplementary question from Ms Stuttard Councillor Brown stated that an employment sub group had identified the types of employers that they hoped to attract to SGB as being those that offered high tech and creative jobs rather than warehousing and distribution jobs.

The third question (appended to the minutes) was received from Mr J Donaldson.

Councillor Brown in response stated that the viability of SGB had been assessed by many different parties; the Defence Infrastructure Organisation (DIO), Homes England, the Ministry of Housing, Communities and Local Government (MHCLG) and the Treasury, all of which had confirmed that the development was viable and deliverable with the acceptance of the HIF monies.

Councillor Brown assured Mr Donaldson that the agreements before Councillors limited the risks to those duties that the Council would normally perform as a highways and planning authority. The costs and timescale risks all lay with the MOD through the DIO.

As a supplementary question Mr Donaldson commented on Councillor Brown's extensive business career and asked whether if someone had presented him with a proposal to spend £140m that would have received a return of £3-5m in 10-20 years but which had made no allowance for studying the impact of Covid, would he have signed it off?

Councillor Brown replied that during his past career he had been responsible for delivering two different 1 million square feet distribution centres so he definitely understood the question of risk. In Councillor Brown's opinion the key was having very capable people delivering the project and a very clear plan. The documentation supplied to Councillors showed that the SGB project had been very clearly worked through and had met the Treasury's strict requirements. The HIF monies would not have been offered to the Council had this not been the case.

The fourth question (appended to the minutes) was received from Mr T Gibson, a resident of North Luffenham and a member of the village's Neighbourhood Plan Group.

Councillor Brown replied that CIL (Community Infrastructure Levy) was established by RCC in 2016 and provided a fund for infrastructure, such as schools and medical facilities, that was required throughout the county. Parish Councils would be allocated 15% of the total CIL revenue for dwellings built in their parish up to a maximum of £100 for each existing tax dwelling in their parish. Where funding exceeded that cap the money would go back 'into the pot' for projects identified in the Infrastructure delivery plan.

Where parishes had an adopted Neighbourhood Plan in place, the neighbourhood funding of the CIL rose to 25% of the receipts received for the development in that area following adoption. This portion was uncapped and there would be direct payments in line with these regulations.

In response to a supplementary question from Mr Gibson, Councillor Brown confirmed that the CIL money had been allowed for in the cashflow created by the DIO and that once RCC received the money, every six months the money would be allocated out to the Parish Council.

The final question (appended to the minutes) was received from Mr P Burrows, a resident of North Luffenham.

Councillor Brown replied that due to the allocation agreement the only potential financial risk to the Council was for £110k, should it be drawn down, which funded the

costs associated with the HIF contracting process. These were historic costs and Councillor Brown's recommendations to Cabinet and Council would be to place these in earmarked reserves until the Council were sure that risks had been fully mitigated; possibly in two or three years' time. All the risks around the delivery of the housing and the infrastructure rested with the DIO.

6 QUESTIONS FROM MEMBERS OF THE COUNCIL

There were no questions from Members.

7 HOUSING INFRASTRUCTURE FUNDING CONTRACT

Before moving to consider the exclusion of the public and press, the Chairman invited the Monitoring Officer to advise Council on why they were being asked to move into private session. This was also to ensure that members of the public who were watching understood the reason for the motion and the advice given to Councillors.

The Monitoring Officer advised that Council should move into private session as the information in the agreement that Council was being asked to make a decision on was confidential within the meaning of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972. Both Homes England and the DIO had told Council that release of the information that would be the subject of the debate could harm their commercial interests. The information had been supplied on the basis that it was confidential and the Council would be in breach of this confidentiality to discuss the detail in public.

Council was being asked whether or not to enter into the agreements and would therefore necessarily have to discuss the detail in order to ensure that regard of all the evidence that was material to the decision being made had been had. Should Council choose not to go into exempt session then Council would not be able to discuss, for example, details of the cashflow, milestones other than the 2024 date, the recovery strategy, and specifics on the agreement of risk. A previously public meeting had debated the principles of such an agreement and it was concluded that Council would need to consider the detail in order to make an informed decision.

The Monitoring Officer made a final point for his reasoning and strong advice that the issue should move into confidential session and that was that, while individual councillors might be of the view that what they wanted to say could be done in open session, this was unlikely to be the case for all councillors.

Following the advice given, the Chairman confirmed that he and the Monitoring Officer had held lengthy discussions to explore any way in which the decision could be held in public however there was no doubt that the position of Homes England and the MOD would preclude Council from doing this and therefore he felt that there was no other option but to move into private session.

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The motion to move into confidential session was proposed by Councillor Walters and seconded by Councillor Ainsley.

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Councillor Bool addressed Members at this point to express his concern that Council was attempting to go into private session so early on in the debate especially as so many members of the public were observing. Councillor Bool wondered whether or not there were other hidden issues because he felt that the issue had started in secrecy four years ago, when the previous Chief Executive had signed a Memorandum of Understanding (MOU) which was then kept secret from 24 of the 26 councillors for an entire year, and would be ending in secrecy. As the matter affected everyone in Rutland Councillor Bool argued that the public should be allowed to see their elected representatives discussing the issues, especially as he felt that the debate could be conducted in a manner that adhered to the Council's obligations under the Non-Disclosure Agreement.

The Chairman concurred with comments that Councillor Bool had made about the secrecy surrounding the MOU and considered that the Leader of the Council at that time had betrayed an arrogance that was more in keeping with the powers of an elected Mayor. He urged Members however to move on from the past and to think of the future.

Councillor A Brown who was conscious that the vote to go into private session would be very close, then cited the case of *Bradford Metropolitan City Council ex parte, Wilson and others 1989* in which it was held that there was no requirement for a Chair to remain impartial, nor a requirement to support the status quo and that they had a duty to act honestly and in accordance with their perception of the public interest. In Councillor Brown's opinion the huge public interest in the issue outweighed the commercial sensitivity arguments put forward by the DIO and Homes England.

The Monitoring Officer reiterated that Members were required to have a regard to the advice provided which highlighted that Council would be in breach of the confidentiality agreement that they had in place with Homes England and the DIO, and that this was an extremely material fact.

Councillor Waller was sympathetic to the pressures officers were under, having been told the papers were confidential but as there had already been three private sessions and over 100 questions answered, considered that Members could debate the overview rather than the minutiae and therefore the meeting could remain in public session.

Councillor G Brown supported going into exempt session as he would be making opening remarks that contained additional confidential information that had come about in the last few days.

The Monitoring Officer clarified that the meeting would not be moved back into public session to hear the voting as it was impossible to predict the nature and number of any amendments which could mean going in and out of private/ public session. As soon as the vote was taken however the RCC Comms team would make the result known via social media channels.

Councillor Walters, who had proposed the motion, argued that Councillor Bool's inference that something underhand could take place were the matter to be held in private session was misplaced as all the elected members would be present to ensure that this was not the case.

Councillor G Brown addressed points made by Councillor Cross and MacCartney in regard to the additional confidential items that he would be speaking about and confirmed that they had been presented at the end of the previous week and therefore were very recent.

8 EXCLUSION OF THE PRESS AND PUBLIC

The vote on excluding the public and press was taken and Members voted 15 in favour and 12 against. The motion was therefore carried.

The Chairman proposed that an adjournment of 5 minutes be taken before Members rejoined the private session of the meeting.

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The public session of the meeting was closed at 8.22pm

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9 HOUSING INFRASTRUCTURE FUNDING CONTRACT

The motion to accept the Homes England grant offer of £29.4m Housing Infrastructure Funding was proposed by Councillor G Brown and seconded by Councillor Hemsley who reserved the right to speak later in the debate.

Councillor G Brown's opening remarks included the following points:

- The decision before Council was whether to accept the Housing Infrastructure Funding. Doing so would allow for the road improvements to be completed so that a clear route, avoiding the surrounding villages, would be available for construction traffic right from the beginning of the development.
- The decision was not about the Local Plan which was approved by Council in February last year and was with the independent Inspector. On Friday of last week Councillor Brown was advised of the provisional dates of the examination of the Plan which would take place virtually at the beginning of June [REDACTED]
- The Inspector was planning to issue her initial letter and request information both at the same time which suggested that there were no major concerns and the Local Plan had passed the initial hurdle of basic soundness.
- Councillor Brown had responded to the frequently asked question of why RCC should be liable for costs or other liabilities when the landowner would receive a surplus on the existing use value of their land by stressing that the agreements before Councillors actually protected Council from these liabilities; RCC would not be responsible for the construction of highways, meeting milestones or for remediation for any cost overruns. The risk to RCC was probably less than any other housing project because of the agreements that had been negotiated.
- SGB would not turn out to be another Barleythorpe development as the grant would enable the Council to influence the development on the site. The outstanding issues at Barleythorpe were outside of the Council's control.
- The SGB development was not a private company development but a public sector body development and as such the DIO was accountable to parliament and the tax payer.

- The development would bring about local employment, shops, hospitality, a school, medical facilities, a country park and potentially a 1 megawatt solar farm with landscaping across the site.
- RCC had been in talks with the Prince's Foundation which had been responsible for the visionary Nansleden and Poundbury communities, and had introduced them to the DIO.
- If the Council rejected the HIF grant the Local Plan would no longer be viable and would therefore need to be reviewed and modified. As the evidence base would need to be updated it could entail starting all over again at a cost to the Council of approximately £1m.
- Without a 5 year housing supply, planning applications would have to be determined with a presumption in favour of development.
- Turning down the grant would also damage the Council's reputation with MHCLG at a time when the Executive had fought hard to win a seat at the table for the Fairer Funding Review.
- Discussions were ongoing with Homes England to support the Contract Management Team to ensure that processes were set up to handle any significant claims that were received and administration problems were minimised or avoided.

The Chairman opened the debate to the floor and invited comment. During the debate the following points were noted:

- Councillor Cross felt that the SGB development, alongside the development at Quarry Farm Ryhall, and the expected Woolfox development which would surely follow, would be calamitous for Rutland and its environment. The matter of SGB arose from an MOU that was discussed at Cabinet only one hour before it was signed. The 650 homes at Quarry Farm were set against South Kesteven District and Lincolnshire County Council housing allocation without agreement from RCC Councillors, and this number, which equated to a four year housing supply for Rutland, could have been used instead to meet RCC's quota.
- Councillor Wilby argued that although he wanted to retain Rutland's rural charm and heritage, the County needed to maintain its economic viability and status. The closure of SGB had presented the Council with an opportunity and he urged Councillors to commit to the next stage for all the right reasons.
- Councillor Burrows had received a number of emails from her constituents in Oakham South ward and all were against accepting the HIF grant; many questioned the soundness and legality of the Local Plan and others said that the timescale was far too optimistic and the Council would fail to deliver enough houses in the required plan time.
- Councillor Powell spoke of the lack of transparency and the back to front thinking which had meant that SGB had been added into a dispersed Spatial Strategy without thinking about the essence of the strategy, and before there was a vision for Rutland. To have included SGB when it was dependent on the HIF monies seemed to be fundamentally flawed. In addition, the HIF grant would go towards roads and utilities and although this would keep construction traffic away from the village centres and make it more attractive to developers, it did not add in infrastructure for the benefit of residents. The health and community centres were dependent on CIL money and were not a feature of the HIF.

- Councillor Coleman was in no doubt that SGB would be developed but despite the comprehensive material provided by Officers felt that there were still risks associated with accepting the HIF monies as RCC did not have a great track record when it came to management of housing projects, and in particular the management of CIL money.
- Councillor Woodley failed to see a clear argument for not accepting the HIF monies that was based on the HIF fund being flawed rather than a dislike for the SGB development. The SGB site was going to be disposed of whether Councillors liked it or not and the HIF grant allowed the Council to get a financial package that would enable them to address infrastructure issues that were continually raised as failings in other developments.
- Councillor Harvey referenced the Strategic Housing Market assessment which made stark reading as to what was classed as affordable housing. Two thirds of households had an income below £50,000 and these included Rutland's key workers; teachers, nurses, council officers, postal workers, and shop workers who this year above all others had shown how vital they were to the community. Extra, affordable housing was urgently needed in order to build a thriving community for future generations and Members were asked to take action, accept the HIF fund and stop Rutland becoming a retirement village for the wealthy who wanted to retain a faux fifties idyll.
- Councillor Oxley had originally voted in favour of going forward with the HIF funding and the Local Plan but commented that he had not made a final decision on whether to accept the terms of the HIF and wanted to listen to the debate.
- Councillor Dale cited issues in the past with developments where the reality bore little resemblance to the plans passed; house designs had been altered and green spaces had been filled in with extra houses to maximise developers' profits.
- Councillor Fox argued that the risks of the Council accepting the bid were minimal compared to the risks if it did not. If SGB was unviable without HIF then the Council would be forced to produce a new Local Plan at a cost of £1m and in the meanwhile would be fair game for developers.
- Rutland schools produced some of the best results and most able students in the Country and rather than that talent leave, Councillor Begy wanted to be able to offer those young people a future in Rutland, with affordable housing and employment opportunities.
- Only 8 residents in Oakham South ward had raised any concerns about HIF to Councillor Razzell and in contrast hundreds were in complete support as it would address resident's concerns about health, education and employment in the County. Rejection would set Rutland back decades and pose the biggest threat to the County's independent status.
- Councillor Ainsley saw no logical connection between the motion and the Oakham Heights development. He had been persuaded, and had confidence, that Councillor Brown, the Strategic Director for Places and her team had negotiated an excellent agreement that protected the Council's interests and would secure a prosperous future for Rutland.
- There was a global vision about encouraging sustainable living and Councillor Stephenson felt it was imperative that future residents had an opportunity to live sustainably. Accepting £30m of HIF money would propel us on that journey as how we were currently living was not sustainable.
- Councillor Hemsley understood the passions of Members but cautioned against looking in the rear view mirror to see where things had gone wrong and letting that decide the future. To get a seat at the table for the fairer funding review or to attract funding from any of the Government associations going forward, Members

needed to take this decision and aim for a fantastic Rutland rather than a mediocre one.

- Councillor Waller was saddened that the public had been excluded from the debate as apart from Councillor Brown's introduction nothing had been said that was confidential. The issue before Members was not about affordable housing, nor about sustainability or about facilities, which were funded by HIF, but was about the role of HIF. Although there was no doubt that the SGB site would be developed, the HIF did not ameliorate the infrastructure concerns of local residents as, for example, the roads did not lead straight out to the A1. The deadline of March 2024 gave the Council 3 years in which to approve a Local Plan, have a new masterplan consulted and agreed upon, a planning application consulted on and approved, infrastructure completed and houses underway. Corners might be cut in order to achieve this and any modifications would have to go through consultation again. RCC was liable under the GDA if there was a delay, due perhaps to weather conditions or the Covid situation and the system of address was the allocations agreement. Councillor Waller queried that, if it came to it, would the MCHLG push against another government department on RCC's behalf? Addressing whether it was a risk to reject HIF, Councillor Waller argued that if the Local Plan was sound when it was submitted it was sound without HIF and there would be no need to redo it.
- Councillor Bool felt that the Council risked bankruptcy as there were far too many issues that needed to be resolved by the deadline of March 2024. SGB was not a development of a clean greenfield site but a brownfield site and former nuclear base; adverse weather, discovery of a protected species, Historic England interest and the MOD planning applications were all unknown variables that could affect delivery. Unlike SGB, the Nansleden development, which took 9 years to develop, was sited next to Newquay with a population of 20,000. Living on the SGB site in a rural site next to small villages was not sustainable living and would generate up to 5,000 additional cars. Councillor Bool also challenged the need to produce a new Local Plan and the resultant costs, should the bid not be accepted, as the previous plan from 2017 could be resurrected. If there were to be costs of £1m Councillor Bool would have expected to see this as a separate agenda item having been professionally costed and scrutinised. This suggested to him that managing the HIF bid would be outside the scope of officers' expertise.
- Councillor Baines felt that as Chairman he should remain completely impartial and he would therefore be abstaining from the vote. The parish councils in Councillor Baines' ward had urged him to vote against accepting HIF but he felt that he had an overriding responsibility to the residents of the County as a whole.
- In his closing remarks, Councillor G Brown addressed some of the issues raised. These were:
 - The MOU was not a legal agreement but a voluntary agreement about how to move the site forward. Councillors needed to look forward not backwards.
 - As the Local Authority, RCC was responsible for Planning and Highways. The DIO was the developer and the responsibility for the development lay with them.
 - The suggestion of underhand activity was completely unfounded; Councillors had been given as much information as was available and all matters had been transparent. The team were working with Weightmans, the solicitors, to redact any sensitive parts of the HIF bid with a view to getting it out to the Community.
 - The Strategic Director for Places had confirmed that the Local Plan may not go ahead without acceptance of the HIF bid as it required that sites were viable.

- Because of Woolfox's speculative bid the Local Plan had been delayed by 18 months so some of the evidence went back to 2015. If the Local Plan was rejected new evidence would have to be produced.
- By accepting the grant, on top of receipt of £29 million of HIF funding for infrastructure, Compulsory Purchase Order costs would be covered by the DIO, there would be £110k to cover historic costs, the costs of administration would be covered by the DIO and the Garden Community funding could be used to support the involvement of the Prince's Foundation.
- Rejecting the grant would mean that the Council would have no idea what the DIO would do with the site, the Local Plan would have to be reconsidered, greenfield sites all around Rutland would be at risk of development and influence with the MHCLG, at a critical time with the Fairer Funding Review under discussion, would be lost.

The Chairman called for a recorded vote to be taken and support was given.

There voted in favour:

Councillors Ainsley, Begy, G Brown, Fox, Harvey, Hemsley, Payne, Razzell, Stephenson, Walters, Wilby and Woodley.

There voted against:

Councillors Blanksby, Bool, A Brown, Burrows, Coleman, Cross, Dale, Jones, Lowe, MacCartney, Powell, Waller and Webb

Abstentions:

Councillors Baines and Oxley

The vote being 13 against, 12 in favour and 2 abstentions, the motions 1, 2 and 3 fell.

The Chairman declared the meeting closed at 10.50pm.

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