

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT WEST SUFFOLK (LOCAL GOVERNMENT
CHANGES) ORDER 2018

DRAFT WEST SUFFOLK (MODIFICATION OF
BOUNDARY CHANGE ENACTMENTS)
REGULATIONS 2018

Wednesday 2 May 2018

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Sunday 6 May 2018

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The Committee consisted of the following Members:

Chair: MARK PRITCHARD

† Allan, Lucy (<i>Telford</i>) (Con)	† Offord, Dr Matthew (<i>Hendon</i>) (Con)
† Baron, Mr John (<i>Basildon and Billericay</i>) (Con)	† Philp, Chris (<i>Croydon South</i>) (Con)
† Champion, Sarah (<i>Rotherham</i>) (Lab)	† Reeves, Ellie (<i>Lewisham West and Penge</i>) (Lab)
† Coaker, Vernon (<i>Gedling</i>) (Lab)	† Sunak, Rishi (<i>Parliamentary Under-Secretary of State for Housing, Communities and Local Government</i>)
† Elmore, Chris (<i>Ogmore</i>) (Lab)	† Thomas, Derek (<i>St Ives</i>) (Con)
† Fovargue, Yvonne (<i>Makerfield</i>) (Lab)	† Tolhurst, Kelly (<i>Rochester and Strood</i>) (Con)
† Howell, John (<i>Henley</i>) (Con)	Gail Bartlett, <i>Committee Clerk</i>
Johnson, Diana (<i>Kingston upon Hull North</i>) (Lab)	
† Jones, Andrew (<i>Harrogate and Knaresborough</i>) (Con)	† attended the Committee
† Lucas, Ian C. (<i>Wrexham</i>) (Lab)	
Malhotra, Seema (<i>Feltham and Heston</i>) (Lab/Co-op)	

The following also attended, pursuant to Standing Order No. 118(2):

Chope, Sir Christopher (*Christchurch*) (Con)
 Heaton-Harris, Chris (*Comptroller of Her Majesty's Household*)

Third Delegated Legislation Committee

Wednesday 2 May 2018

[MARK PRITCHARD *in the Chair*]

Draft West Suffolk (Local Government Changes) Order 2018

2.30 pm

The Chair: I call the Minister to move the first motion and speak to both statutory instruments. At the end of the debate, I will ask the Minister to move the second motion formally.

The Parliamentary Under-Secretary of State for Housing, Communities and Local Government (Rishi Sunak): I beg to move,

That the Committee has considered the draft West Suffolk (Local Government Changes) Order 2018.

The Chair: With this it will be convenient to consider the draft West Suffolk (Modification of Boundary Change Enactments) Regulations 2018.

Rishi Sunak: It is a pleasure to serve under your chairmanship, Mr Pritchard. I am delighted to tell Committee members that we are making a small piece of history by considering the first ever district council merger.

The two instruments were laid before the House on 19 March. They provide for the abolition of the Forest Heath district and the St Edmundsbury borough, together with their councils, on 1 April 2019. They also provide for the establishment of a new West Suffolk district, which will cover the same geographical area, together with a new council for it. The Government are committed to supporting local authorities that wish to combine or merge to serve their communities better.

I will briefly describe the area we are considering. West Suffolk is home to multimillion pound industries, including the home of British horse racing at Newmarket and world-renowned household names such as British Sugar, Greene King, Tattersalls, Treatt, CLAAS UK, Center Parcs and even Go Ape. It sits on the major trade route of the A14, which is linked to the port of Felixstowe.

West Suffolk has a diverse and beautiful environment, with thriving market towns and rural areas, including the stunning gallops in Newmarket, the historic abbey and cathedral in Bury St Edmunds and the protected Brecks landscape. Its workforce growth outstrips the United Kingdom's average, and even that of nearby Cambridge. It is also home to many service personnel from the UK and the United States, with RAF Honington and the two largest US air force bases in the UK, RAF Lakenheath and RAF Mildenhall.

Historically, the area covered by what are now Forest Heath and St Edmundsbury councils fell within an area that has been known since Domesday as the liberty of St Edmund, which was administered by the abbey of St Edmund until the Reformation. The Local Government Act 1888 created three administrative county councils in Suffolk, including a county of West Suffolk, which covered

the whole area of the liberty. The proposal that we are considering recreates that local government area and reflects the long shared history of the different parts of the area.

In local government terms, the two existing district councils that we are replacing have a history of shared service partnership, which has created ongoing savings in excess of £4 million per year. That will be safeguarded by implementing the merger proposed in the instruments.

In bringing forward the proposals and formulating its plans, West Suffolk has undertaken extensive engagement and open consultation. The councils undertook a programme of engagement with residents and stakeholders from May to the end of August 2017, including an independent, proportionally representative phone poll; a media campaign, including press releases and promotion on social media; information packs for town and parish councils; an open consultation via a dedicated webpage; an online survey; formal communication to 162 stakeholders; presentations and talks at resident and business forums, and at public events; and staff briefings for frontline employees.

The opinion research commissioned to find out local residents' views suggested that 70% were in favour of the proposals to form a new single district council. All the local institutional stakeholders, such as the NHS, the police, the county council and major business groups in Suffolk, and all their neighbouring authorities, are also in favour. When the council received comments that expressed concerns, it went back to those people to explain how their concerns would be addressed.

The councils submitted a proposal to merge the authorities on 28 September. That proposal made it clear that implementing the proposed merger would lead to a new district of West Suffolk with a population of almost 180,000, and would yield further savings of £850,000 per year on top of the £4 million per year saved as a result of their joint working.

On 7 November last year, the then Secretary of State told the House what criteria he would use for assessing locally led proposals for merging district councils—first, that the proposal is likely to improve local government in the area concerned; secondly, that the proposal commands local support; and, lastly, that the proposed merger area is a credible geography. On 30 November, the Secretary of State told the House that he was minded to implement the proposal made by the two councils. There followed a period for representations, during which the Secretary of State received seven representations from the local area. All the responses received relating to the West Suffolk council merger were in favour of the change. On the basis of the proposal, the representations and all other information available, the Secretary of State is fully satisfied that all the relevant criteria are met.

It may be helpful to say something about the statutory framework and why there are two statutory instruments to implement the West Suffolk merger proposal. The West Suffolk (Modification of Boundary Change Enactments) Regulations 2018 vary the Local Government and Public Involvement in Health Act 2007 in its application to Forest Heath and St Edmundsbury during the period from which the regulations come into force. The regulations are made under section 15 of the Cities and Local Government Devolution Act 2016, which provide that the Secretary of State may, by regulations subject to the

affirmative resolution procedure, make provision about the structural and boundary arrangements in relation to local authorities under part 1 of the 2007 Act. Sections 15, 4 and 5 of the 2016 Act provide that such regulations can be made only with the consent of the local authorities to which the regulations apply. In this case, both councils have consented to the regulations.

The West Suffolk (Local Government Changes) Order 2018 will, if approved, be made under section 10 of the 2007 Act. It makes provision for abolishing the local government areas of Forest Heath and St Edmundsbury, and it establishes a new district with the previous areas of Forest Heath and St Edmundsbury named West Suffolk. It winds up and dissolves the district councils of Forest Heath and St Edmundsbury, and it establishes a new council—West Suffolk District Council. It provides appropriate transitional arrangements, such as a shadow authority and a shadow executive, and it establishes, in agreement with the councils, any necessary electoral arrangements.

In considering the two draft statutory instruments, we are assessing the merits of the merging of Forest Heath District Council and St Edmundsbury Borough Council, and the creation of West Suffolk council. In this instance, it is clear that the two councils in west Suffolk have come together to work on a locally led proposal, which, if implemented, will improve local government and service delivery in the area. It commands a good deal of local support, and the council area represents a credible geography. The proposed new council of West Suffolk is widely supported, and both councils have consented to making these regulations. I have full confidence that the local area will implement the district council merger by next April to allow the good people of west Suffolk to elect their new council in May next year. On that basis, I commend the regulations and the order to the Committee.

2.38 pm

Yvonne Fovargue (Makerfield) (Lab): We have no objections to the statutory instruments.

2.38 pm

Vernon Coaker (Gedling) (Lab): I thank the Minister for his presentation, and I have a couple of questions for him. He mentioned public support, and the explanatory memorandum says:

“The majority of town and parish councils that sent representations in response to the proposals were supportive. Seven responses were received from the eighty-five town and parish councils—four were supportive and three raised concerns.”

I think the Minister said that seven had responded, and they were all supportive. What concerns were raised by those three town and parish councils?

The Minister said that concerns were raised, but did not elaborate on that or explain what they were. It would be interesting for the Committee to have laid out what those concerns were, and how the people in the area were reassured that the proposed local authority would not be a problem and that their concerns could be overcome.

Will the Minister also say something about the merging of the two authorities? Where does he expect the new authority's headquarters to be? How are those services

to be merged, and what does that mean for job losses? Presumably, two HQs will be put together. What arrangements does the Minister expect in that regard?

Finally, although I note the general support for the proposals mentioned by the Minister, why does he expect the new authority to be better? What is it going to do that two separate authorities could not? What does it mean for housing, and for the rural problems that we know there are with housing? What does it mean for the provision of youth opportunities? He quite rightly mentioned all the fantastic industries and other recreational facilities available in this beautiful part of the world. How will the new council work with them to generate even more prosperity and opportunity for all residents? Given that it is a new authority, how does he expect the relationship with Suffolk County Council to improve? If I was trying to be non-consensual, I might ask why he does not want to create a unitary authority in west Suffolk, which would really give them some power—but that is for another day.

It is important that we know what the concerns were and how they were addressed, as well as what the merger means for jobs. The Ministers says that the new arrangement has the support of most local people. Will he say something more about how it will actually improve the services on which they depend and increase the opportunities that are available to them?

2.42 pm

Sir Christopher Chope (Christchurch) (Con): It is a pleasure to serve under your chairmanship, Mr Pritchard. I want to raise some issues arising from this statutory instrument.

As the Minister said, this is the first time that section 15 of the 2016 Act has been used. I was present in the House during the Third Reading of that Bill. During that debate, I was given an undertaking by the Secretary of State, as was my hon. Friend the Member for Gainsborough (Sir Edward Leigh), that the powers in section 15 would not be used to abolish any individual local authority without its consent. I am pleased that the proposal before the House today, unlike one that may come before the House soon in relation to my own borough of Christchurch, enjoys the consent of the councils concerned. That is the first point.

The Minister also said, very helpfully, that it was the Government's policy to support councils that wished to combine. Here we have two independent, sovereign district councils saying that they wish to combine. In the case involving Christchurch, which will perhaps come up in due course, the situation is that sovereign councils do not wish to combine. This measure is potentially an important precedent in relation to the use of section 15, which was always designed, as was articulated by the Government at the time, to bring councils together to discuss what might be in their mutual best interests and the mutual best interests of the citizens and the businesses in their locality.

I ask the Minister about the particular provisions relating to electoral arrangements. I am sure it will not have escaped hon. Members' notice that the West Suffolk (Modification of Boundary Enactments) Regulations 2018 actually alter the 2007 Act. The regulations state:

[*Sir Christopher Chope*]

“A proposal made by either or both of the relevant authorities before the date that these Regulations come into force that otherwise complies with section 8 of the 2007 Act as modified... shall be treated as a proposal made under section 8(2A).”

That is potentially a retrospective provision. The explanatory memorandum states:

“Regulation 4 provides for the relevant provisions of the 2007 Act as modified by these Regulations to apply to the implementation of a proposal made before the coming into force of these Regulations.”

Will the Minister explain whether such a proposal has yet been made and whether a decision has been made on that proposal? There are two separate stages to the process. A proposal can be made, but if a decision was made on such a proposal before the regulations came into effect, it would seem to me—I stand to be corrected by the Minister, if he has wiser counsel—that that would be retrospective in effect. That is very relevant in relation to my council, which the Government seek to abolish, despite there having been a local referendum in which 84% of the local people were against the proposal that the council should be forced to merge with Bournemouth and Poole. I put that down as a marker to the shadow Minister.

The Chair: Order. May I gently remind the hon. Gentleman that as delightful as Christchurch is, we are discussing Suffolk today? I ask him to stick to the script.

Sir Christopher Chope: Absolutely, Mr Pritchard. That is why I said it is important that the issue of consent is put to the fore. Where there is not consent, different issues arise. I am basically putting the shadow Minister—she leads for the Opposition on these issues—on notice that she should be alert to other measures that might be brought forward using the same powers. The Minister has lauded the fact that this is the first time that section 15 has been used. I hope that the shadow Minister will be alert to future occasions when that clause might be used in circumstances where there has not been consent. In the absence of that consent, such measures would potentially be in breach of the undertaking given to the House on Third Reading in December 2015 by the then Secretary of State.

I do not want to discuss councils other than this one, but in looking at the report by the Secondary Legislation Scrutiny Committee in the other place—it looks at the policy aspects of regulations—I saw that it expressed concerns about whether there was sufficient local consent. That was not from the councils themselves, but the other parishes and organisations within the council area. It is a bit of a disappointment to me that that has not yet been explored, but obviously I am not a Member for this area, so I will not press that point. It is important, however, that we look not only at the views of the councils themselves, but the views of the people living in those council areas.

Will the Minister comment on this? Part of the explanatory memorandum states:

“A full regulatory impact assessment has not been prepared as these instruments will have no impact on the costs of business and the voluntary sector.”

How can such an assertion be made? Surely both the councils—one a borough council and one a district council—are already supplying services or giving money

to local voluntary organisations that are dependent on those councils for grant funding. If those councils are merged without any guarantee of continuity of funding—there is no guarantee set out in any of the documents before us today—the instrument may have an impact on the voluntary sector. Likewise, whether positive or negative, the costs of business could and probably will be affected by the measures. Why is there no business regulatory impact assessment for those costs? It seems to me that there is something awry.

I commend the fact that in this case, both the councils concerned have made a full business case for what they are trying to achieve. It may well become apparent in due course that that is not commonplace. If councils are going to submit proposals for mergers, and they pray in aid quite heroic savings figures, it would be desirable that a proper cast-iron business case is drawn up in advance. That would demonstrate that those figures have some validity and could be subject to proper scrutiny by Members of this House. I accept that that has been done in this case, and I commend the council's concern for having done that.

My main concern is about changing the 2007 Act after the event to enable changes to be made to the boundaries without the Minister engaging the Boundary Commission, as would normally be required under that Act—changing the rules by changing the law and backdating that change to 2007. Obviously, the impact of that and the severity of that retrospection depends on whether the proposals have only just been produced or whether they have been implemented. It seemed to me, from looking at the explanatory notes, that in this case, the Boundary Commission has not yet implemented the proposal. Can the Minister confirm that that is the situation? That will differentiate this particular case from the case that I will draw to the attention of the House on a future occasion.

I raise this issue because in correspondence, the Leader of the House drew my attention to these proposals and prayed them in aid as some kind of precedent. It is because I looked at them and compared them with the case that I had been raising with her that I thought it was important to raise these issues on the Floor of the House. I hope the Minister will respond to the points that I have made. If he cannot do so today, I hope that he will very quickly do so in writing.

We must be very jealous of our responsibilities here to ensure that we do not legislate with retrospective effect, however expedient that might seem to be. In this case, there are two councils that, apparently, want to abolish themselves and create a new council, for whatever motives—it is not for me to look into their motives. The mere fact that councils wish to do something should not mean that we play fast and loose in relation to the principles nor that we legislate retrospectively, but only prospectively.

2.53 pm

Rishi Sunak: I turn to the questions raised by my hon. Friend the Member for Christchurch, who has discussed these issues at length, both with the Department and with me, not only in Westminster Hall last week but through extensive correspondence. First, on the issue of retrospection, which has been covered by our previous correspondence and that of the Leader of the House, these particular regulations have been cleared by the

Joint Committee on Statutory Instruments. If there was any question of their legality, the Joint Committee would have reported that and brought it to the attention of the Committee. It did consider the issue of retrospection on the equivalent regulation that he mentioned. The Government are entirely satisfied that the regulations are wholly lawful and do not raise any issues of having any retrospective effect whatsoever.

Sir Christopher Chope: Before the Minister goes on to the next point, can he explain why the alteration of the 2007 Act, by regulations brought in and being debated today, is not retrospective?

Rishi Sunak: Very simply, because the acts that are to happen have not yet happened. Most people's understanding of the idea of retrospective legislation is to change the legality of an act that has happened in the past. In this instance, no such act has yet happened; it is to happen in future, therefore there is no question of retrospective legislation.

My hon Friend's other point on assurances that he feels he was given in the House previously is the subject of correspondence between him and the Department, as has been clarified multiple times. Perhaps he misunderstood what was being said in the House. It was clarified later in the House of Lords by Baroness Williams of Trafford that it was not the intention of the legislation that one council could block a reorganisation proposal that the rest of the councils in an area had proposed.

There is of course a distinction between a merger, which we are considering in this case, between two councils that consent to it, and a reorganisation across an entire area where two tiers of government are involved. As the correspondence clarified, one council should not be able to exercise a veto to prevent all the other councils of an area taking a proposal forward. I know that my hon. Friend will not be happy with that response, and that he will continue to press me and others on the issue. I look forward to continuing my conversations with him.

The final issue that my hon. Friend the Member for Christchurch raised was about an impact assessment on business. The statutory instruments before the Committee have no direct impact on business or the voluntary sector. Any future impact would be due to the decisions of the council, which will be accountable to the local people. It is worth pointing out that business locally was entirely supportive of the proposals, no doubt because of the councils' great track record of making savings by operating together, and the promise of more savings in the years to come.

Turning now to the questions raised by the hon. Member for Gedling, first, he seemed to suggest that seven might be a particularly low number of representations. It is worth saying that that was the second round of representations. The councils themselves conducted an extensive period of representation and engagement with people across the area before they submitted their proposal. Unsurprisingly, the need for further representations was reasonably limited.

I do not have every one of the representations before me. I can tell the hon. Gentleman that the issues raised included the democratic accountability of the future council, and people's wish to make sure their voice would still be heard. I am pleased to say that the council's

proposal on that score is a modest reduction in the number of councillors from 72 to 64, which will bring the average size of each ward—the electorate per councillor—into line with the English national average of about 1,925. In the new council it will be 1,919. That was one of the ways in which the council was able to provide reassurance.

Vernon Coaker: That is a helpful answer. Have there been any proposed changes to the town and parish councils in the area, or do they stay exactly the same? They are obviously close to, and often they give a voice to, people who might otherwise not engage with the district council.

Rishi Sunak: There is no direct impact on town and parish councils. Those decisions, of course, will be a matter for the new council. One thing that has been raised is the issue of borough status for one of the areas that we are considering—St Edmundsbury, which has borough status. However, there is provision in the order for the new authority to apply for borough status. It will apply in the normal way to the Privy Council under the existing charter process.

The hon. Gentleman raised the question of the headquarters and what the new council would do. It is probably worth bringing to the attention of those not intimately familiar with the workings of the councils in question that they already work essentially as one operational council. There is already a single headquarters, which is West Suffolk House in Bury St Edmunds, and all the organisational, management and executive functions have been merged.

Vernon Coaker: Will the Minister confirm that the new council's expectation is that there will be no job losses?

Rishi Sunak: That will be a decision for the new council to make. I can confirm that the transfer of employees from the two different authorities to the new one should be relatively straightforward under TUPE, because they are all employed in one organisation, for the most part.

It is worth bearing in mind what the councils want to do—the hon. Gentleman will probably understand—and if there is a single operating management structure but two decision-making structures, that creates extra complexity in time and processes. That time will be freed up, and half the estimated £850,000 savings will be the non-cash freeing up of capacity, which can then be deployed on serving residents and constituents better.

Some of the other examples that the authorities have given would be to do with single reporting requirements, improvement of financial systems, removing the need to reconcile between different budgets, and broader and better planning of infrastructure and housing, which can now happen over a wider area. That will ensure that people have better choice, and it will not end at the council boundary as it currently does.

The hon. Gentleman's last question was about Suffolk County Council. He will be pleased to know that the leader of that council is on the record as saying that he believes that the model we are discussing is the strongest model for moving forward in the first instance; he mentioned potential changes down the line. Before us today is a proposal that is locally led, locally driven and widely supported by all local participants and that will

[*Rishi Sunak*]

deliver real value for money and real change for residents on the ground. I therefore hope that the hon. Gentleman and other members of the Committee will join me in commending the work of all those in west Suffolk involved in bringing this historic moment into being, and in wishing them every success on the journey ahead.

Question put and agreed to.

Resolved,

That the Committee has considered the draft West Suffolk (Local Government Changes) Order 2018.

**DRAFT WEST SUFFOLK (MODIFICATION OF
BOUNDARY CHANGE ENACTMENTS)
REGULATIONS 2018**

Resolved,

That the Committee has considered the draft West Suffolk (Modification of Boundary Change Enactments) Regulations 2018.
—(*Rishi Sunak.*)

3.1 pm

Committee rose.