

THE COMMONS ACT 1990
IN THE MATTER OF LAND AT THE SANDS DURHAM

DURHAM COUNTY COUNCIL

Applicant

and

THE FREEMEN OF THE CITY OF DURHAM

Objectors

THE CITY OF DURHAM PARISH COUNCIL

CITY OF DURHAM TRUST

APPLICATION FOR ADJOURNMENT ON BEHALF OF THE
FREEMEN, PARISH COUNCIL & CITY OF DURHAM TRUST

INTRODUCTION

1. The Public Inquiry into the application made by Durham County Council pursuant to s.16(1) of the Commons Act 2006 to deregister and exchange common land on part of The Sands Durham is presently sitting remotely.
2. An oral application to adjourn the Inquiry was made on behalf of the Objectors on 1 July 2021. Inspector Cousins ordered the application be made in writing with evidence, if appropriate, by 6pm on 1 July 2021.

MATERIAL FACTS

3. The Application was made by Durham County Council (“the Council”) in August 2019. In August 2019 construction work started on the new HQ building for the Council. This is programmed to complete in October 2021.
4. Following local elections on 6 May 2021 the constitution of the Council changed from Labour control to a joint administration of Liberal Democrat, Conservative and Independent members (“the JA”). The JA was formed on 26 May 2021.

5. On 16 June 2021 a report was made by the Corporate Management Team to the Cabinet (copy attached). This report is stated to reflect the commitment of the newly elected JA to “review the options for Durham County Council’s Headquarters including reviewing the use of the newly built HQ building on The Sands...”
6. The JA stated aims are to review options for utilising the new building, consider options for the location of the HQ functions and ensure the strategic proposals for Aykley Heads are fully considered. Further an options appraisal will be prepared to include a full assessment of opportunities, costs, risks, and the implications of any proposals.
7. It was recommended to Cabinet to agree an options appraisal and a further update report is provided to Cabinet, at the latest by September 2021. The minutes of this meeting are not available, however the draft minutes record that the recommendations in the report be approved. The livestream of the meeting shows Richard Bell (Deputy Leader of the Council and Portfolio Holder for Finance) stating that the review will be comprehensive and include (i) an options appraisal for alternative use of the HQ building and (ii) the potential for the Council to retain the existing County Hall for its HQ [livestream time 1:10:51].
8. The committee diary shows the next of the Cabinet is on 7th July 2021 and the following meeting will be on 15th September 2021 (copy committee diary is attached).

APPLICATION

9. This is an application for the Inquiry to be adjourned.
10. The Council’s case as put in the application and in numerous documents and proofs of evidence before the Inquiry is that the exchange is necessary to deliver the HQ project and provide a members car park on the release land. In the Delegated Decision report of 20 August 2019 of the Corporate Head of Property and Land the reason for making the s.16 application was “to support the development of the new HQ” [p.674]. The Supporting Statement submitted with the application stated “the purpose of this

application is to free up the Release Land for redevelopment in connection with the new HQ for the Council” [p.652].

11. In the Council’s Opening Statement of 27 April 2021 it was asserted that “Granting DCC’s application would regularise the de facto position, and permit the build out of the new HQ scheme without legal qualification and “The new HQ will be of significant socio economic benefit to Durham”.
12. The claimed benefits of the HQ were detailed in the evidence of Stuart Timmiss to the Inquiry (adopted by Mike Allum). This included the following -
 - i. based in the city centre it will encourage council staff to shop more
 - ii. a survey of staff showed a potential annual spend in the city centre of £528,000
 - iii. staff employees are much more likely to use the city centre for purchases
 - iv. the footfall of staff will create a more vibrant environment
 - v. relocation will in turn make Aykley Heads a more investable (*sic*) proposition
 - vi. the redevelopment at Aykley heads will create –
 - 144 construction jobs and 4318 permanent jobs
 - £144.5m per annum from employees, some will be spent locally
 - Rateable value generating £1.9m in business rates
13. The Council’s has, in terms of benefits, focussed on the building being occupied by the Council as its HQ as a fundamental tenet of its case. This has not been a minor issue which the Inspector can grapple with and weigh in the overall balance under s.16.
14. If the HQ building is not occupied by the Council in the future then all this evidence will be irrelevant. In the circumstances, if this Inquiry continues it will be nigh on impossible for the Inspector to be sure of which evidence already given will be relevant or irrelevant and this will leave any decision vulnerable to judicial review. It is in the interests of all parties, the applicant and the objectors, that the s.16 application is dealt with efficiently.

15. Secondly the review by the Council of its options for the HQ building cannot be pre-judged. Given the Inquiry is programmed to close on 7th July 2021 it is equally impossible for the parties to assess the likelihood of the project progressing as planned, or changing in a fundamental way such that the HQ is leased or sold off to another occupier (or any other option tabled by the new JA).
16. The resolution of Cabinet on 16th June 2021 is for a full review of this project including as assessment of opportunities, costs, risks and implications of any proposals. This will be a significant exercise and take time. Whilst the resolution seeks the review be completed by September at the latest, in reality the next meeting of the Cabinet which could possibly consider this report is on 15th September 2021 (see Committee diary).
17. It is plain that the change in political makeup of the council is significant and that the Inquiry process will be compromised if it proceeds to a decision before the applicant has clarified its position. In the circumstances a general adjournment is sought with liberty to apply to reinstate the hearing dates at a date in the future.

MISS NICOLA ALLAN

Trinity Chambers

1 July 2021

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Meetings

[15 Sep 2021 9.30 am](#)

[7 Jul 2021 9.30 am](#) - Agenda

[16 Jun 2021 9.30 am](#) - Agenda, Decisions

[21 Apr 2021 9.30 am](#) - Agenda, Decisions, Minutes

[17 Mar 2021 9.30 am](#) - Agenda, Decisions, Minutes

[10 Feb 2021 9.30 am](#) - Agenda, Decisions, Minutes

[13 Jan 2021 9.30 am](#) - Agenda, Decisions, Minutes

[16 Dec 2020 9.00 am](#) - Agenda, Decisions, Minutes: Please note earlier start time