

EXTRAORDINARY COUNCIL (1) HELD AT COUNCIL CHAMBER - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, CB11 4ER, ON FRIDAY, 28 JUNE 2019 AT 4.00 PM

Present: Councillor R Freeman (Chair)
Councillors A Armstrong, G Bagnall, S Barker, A Coote, C Criscione, C Day, A Dean, J Evans, P Fairhurst, M Foley, R Freeman, A Gerard, N Gregory, V Isham, R Jones, A Khan, G LeCount, P Lees, M Lemon, B Light, J Lodge, R Pavitt, L Pepper, A Storah, M Sutton, M Tayler and J De Vries

Officers in attendance: D French (Chief Executive), B Ferguson (Acting Principal Democratic Services Officer) R Harborough (Director - Public Services) and S Pugh (Assistant Director - Governance and Legal).

Also in attendance: J Banatvala, J Fox, E Gildea, I Jones, B Ross, J Twigg and R Woodcock.

C19 PUBLIC SPEAKING

The Chair welcomed Members and the public to the meeting.

Statements were made by Professor Banatvala, Mr Fox, Mr Gildea, Ms Jones, Mr Twigg and Mr Woodcock. Summaries of these statements have been appended to the minutes.

C20 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies were received from Councillors Asker, Caton, Driscoll, Eke, Hargreaves, Loughlin, Merifield, Oliver, Reeve and Sell.

Councillors Dean, Foley, Tayler and Sutton declared non-pecuniary interests as members of Stop Stansted Expansion.

Councillors Bagnall, Fairhurst, Freeman, Gerard, LeCount, Lemon, Pavitt and Storah declared non-pecuniary interests as members of the Council's Planning Committee.

Councillors Bagnall (Takeley), Coote (Saffron Walden), Fairhurst (Saffron Walden), Gerard (Newport), Gregory (Great Chesterford), Isham (Broxted), LeCount (Henham), Light (Saffron Walden) and De Vries (Saffron Walden) declared non-pecuniary interests as members of their respective town/parish councils.

Councillor Barker declared a non-pecuniary interest as a member of Essex County Council.

Councillor Gerard declared a non-pecuniary interest as a member of the Hundred Parishes Society.

C21 **PETITION: REFER STANSTED AIRPORT PLANNING APPLICATION BACK TO UTTLESFORD PLANNING COMMITTEE**

Mr Ross, Deputy Chair of Stop Stansted Expansion, presented a petition to Full Council. The terms of the petition were:

“The 2018 Stansted Airport Planning Application for 43mppa must now be referred back to the UDC Planning Committee for further consideration having regard to outstanding concerns as to the adequacy of the proposed Section 106 Agreement and to the new material considerations and changes in circumstances that have arisen since provisional approval was granted in November 2018.”

Mr Ross said the reasoning behind the petition was twofold:

1. Concerns as to the adequacy of the proposed S106;
2. New material considerations and changes in circumstances since provisional approval in November 2018.

The petition had received 1,700 signatures. He argued that the decision for reconsideration should be taken by members, and the Planning Committee was the appropriate body to reconsider the ‘Planning Balance’ of the application. He said ‘costs risk’ would be a factor regardless of how the application was determined.

C22 **REQUISITION FOR EXTRAORDINARY COUNCIL MEETING - DECISION NOTICE FOR PLANNING APPLICATION UTT/18/0460/FUL**

The Chair introduced the item relating to the Decision Notice for planning application UTT/18/0460/FUL submitted by Stansted Airport Ltd and approved by the Planning Committee on 14 November 2018. He invited Councillor Lodge to propose the initial motion as set out in the agenda.

Councillor Lodge said the requisition for this meeting had been submitted at the end of the Extraordinary Council meeting on 25 April 2019, and although the Council’s position had now moved on, due process dictated that the initial motion set out in the requisition be formally proposed as follows:

“To instruct the Chief Executive and fellow officers not to issue the Planning Decision Notice for planning application UTT/18/0460/FUL until members have had an opportunity to review and obtain independent legal corroboration that the legal advice provided to officers, including the QC

opinion referred to by the Leader of the Council on 9th April 2019, confirms that the proposed Section 106 Agreement with Stansted Airport Limited fully complies with the Resolution approved by the Planning Committee on 14 November 2018 such that officers re lawfully empowered to conclude and seal the Agreement without further reference to the Planning Committee.”

Councillor Lees seconded the motion.

Councillor Fairhurst proposed an amendment to the substantive motion; notice of the amendment had been given by Councillors Gerard, Day, Light, Sutton, Pepper, Isham, Bagnall, Fairhurst, De Vries and Lodge:

Delete all and replace with;

“In accordance with Section 70(2) of the Town and Country Planning Act 1990 as amended by Section 143(2) of the Localism Act 2011 to instruct the Chief Executive and fellow officers not to issue a Planning Decision Notice for planning application UTT/18/0460/FUL unless and until the Council's Planning Committee have had a sufficient opportunity to consider in detail, as timely as possible:

- (i) the adequacy of the proposed Section 106 Agreement between UDC and Stansted Airport Ltd, having regard to the Heads of Terms contained in the resolution approved by the Council's Planning Committee on 14th November 2018;***
- (ii) any new material considerations and/or changes in circumstances since 14 November 2018 to which weight may now be given in striking the planning balance or which would reasonably justify attaching a different weight to relevant factors previously considered;***

And thereafter ask the Planning Committee to determine the authorisation of the issue of a Planning Decision Notice.”

Councillor Gerard seconded the amendment.

Councillor Fairhurst said the issue at hand was regarding process; did the S106 agreement comply with the law, and was the S106 adequate to mitigate against the potential harm the application would cause if approved. He said it was the role of the Planning Committee to deliberate over these considerations.

Councillor Criscione said the application had been determined at Committee in November and the issue had been politicised. He said the Council would face certain legal challenge for non-determination and it was likely the applicant would win, leaving the Council with large legal costs that would rob residents of much needed funding.

Councillor Tayler said material changes had occurred since the application's approval in November. Firstly, the World Health Organisation had published

guidelines relating to the health impact of aviation noise that had not been considered at Committee. Secondly, the Government had since declared a National Climate Change emergency. He said this new evidence dictated that the application should be referred back to the Planning Committee.

Councillor Light said material considerations had changed as the Government's recent commitment to a net 0% carbon emissions policy had not been a consideration last November. She said the legal advice members had received was not independent as it was biased against non-determination.

Councillor Lees said the new administration wanted to be different and listen to the concerns of local residents. She said her motivation for reconsidering the application was based on the belief that material changes had occurred, not due to political aspirations.

Councillor Lemon said he believed material changes had occurred and he would be supporting the amendment.

Councillor Dean said he had some concerns regarding the amendment, with particular regard paid to the term 'material considerations,' but he would be supporting it. He asked officers and members to work together effectively and efficiently to ensure the application was determined as quickly as possible, and for the Council to establish a 'mature' relationship with MAG.

Councillor Gregory said he would be supporting the amendment as the Council had a duty of care for its citizens and mitigation against the application had to be carried out properly. He said he had asked Mr O'Toole, the Managing Director of MAG, whether he thought the S106 agreement adequately mitigated against the application; he had not received a response. He asked the Leader to approach John Blundell, a Rochdale Councillor who sat as a Non-Executive Director on MAG's Board of Directors, to raise these issues.

Councillor Barker said if the application was now rejected MAG would ultimately win on appeal. She added that all of the larger national parties would make maximum use of runways in the South East and it was unlikely that the Council could stop MAG, regardless of how the application was determined if referred back to Planning Committee. She said she could not support the amendment.

Councillor Gerard said it was for officers to advise and recommend potential policy to members, but it was for members to represent their residents and to make the final decisions. He said new material considerations had arisen, specifically relating to issues surrounding sustainability, which warranted reconsideration and he urged members to support the amendment.

The Chair called for a recorded vote to make the amendment the substantive motion.

For	Against	Abstain
Cllr Armstrong	Cllr Criscione	Cllr Barker
Cllr Bagnall		

Cllr Coote		
Cllr Day		
Cllr De Vries		
Cllr Dean		
Cllr Evans		
Cllr Fairhurst		
Cllr Foley		
Cllr Freeman		
Cllr Gerard		
Cllr Gregory		
Cllr Isham		
Cllr Jones		
Cllr Khan		
Cllr Lavelle		
Cllr LeCount		
Cllr Lees		
Cllr Lemon		
Cllr Light		
Cllr Lodge		
Cllr Luck		
Cllr Pavitt		
Cllr Pepper		
Cllr Stora		
Cllr Sutton		
Cllr Tayler		
Total:		
27	1	1

The Chair called for Members to vote on the substantive motion. Via a show of hands, the motion carried with 27 for, 1 against and 1 abstention as per the amendment that had come before.

RESOLVED that:

In accordance with Section 70(2) of the Town and Country Planning Act 1990 as amended by Section 143(2) of the Localism Act 2011 to instruct the Chief Executive and fellow officers not to issue a Planning Decision Notice for planning application UTT/18/0460/FUL unless and until the Council's Planning Committee have had a sufficient opportunity to consider in detail, as timely as possible:

(i) the adequacy of the proposed Section 106 Agreement between UDC and Stansted Airport Ltd, having regard to the Heads of Terms contained in the resolution approved by the Council's Planning Committee on 14th November 2018;

(ii) any new material considerations and/or changes in circumstances since 14 November 2018 to which weight may now

be given in striking the planning balance or which would reasonably justify attaching a different weight to relevant factors previously considered;

And thereafter ask the Planning Committee to determine the authorisation of the issue of a Planning Decision Notice

The meeting closed at 5.20pm.

Public Statements

Professor Banatvala

Professor Banatvala said recent evidence published in the British Medical Journal and a World Health Organisation report confirmed that the impacts of aviation noise on children's health and development were too important to ignore. Furthermore, the Health Impact Assessment considered at Committee in November was not carried out independently and, in light of new medical evidence, the application should be reconsidered. He said those who caused the pollution should be the ones that pay for it. He said it was up to the Local Authority to do all it could to protect local residents.

Johnathan Fox

Mr Fox said the S106 agreement was inadequate as Stansted Airport were only paying half of what other major airports did in the South of England. He said it was morally unacceptable to push through an inferior compensation scheme at the expense of residents, and politicians had paid at the ballot box for their lack of respect. He said the Council was now beginning a new chapter whereby community interest would be prioritised over the economic gains of the airport.

Irene Jones

Ms Jones said she had been involved in many pressure groups over the years in an attempt to thwart Stansted's expansion. Regardless of the activity of these pressure groups, the majority of Administrations over the years had not sided with residents but had pushed for the airport's development. She said she had some hope that people would realise the damage the aviation industry was doing to the planet. She asked members to pay attention to the new material considerations at hand.

Edward Gildea

Mr Gildea said he was concerned with the impact of aviation on children's health and development, and the mitigation on offer, particularly with regards to education, was wholly inadequate. In terms of the S106 agreement, he said there had been a lack of joined up thinking, demonstrated by the lack of sustainable transport linking the proposed garden communities and the airport.

He said there was a moral responsibility to future generations to protect the planet.

Ray Woodcock

Mr Woodcock said public trust was a key part of the planning process and yet conditions had been breached within the perimeter of the Airport and no enforcement action had been taken by the Council. If these conditions were breached, how would UDC enforce the conditions stipulated in the officer's report. He said it was extremely unlikely that UDC could hold Ryanair to account in the event they failed to meet the noise or emission targets. He said climate change had to be a material consideration when determining an application relating to aviation.

John Twigg

Mr Twigg said he understood the strength of feeling of councillors and the public but asked them to think about the people that spoke in support of the application in November, and the benefits the airport brought to the local economy. He said the draft S106 agreement was legally compliant and only needed to mitigate against the application, nothing more. He reminded those present that the application approved in November did not increase the number of flights permitted at the airport. He said the airport did more in the community than it was obliged to do, and said this was demonstrated by its commitment to Stansted Airport College, apprenticeships and volunteer schemes.