

**RECORD OF EXECUTIVE DECISIONS**  
**MADE BY INDIVIDUALS**

**SUMMARY OF DECISION:**

1. Authorise officers to advise the Planning Inspectorate that the Council wishes to be considered as a Rule 6 party in the forthcoming Public Inquiry into the “Arkall Farm” planning application in Lichfield District.
2. Request that a report is brought to the next Cabinet to update Members and to confirm actions taken including:
  - a. the appointment of a legal team including a Solicitor and Counsel.
  - b. the appointment of a technical specialist team
  - c. Authorise the use of contingencies to cover these costs
3. To acknowledge contingency expenditure will be incurred with immediate effect in order to meet the requirements of the Planning Inspector.

**REASONS:**

A planning application for up to 1,000 homes at Arkall Farm in Lichfield District was submitted in May 2014. The site is located to the north of Ashby Road, bordering Tamworth Borough Council. The application (14/00516/OUTMEI) is for the construction of up to 1000 homes, primary school, local centre, public open space, landscaping and associated infrastructure for Barwood Strategic Land II.

The Borough Council has submitted a number of representations during the course of the application (representations attached dated 4th July 2014, 28th July 2016, and 12th January 2017) raising a number of concerns which can be summarised as follows:

1. Concern that there is a lack of highway capacity on the Gungate corridor to support the full 1000 units without causing severe impact to the highway network;
2. The ‘monitor and manage’ approach, and the proposed pre-commencement conditions do not give sufficient clarity or certainty that the

full 1000 units scheme could ever be delivered;

3. Due to the proposed monitor and manage approach it is unlikely that required school would ever be delivered and the non-delivery of the school in terms of additional trips to the network and pedestrian access to other schools has not be fully considered;

4. The development will clearly meet the housing needs of Tamworth but there is no mechanism proposed to enable Tamworth residents to access the affordable housing;

5. There is no mitigation proposed for the impact on sports provision within Tamworth.

Lichfield District Councils Planning Committee considered the application in February 2017 and resolved to approve the application. In response the leader of Tamworth Borough Council wrote to the Planning Minister stating his concerns about the application and on 20th April 2017 the Secretary of State advised Lichfield District Council that he has decided to call in the application.

In that letter, addressed to the Principal Planning Officer of Lichfield District Council, the Secretary of State confirms that he has decided to call in the application and has set in motion the appointment of an Inspector to open an inquiry and to report to the Secretary of State on those matters set out in the Secretary of State's statement under Rule 6(12) of the 2000 Rules. In this instance, the Rule 6 statement from the Secretary of State is short and comprises only the following (albeit that it is open ended):

- i) Policies in the National Planning Policy Framework on delivering a wide choice of high quality homes;
- ii) Policies in the National Planning Policy Framework on promoting sustainable transport; and
- iii) Any other matters the Inspector considers relevant.

The Borough Council can request to be a 'Rule 6 party'. A Rule 6 party has the benefit of greater involvement in the Public Inquiry than if it were not. It will be required to prepare and circulate a statement of case which explains the detailed nature of the case which is to be relied upon at the inquiry and indicating the nature of the evidence upon which it will rely. A Rule 6 party will also prepare written proofs of evidence. At the Inquiry oral evidence can be given and witnesses called. The alternative is to provide a written statement. The opportunity to participate at the Inquiry is more limited with no witnesses able to be called and less weight will be attached to the statement. Other parties will be able to test and challenge the

Councils representations as the Council will theirs.

The Council has sought legal advice on this matter and the view expressed is that it would be preferable for the Borough Council to participate as a Rule 6 party. It is consistent with the extent of participation which it has shown in respect of the application and the strength of the views which it has expressed. However, it will be important to make a clear decision as to the particular issues upon which the Borough Council wants to participate. As a Rule 6 party the Council could be subject of the award of costs against it if it behaves unreasonably. This would be on the basis that the behaviour had directly caused another party to incur expenses that would not otherwise have been necessary. Costs may be awarded in response to an application for costs by one of the parties. Also costs may be awarded at the initiative of the Inspector.

Secretary of State call-ins are very rare, less than 10 a year on average, and this may indicate that there is something which really does need to be properly considered and has not, to date, received adequate consideration via the determination made by Lichfield District Council.

If the Council decides to apply for Rule 6 status then it will incur significant cost. There would be the cost of officer time and the diversion away from planned activity. This could be mitigated by employing a planning consultant to lead the involvement on the Councils behalf. This would incur revenue budget costs but would enable officers to continue to focus on planned activity.

There would be significant legal costs incurred. Firstly in terms of a Solicitor to act on the Councils behalf, to prepare the necessary papers and to instruct Counsel. Secondly, there would be a cost in instructing Counsel.

There may be further costs incurred in bringing in technical experts, for example on highways, dependant on the position that the County Council adopts.

There is no identified budget at this time to meet these costs and all costs arising will be met from contingency budgets.

The Planning Inspectorate have advised that if the Council wishes to be a Rule 6 party then it should notify by 17<sup>th</sup> May 2017. This would enable the Council to have greater involvement in agreeing the timetable for the Inquiry.

**ALTERNATIVE OPTIONS CONSIDERED / REJECTED:**

The Council could decide not to apply to be a Rule 6 party. This would limit its involvement in the Inquiry.

The Council could wait until the next Cabinet to make a decision but this would be too late to fit in with the Planning Inspectorate timetable for involvement in being involved in establishing the timetable for the Inquiry, and could result in a unreasonable timeframe for collation of full information and the statement of case.

**CONSULTATION WITH EXECUTIVE MEMBER:**

Portfolio Holder for Regeneration has been fully consulted and requested this report be authored

**DECLARATION OF CONFLICT OF INTEREST  
(AND DISPENSATION GRANTED)**

Signed:

D Cook



Leader of the Council

16<sup>th</sup> May 2017

**Notice under The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 Paragraph 11(1)(a);**

The making of the decision that Tamworth Borough Council apply to the Secretary of State to become a Rule 6 Party to the Inquiry in relation to the Called-In planning application made to Lichfield District Council for the construction of up to 1000 homes, primary school, local centre, public open space, landscaping and associated infrastructure at Arkall Farm, north of Ashby Road (14/00516/OUTMEI). The decision is as follows;

- 1. Authorise officers to advise the Planning Inspectorate that the Council wishes to be considered as a Rule 6 party in the forthcoming Public Inquiry into the "Arkall Farm" planning application in Lichfield District.**
- 2. Request that a report is brought to the next Cabinet to update Members and to confirm actions taken including:**
  - a. the appointment of a legal team including a Solicitor and Counsel.**
  - b. the appointment of a technical specialist team**
  - c. Authorise the use of contingencies to cover these costs**
- 3. To acknowledge contingency expenditure will be incurred with immediate effect in order to meet the requirements of the Planning Inspector.**

This notice is urgent and cannot reasonably be deferred because;

- 1. Tamworth Borough Council is required to notify the Secretary of State by 17<sup>th</sup> May 2017 that it is applying to be a Rule 6 Party to enable it to participate in agreeing a bespoke programme, which will set out the timetable for the case which will need to be complied with and may involve interim expenditure.**

Tamworth Borough Council is therefore unable to comply with the requirements under The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 Paragraph 9 in respect of Publicity in connection with key decisions.

Furthermore Tamworth Borough Council is unable to comply with the requirements under The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 Paragraph 10 in respect of the general exception.

Therefore I give my consent under The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 paragraph 11(1)(b) that the above decision due to the urgency and the decision cannot reasonably be deferred.

Signed



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Mr John Chesworth  
His Worshipful Mayor of Tamworth

