

MINUTES of the meeting of Community Services Scrutiny Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday 20 November 2009 at 2.00 pm

Present: Councillor TM James (Chairman)
Councillor KG Grumbley (Vice Chairman)

Councillors: DJ Benjamin, GFM Dawe, DW Greenow, KS Guthrie, MAF Hubbard, RH Smith and RV Stockton

Co-opted Members: Mr PH Hands and Mr G Woodman

In attendance: Councillors PA Andrews, AJM Blackshaw (Cabinet Member, Economic Development and Community Services), WLS Bowen, PJ Edwards, PM Morgan and AM Toon

28. APOLOGIES FOR ABSENCE

Apologies were received from Councillor BA Durkin and Mrs G Churchill (HALC).

29. NAMED SUBSTITUTES

There were no named substitutes.

30. DECLARATIONS OF INTEREST

Name	Item	Interest
Councillor MAF Hubbard	6 - Support For Businesses Affected By The Proposed Edgar Street Grid Link Road	Personal – Director of It's Our City Ltd, a not for profit campaigning company
Councillor DW Greenow	6 - Support For Businesses Affected By The Proposed Edgar Street Grid Link Road	Personal – Landowner on route of the Rotherwas Relief Road.

31. MINUTES

The Chairman reported that he had received an email from a member of the public who had stated that Councillor Dawe had, in a public meeting at the Courtyard Centre for the Arts, Hereford, accused the Committee of malpractice. The Chairman said that he viewed this as a very serious allegation, and asked Councillor Dawe whether he had made a statement to this effect. Councillor Dawe replied that he had not used the term malpractice, but had been critical of inefficiency on the minuting of meetings and of the operation of the Committee.

The Interim Assistant Chief Executive, Legal and Democratic reminded Members of the advice that had been issued that Members should not discuss matters that were within the remit of the Planning Committee. She also advised that the Committee should discuss the general policy issues being pursued, rather than the delivery of support to individual businesses.

RESOLVED: That the Minutes for the Meeting held on 5 October 2009, be approved as a correct record and signed by the Chairman.

32. SUGGESTIONS FROM MEMBERS OF THE PUBLIC ON ISSUES FOR FUTURE SCRUTINY

There were no suggestions for future scrutiny.

33. SUPPORT FOR BUSINESSES AFFECTED BY THE PROPOSED EDGAR STREET GRID LINK ROAD

(Councillors DW Greenow and MAF Hubbard declared personal interests)

The Committee considered a report on the economic support that the Council had made available to businesses that would have to relocate from the Edgar Street Grid as a result of the construction of a Link Road by ESG Herefordshire Ltd from Aylestone Hill to Edgar Street. The Director of Regeneration, reported that the Link Road was a key part of the infrastructure of the Edgar Street Grid Project, part of the Masterplan for the site, and that the line for the road was set in principle in the Council's Unitary Development Plan.

The Committee received a presentation from the Economic Development Manager, Herefordshire Council, Gerrard Williams and David Nicholson of ESG Herefordshire Ltd, Andrew Cook of Lambert Smith Hampton, and Stephen Lucas of SQW Consulting. The presentation covered the following areas, and is appended to the Minutes:

- The Proposed Line of the Link Road;
- The Tenancies affected, together with the business use and size;
- Availability of Employment Land and Commercial Units within Hereford;
- The Faraday Road Site;
- Provision of Business Support by the Council;
- Outline of Progress that could be made by Voluntary Agreement;
- Examples of Heads of Claim associated with both voluntary agreements and compulsory purchase;
- The Compulsory Purchase Order Process and associated powers;
- State of Negotiations with companies on the line of the road;
- Economic Impact Assessment of the road.

Mr G Williams (ESG Herefordshire Ltd) reported that it was intended that the road would be built in three phases. The first of these would run from Edgar Street to Widemarsh Street, the second from Widemarsh Street to the Eastern Edge of Station Approach, and the final one from Station Approach to Commercial Road. There were seventeen businesses that were adjacent to the road and who would be affected. Businesses that would be indirectly affected included the Royal Mail Group, which would lose part of the yard and car park associated with the Sorting Office, Jewson's, which would lose part of its car park, CRW Carpets and Hereford Glass.

The Economic Development Manager reported that there were a range of alternative commercial sites throughout the City. The Council's Commercial Property Register, which had been updated in November 2008, showed that there was a total of 21, 261 m² of available space for employment use, in 24 units that were of equal or better quality to those already occupied and that were of varying sizes. The proposed expansion of the Three Elms Trading Estate would provide an additional 5295 m² in 12 units.

He went on to say that Jewson Ltd was currently trading off a five acre site, but that the company had indicated that they might be able to operate from one of approximately half that size. There were a limited number of sites that would be appropriate for Jewson Ltd, one of which was Faraday Road, a four acre site in the North of the City.

Steps were being taken to the purchase the Faraday Road site, which was under third party ownership. The owners were intending to construct a residential home on the site, a use which did not conform to its designation within the Unitary Development Plan. There were also covenants on the land that prohibited its use for residential purposes. A planning application had been submitted approximately two years previously, and had been refused. The subsequent appeal had also been lost. It was probable that plans would be re-submitted. The Council had resolved to acquire the site, and consideration would be given to a compulsory purchase order if that were to be required.

The Economic Development Manager went on to outline the steps that were being taken to support businesses that would be affected by the infrastructure changes; the line of the Link Road and the Livestock Market relocation. A Framework Document had been produced which provided the guiding principles for the work, as well as an Action Plan. Independent relocation seminars had been held at the Courtyard Theatre in Hereford, chaired on behalf of the Council by the Hereford & Worcester Chamber of Commerce. The second one of these had been specifically designed to address the question of business relocation. Correspondence designed to keep businesses abreast of plans was also regularly sent out. He added that a targeted property match had been undertaken which was designed to find the best fit in existing commercial stock for businesses that were going to be affected.

Mr Williams added that acquisition of the sites that were under freehold ownership was progressed wherever possible by voluntary agreement. This was advantageous to all parties, as it allowed the company to seek new premises in full knowledge of the settlement that had been achieved, as well as providing some flexibility in the negotiation. Compulsory purchase powers would be used where required. He went on to say that whilst the planning application for the road had not yet been registered, negotiations with businesses were in hand. Six companies had received formal offers, whilst three were in discussions. Two companies who had been contacted were managed outside Hereford, and a further two who leased properties to businesses had been given formal offers for their freehold interests. Four companies had received letters setting out their potential Heads of Claims for negotiation.

In the ensuing discussion, the following points were made:

- In reply to a question from a Member, Mr Williams said that costs that qualified under the Heads of Claims agreement that were reached with the companies would be reimbursed. Allowance had to be made for betterment settlements. An example of this would be where a company put in new carpets in new premises that were a substantial improvement over the ones that they had before. In the event of disagreements over the value of the property and betterment claims, the matter would be referred to the Lands Tribunal.
- Asked about the extent of the Council's financial commitment to the scheme, the Economic Development Manager replied that the Council was looking at a number of sources of funding to provide the necessary capital, including Advantage West Midlands and the Homes and Communities Agency. The amount of any contribution from the Council itself was therefore not known at this stage. The costs of acquisition, betterment settlements and compensation to be met collectively would be in the region of £10m.
- In reply to a question from a Member about the potentially adverse effect on business who had not replaced existing machinery, because of the uncertainty, when they might otherwise have done so, Mr A Cook (Lambert Smith Hampton) said that it was possible that some firms would be adversely affected. Once a compulsory purchase order was in place and the land was vested with the Council, compensation claims could be implemented. Claimants could legally

expect settlement of their claims within 90 days. Up to 90% of the claim could be made in advance. Three quotations would be required for any major cost. Some costs would not be identifiable until after the business had moved, so it was to be expected that some invoices would be submitted after the relocation had taken place.

- A Member asked what measures had been undertaken by the Council to allay the fears of those tenants whose leases were due to expire within the next two years, and whether they would receive limited compensation as a result. Mr Cook replied that as the property had been acquired for the purposes of the Link Road Scheme, those businesses were entitled to compensation under Section 37 of the Land Compensation Act.
- A Member asked whether any freehold businesses on the line of the road were being disadvantaged in finding appropriate new accommodation if they had not yet received a firm offer from the Council. Mr Williams replied that all freeholders had received a formal offer. It was up to the individual businesses as to whether or not they accepted the offers that had been made.
- In reply to a further question, Mr Cook said that the main savings that were made by acquiring the land through voluntary agreement rather than by utilising compulsory purchase orders were those associated with delays and a public inquiry. The compensation paid to businesses would be the same under a voluntary agreement or a compulsory purchase order. There was a secondary advantage from a compulsory purchase however, as the Council would receive a clear title to the land, with no covenants or outstanding claims upon it.
- A Member asked whether or not all businesses had been made aware that they needed to record all costs associated with the acquisition process from the outset of negotiations. Mr Williams said that they had not been specifically told to do so, but that this was normal practice and most were aware of this. Businesses were written to regularly, and guidance could be sent out to them on this matter.
- In reply to a further question, Mr Cook said that legal costs incurred by businesses in objecting to the scheme would not normally be reimbursed. If the scheme were rejected at a public inquiry the Inspector could direct that costs should be reimbursed. Firms were entitled to claim for legal costs associated with the relocation itself.
- A Member asked in light of the fact that the required square meterage was smaller than the current available space, how important the purchase of the Faraday Road Site was to the Council. The Economic Development Manager replied that it was the nearest clear site to the City centre and the Edgar Street Grid area which provided sufficient flexibility of use, and was also designated for business use within the Unitary Development Policy. There was more than sufficient available floor space within the City as a whole to relocate all the businesses, but the available sites might not meet the needs of the businesses concerned.
- In reply to a question regarding whether the purchase of Faraday Road could be undertaken in time to meet the needs of the businesses, the Director of Regeneration said that land acquisition could be a lengthy process and that planning permissions would also be required. The first phase of the road scheme only affected a small number of businesses, and the majority of those who wanted to move to Faraday Road were in the third phase. The first phase was programmed to start in 2011; with the third phase starting in 2013. Mr Williams added that, as previously stated, the current owners of Faraday Road would

probably oppose a compulsory purchase order. Before this could be undertaken though, the planning application would have to be submitted and the land acquisition process would have to be started.

- In reply to a question from a Member, the Economic Development Manager said that there were indeed still some claims outstanding from the Rotherwas Relief Road, but that these were because the landowners had not submitted claims, rather than because the Council had not paid them.
- A Member pointed out that there may be businesses that were having to relocate and build their own bespoke commercial unit as a result. It was suggested that new buildings, whilst appropriate for the need, might be worth less than they cost to build. Mr Cook replied that if that were the case it implied that the company concerned was constructing a building that did not have sufficient value, or was building on land that was too expensive for the purpose, such as residential land. Particular requirements within a unit being built, such as inspection pits, could be compensated as overcosts.
- A Member asked whether there was an opportunity to relocate businesses onto the Edgar Street Site itself. Mr D Nicholson (ESG Herefordshire Ltd) replied that the Edgar Street Grid planners would provide some provision for business relocation.

The Chairman called on Mr Sanders, as Chairman of the Edgar Street Grid Business Association, to comment. Mr Sanders said that the majority of the businesses had felt abused over the previous three years. It was only recently that any certainty had been provided over what compensation might be forthcoming, and businesses were encouraged by recent discussions with ESG Herefordshire Ltd. It was clear that the acquisition of Faraday Road was key to the success of any relocation programme. Whilst Officers had suggested that only two businesses had expressed an interest in this site, he was aware of six who would be prepared to move there as soon as possible. Conversely, some felt that moving to the Three Elms Business Park would be a retrograde step because of poor connectivity to the City centre, although it might suit some businesses.

Mr G Woodman (Hereford & Worcester Chamber of Commerce) added that the Chamber of Commerce had tried to get as much information to its members as it could. The feedback that he had received from members of the Chamber was a perception that they felt both ignored and bullied by the Council and ESG Herefordshire Ltd. A lack of clarity had arisen between businesses and the Council, and the Chamber had tried to prevent this from happening. He suggested that a single point of contact should be put in place for businesses to allow them help plan a way forward.

The Cabinet Member (Economic Development and Community Services) replied that he was concerned that businesses had felt bullied, and that if any felt disadvantaged, he was more than happy to go and visit them and discuss their situation. The Interim Assistant Chief Executive, Legal and Democratic reported that if there were any allegations of bullying, these needed to be brought to her formally. She would discuss the matter further with the Cabinet Member (Economic Development and Community Services).

The Chairman invited comments from the members of the public. Mr L Wolverson, of Rockfield DIY, said that businesses on the Edgar Street Grid were feeling very disillusioned and had been bullied.

Ms A Holmes, of Reprodex Printers Ltd, said that she had first met with ESG Herefordshire Ltd in 2005 and despite regular discussions, had only recently received

clarification as to what her position would be when her lease ran out in 2011. The lack of clarity on the question of what her compensation would be had meant that she had been unable to proceed to implement many parts of her business plan. She pointed out that, quite aside from that aspect, her relocation costs would be very high, as moving only one of her machines would cost £20k.

A Member asked Mr Sanders whether he felt that the comments made by the public had provided an accurate reflection of the impact on the businesses on the line of the proposed Link Road. Mr Sanders replied that he believed that they represented a reasonable spread of opinion.

RESOLVED

- (a) that the Committee notes and in general endorses the provisions for support of businesses potentially affected by the proposed link road;**
 - (b) to recommend that the Council and ESG Herefordshire Ltd should each nominate one primary point of contact for the businesses concerned;**
 - (c) to recommend that all the relevant businesses should now be invited without delay to record all costs, past, present and future, associated with negotiations and consultation, including, for example, attendance at the Committee's meeting on 20 November;**
- and;**
- (d) to recommend that the Council be urged to complete the Compulsory Purchase Order negotiations and development relating to the Faraday Road site without delay.**

The meeting ended at 3.55 pm

CHAIRMAN