

# DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

## COUNCIL

### MINUTES OF THE MEETING HELD ON THURSDAY, 21 JANUARY 2016

**Councillors Present:** Peter Argyle (Chairman), Howard Bairstow, Pamela Bale, Jeremy Bartlett, Jeff Beck, Dennis Benneyworth, Dominic Boeck, Graham Bridgman, Paul Bryant, Anthony Chadley, Jeanette Clifford, Hilary Cole, James Cole, Roger Croft, Richard Crumly, Rob Denton-Powell, Lee Dillon, Lynne Doherty, Adrian Edwards, Sheila Ellison, Marcus Franks, James Fredrickson, Dave Goff, Manohar Gopal, Paul Hewer, Clive Hooker, Carol Jackson-Doerge, Marigold Jaques, Mike Johnston, Graham Jones, Alan Law, Tony Linden, Graham Pask, Anthony Pick, James Podger, Garth Simpson, Richard Somner, Anthony Stansfeld, Virginia von Celsing, Quentin Webb (Vice-Chairman) and Laszlo Zverko

**Also Present:** Nick Carter (Chief Executive), David Holling (Head of Legal Services), Peta Stoddart-Crompton (Public Relations Officer), Jon Winstanley (Projects Manager - Highways & Transport), Moira Fraser (Democratic and Electoral Services Manager), Linda Pye (Principal Policy Officer) and Honorary Alderman Andrew Rowles.

**Apologies for inability to attend the meeting:** Councillor Steve Ardagh-Walter, Councillor Keith Chopping, Councillor Billy Drummond, Councillor Nick Goodes, Councillor Rick Jones, Councillor Mollie Lock, Councillor Gordon Lundie, Councillor Alan Macro, Councillor Tim Metcalfe, Councillor Ian Morrin and Councillor Emma Webster

#### PART I

##### 90. Declarations of Interest

The Monitoring Officer noted that Councillors Adrian Edwards, Anthony Pick, Lynne Doherty, Mike Johnson, Jeff Beck, James Fredrickson, Jeanette Clifford, Howard Bairstow and David Goff had completed an Application for a Grant of a Dispensation to the Governance and Ethics Committee. The Governance and Ethics Committee had granted a dispensation for them to speak and vote on this matter.

##### 91. A339/Fleming Road Junction Compulsory Purchase Order (C3061)

*(Councillors Adrian Edwards, Anthony Pick, Lynne Doherty, Mike Johnson, Jeff Beck, James Fredrickson, Jeanette Clifford, Howard Bairstow and David Goff declared an other interest in Agenda item 3 by virtue of the fact that they were Members of Newbury Town Council. As they had applied for and had been granted a dispensation by the Governance and Ethics Committee they were permitted to take part in the debate and vote on the matter).*

The Council considered a report (Agenda Item 3) seeking authority to purchase private land by agreement or by using compulsory purchase powers under the Town and Country Planning Act 1990, the Local Government (Miscellaneous Provisions) Act 1976 and the Acquisition of Land Act 1981 to enable the new junction to be built from the A339 onto Fleming Road. The report also sought to appropriate the land within the scheme for planning purposes.

**MOTION:** Proposed by Councillor Garth Simpson and seconded by Councillor Paul Bryant:

That the Council:

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“having given consideration to all the provisions of this report (including the impact on Human Rights and Equalities) resolves to delegate authority to the Head of Legal Services to make a Compulsory Purchase Order(s) and other such powers as detailed in paragraph 6.3 of the summary report.”

Councillor Simpson in introducing the item noted that in July 2015 the Council resolved to proceed with the Compulsory Purchase of land to allow the construction of a new junction from the A339 to the London Road Industrial Estate. The junction was essential to the redevelopment of this key brown-field site and had attracted £1.9m of funding from the Local Enterprise Partnership towards its construction. The decision to proceed to Compulsory Purchase Order (CPO) was taken to avoid the loss of this funding and ensure the delivery of this essential infrastructure scheme.

A number of matters had progressed in relation to the land since the July meeting including:

- The signing of the development agreement for the London Road Industrial Estate with partner St Modwen;
- The subsequent challenge to this agreement by Faraday Development Ltd, by way of a judicial review;
- Linked to this challenge, Faraday Development Ltd had issued a challenge to the procurement process used for the development agreement, claiming that the Council had breached the Public Contract Regulations;
- A further appeal had been submitted by Faraday Development Ltd (FDL) against the decision to refuse the renewal of the planning application for the Faraday Plaza site.

The developer of the Faraday Plaza site (Faraday Development Ltd) (FDL) had lodged an appeal against the decision to refuse the renewal of their 2009 planning application. This application entailed the construction of a junction from the A339 in a similar position to that proposed by the Council. A comparison of the schemes showed that, in terms of traffic modelling, there was little difference in performance in terms of the morning peak. However, in the afternoon peak the FDL scheme showed a 42% greater average delay per vehicle across the network when compared to the Council's proposal. This congestion would result in an average of 22% lower vehicle speeds, and would have a significant impact on traffic flow across Newbury during this period.

The Council's proposal also provided other amenity benefits, with a pedestrian crossing and cycle link to Victoria Park. These enhancements added to the safety, amenity and traffic capacity value of the Council's scheme over FDL's proposal. It was therefore considered that the FDL proposal was sub-optimal and not as effective as the Council's holistic scheme.

Detailed grounds supporting the challenges issued by Faraday Development Ltd, both by way of Judicial Review of the development agreement and the procurement proceedings would be filed by 22<sup>nd</sup> January 2016. The Council would be robustly defending the claims.

Councillor Simpson confirmed that the proposals in the report met the Council's Human Rights obligations because of the benefits the scheme would bring to the general public

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particularly taking into account the legal right to compensation for the property taken and rights extinguished under the CPO.

Councillor Simpson noted that the Council were continuing to engage with the relevant landowners to negotiate agreement for the land without the need for Compulsory Purchase Powers. Agreement had been reached with Newbury Town Council and draft heads of terms were being drawn up. Negotiations were also progressing with Faraday Development Ltd. The Council had however opted to pursue the CPO to safeguard its position and the two processes would continue to be run in parallel.

Councillor Paul Bryant in seconding the paper commented that, due to the lack of development, the London Road Industrial Estate was in a run down condition. He felt that it was incumbent on the Council to do all it could to bring the scheme to fruition thereby delivering an estate that it could be proud of. This included the need to develop the associated infrastructure for the estate which would include housing, industrial land and hopefully a hotel. The road was essential in order to provide good access to the estate. He also commented that the traffic modelling he had seen showed that the scheme would have a beneficial impact on traffic flows in this area.

Councillor Bryant stated that it was essential that the Council made use of these funding opportunities to improve the District’s road infrastructure.

Councillor Anthony Pick stated that he was both a District and Newbury Town Councillor and he fully supported the proposal which would assist with delivering the estate as a single entity. To deliver this it was essential for the road infrastructure to be developed in a planned way. This scheme would also deliver additional benefits such as widening of the A339 and the inclusion of a cycle and pedestrian path and was expected to have a positive impact on traffic flow. Discussions between the Town and District Councils had resulted in an improved design. He was also satisfied that suitable arrangements would be made to replace the small number of mature trees that would have to be removed to facilitate the scheme.

Councillor Lee Dillon raised two queries. He noted that the Council’s Core Strategy included a requirement to protect public open spaces and he wondered how this proposal supported that requirement. He also asked if additional meetings with FDL had been arranged.

Councillor Garth Simpson responded by stating that the impact on the public open space was deemed to be negligible and therefore this requirement was not relevant to the debate. Nick Carter noted that discussions with FDL were ongoing and were set to continue.

The Motion was put to the meeting and duly **RESOLVED**.

*(The meeting commenced at 7.00pm and closed at 7.16pm)*

**CHAIRMAN** .....  
**Date of Signature** .....