

Agenda Item No:

Report To: COUNCIL

Date of Meeting: 15th October 2020

Report Title: CONSIDERATION OF A PETITION RECEIVED BY THE COUNCIL

Report Author & Job Title: Terry Mortimer – Director of Law and Governance
Simon Cole – Strategic Development and Delivery Manager

Portfolio Holder: Cllr. Paul Bartlett (Legal and Democracy)
Portfolio Holder for: Cllr. Neil Shorter (Planning and Development)



Summary: A petition has been submitted to the Council calling for the land to the East of Highfield Lane, Mersham to remain as a green buffer zone for the protection of Mersham and Sevington.

As the petition contained more than 1500 valid signatures, in accordance with Ashford Borough Council's Petitions Scheme, it should now be debated at a Full Council Meeting to which all elected Members are invited. The procedure to be followed at the meeting is attached to this report, along with advice from Officers on the substance of the petition.

Contact: terry.mortimer@ashford.gov.uk
simon.cole@ashford.gov.uk

CONSIDERATION OF A PETITION RECEIVED BY THE COUNCIL

Introduction and Background

1. A petition was submitted to the Cabinet on 24th September 2020. It was started both on-line on the change.org platform, and via hard copy and submitted by Mrs Linda Arthur on behalf of The Village Alliance. Whilst the version of the petition that was submitted contains over 2500 total signatures, 1666 of these are classed as 'valid' under the provisions of the Ashford Borough Council Petitions Scheme as people who "live or work in the Borough", as 1666 of the signatories have supplied an address within the Ashford Borough. In presenting the petition at the Cabinet meeting Mrs Arthur made the following supporting statement: -

"As residents in the Ashford Borough, we wish to see the land to the East of Highfield Lane, Mersham, remain as a green buffer zone - a "Strategic Gap in Perpetuity" as referred to in Policy SP7 of the Local Plan 2030, protecting an ancient settlement and countryside from encroachment, as defined in the National Planning Policy Framework.

This land is the last green field between Mersham and the customs clearance and lorry holding area. It deserves designation as a green space in perpetuity. I thank Councillors for allowing me to speak and to present our Petition. Mersham and Sevington residents and the Village Alliance have worked for many years to save the last field protecting our villages. This petition was launched in the face of the encroaching contingency lorry park and the HMRC customs clearance site, now known as the Sevington Inland Border Centre.

We have been both humbled and buoyed by the support from our villages, our neighbouring villages, and the residents of the Ashford Borough, with many signatures in just six weeks. In fact 1666 valid signatures have been received, and a total of over 2500 when including those from outside the Borough. We are heartened to have the support of Parish Councils around the Borough, of the Campaign to Protect Rural England (CPRE), of Borough Councillors, and Councillor Clarkson, Leader of the Council. We wish to work together with the Council, the Kent County Council and the Department for Transport, to provide a community benefit on this land. A flagship for Policy SP7, Separation of Settlements, to provide a green buffer, a green space and to protect the integrity of an ancient village for residents in the Borough to enjoy in perpetuity"

2. As the petition contains more than 1500 valid signatures, in accordance with Ashford Borough Council's Petitions Scheme, it should now be debated at a Full Council Meeting to which all elected Members are invited. The procedure to be followed at the meeting is detailed at Paragraph 3 of this report. Advice from Officers on the substance of the petition is contained from Paragraph 4 onwards.

Procedural Matters

3. The Council's Petitions Scheme provides for the following: -
- If a Petition has, or acquires 1500 valid signatures, the issue will be debated at a full Council Meeting to which all elected members are invited.
 - At such a meeting, the Petition Organiser, in this case Mrs Arthur or someone nominated on her behalf, will have the right to speak about the petition, normally for up to 10 minutes. Reasonable advance notice will be provided to ensure that any preparation can be undertaken in time – Mrs Arthur has requested to speak and has been advised in writing of the date for this meeting. Public speakers will not be allowed to take part in any debate.
 - The Chairman of the Meeting will decide upon the amount of time to allow for the debate on the Petition, and will take account of the degree of public interest in the issue, the level of support given to the Petition and the number of elected members wishing to express their views on the subject.
 - The Council accepts that it will not normally be sufficient for such a meeting merely to 'take note' of the Petition and that there should be a decision taken as to what other steps (including but not restricted to the actions specified below) should also be taken as a response.
 - Among the actions the Council may undertake are one or more of the following:-
 - Taking the action requested in the Petition
 - Considering the Petition at a Council Meeting
 - Holding an Inquiry
 - Commissioning relevant research
 - Organising a public meeting
 - Mounting a wider public consultation
 - Meeting with the Petition Organiser or representatives of signatories
 - Providing a written response outlining the Council's views on the subject
 - Referring the issue to the Council's Overview & Scrutiny Committee **OR**
 - Referring the issue to the relevant Committee
 - Consulting statutory partners and local service providers
 - Instigating discussions with the voluntary and community sectors
 - Make representations to Commercial or other Interests

- The Petition Organiser will be formally notified of the decision taken at the Council meeting. This will take place within 5 working days.

Members are reminded of the Rules of Debate at Full Council Meetings (outlined at Part 4, General Procedure Rules, Section 13 of the Constitution, and appended to this report at Appendix A). Of particular note are the following points: -

- **Only one speech per Member, per motion. No speech to exceed five minutes.**
- **No motion to be debated until seconded.**
- **Amendments can only change the wording of a motion – not negate the effect of the motion.**
- **Once a motion is under debate, no other motion can be moved.**

Officers' Advice

4. The following advice is intended to provide Members with the background relating to the action that the petition seeks, i.e. the designation of the land east of Highfield Lane, Sevington as a 'strategic gap in perpetuity'.

History to date

5. In 2017, the Council granted outline planning permission to Friends Life Ltd for: - *'development to provide an employment led mixed use scheme, to include site clearance, the alteration of highways, engineering works and construction of new buildings and structures of up to 157,616 sq. m. comprising: up to 140,000 sq. m. Class B8 (storage and distribution) use; up to 23,500 sq. m. of B1a/B1c Business (of which a maximum of 20,000 sq. m. of B1a); up to 15,000 sq. m. of B2 (general industry); up to 250 sq. m. of A1 (retail shops) and 5,500 sq. m. of sui generis to accommodate Kent Wool Growers together with ancillary and associated development including utilities and transport infrastructure, car parking and landscaping'* on land lying to the west of Highfield Lane, Sevington. This scheme had attracted a significant level of objections from nearby residents and Parish Councils but was on land allocated for employment development in the then adopted Core Strategy 2008 and Urban Sites & Infrastructure DPD (2012).
6. Since then no specific detailed proposals had come forward on the site until the Government announced in July 2020 that it had acquired the land for the purposes of providing an inland border facility to meet additional demands for the checking of imported and exported goods once the transition period following the UK's exit from the EU had ended on the 31st December 2020.
7. Since this time, progress on developing the site for this purpose has been swift and remains on course to be opened for operational purposes at the start of January 2021. The Government has laid a Special Development Order before Parliament which would grant planning permission for this use of the land and the associated operations and buildings.
8. In acquiring the site for the border facility, the Government also acquired AXA/Friends Life's interest in the land on the eastern side of Highfield Lane, which is the area that is the subject of this petition. Recently, this has been used

in parts for the storage of material that has been excavated from the construction site for the border facility on the western side of Highfield Lane.

9. In discussions with Government officials and Ministers, it has been confirmed that the Government has no plans to develop now or in the future on the land east of Highfield Lane.

Local Plan policy

10. Policy SP7 of the adopted Local Plan is entitled 'Separation of Settlements'. It is set out in full below:

Policy SP7 - Separation of Settlements

Proposals for built development on non-allocated sites outside the built up confines of settlements shall be permitted only where its impact, individually or cumulatively, would not result in the coalescence or merging of two (or more) separate settlements, or the significant erosion of a gap between settlements resulting in the loss of individual identity or character.

Proposals for outdoor sports and recreational uses will be permitted subject to there being no overriding conflict with other policies and the wider objectives of the Plan. Any related built development should be kept to the minimum necessary to enable the functioning of the associated use, be sensitively located and of a high quality design.

11. This was a new Local Plan policy for the Council and one that reflected the pressure for additional growth, especially around Ashford, and the desire to retain the separate and distinctive characteristics of individual settlements that are important to the overall quality and character of the borough as a whole. Examples are cited in the Local Plan of planned 'buffers' such as those between Park Farm and Kingsnorth village and in the proposals for the new development area, south of Kingsnorth village (allocation policy S4).
12. In the preparation and examination of the Local Plan, representations were received from different parties seeking the designation or 'allocation' of green 'buffer' land in particular locations. This included representations from Mrs Arthur (the organiser of this petition) which sought a specific green 'buffer' designation for the land east of Highfield Lane. However, the Council's view then, which was subsequently supported by the Local Plan Inspectors in their Examination Report, was that a general policy that sought to avoid the coalescence of different settlements through unplanned development would be a more effective and flexible way of providing the same outcome.
13. I note that the petition refers to a strategic gap in perpetuity (my emphasis) as being referred to in policy SP7. Members are advised that neither the policy nor its supporting text in the Local Plan makes any reference to separation 'in perpetuity' and so I consider that the petition seeks not only a location-specific designation as a green buffer but one that would not be subject to any form of review or reconsideration at any time in the future.

Conclusion

14. The concerns raised by the petitioners of the effects of the southerly expansion of Ashford towards Mersham are legitimate and understandable. The scale of the current operations on the land west of Highfield Lane have naturally caused concern in the local community and current uncertainty in respect of the eventual trading (and hence) border relationship with the EU can lead to speculation over how the facility currently under construction may need to be used in the future.
15. However, there are no proposals of any sort to develop the land east of Highfield Lane at the present time and verbal assurances have been received that Government has no intention of doing so in the future or that the Council would not be the determining authority were that to change. As such, there is no immediate 'risk' of the land being put forward for development, let alone approved.
16. In these circumstances, I consider that the aim of the petition could be properly considered through the next iteration of the Local Plan, perhaps alongside other locations where a similar 'designation' might be justified, and where all stakeholders may then have the chance to comment. This will also enable the success of policy SP7 in achieving its aims to be assessed as the alternative to bespoke 'designations' of buffer land.
17. In reaching this conclusion, this need not prevent any discussions with the Government over how the area of land in question might be secured as an open space / green buffer area in the future through its ownership or long term management.

13. Rules of Debate

13.1 No speeches until motion seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

13.2 Right to Require Motion in Writing

Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to the Proper Officer before it is discussed.

13.3 Seconders' Speech

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

13.4 Content and Length of Speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Mayor.

13.5 When a Member May Speak Again

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Member;*
- (b) to move a further amendment if a previous amendment is not carried or the motion has been amended since s/he last spoke (see 13.6 (d) and (e) below);*
- (c) if the Members first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which s/he spoke was carried) (see 13.10 below);*
- (d) in exercise of a right of reply (see 13.9 below);*
- (e) on a point of order (see 13.13 below); and*
- (f) by way of personal explanation (see 13.14 below).*

13.6 Amendments to Motions

- (a) *An amendment to a motion must be relevant to the motion and will either be:
 - (i) *to refer the matter to an appropriate body or individual for consideration or reconsideration;*
 - (ii) *to leave out words;*
 - (iii) *to leave out words and insert or add others; or*
 - (iv) *to insert or add words.**

as long as the effect of (ii) to (iv) is not to negate the motion.

- (b) *Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of. A Member may, however, give notice of a further amendment (see, however, 13.7(c) below).*
- (c) *The Chairman may permit two or more amendments to be discussed together if this is likely to help the proper conduct of the business BUT each amendment must be voted on separately.*
- (d) *If an amendment is not carried, other amendments to the original motion may be moved.*
- (e) *If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.*
- (f) *After an amendment has been carried, the chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.*

13.7 Alteration of Motion

- (a) *A Member may when moving a motion of which she/he has given notice alter it with the consent of the meeting and the other signatories. The meeting's consent will be signified without discussion.*
- (b) *A Member may alter a motion which s/he has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.*
- (c) *Only alterations which could be made as an amendment may be made.*

13.8 Withdrawal of Motion

A Member may withdraw a motion which s/he has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

13.9 Right of Reply – Proposer of Motion Only

The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

13.10 Right of Reply – Upon Amendment to Motion

At the end of a debate on an amendment to a motion the order in which Members may speak is as follows:

- (a) the mover of the amendment may respond to comments made during the debate;*
- (b) the Chairman of the relevant Committee or Leader or appropriate Cabinet (Executive) Member, if that Member has not already spoken in the debate otherwise than in accordance with Rule 13(12) and 13(13);*
- (c) the mover of the original motion who shall not otherwise speak on the amendment.*

NB *Other than as provided for at (i) above the mover of an amendment has no right of reply.*

13.11 Motions Which May be Moved During Debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;*
- (b) to amend a motion;*
- (c) to proceed to the next business;*
- (d) that the question be now put;*
- (e) to adjourn a debate;*
- (f) to adjourn a meeting;*
- (g) that the meeting become a Committee of the Council;*
- (h) that the meeting of the Council be resumed;*

- (i) *to exclude the public and Press in accordance with the Access to Information Rules; and*
- (j) *to not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.*