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 22nd 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
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 ……………………………………………..