

## CABINET MEETING 14<sup>th</sup> September 2011

The following Statements and Questions had been registered by the time of publication.

### REGISTERED SPEAKERS

There were 9 notices of intention to make a statement at the meeting. Where the intention is to speak about an item on the Agenda, the speaker will be offered the option to speak near the beginning of the meeting or just before the Agenda item.

#### **Re: Winter Service Policy (Agenda Item 14)**

- David Redgewell (South West Transport Network)

#### **Re: Radstock Traffic Regulation Order (Agenda Item 16)**

- Councillor Eleanor Jackson
- Amanda Leon (Radstock Action Group)
- Gary Dando (Radstock Action Group)
- John Sprateley
- David Redgewell (South West Transport Network)
- Deborah Porter
- Heather Chipperfield
- George Bailey

### QUESTIONS AND ANSWERS - COUNCILLORS

<b>M 01</b>	<b>Question from:</b>	Councillor Malcolm Hanney
<b>Newbridge Park and Ride Extension – Question to Cllr. Roger Symonds regarding Council Resolution passed on 14 July 2011</b>		
Having regard to matters as set out in 1-6 below, and given that the seconder of the motion to Council had already pledged in May 2011 that there would be no Park and Ride Extension at Newbridge, could the Cabinet Member confirm his understanding as to what Cllr. Morgan-Brinkhurst intended when she moved her amendment at Council and what he therefore accepted?		
<ol style="list-style-type: none"><li>1. Recommendation to Cabinet within agenda paper - Para 2.7 'Expansion of... Newbridge P&amp;R by about 250 spaces.</li><li>2. Recommendation agreed by Cabinet - Para 2.7 Expansion of....Newbridge P&amp;R by 250 spaces on the proposed site or a suitable alternative.</li><li>3. First draft (?) of Council Minute sent to me on 21 July 2011 - Para 1.5b Expansion of...Newbridge by 250 spaces on a suitable alternative site.</li></ol>		

Para 1.15 ...An amendment to the motion was moved by Cllr. Loraine Morgan-Brinkhurst with the effect of removing words regarding the proposed P&R site which was accepted by the mover of the motion.

4. Letter to Mr. Emerson (Inspector for Core Strategy) sent on 18 July 2011 and published on 21 July 2011 - Para 8.10 Land is available (to provide an additional 250 spaces) without the need for a CPO.  
(This indicates that no alternative site to that proposed was going to be considered notwithstanding the amendment moved by Cllr. Morgan-Brinkhurst.)
5. For some reason the Draft Minutes were changed prior to publication such that Para 1.15 was amended to read 'A minor adjustment to the wording of the motion was suggested by Cllr. Loraine Morgan-Brinkhurst with the effect of removing some words regarding the proposed Newbridge P&R site which was accepted by the mover and seconder of the motion.'
6. It is stretching credibility to the extreme that the local Councillor and mover of the amendment intended 'a minor adjustment of the wording' deleting the words 'on the proposed site' from the motion so that only the proposed site would be considered. A speaker (Mr. Weston) at the PT&E PD&S Committee held on 26 July 2011 asked where the alternative site was to be and clearly his understanding was that an alternative site was to be considered.

<b>Answer from:</b>	Councillor Roger Symonds
---------------------	--------------------------

*I note your view that the wording of the adjustment to the Council Motion in respect of Newbridge Park & Ride precludes the potential to develop 250 parking spaces on a part of the original site proposed for 500 spaces. Whilst I agree that the wording may be a little ambiguous, I do not agree with your interpretation that no part of the site originally earmarked for the 500 spaces may be used.*

*I accepted the adjustment from Cllr Brinkhurst in recognition of the uncertainties caused by the forthcoming report on the application to register part of this site as a Town & Village Green. It was not clear at the time of the meeting in July how this report would impact on the precise location of the expansion to the P&R. The report has now been received, and subject to final consideration of its recommendations, it is possible to provide 250 spaces as envisaged within the terms of the existing planning permission*

<b>M 02</b>	<b>Question from:</b>	Councillor Eleanor Jackson
-------------	-----------------------	----------------------------

When did the Council cease to be a Fairtrade Council serving Fairtrade coffee and why?

<b>Answer from:</b>	Councillor David Bellotti
---------------------	---------------------------

*I am very grateful to Cllr Jackson for bringing this to my attention as everyone in the Council is committed to Fairtrade.*

*Catering Services and other suppliers of coffee to meetings arranged within the Council use every effort to comply with and promote the use of Fairtrade products. I regret however that a batch of non Fairtrade coffee was purchased for internal meetings within the Guildhall, and that error has now been rectified, with all future internal meetings to*

*be supplied with the appropriate commodity. However, there are no contractual arrangements in place to require persons booking the Guildhall rooms to employ Catering Services.*

*However, Property Services will use all endeavours to identify a range of Fairtrade products which will meet customer needs.*

**Supplementary Question:**

Why has the Council also given up using milk jugs and is instead using milk cartons?

**Answer from:**

Councillor David Bellotti

*The Cabinet member responded subsequent to the meeting:*

*Catering Services aims to use jugs of fresh milk when supplying refreshments to meetings. However, when refreshments have to be delivered well before the start of a meeting or collected well after (sometimes on the next day), fresh milk may have deteriorated, so jiggers of milk may be used in these circumstances*

**M 03**

**Question from:**

Councillor Vic Pritchard

What is the current position regarding Home Improvement Agency (HIA) contracts covering the West of England area?

**Answer from:**

Councillor Tim Ball

*The Cabinet member responded subsequent to the meeting:*

*All HIA contracts within the West of England sub-region are due to be recommissioned from March 2012.*

**M 04**

**Question from:**

Councillor Vic Pritchard

What is the current status regarding the contract renewal with Care & Repair Somerset?

**Answer from:**

Councillor Simon Allen

*The Cabinet member responded subsequent to the meeting:*

*As you will know the role of the Home Improvement Agency (HIA) has developed significantly since its inception over 20 years ago. From the sector's relatively modest beginnings - often a single person in the housing department helping people complete forms - they have now become pivotal in helping older, disabled and otherwise vulnerable people to remain independent. This is a role we truly value and fully support. I have been advised that the West of England Heads of Housing Group have often pondered the potential benefits of working sub-regionally on this issue, as indeed they*

have on a number of other joint projects, such as, the Housing Delivery Panel, a House Condition Survey and HMO licensing. However, the differing commission dates between authorities prevented further consideration of this approach. With recent changes to some of the existing contracts, due to the withdraw of a provider in another authority, the opportunity to jointly procure an HIA has arising as all underpinning contracts across the 4 authorities come to an end by March 2012.

As such the group organised a workshop with Foundations, the Government appointed advisors on HIAs, to investigate whether the business case supported this partnership approach. This highlighted the following potential benefits for commissioners and clients:

**Financial Benefits**

- Savings in procurement costs. With an increasing complex and hostile procurement environment these costs are increasing. By working together we can, and do, make significant savings.
- Economies of scale in the commissioned service associated with the reduction in back room duplication, particularly around governance, management, IT and other professional support costs.
- Reduced contract management costs, through less duplication by the contract and field officers of the 4 authorities.

**Non-Financial Benefits**

- A larger contract value is likely to interest more potential providers, thus generating greater competition. The increase in bidders would also improve the sustainability of the sector avoiding the prospect of only a single or even no bidders for a single authority commission.
- A larger contract value would provide the economies of scale to develop services which may prove unviable for a single authority.
- It is more effective for a single provider to market themselves across the sub-region, particularly given that referrers, such as client's children & siblings may live out of district though within the sub-regional.

Given the potential benefits the lead commissioners in each authority unanimously made the decision to initiate a process which will potentially enable the procurement of a sub-regional HIA. This is of course subject to a number of factors, including consultation and final contract sign off procedures. Given that this is jointly funded through the Community Grant & Supporting People budgets the final decision will be a delegated officer decision. Within the next few weeks the commissioning strategy will go out to consultation. The aim is to implement the new commission for the financial year 2012/13.

<b>M 05</b>	<b>Question from:</b>	Councillor Martin Veal
<p>The River Avon through the City of Bath, but also along its length through Bath and North East Somerset, has a number of health, safety and usage issues. There have also been a number of unfortunate tragedies on the river in recent years. Could the Cabinet Member update us on when recommendations for improving river safety will be published and what aspects of responsibility will be accepted by the Council for implementation?</p>		

<b>Answer from:</b>	Councillor David Dixon
<p><i>We have, in partnership with Avon and Somerset Police commissioned a report from the Royal Society for the Prevention of Accidents (RoSPA) which assesses the risks to the public concerned the stretch of the River Avon between Churchill Bridge and Windsor Bridge Road in Bath where the accidents have happened.</i></p> <p><i>A preliminary draft of the report has been received. This is now the subject of discussions with RoSPA (to ensure that it covers the required scope and that we can understand any recommendations made) prior to publication.</i></p> <p><i>I would hope to be able to share the final report with Members during the next few weeks.</i></p> <p><i>The riparian ownership along this particular stretch of river is complex and investigations are being made to establish individual responsibilities for the implementation of any recommendations which may result from the report. The Council is not currently aware of any riparian ownership issues for itself along here.</i></p> <p><i>The Council currently has no plans to review river safety beyond this stretch, apart from the sections where it does have riparian ownership responsibilities such as between Pulteney Bridge and Churchill Bridge and at The Shallows in Saltford. These sections are subject to on-going review and monitoring of safety equipment in order to comply with current advice and good practice.</i></p>	
<b>Supplementary Question:</b>	
<p>I welcome the Cabinet member's reply. Are there any quick wins which he can tell us about, eg replacing the lifebuoys by the railings?</p>	
<b>Answer from:</b>	Councillor Paul Crossley
<p><i>We will look into the possibility of quick wins and will keep Councillor Veal informed.</i></p>	

<b>M 06</b>	<b>Question from:</b>	Councillor Tony Clarke
<p>Will the Cabinet Member provide details of the consequences of the revocation of the notice to close Culverhay School, to include legal aspects, costs, and views of stakeholders, such as the Schools Forum, and parents and teachers, to enable Council to come to an informed decision on future nature of the school?</p>		
<b>Answer from:</b>	Councillor Nathan Hartley	
<p><i>The Cabinet will consider the outcome from the publication of the Public Notice to reverse the closure of Culverhay School when it meets on 12 October, the report to Cabinet will set out the advantages and disadvantages of revocation and the representations that have been made. The meeting itself will give a further opportunity for interested parties to make their views known.</i></p>		

<b>Supplementary Question:</b>	
I am still concerned that there are unanswered issues. Can the Cabinet member assure us that a full report will be submitted to the next Cabinet meeting?	
<b>Answer from:</b>	Councillor Nathan Hartley
<i>All the issues will be addressed when the Cabinet considers the report scheduled for the next Cabinet meeting.</i>	

<b>M 07</b>	<b>Question from:</b>	Councillor Tony Clarke
Will the Cabinet Member for Early Years, Children & Youth confirm that all stages of the process of change for Culverhay will undergo a full consultation and scrutiny exercise?		
<b>Answer from:</b>		Councillor Nathan Hartley
<i>The Cabinet meeting on 12 October will be a public meeting where any interested parties can make their views known. As Councillor Clarke knows there has been extensive consultation and debate over the last 18 months. I am content to discuss this matter further with Councillor Clarke and would be happy for further discussion at the Early Years, Children and Youth Policy Development and Scrutiny Panel. However, it is imperative that we end the uncertainty over the future of the Culverhay School and I therefore wish to ensure that we make a final decision as soon as is feasible and proper.</i>		

<b>M 08</b>	<b>Question from:</b>	Councillor Tony Clarke
Does the Cabinet Member for Early Years, Children and Youth agree that the costs and risks of revoking the closure of Culverhay including an increasing amount of small school support should be for the account of the Council budget and not for our schools? i.e. the Direct Schools Budget should be reimbursed to the extent that any decision by the Cabinet to revoke the closure of Culverhay would put the Direct Schools Budget in a worse position than they would have been had the closure of Culverhay proceeded. Similarly, will the Cabinet Member for Early Years, Children and Youth guarantee the Schools Forum that capital availability for our other schools will be unaffected by any decision to revoke the closure of Culverhay? i.e. the loss of a capital receipt from the Culverhay site will be replaced by comparable Council investment into our schools.		
<b>Answer from:</b>		Councillor Nathan Hartley
<i>I do not believe that the Council can make the financial commitment that Councillor Clarke seeks. The deployment of the Dedicated Schools Grant is for the Schools</i>		

*Forum to decide including that proportion devoted to supporting small schools. The proposed changes to Culverhay School should result in a reduction in surplus places and therefore provide a small benefit to the DSG, this will depend upon the success of the school in attracting a greater number of students and this in turn will be helped by enabling the school to become co-educational. The Council has sought to recognise the impact of the retention of Culverhay School through its decisions to allocate some additional "one off" funding to place the school on a more sustainable footing. Councillor Clarke will also be aware that the Government are also presently consulting upon the possibility of moving to a national funding formula for schools and upon the methodology for "top slicing" local authority funding as a result of the growth in academies, it would therefore be unwise to make commitments when the financial situation at the national level as regard school funding is so unclear. Finally, the Council had made no reference to any receipt from the sale of the Culverhay School site in its capital plans for schools, as always we will seek to maximise the use of any funding stream that becomes available to support the improvement of our school buildings.*

<b>M 09</b>	<b>Question from:</b>	Councillor Geoff Ward
<p>I am increasingly concerned for the Public Health of our residents and visitors and for our World Heritage status from the increasing menace of urban Gulls in our City. I am informed by our Officers that despite the current interventions there is now around 1000 breeding pairs in our Bath colony and it is growing by 7% per year.</p> <p>I also understand that there are a considerable number of Campylobacter and Salmonella infections within the area, the source of which cannot be solely subscribed to the more common food related causes. In my professional opinion, environmental contamination from the droppings of wild could in fact be a common cause of these individual infections. Furthermore, our buildings are smeared with the constant bombardment of droppings and debris which has is causing excessive cleaning and maintenance and marring their World Heritage appearance. Waste bags are constantly being ripped open and scattered around the streets attracting other pests and vermin and compounding the health threat.</p> <p>I know that this is a long-standing issue which has been looked at by the Council many times before, however I would suggest that there may be a degree of fatigue in our appetite to effectively deal with the problem and reduce numbers.</p> <p>I therefore ask the Cabinet Member what further action and investigations are currently planned by the Council to address the growing problem of urban Gulls in Bath and ask for a refreshed Gull reduction campaign be put in place, harnessing the energy of all interested parties.</p>		
<b>Answer from:</b>		Councillor David Dixon
<p><i>Whilst the Council has no statutory responsibility to act except where an environmental health issue is evidenced, it recognises that urban gulls are a high profile issue for residents and visitors to Bath and North East Somerset and it aims to take what action is possible having regard to both legal and resource constraints.</i></p> <p><i>I accept that this is an important issue. Quoting Don Foster MP, "...with gull populations</i></p>		

*expanding rapidly, the problems, previously perceived as little more than an irritation and often with a great deal of mirth, have, instead, become very costly indeed. Repairs to damage, clearing up fouling and mess, nest clearance and so on are obvious areas of expense, but gull noise elicits the vast majority of complaints, affects tourism and the resource from it, causes sleep deprivation in the work force and distresses hospital patients. Attacks from aggressively protective parent birds deter shoppers, with obvious effects on local economies”.*

*The Council has been monitoring the size of the urban gull population on a yearly basis and can demonstrate that over the past 3 years the population growth appears to be stabilising and slowing- 2009 (6.9%), 2010 (7.9%) and 2011 (6.9%).*

*Since 2008 the number of campylobacter infections occurring within B&NES has increased and the number of salmonella infections has decreased. Whilst it is true to say that research has identified that gulls can carry salmonella and campylobacter in their faeces, there is no evidence, either anecdotal or confirmed, that directly links a case in B&NES with urban gulls.*

*The Council’s currently policy to control the growth of the gull population is to continue to employ non-lethal interventions such as egg replacement and egg oiling. In addition, the introduction of domestic food waste collections together with the development of better arrangements for the collection of trade waste in the city centre should reduce the opportunistic scavenging by gulls. The Council also attends a regional group made up of representatives from other local authorities to ensure that it remains up on current methods and good practice.*

*The issue of urban gulls is a regional issue and the matter has been discussed with Don Foster MP. I support his call for further research and will be writing to him to support this stance in the near future. He has raised the issue in parliament on a number of occasions and has had meetings with the Environment Agency, DEFRA officials, experts and researchers in the field and, most recently, with the relevant Minister. It is increasingly clear that there is inadequate information to assist local authorities in targeting resources at effective control methods and I am delighted by the Minister’s commitment to carry out further research on the subject. I also note the comment from Don Foster MP that if research cannot be entirely funded by government, then affected councils should contribute a small amount and I am willing to take a proposal to Cabinet for such a sum from this Council if it is necessary.*

<b>M 10</b>	<b>Question from:</b>	Councillor Malcolm Hanney
<p>All questions relate to Culverhay School:</p> <ol style="list-style-type: none"> <li>1. Why were Council and the public not advised on 14 July 2011 of the various discussions that had already been held with the DfE regarding an Academy including agreement of the terms for a Statutory Notice of revocation of Closure?</li> <li>2. Why were Council and the public not advised on 14 July 2011 that any decision or decisions to uphold the call-in and revoke the closure of Culverhay would preclude the possibility of a Free School and that this issue had already been discussed and understood with the DfE?</li> <li>3. Why were Council and the public not advised on 14 July 2011 of the views and concerns of the Schools Forum Members expressed at the Schools Forum meeting on 5 July 2011 particularly as the Schools Forum had previously indicated its support for</li> </ol>		



the closure of Culverhay?

4. Why were Council and the public not advised on 14 July 2011 that the DfE had previously decided against intervention into Culverhay 'purely because we [the Council] had been about to close it' and that this was 'because of its relatively low level of attainment in comparison to other schools; also it is viewed as having less chance of attaining the new benchmark of 50% 5A\*-C GCSEs.

5. It appears from comments made by David Carter of the Cabot Learning Foundation to the Bath Chronicle and otherwise that the curriculum proposed for any Academy will be substantially different from other B&NES secondary schools and will be vocationally focused.

- on what evidence has such a proposal been put forward having regard to the outcome of the Bath Secondary review?

- why should such a curriculum be considered appropriate for the local community for Culverhay as opposed to other areas of B&NES?

- what will be the Admissions requirements for any such school given the indicated differences from our other secondary schools?

- given that a decision to close Culverhay had been made, what analysis has been done in terms of a transfer of a site indicated to be worth £6-8m to Cabot (alongside other financial support from the Council, the DSG and the Government) in terms of the use of such funds for such purpose as opposed to other educational priorities and what were the views of the Schools Forum on this?

- if an Academy is unsuccessful or if Cabot otherwise decide to close any Academy, under the arrangements being proposed will Cabot receive the full proceeds of the site if sold for alternative use?

**Answer from:**

Councillor Nathan Hartley

*The issues raised here are the subject of threatened legal action against the Council. In these circumstances, my response is that it would be contrary to the Council's interests to deal with any issues raised in such a challenge other than through the legal process.*

## QUESTIONS AND ANSWERS - PUBLIC

<b>P 01</b>	<b>Question from:</b>	Ian Barclay
-------------	-----------------------	-------------

How is the Equality Act 2010 being complied with on planning applications that are determined by the Development Control Committee when, it appears, there is no Equality Impact Assessment procedure in operation by Development Control?

**Answer from:**

Councillor Tim Ball

*The Planning Department has adjusted its routine practices to accommodate the requirements of the B&NES Statement of Community Involvement therefore the Local Planning Authority complies in full to its requirements – this includes going beyond the statutory minimum in consulting the public on planning applications (See page 23 of the SCI for full details).*

*Furthermore, although the Council cannot require it, we do actively encourage developers to engage with the community in pre-application consultation activities. Details of any pre-application consultation is required to be outlined alongside the planning application in the form of a consultation statement. This statement will be assessed by the Case Officer as part of their consideration of the case. Comments from the community will also be considered alongside this. The DC Committee will then receive a report from the Case Officer upon which they will determine the case. Guidance on the type and level of community engagement at the pre-application stage for developers to consider is included in our SCI (p20-22) and this forms the basis of guidance offered to developers by the planning department. As stated in our SCI, it must be noted that the Council cannot refuse a planning application because pre-application consultation has not taken place. However, failure to carry out suitable consultation activities could result in objections being made which lead to the refusal of the planning application.*

<b>P 02</b>	<b>Question from:</b>	Ian Barclay
How is compliance with the Council's Statement of Community Involvement assessed, and by whom, with respect to individual planning applications that fall to the DC Committee to determine?		
<b>Answer from:</b>		Councillor Tim Ball
<p><i>The Council aims to comply with the Equality Act 2010. The Council does undertake Equality Impact Assessments (EqIAs) of planning applications being lodged by ourselves. However, the Council is not required to undertake EqIAs for every planning application that is submitted to the Council by a third party, but instead to undertake a broad EqIA of the policies and processes that we use to make decisions within the planning framework and regulations. To this end we have undertaken a general EqIA of the development management process:</i></p> <p><i>www.bathnes.gov.uk/environmentandplanning/planning/planningpolicy/localdevelopmentscheme/Pages/StatementOfCommunityInvolvement.aspx#equalities and EqIAs are also undertaken to accompany all policy decisions and service delivery changes as a matter of course. These assessments are readily available online or in other formats on request, e.g:</i></p> <p><i>www.bathnes.gov.uk/SiteCollectionDocuments/Environment%20and%20Planning/Equalities%20Impact%20Assessment%20of%20Draft%20Core%20Strategy%20Nov%202010.pdf</i></p> <p><i>It should be noted that Town Planners must adhere to the Code of Conduct of the Royal Town Planning Institute which includes, a fundamental requirement to:</i></p> <p><i>“not discriminate on the grounds of race, sex, sexual orientation, creed, religion, disability or age and shall seek to eliminate such discrimination by others and to promote equality of opportunity”</i></p> <p><i>Furthermore, Bath &amp; North East Somerset Council has committed to a Corporate Equality Commitment, this commits employees of the Council in their day to day operations to consider equalities issues – to take positive steps to stop any unfair/unlawful discrimination, and carry out positive action where lawful. All Members of the Council routinely receive Equality training when first elected and further training is given if there are any significant legislative changes.</i></p>		