

NORTHAMPTON BOROUGH COUNCIL
OVERVIEW & SCRUTINY COMMITTEE

Monday, 2 December 2013

PRESENT: Councillor Lane (Chair); Councillor Sargeant (Deputy Chair); Councillors Ansell, Capstick, Ford, Glynane, Larratt, Lynch, Mason, Parekh, Patel and Strachan.

Also present: Call-in Authors: Councillors Meredith and Beardsworth.

Witnesses: Councillor Hadland, Cabinet member for Regeneration, Enterprise and Planning and Simon Dougall, Corporate Asset Manager.

Officers: David Kennedy, Chief executive, Francis Fernandes, Borough Secretary, Tracy Tiff, Overview and Scrutiny Officer and Peter Storey, Democratic Services Officer.

Members of the public: 23.

1. APOLOGIES

None.

The Chair reminded everyone present of the procedure for the meeting that was set out on the agenda paper and also made available to members of the public. He also commented that the Monitoring Officer had confirmed that the Call-in process, as set out in the Council's Constitution, had been correctly followed in this case.

2. DEPUTATIONS/PUBLIC ADDRESSES

Helal Miah, Blackthorn Tandoori, stated that he could not understand why the Council wished to sell the site and why it could not be developed. He had received a letter from a Council officer stating that tenants would have another year on the site but not saying what would happen following that. Helal Miah stated that the decision had had a devastating effect on employers, employees, families and the community. He had been in business for approximately 25 years and had built up a good reputation. The Council could not guarantee him any premises in Northampton, which is where his customers are based. It would cost approximately £20,000 to move to a new site and could take 45-50 minutes to travel there if the site was on the opposite side of Northampton and would take ten years to build a reputation. Helal Miah stated that the Council wanted to create jobs but the decision would lose jobs and local shops at the site plus 5 shops around the site.

In answer to questions Helal Miah stated that he had first learned of the proposal in a letter from the Council dated 5 November, one week before the meeting of Cabinet on 13 November 2013. There had been no time to prepare for the meeting. Councillor Mackintosh, as Ward Councillor, had been invited to meet the tenants but had been too busy. Councillor Hadland had met the tenants on the day of the Cabinet meeting. Helal Miah had been a tenant on the site for eleven years and had a three months' notice period on his contract.

Members asked for a copy of the letter the tenants had received and this was copied and circulated to the Committee.

Fred McVavish, Blackthorn Workshop, stated that he had been told the site would be used a supermarket or workplace or houses. He had not received an answer when he asked what the site would be used for at the Cabinet meeting on 13 November 2013. He stated that there were many empty sites which could be used for development but the Council was adamant that this site should be developed. His daughter had a five year lease on the site but six months into the lease she had received a letter from the Council saying the property would be knocked down. He had emailed Councillor Mackintosh about the site but said he had not understood the reply received. In answer to a question Fred McVavish stated that he had heard of the proposals for the site on Radio Northampton on the day of the cabinet meeting. He had been allowed to address the Cabinet meeting, although he had not registered to speak. He had received a letter from the Council about the site previously but had telephoned Council officers and been told not to be concerned as this issue was only at the discussion stage.

Julie Mallia, Ray's Kebabs, stated that she had been on the site for fifteen years and been in business for ten years before that. She had built up a good reputation with the people around the site and relied on people walking into the unit. Closing the site would be devastating. Julia Mallia had heard of the proposals for the site in a letter one week prior to the Cabinet meeting on 13 November 2013 which had said that .the proposals might not be realized. She had seen more information on the facebook page of a local newspaper. Councillor Mackintosh had been invited to meet the tenants but had not attended. In answer to a question Julia Mallia stated that her customers came from areas within a short radius of the site.

Sadik Chaudhury, Asian Community, stated that he had two shops on the site and employed more than five people, who were family members. He had run shops for twenty years. He stated that jobs would be lost and asked that consideration be given to people who had been on the site for many years.

Mr A Hussani stated that he had been a resident of Blackthorn but had moved to Ecton Brook three years ago. He stated that there were not many venues for small businesses in the area and that he usually travelled to Weston Favell or the town centre to make purchases. It would be better for residents if the units remained on the site. There were many unused buildings on the site and it was an eyesore which should be developed as the shops on the site were earning income. People used the shops on the site rather than going into town and the shops should be supported and the focus should be on creating jobs, not losing them. Mr Hussani had not heard about businesses on the site being lost or the site being put up for sale.

Mr A Karavatra stated that he ran a supermarket at Blackthorn and employed two people and there were approximately five shops like his in the surrounding area. He had been seven years on the site and 37 years in business. It would not be easy to replicate his business elsewhere. Mr Karavatra had not seen the letter sent to tenants and had been informed of the proposals for the site by Councillor Meredith. If the proposals were carried out they would devastate the community.

George Smid, Liberal Democrat candidate, stated that he supported the retention of the site. He stated that the decision was taken without a due consideration, justified by the Council by the inadequate income of £22,424 generated by the site, the majority of the tenants having been in occupation for a limited number of years and the purchaser who would be would be responsible for complying with the provisions of the various leases and for compliance with statutory obligations. George Smid considered that the income could not be the real issue as a landlord would not generate more income by selling assets, that many tenants had been on the site for a number of years and moving them would lead to their

businesses closing. He stated that passing on the interests of the tenants to a purchaser was unprofessional. Mr Smid stated that the tenants had been asked to accept an unclear situation and that was callous and immoral. He stated that as a minimum the decision should be referred back to the Cabinet for full consultation and procedural provision.

3. DECLARATIONS OF INTEREST (INCLUDING WHIPPING)

Councillor Capstick declared a personal, non-pecuniary interest as she had previously been a Ward Councillor for the area including the Blackthorn Workshops.

4. CALL IN OF CABINET DECISION OF 13 NOVEMBER 2013, ITEM 10: - DISPOSAL PROGRAMME 2013/2014 - SALE OF BUILDINGS AND LAND

Councillor Capstick declared a personal, non-pecuniary interest as she had previously been a Ward Councillor for the area including the Blackthorn Workshops.

Councillor Meredith as one of the Call-in authors, stated that:

- There were a number of demonstrable flaws in the decision making process in relation to the decision;
- The Council's Consultation Tool Kit had 8 steps, with 3 further elements, and that none of them had been considered, consulted or observed;
- He quoted from various parts of section 15.9.4.6 of the Constitution, stating that there had been no consultation other than with the Ward Councillor, which was inadequate and not in accordance with the Council's Consultation Tool Kit, and the Ward Councillor had not attended a meeting requested by the tenants;
- There had been inadequate information to take a decision which meant that the impact of the decision on the local community was not known and there had been no independent valuation of the market value of the land;
- The decision had generated substantial controversy amongst the tenants and the local community, proper financial information had been notably lacking and important factors relating to the tenants and the local community had been overlooked.

Councillor Meredith referred to Councillor Hadland meeting the tenants on the day of the Cabinet meeting. Councillor Meredith stated that there were six businesses in the eastern area of the site which employed 350 people, including suppliers. He stated that the decision had caused much despondency wondering about the future as a supermarket being built on the site would mean the closure of the existing business. The tenants were so concerned they had produced leaflets about the situation and delivered them around Rectory Farm. He asked the Committee to refer the decision back to Cabinet.

Councillor Beardsworth, as the second Call-in author, stated that the decision would destroy a community that people had tried to build and that the Council should support and encourage small businesses, which were very good at keeping in touch with local communities. Small businesses needed to be protected against big supermarkets, to protect jobs and local communities. The small businesses would not survive if they had to move because it would take them too long to build up new customers.

In answer to questions Councillors Meredith and Beardsworth stated that:

- One of the businesses on the site had told them that a supermarket had made an approach for the site. They stated that they had been assured at one time that the site was for housing;
- Councillor Meredith had produced a leaflet about the proposals for the site in addition to the one produced by the traders and stated that the depth of feeling in rectory farm was "astronomical" and there was great concern amongst the local Asian community;

- Traders from the site would be speaking at full Council about the proposals. There were thirteen businesses on the site, five food outlets and the rest retail, plus seven supermarkets in the surrounding area. No units were empty. One trader had invested £5.5K in their unit during the current year.
- The Call-in authors would like to see the units retained and the adjacent land developed for other uses.

Councillor Hadland, Cabinet Member for Regeneration, Enterprise and Planning, stated that the Corporate Asset Management Strategy looked at value for money from the Council's assets and the site had been on the radar for some time. An unsolicited approach had been received for the site and adjoining land by NBC and NCC which it was only logical to consider further. The approach had been reported to Cabinet in principle to consider if a possible sale was a viable proposition. Tenants had been contacted at the earliest opportunity. Negotiations regarding the site were at an early stage, no planning application had been received and the land had not been sold. Cabinet was looking to see if a deal could be made to benefit the Council and the Borough as a whole. There were opportunities to impose conditions regarding the tenants in any sale of the land. There were no details of the potential use of the site available at this stage. Valuations of land are not usually reported to Cabinet and a professional valuation of the land would be obtained to ensure the Council got best value for the site in the event of a sale proceeding. Public consultation regarding the site would be carried out at the planning stage and the Corporate Asset Management Strategy itself had been consulted on.

Simon Dougall, Corporate Asset Manager, stated that the tenants had been given comfort in writing (in advance of the Cabinet Meeting) of them having a secure minimum period in respect of their tenancy until November 2014 (rather than the rolling three months' notice period in their leases), regardless of whether or not the Cabinet did choose to support an 'in principle' decision regarding the site.

Councillor Hadland stated that NCC had the significantly larger vacant land area adjacent to the site. There were complications regarding the NBC premises, which had started as a collection of workshops but had changed its emphasis over time to include some retail/ hot food takeaway aspects, which would not normally be appropriate in these types of buildings. The Council would look to see if it was possible to include some of these uses in any development of the site. If the existing businesses moved to other workshop type premises a number of tenants would require a planning consent for some of their existing uses at Blackthorn.

Simon Dougall confirmed that 44% of the gross sum for any disposal of the site, if completed in 2013, would be payable to the Homes and Communities Agency (reducing at 2% per annum). The Council was working with the Agency on "claw back" issues to seek to have funds reinvested in the Borough.

Councillor Hadland, in answer to a question asking what would happen if the tenants were displaced and the developer then walked away, stated that any displacement of tenants would only take place after a developer had a binding contract to buy the site. It was unlikely a developer would then walk away having committed a considerable sum.

Simon Dougall stated that the letter sent to tenants on 5 November 2013 was not a notice to quit but rather explained that a report would be considered by the Cabinet regarding the site and the potential effect that could have on tenants of the premises. The letter did not pre-empt the Cabinet decision. Whatever the decision taken regarding the site, it made clear that tenants could remain in occupation until at least November 2014 if they wished.

Councillor Hadland, in replying to questions, stated that:

- He was aware of the Council's consultation process and that it was advisory and not mandatory. He stated that the report made to Cabinet was for an in principle matter and not for a final decision. He stated that it was very early in the process and the Consultation Tool Kit was not relevant at this point. Tenants would be further consulted and be able to give their views on the future of the site.
- It was appropriate at this stage to only consult the Ward Councillor about the site.
- With regard to a supermarket being built on the site, he did not know where this information had come from.

Councillors Meredith and Beardsworth stated that clarification was still needed regarding the future of the site and that no assurances had been given to tenants about their future. They believed that the communication with tenants had been inadequate. It was difficult for tenants to run their businesses with this uncertainty. The local businesses would be threatened by the introduction of large businesses on the site and they should be supported.

A Member stated that it was his understanding that most of the business for the take aways on the site came from delivery services, with some local people calling in at the units.

Members considered that it would be helpful to have clarification regarding the position of the small business if the site were sold.

The Call-In was upheld and the Committee asked Cabinet to reconsider its decision. It was proposed by Councillor Suresh Patel, seconded by Councillor Lee Mason, and upon a vote it was:

RESOLVED:

1. That after all the evidence had been heard, the Call In be upheld on the grounds that there was lack of consultation and communication.
2. That full consultation takes place with all stakeholders using Northampton Borough Council's Consultation Toolkit as a guide.

The meeting concluded at 8:30 pm