

BATH AND NORTH EAST SOMERSET

MINUTES OF COMMUNITIES, TRANSPORT AND ENVIRONMENT POLICY DEVELOPMENT AND SCRUTINY PANEL MEETING

Thursday, 23rd February, 2017

Present:- **Councillors** John Bull, Brian Simmons, Colin Barrett (in place of Peter Turner), Lisa O'Brien (in place of Alan Hale), Neil Butters, Lizzie Gladwyn, Mark Shelford (in place of Bob Goodman), Ian Gilchrist and Lin Patterson

129 WELCOME AND INTRODUCTIONS

The Chairman welcomed everyone to the meeting and explained that the purpose of this meeting is for this panel to decide whether Cabinet should be requested to reconsider its decision of 25 January 2017 to allocate a site for an East of Bath Park and Ride. He further explained that today's meeting will be limited to considering the Cabinet decision and the reasons for it; plus the issues set out in the Call in request (contained in appendices to the report). The Chairman asked that speakers and participants confine their remarks to those issues and that he would not allow the introduction of new issues.

The Chairman advised that the panel had three options available to it:

- The first option was that the Panel could dismiss the Call in. This would mean that Cabinet's decision would take effect immediately.
- The second option was that the Panel could uphold all or part of the Call in. This would mean that Cabinet would have to re-consider its decision in light of the Panel's comments.
- The third option was that the Panel could decide that the Call in request should be considered by the full Council instead of by the panel, who would be fulfilling the role of the Scrutiny Panel in upholding or dismissing the Call in. If Council upheld all or part of the Call in, this would also mean that Cabinet would have to reconsider its decision in the light of this.

The Chairman stated that whatever the outcome of the meeting, it was important to remember that the final decision on the allocation of a site for an East of Bath Park and Ride will rest with the Council's Cabinet.

The Chairman then read the following statement; -

"The East of Bath Park and Ride is a high profile issue upon which many members of the Council have expressed opinions, including myself; and I have also put my name to the Call in notice.

However, we are not here to decide upon the merits of the Park and Ride proposal. Our job is to decide if Cabinet should re-consider its decision. Therefore, I wish to make it clear that I am entirely open minded about the outcome of this Call in application and I will be basing my decision upon the evidence and representations before me.

If any member of the panel feels that they are unable to make a decision on the Call in with an open mind, please would they say so now”.

The Chairman then went on to state that:

“Members of the panel should also be aware that, under the Council’s constitution, members have a duty to declare that they are subject to a party whip and the nature of it. I can confirm that I am not subject to a party whip in this meeting. If any members of the panel are subject to a party whip, please would they declare it now”.

(None of the Panel members declared on either of the above)

Finally the Chairman asked that no members of the public pass notes to Panel members and also explained that the camera recording the meeting had been organised by the Bathampton Meadows Alliance.

130 EMERGENCY EVACUATION PROCEDURE

The Chairman drew attention to the emergency evacuation procedure.

131 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Councillor Alan Hale gave his apologies and was substituted by Councillor Lisa O’ Brien.

Councillor Bob Goodman gave his apologies and was substituted by Councillor Mark Shelford.

Councillor Peter Turner gave his apologies and was substituted by Councillor Colin Barrett.

132 DECLARATIONS OF INTEREST

As noted above, the Chairman asked members to declare if they did not have an open mind, no Panel members declared.

The Chairman also asked members to declare if they were subject to a party whip, no Panel members declared.

The following Councillors declared that they had signed the Call in notice and/or made comments at the Cabinet meeting on 25 January 2017:

Councillor John Bull
Councillor Neil Butters
Councillor Ian Gilchrist
Councillor Lin Patterson

Councillor Lisa O’Brien

133 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN

There was none.

134 ITEMS FROM THE PUBLIC OR COUNCILLORS - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS RELATING TO THE BUSINESS OF THIS MEETING

All statements on the issue are made under item 7 on the agenda.

The Chair explained that a request had been received from Christine Boyd to make a statement which would require rule 27 to be used, to suspend rule 32.

Panel members voted unanimously to agree to use rule 27 to suspend rule 32.

135 CALL-IN OF DECISION E2861 - PARK AND RIDE EAST OF BATH

As noted above, the Chair explained that a request had been received from Christine Boyd to make a statement which would require rule 27 to be used, to suspend rule 32. Panel members voted unanimously to agree to use rule 27 to suspend rule 32.

The Chair asked if any Panel members were minded to refer the Call-in to full Council at this point. No members indicated that they were.

Statements from Councillor Millar (Call-in Lead Member) and Councillor Clarke (Cabinet Member for Transport) and Panel questions:

Councillor Bull invited the Lead Councillor for the call-in, Councillor Alison Millar, to make her statement (*a copy of this statement is attached to the minutes for this meeting*). Councillor Millar spoke to the points in the Call-in notice with particular reference to: loss making options being chosen; the cost of an RUH service not being factored in; the need for a Park and Ride to the East not established; flawed consultation; the final decision being delegated to an officer and therefore not transparent; no business case; lack of Heritage study and flood risk analysis. She stated that the decision had not been sound or robust.

Questions from the Panel to the Lead Call-in Councillor

Councillor Bull asked Councillor Millar to explain how the consultation had not been clear. Councillor Millar explained that the way the questions were set out were not clear and that the consultation was now 15 months old and irrelevant.

Councillor Patterson asked if we should not be pleased that two thousand cars will use Park and Ride services. Councillor Millar stated that she does not think that this would be the result of the project (she explained that a public statement later in the meeting would cover this point in more detail).

Councillor Patterson asked if there were any other areas that should have been covered by the business case. Councillor Millar replied that there was no business case yet.

Following a request from the panel, the Principal Solicitor explained the effect of section 122 of the Local Government Act 1972.

Councillor Bull invited the Cabinet Member for Transport, Councillor Anthony Clarke to make his statement. Councillor Clarke explained that a clear decision had been made on 25th January 2017 at the Cabinet meeting. He explained that the Cabinet were not asked to make a planning decision and were not asked to give approval for a full business case; Cabinet was asked to decide on a preferred location which they did. He explained that the decision was well informed with ample evidence. Councillor Clarke addressed the 9 points of the Call-in notice referring to the Response table circulated at the meeting (*a copy of this document is kept on the Council's minute book*). Councillor Clarke made reference to the following points in the Response table: sites F and B were consulted on; all but one of the recommendations from the Scrutiny Inquiry Day were accepted; the LDF group included ward members and no objections were raised to this in 2015; it was stressed at Cabinet that there was no intention of using CPO (information on this was requested for the public record); he concluded that planning issues were not within the remit of the Cabinet.

Questions from the Panel to the Cabinet Member for Transport

Councillor Shelford stated his concern on the loss of the direct bus line to the RUH. Councillor Clarke explained that this was not one of the things that the Cabinet needed to address at the 25th January meeting. He reassured the Panel that this issue is being explored.

Councillor Butters asked if intervention regarding the school run had been considered. Councillor Clarke stated that it was not relevant to this issue but for information, school travel plans are being looked at across the authority.

Councillor Patterson asked if there had been contact with the Planning Inspector, Councillor Clarke stated that he was not aware that there had been any conversations with a Planning Inspector.

Councillor Bull referred to the part of the decision that was delegated to the Strategic Director for Place – he explained that some may see this as the Director making the choice on the site and asked for clarification. Councillor Clarke explained that a decision register entry must be made and that the decision would be in consultation with him.

Councillor Shelford asked if work has been done regarding flooding issues on both sites. Councillor Clarke explained that if something would not get through the planning process then there was no point pursuing it – he acknowledged that sites B

and F are near the floodplain but 6-7 meters away. Councillor Gilchrist stated that he disagreed with this estimate and asked if all risks had been considered. Councillor Clarke explained that this would be part of the planning process and a full planning application had not been done yet. Councillor Patterson expressed concern that no cognisance of risk had been taken at this stage.

Councillor Shelford asked for an update on the AONB and UNESCO issues and asked what mitigation and screening could be put in place. Councillor Clarke stated that it was accepted that plans would impact upon the green belt but there were methods of landscaping and mitigation.

Councillor Butters stated that he thought that the role of rail should be investigated and prioritised and that there should be better signage for the Lansdown Park and Ride on the A46. Councillor Clarke supported the use of rail but stated that it was not relevant to the question in front of the Panel today. In response to a question from Councillor O' Brien he explained that there is potential for rail on site B but this was unlikely to be possible within the next 5 years.

Statements from Members of the Public and Councillors:

The following members of the public made statements:

1. Nicolette Boater stated that she understood the difficulties of making the right decision at the right time in the right way. She referenced her many statements made on this issue and asked the Panel to uphold the Call-in and help the Cabinet to make a better decision (*a copy of this statement is attached to the minutes for this meeting*).
2. Tom Marshall, Trustee, Bath Preservation Trust stated that he felt the Cabinet had been misled in relation to - the requirements of Historic England in relation to the site selection and also the Planning Inspector's input. He asked that the Cabinet reconsider their flawed decision (*a copy of this statement is attached to the minutes for this meeting*).
3. Tom Boden, General Manager, Dyrham Park and Bath National Trust stated his concerns regarding harm to the landscape and heritage. He also felt that landscaping and mitigation to screen the development would not be effective. He added that the decision was also premature in advance of adoption of the Placemaking Plan (*a copy of this statement is attached to the minutes for this meeting*).
4. Patrick Rotheram, FOBRA (Federation of Bath Residents Association) stated that FOBRA supported a Park and Ride to the East especially in light of the strategies to reduce city centre parking and traffic. He felt that the meadows was not more important than the jewel that is the city centre.
5. Louise Prynne, Chief Executive, Bath BID Company, stated that a Park and Ride to the East will send a message that Bath is open for business and it will boost the local economy and is good for jobs. She added that the development would be part of a bigger jigsaw.
6. Christine Boyd (for Fiona Powell), Bathampton Meadows Alliance, stated that the Cabinet resolution was not justified and while the Cabinet prefer site B, the officers

- preferred site is F. She stated that the Panel are the only body that can ask for the decision to be reconsidered and asked the Panel to exercise its powers.
7. Louise Hidalgo (addressing points 1, 2, 3 & 7 of the Call-in notice) questioned whether the development was 'embedded in Council policy' when no Council body had approved it. She questioned the surveys taken eg. one taken during the Christmas market. She added that the Halcrow Report did not consider site F. She concluded that the Cabinet report was misleading and inaccurate (*a copy of this statement is attached to the minutes for this meeting*)
 8. Annie Kilvington (addressing points 1,6 & 9 of the Call-in notice) asked about UNESCO and Heritage impact assessments and also the fact that Historic England had pressed for site selection before the decision was taken.
 9. Christine Boyd, Bathampton Meadows Alliance (addressing point 9a of the Call-in notice), stated that the Cabinet report misled them about the Placemaking Plan on which consultation on modifications closed 9 days ago. She also questioned the part of the report which stated that the Council had received informal comment from the Planning Inspector. She concluded that the Council should not have selected a site before the Placemaking Plan was approved. (*a copy of this statement is attached to the minutes for this meeting*)
 10. Sian James stated that there were large financial risks with this development and yet no business case. She asked if knock on effects have been considered such as on the parking strategy; the effect on existing bus users and therefore the effect on bus subsidies. She asked that the initial business case be published and discussed at full Council (*a copy of this statement is attached to the minutes for this meeting*).
 11. Andrew Lea stated three areas to question – what are people doing now? Why are they doing it; what will they do in the future and why. He also queried the survey results from the Christmas market; the old census data and the models used by Mott and CH2M. He concluded that there was no evidence of the need for a Park and Ride.
 12. Alison Smith (addressing point 2 of the Call-in notice) stated that the consultation was inadequate and that the objectives originally stated that carbon emissions were the priority and economic reasons came lower down but respondents may have answered differently if the objectives were re-arranged as they were in a later report where economic factors are listed first. She stated that 85% of those consulted did not agree with site F. She asked that this issue be taken back to the public.
 13. Julia Williams (for Tim Williams) stated that the Cabinet report was inadequate and that the following should be provided before a decision was made: a business case; information from Historic England; Placemaking Plan; Equality Impact Assessment and Parking Review (*a copy of this statement is attached to the minutes for this meeting*).
 14. Alex Noman stated that the development will move pollution from one area to another. He added that the Cabinet say they were elected based on an East of Bath Park and Ride but that nobody knew this was on the agenda.
 15. Gillian Risbridger (Transition Bath) stated that there was no proof of the benefits of this scheme and spaces in the city center must be reduced. She added that a Park and Ride may cause more congestion as people drive to it and suggested that the London Road will still be heavily used (*a copy of this statement is attached to the minutes for this meeting*).

16. Ped Asgarian (Transition Bath) stated that a Park and Ride may encourage more people to drive to the area.

Statements from Councillors (not on the Panel):

1. Councillor Martin Veal made a statement and asked that the Panel refer the matter to full Council for consideration. He also stated that the Panel must decide if a proper consultation had taken place. He talked about the desecration of the setting and stated that Historic England had questioned meadow site selection. He concluded that weighing up the potential harm caused against the benefits needs a business case.
2. Councillor Liz Richardson (addressing point 5 of the Call-in notice) spoke as Chair of the LDF, she described how the Terms of Reference were varied for this issue to include Ward Councillors. She reported that the Chair of the Meadows Alliance had also attended. She concluded that the LDF is a consultative and advisory body and that the process was appropriate and robust.
3. Councillor Dine Romero stated that she felt the Cabinet did not have the facts to make an informed decision, that the Halcrow report was discredited and the RUH issue not shown. She stated that a decision of this magnitude must be evidence based. She urged the Panel to uphold the Call-in in its entirety.
4. Councillor Geoff Ward stated that this was the 11th hour to save the meadows. He added that the site cannot be adequately screened, there will be light pollution. He stated that he proposed site A+ which has not been fully considered.

The Chairman announced a 10 minute comfort break.

Closing statements from Councillor Millar (Call-in Lead Member) and Councillor Clarke (Cabinet Member for Transport)

Councillor Bull invited the Cabinet Member for Transport, Councillor Anthony Clarke to make his closing statement. He stated that all potential sites were assessed by the LDF and external consultants and narrowed down to 6 sites, the pre application review then narrowed this down to 4 sites – the 2 sites on Box Road were rejected for operational reasons. He explained that a clear path was laid out in the Cabinet resolution to allow the Council to proceed with the planning process and the business case. He further explained that the authority could not go to the expense of a business case until there was a single proposed site. Regarding the RUH, he explained that he had received a supportive letter. He stated that there was adequate information for the Cabinet to decide on the single decision it had before it and urged the Panel to dismiss the Call-in.

Councillor Bull invited the Lead Councillor for the call-in, Councillor Alison Millar, to make her closing statement. Councillor Millar stated that she was disappointed that we were back to the same solution after all of the time and effort spent, she explained that the members of the public present had analysed the data and found huge gaps in the documentation. She added that the decision was premature without

the Placemaking Plan being in place and she was worried about private conversations. She referred to the great speakers the Panel has heard from and stated that as the picture was not complete, the Panel should send back the decision and uphold the call-in.

Panel Discussion

Councillor Butters felt that there were too many holes and rail options should be further pursued.

Councillor Patterson stated that she wished to uphold the Call-in for the following reasons: Historic England assessment should precede the decision; the duty to preserve the setting of the World Heritage Site; no business case; unrepresentative surveys and DEFRA no longer supports Park and Rides.

Councillor Gilchrist stated that he wished to uphold the Call-in as the costs and risks were too great.

Councillor Lisa O' Brien thanked all who attended and stated that the Cabinet had made their decision and now there was a huge mountain to climb in terms of a planning application and business case. She explained that she did not feel it was the best way forward to uphold the Call-in.

Mark Shelford asked for clarification on the World Heritage impact. The Strategic Director explained that a Heritage Impact Assessment will be undertaken as part of the planning application process but that it was not financially feasible to do this for every site considered. She added that the initial analysis did take into account the potential impact. She stated that there is a difference of opinion in relation to this with Historic England Officers.

Councillor Bull stated that while he did not support all 9 reasons in the Call-in notice he supports upholding the Call-in as a precautionary principle. He listed his reasons as – possible faults with the consultation; a mismatch in evidence of use of Park and Ride sites; Historic England input; no details on air pollution; failure to consult the RUH; the role of the Placemaking Plan; Councillor Ward's point about the site that did not get consideration. He concluded that it was safer to send the decision back to the Cabinet.

Panel Decision

On a motion from Councillor Barrett, seconded by Councillor O' Brien, it was:

RESOLVED that the Call-in of Decision E2861 – Park and Ride East of Bath be dismissed.

(5 members voted for the motion and 4 against)

During debate an unsuccessful motion was moved by Councillor Butters and seconded by Councillor Patterson seeking to refer the decision back to the decision

making body for reconsideration. This was lost on a vote with 4 Councillors voting in favour and 5 against.

Supplementary Information

The meeting ended at 4.40 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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Councillor Millar -Speech to CTE Panel – 23rd February

Mr Chairman, Panel members and members of the public

Thank you for coming here today to hear submissions on this very important call in. Thank you too to officers for all they have done to assist with this call in and bringing together a wide range of documentation.

We have asked for this call in because on 25th January the cabinet took a decision to proceed with a Meadows park and ride site without a complete set of information in front of them to do so.

This is not a matter of your personal views on the merits of a park and ride on the Meadows, your role today on this panel is, as you know, to ensure that due process is followed with regard to this project. It has too much press profile and risk attached to it – and the threat of court proceedings against the Council -to wave through an unsound and ill-founded decision.

In my view the report should be more closely scrutinised before a site is finally selected. As it stands, Site B is highly unlikely to be deliverable and, unless you recommend this extra level of scrutiny, site F will become the chosen site, effectively behind closed doors.

I would now like to take you briefly through each of the grounds of the call-in and explain why they have been raised.

1.

Paragraph one deals with a very broad concept which will be dealt with more ably by one of our speakers today. But I want to highlight a few areas where the evidence does not lead you to the conclusions that have been drawn. Cabinet members on that day voted for a site that would make a **loss** and **that** was on the basis of headline numbers which are highly-caveated. They also agreed to spend another £500k with no explanation as to what that money was to be spent on. In these austere times, this approach was entirely inappropriate. It would just not wash in the commercial world and neither should it in this building.

The only options in the decision report which are projected to not make a loss are the 1200 space options. However, without a connecting bus to the RUH

these spaces cannot be filled. The demand from the RUH is critical to this project as it really can't be justified without it. So it was alarming to hear from a trustee of the RUH at the cabinet meeting that the hospital's support for this scheme is predicated on the requirement of a dedicated, direct service i.e. passengers would not have to change bus at the bus station. The cost of an RUH service was not included in the initial calculations on the costs of the park and ride options and so these figures are not reliable. And also to hear that so few meaningful conversations regarding this area had taken place. Secondly, consultants Mott MacDonald state that demand to 2029 would be only 850 – 977 spaces. So why was the cost of the bus to the RUH not factored into the calculation for 1200 on site F? What is that cost? What does it do to the forecast? Councillors, we need to know.

The need for a park and ride to the east has **not** been outlined in a clear and transparent manner. Various justifications have been used and discarded in the last 18 months. Officers now resort to simply stating that it is “required to support the economic development of the city and its enterprise area”. Can anyone point me to the place in the cabinet papers where this need is objectively quantified or justified? No – because that major piece of the jigsaw has not been put in place. It's as simple as that. Lots of documents are grandly referred to – the 2007 Adopted Local Plan, the Council's Economic Development Strategy, the Bath City Riverside Enterprise Area, the Core Strategy, the Infrastructure Delivery Programme, and so on. They are all listed – in bold type moreover, and the aims of each outlined. But show me the section which pulls it all together, benchmarks sites and clearly articulates an explanation of what this council is trying to achieve by building this car park. It does not exist. Please do read section 4 again and you will see this too.

2.

The next 2 points deal with stakeholder consultation. I would argue that this whole process was poorly handled and this is what kicked off so much concern from residents. The consultation was ill-presented and offered a limited range of options for residents' consideration. Residents have told me they were unclear what it was about. This is a whole topic in itself but it is worth adding again that 51% of all respondents were against a park and ride, and the Cabinet ignored them.

3.

Many Councillors I know, including Conservative ones, have expressed great alarm that site F is the likely, and probably only, candidate. The site was only on the table for comparison purposes when Halcrow did their site review in 2013 and suddenly, incredibly, it's the front runner. Moreover it will be left to an officer to take the final decision, as Cllr Clarke is only to be consulted. It is equally alarming that there is no real certainty still as to which site is being progressed. It could be either B or F – but what is sure is that the final decision will be taken behind closed doors. Decisions of this importance and with this degree of impact should not be made in this way. It is just plain wrong. Where is the democratic accountability and transparency of a decision taken this way?

4.

The Council's own consultants do not make out a case for a car park of more than 4 – 500 spaces, by 2029. In the context of such small demand, alternatives to park and rides become more feasible, and greater attention should have been paid to them. A huge amount of work went into the scrutiny day last March and some really innovative ideas were put forward, such as the concept of link and rides. Yet it would appear that what came out of the day has not been taken into account.

5.

In terms of the LDF process: I was an observer of these meetings and I found the whole process odd. How could we be sitting with a remit to review and consider options for a park and ride site when the scrutiny day had not yet considered the full range of integrated transport solutions available to deal with transport problems East of Bath? That truly is putting the cart before the horse and therein lies the whole problem. There has been too much of a focus on the goal of a park and ride to the East and then working backwards from that point, cherry picking evidence to support the project. Surely, the correct way is to gather all the evidence relating to the problem (if you know what the problem is that you are trying to address!) and then work forward from there?

6.

This causes a huge amount of concern.

Why does site B cost so much more to develop than site F? They are next to each other. No reasoning is given.

The modelling and break down of the construction and operating costs were not presented. Why has one of the loss-making options been selected as the preferred option? Is this the way to be responsible with tax payers' money? This option is unlikely to go ahead, so once again the future outcome may bear no relation to the decision taken on 25 January. Again, where is the transparency and accountability?

7.

In paragraph 4 of the resolution the Cabinet agreed to delegate powers to officers to appropriate land under section 122 of the Local Government Act 1972.

During the Cabinet meeting, Councillor Clarke stated that this was not equivalent to a CPO. However no Cabinet member was able to explain the powers triggered by section 122 and the Council Solicitor's explanation was not clear to those present. An offer to circulate the explanation by email was made, but this was after the vote had already been taken. Councillors and members of the public have still not received that explanation. Have Cabinet members?

9a.

The report supplied was misleading as it was unable to quantify the scheme in terms of cars, the report makes the unacceptable and inexplicable jump to passenger numbers using the bus service along the whole route – that is one example, others will be picked up by later speakers.

9b

The report did not include the long promised business case. It did not include the Heritage Impact Assessment that Historic England have demanded for more than a year. It did not include the Patronage Study recommended by the Halcrow report in 2013. Critically it did not include a flood risk assessment, which is key to a decision to site the car park right on the edge of a flood plain.

I am also very concerned about Historic England's comments on this project. They are a statutory consultee and as such their views should carry a huge amount of weight. Cllr Clarke did refer to the Historic England letter in his speech but very much cherry picked from its contents and did not provide the whole picture. The gravest issue here is that officers appear to have taken the view that AONB trumps World Heritage Site. This is an assumption which is wrong in law and which has led officers to discount other potential sites. If that is not a red flag then I don't know what is!

Conclusion

Cllr Clarke will likely now tell you that existing park and rides are successful in Bath and that another one is needed for the future growth of the city. This sort of statement is unquantified spin. Big numbers are being quoted by the council on this currently – 73,000 trips per day rising to up to 96,000 trips in the future. But with only 3,500 parking spaces in Bath today, it's entirely clear that most of these trips don't end at a car park and so those drivers would not use park and ride. Just who are these people and why will their needs tomorrow be different from today? It seems that most of our traffic that needs to be addressed might well be daily routing trips and park and ride is not a solution for those.

Please think on what I have just said and, once Cllr Clarke has spoken, do pay close attention to the public speakers who have spent huge amounts of time and effort on this subject. They will, I believe, further show you that this decision is neither sound nor robust and is not one which could reasonably have been taken on the basis of the information presented in the report.

FINAL CONCLUSION (3 mins)

I personally am very disappointed that, after all the meetings, discussions, scrutiny day and time and effort put in by officers and residents alike, that the process has not managed to come up with any solution other than blighting that same piece of land.

[Response to points]

So having heard from all the speakers today and paying close attention to their arguments, I submit that this is not a robust decision. As I said at the budget council last week, we councillors are guardians of significant amounts of public

funds and it is for us to steward them with the utmost care. The way this decision has been put together is the exact opposite and that is of huge concern. You have seen how there are gaping holes, cherry picked arguments, tenuous links made and not even a business plan. This is no way to base decisions with huge amounts of money at stake. I therefore would urge the panel today to uphold the call in, refer the decision back to cabinet and to give cabinet the opportunity to pause and ensure that all evidence is correctly assembled and queries addressed so that we can be sure that this very important decision is the right one

**Statement to the 23.2.17 CTE PDS Panel meeting of B&NES Council
regarding the Call-In of the 25.1.17 P&R East Cabinet Decision**

Thank you Chair for this opportunity to address the Panel.

For well over a year, I have been following the Park & Ride East decision-making process very closely. I have done so, not because I have a particular interest in whether or where Park & Ride East is built, but because

- as a policy development professional experienced in the economic development and environmental aspects of this type of infrastructure decision,
- as a resident who cares deeply about the enduring wellbeing of this locality,
- and as a former Overview & Scrutiny Officer of this Council,

I understand both the importance of this decision to the economic and environmental prospects of our diverse communities, and critically, I also understand the difficulties associated with making the right decisions at the right time and in the right way.

I have already made several public statementsⁱ (to Cabinet and PDS Panels) relevant to your consideration of the 9 interdependent grounds of the Call-In, and trust that these are already part of the evidence underpinning the decision you are here to make. However, given the **desirability of this decision being scrutinised *within* the Council rather than without in long and costly judicial battles**, and noting that the Panel has not publically approved a terms of reference for this Call-In meeting, I felt that the most useful additional contribution I could make to today's meeting, was to draft one so as to facilitate the **much needed rigorous and constructive scrutiny of the range of issues and interests at stake in what is a complexⁱⁱ and controversial topic.**

Although the draft I submitted to you on Monday incorporates much of the one published with the meeting papers, key additions are sections on Context, Purpose, Approach and the Statutory Constraints. These additions, and particularly **the focus they imply on *the decision-making process rather than the decision outcome***, are designed to help you consider the range of evidence and arguments being presented to you afresh and alert you to new and emerging evidence and influences. I also hope that it will encourage you to explore less familiar and less heard perspectives, such as those who don't own or have access to cars or the 62% of those voting in the 2015 Council elections who didn't vote Conservative and so may not share the values driving this agenda.

So is developing this particular form of infrastructure in this particular location the best possible way of enhancing our locality's economic, social and environmental wellbeing? And is the decision being made at the right time and in the right way and for the right reasons? That's now for you to decide, but **if like me you doubt some or all of this, then as the Cabinet's critical friend, you should uphold the Call-In of this decision and for the good of Bath and North East Somerset as a whole, help the Cabinet to make a better one.**

*Nicolette Boater, B.A.(Oxon.), M.Phil.
Strategist, Economist and Policy Analyst
adding lasting value at the public private interface*



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Statement to B&NES Scrutiny Panel on East of Bath Park and Ride, 22 February 2017

My name is Tom Marshall: I am a Trustee of the Bath Preservation Trust and Chair the Trust's Architecture and Planning Committee.

The request to call-in the Park & Ride decision quoted a number of points from BPT's submission to Cabinet, so I shall not repeat them here, though we have recirculated them to the panel.

I should like to make four points.

First, it is highly regrettable that elements of the decision-making around the East of Bath P&R seem to have become embroiled in local party politics. I wish to emphasise that BPT is a charity and has no interest in any party political agendas in relation to this or any other issue. Moreover we believe that short term politics have no place in the issues of either transport or the management and protection of the World Heritage Site.

Secondly, we are extremely concerned that the Cabinet meeting was substantially misled in relation to the requirements of Historic England in relation to site selection. In a letter dated 23 September 2016 Historic England wrote to B&NES suggesting that it would be premature to undertake site selection before the Planning Inspector's judgement had been received. This letter also recommended formal consultation with themselves and DCMS about process. In a further letter dated 23rd January 2017, a short extract of which only was read to the Cabinet meeting, the points were re-emphasised. It was further stated that a robust Historic Impact Assessment should precede site selection.

Thirdly, we are concerned that, against Historic England advice, the Planning Inspector's response **was** pre-empted and, it appears, the intervention of the Inspector was misrepresented in the paper to Cabinet.

Fourthly, we are concerned that Cabinet members, in taking their decision, repeatedly used the word that they 'hoped' or 'believed' that the P&R was a necessary step in solving Bath's transport problems. We would encourage Cabinet members to take a decision based on evidence; that of their own consultants and others, which show that the eastern Park and Ride will not achieve their hoped-for benefits.

In taking its decision last month, was the Cabinet, despite being the responsible managing body for the World Heritage Site, explicitly choosing to ignore Historic England's strong advice about appropriate process? Were they explicitly choosing to pre-empt the conclusion of the Placemaking Examination? Had they been advised by officers to do so?

Bath Preservation Trust supports the need for reduction of pollution and congestion in Bath but we see no evidence that a P&R on this site will deliver these public benefits, while it will in turn significantly harm the green setting of the city. We believe that the Cabinet have taken a decision on a site for the East of Bath P&R without due consideration of the actual evidence and the actual responsibilities and requirements of their duty to the setting of Bath World Heritage Site as advised to them by Historic England. Investment in research and measures which actually get people out of their cars at the most congested times of day would be a rational response to Bath's traffic problems. We encourage the Cabinet to reconsider their flawed decision, this time with a transparent process approved by Historic England, taking fully into account the advice and evidence they have been offered.



National
Trust

**Statement to Communities, Transport & Environment
PDS Panel, Bath & North East Somerset Council**

23 February 2017

**Proposed east of Bath park and ride
(Decision E2861)**

The National Trust owns and looks after Solsbury Hill, a scheduled monument and popular viewpoint which overlooks the city and the Avon Valley. The Hill lies within the Cotswolds Area of Outstanding Natural Beauty, and overlooks Bathampton Meadows, which are part of the setting of the AONB, and part of the green setting of the city itself. The Trust has a statutory duty under the National Trust Acts to promote the conservation of places of historic interest and natural beauty.

Whilst the Trust is aware of the impact of traffic and pollution within the city itself, we are concerned that a large scale park and ride development on Bathampton Meadows would cause significant harm to the green setting of the city.

We consider that the scale of the development proposal would scar the landscape for many years into the future, and would mar the wonderful views experienced from Solsbury Hill. Following the cabinet meeting, we have the following outstanding concerns:

1. That the Council has not fully gauged the level of **harm** to landscape and heritage that would be caused by the proposed development. This is illustrated by Historic England's letter of 24th January, which stated that the report to cabinet appeared to "underplay the importance of the WHS". The letter identified eight separate clarifications that needed to be made, which implied further work was needed before a site-selection decision could be made. The decision to proceed appears to disregard this important advice from a statutory consultee.
2. That the **mitigation** proposed, in particular tree planting to screen the development, would not be very effective in reducing the harm. The trees would lose their leaves in winter, reducing the effectiveness of tree screening, which would take a long time to establish in the first place. The tree planting would also not mask the fundamental change in the character of Bathampton Meadows, to give way to large areas of tarmac and parked cars; nor is it likely to mask the light pollution that would result.

3. We have not seen a convincing case that the public **benefits** of an additional P&R site would amount to enough to outweigh the harm the development is likely to cause. A new P&R site to the east may simply attract more traffic towards the city, creating new areas of air pollution and traffic congestion, and impacting on existing bus services.
4. From a procedural perspective, the cabinet resolution seems to be premature in advance of the adoption of the **Placemaking Plan (PMP)**. Transport matters were discussed at the examination into the PMP last year, but whilst the report to cabinet quoted from the earlier Submission version of the plan, the final wording of the Plan is not yet known.

In conclusion, we are very concerned at the cabinet's resolution to press forward with a development that is likely to cause significant harm to the green setting of the city, but whose overall public benefits have not been clearly or convincingly set out. We would ask the panel and the council as a whole to recognise the current public benefits derived from the green setting of the city, and ensure that this green setting is protected for current and future generations.

Louise Hidalgo statement

Thank you for the opportunity to respond to this call in. I intend to speak to points 1, 2, 3 and 7 of the reasons for Call-in.

My statement is also partly inspired by the council's response to the call in which arrived late last night, and which I'm sure you've all had a chance to read.

Now that response says - the provision of a park and ride to the east is '**embedded** in council policy'. Well it might be 'embedded' in policy, and certainly lots of policies do mention it. But the crucial point here is that none **approve** it.

According to the Council's response, 'the evidential need for P&R has been identified' in 4.31 to 4.51 of the Cabinet report'. But that evidence falls far short of the evidence needed for a project of this sort. This evidence that they talk about is ...

--- A survey taken during the Christmas market - so, during an a-typically busy - in fact the busiest - time of year

--- The 2011 census analyzing work patterns - so, BEFORE the 3 Ministry of Defence sites in the city were closed - so not a proper picture of what work patterns are like now, in 2017, let alone in a few years time

-- And thirdly, research for the Transport Strategy which predicted that there would be 400 extra trips in the morning peak. However, the report to Cabinet omitted to say - this is one of a NUMBER of significant omissions in the report - that this research was updated by CH2M in 2016.

CH2M originally thought that 1,600 spaces would be needed, but it then revised this figure and NOW says only between four and five hundred spaces are needed.

The Council's response to the call-in says that there is more evidence of the need for an eastern Park & Ride in item 4 of the background information paper. Unfortunately, however, we have not able to find this background paper - and i don't know if anyone here has had better luck with that/

The response also says that sites A,B and F were three viable sites emerging from the Halcrow report. Now, I don't know - I wonder if they've actually read the Halcrow report. The BMA has.

The Halcrow report didn't evaluate Site F. Site F was in the report for 'comparison purposes only'. There are eight sites listed in the Halcrow Report - but the conclusion gives feedback on just seven of them. The site that was left out is Site F - and that was because in July 2011 the council RESOLVED not to go ahead with the eastern Park & Ride on site F.

And that same resolution asked officers to look for alternative sites for the Park & Ride - and the Halcrow Report WAS that search for alternatives to Site F.

Also - as for site A being viable - well, the Halcrow report pointed out that Site A was in a flood zone 3 (so, high risk), the access was too steep, it would affect the River Avon site of special conservation interest - and the playing field would have to be replaced.

And it concluded - 'it is considered that the issues; notably flood risk, rule against further consideration of this site.'

So, in short, neither site A or site F should ever have been included in the subsequent consultation.

We are told that the Cabinet members - in delegating powers under Section 122 of the Local government Act 1972 - understood the implications. But did they really? Given that - when Maria Lucas was asked what this meant - she told members that she would give them a briefing on this later - AFTER the vote!

And if you look on the webcam you can see that in the end Councillor Moss had to read out a definition on his laptop from Wikipedia.

These are not minor procedural errors. The Cabinet report was often misleading, and inadequate. And any decision that was made on the basis of this report is unsound. Please do the right thing. Send it back to Council and demand proper evidence and information from your officers.

Christine Boyd: statement to CTEPS Panel 23rd January 2017

I am speaking to call in number 9a about how the Cabinet report misled Cabinet about the Placemaking Plan (PMP) and why that was a fatal error.

The PMP is listed (at section 4) as an adopted policy. In fact it is a draft policy.

Indeed the Council itself has recently proposed modifications to this draft, including to the section on P&R and policy ST6, which sets out the rules by which any planning application for P&R would be determined.

Consultation on these modifications finished just 9 days ago.

Because of these modification it was wrong for the report to say at 4.15 that;

*'The Council's draft **Placemaking Plan** refers to the Council's long established policy to develop a new P&R facility to the east of Bath'.*

This statement has been deleted from the new draft, probably because it is inaccurate.

There is no council policy that approves P&R to the east. The Transport Policy required the council to;

'Identify need for increased P&R capacity.... through the placemaking plan as part of a wider parking strategy'

This it has not been done.

It was incorrect, and highly improper for the report to say at 4.15 that

'The Council has received informal comment from the Planning Inspector regarding the main modifications to the Placemaking Plan.'

The Planning Inspector is not at liberty to have informal discussion with anyone, all information must be in the public domain. We have received assurances from the Planning Inspector's Programme Officer that this did not occur.

The council's conclusion at 4.15 that

Policy ST6 (see paragraph 4.16 below) can be afforded significant weight.

Is absurd. The version of ST6 offered to members in the Cabinet report is the old version that the council itself wishes to change, no possible weight can be attributed to something that will be deleted.

Cabinet was not shown the revised version, but this can't be given weight either, since its soundness has been challenged and the Planning Inspector has yet to decide whether it should be approved, deleted or amended.

Now the worst bit...at 8.1 Cabinet is told that;

The technical work that has been undertaken identifies a need for an east of Bath P&R and this was accepted by the Inspector at the recent Placemaking Plan Examination.

This is completely untrue; we are reliably informed that the Inspector has not accepted that need for an east of Bath Park & Ride has been established.

Indeed at the public examination hearing on 22 September 2016, the Council's Planning Policy team manager Richard Daone conceded, (in response to a direct question from the Planning Inspector) that need for park and ride would have to be tested; and

In her closing remarks, the Planning Inspector confirmed she would proceed to give further consideration to whether the submitted PMP is sound. This has not yet occurred; absolutely no assumptions can be made until the Planning Inspector has made her determination.

So why is all of this important? Because Cabinet relied upon a report, that was factually flawed and which assured which them that local planning policy was in place to support an east P&R. This is very far from the truth.

The fact is that the Council should never have selected a site before the Placemaking Plan was approved.

Scrutiny Meeting 23Feb 2017 re P&R Call-In

Sian James statement

At the last Cabinet meeting Andrew Mercer spoke regarding the significant financial risks involved with this decision. The question being 'how big will these losses be?'

In the current climate of having to make tough decisions about which services to cut – it is highly surprising that anybody would sign off any proposal to spend significant money without an appropriate business case and justification.

The Cabinet Meeting approved to proceed with B (estimated to cost £17.5m plus a deficit of £115k pa for 800 spaces), or F (cost estimate of £14m plus annual loss of £65k for 800, or £16.5m with annual surplus of £162k for 1200).

These forecast deficits, even at this stage without a full business case, should be a RED FLAG.

There was no substance at all behind these numbers in the Cabinet paper. As the Scrutiny panel it is your responsibility to ask for the assumptions behind these numbers. You need to understand the assumptions being made – and whether or not they are realistic – or what other scenarios need to be considered. So that you have the correct level of knowledge to make a judgement as to what to do next.

Also - the Cabinet signed off another £500k to be drawn down to get to the next stage. What is this for? Is this the correct time to spend these monies?

To help you ask the right questions – here are some assumptions that you need to clarify – for example behind the £115k pa loss for Site B:

- Which year is this for? Is it Year 1, 5, 10? Is it an average? It is not stated.
- What is the average occupancy assumed? 45%, 65%, 75%?
- What is the average revenue assumed per car/passenger? As now – or different?
- Has the Parking Strategy been built in? How can you make a decision on P&R when the Parking Strategy has not been completed/published?
- What are the assumptions regarding depreciation, interest charges and running costs?
- What has been assumed regarding P&R veterans moving from Lansdown or Odd Down?
- What has been assumed re existing bus users transferring to P&R, what impact will this have on bus viability and subsidies?
- What is the assumed reduction in city centre parking revenues?
- What are the RUH assumptions?

These assumptions should all have been noted in the Cabinet report, or in an appendix – but they were not.

I know that the final business case has not been created yet – however an initial business case has been created to estimate these very numbers – and so assumptions have been

made to get to the £115k etc. Before proceeding you need to understand what the range of losses will be each year, what the sensitivity of these numbers are – and where the funding, or cuts, will come from to pay for these losses.

I urge you to ask for the detail behind the assumptions, for this detail to be made public, and for this to be discussed at Full Council where it can be considered in light of the cuts currently being made.

To do anything less is not upholding the principles that the Scrutiny Panel stand for.

Tim Williams statement to call in 23rd January 2017

Thank you for the opportunity to speak, I will be speaking to item 6 and item 9b of the reasons for call-in to explain how the cabinet report was incomplete and as such was not adequate to support such an important decision and one that had attached to it such huge cost.

The report should have begun with a statement of project issues to be addressed and objectives and the way in which it was anticipated the solution would meet these.

In order for the decision to be sound it should have been supported by a host of other reports, indeed we were led to believe that these would be provided. (This is a reference to my letter to Tim Warren and the response from Peter Dawson provided with our report.)

These are the reports that are required to support a decision of this kind.

- A business case; Cabinet agreed that options ranging from 14m to 17.5m were all acceptable solutions. They voted to proceed with an option that would lose £115k/annum, despite the cuts being seen elsewhere in the Council budget. They had virtually no financial information to support this
- A Heritage Impact assessment – Heritage England have been asking for this for over a year. In November 2016 Louise Fradd told Historic England that ‘the planning agent has commenced work on the HIA in order to support a forthcoming Cabinet report’. Later she told the Finance Scrutiny call-in on the P&R spend that it had been completed and Historic England were happy – so where is it and why are HE so annoyed?
- A patronage study to identify need for additional P&R capacity as recommended by the Halcrow report in 2013 and required by the Transport Strategy(2014). It was also promised to Batheaston parish Council and last September Richard Daone confirmed to the Planning Inspector that need would have to be tested.
- A post implementation review of the last 4.5million that was spent on P&R to investigate why p&r use has not increased since 2009 when permission was granted for the Bath Package expansions.
- A parking review showing how many spaces the council wants to remove from the centre of Bath and how many people say they would use P&R. In July 2015 the Cabinet was told this had been done, but that was incorrect, in fact this is not expected till the end of march 2017
- An adopted Placemaking Plan. The Bath Preservation Trust and Historic England as well as BMA have stressed that no site decision

should be made until the council adopts this. There can be no certainty that planning permission will be given without this,

- An Equalities Impact Assessment. Every Cabinet report reminds members that they must ensure that it bears in mind equalities considerations but this was not mentioned in the report. 30% of people in Banes don't have access to a car and so cannot use P&R they could be adversely affected if P&R draws people off service buses and these in turn are cut. How has this been considered?

If you have any doubt whether a sound decision has been made you should recommend this decision be referred to full council and only determined when all of these things are in place.

Submission to Communities, Transport and Environment Scrutiny Panel about Cabinet Decision E2861 of 25 January 2017

Speaking on behalf of Transition Bath Transport and Built Environment we support the Call In notice and this afternoon would like to speak about objections set out in paragraphs 1 and 6.

B&NES council has conspicuously failed to demonstrate that there are any substantial public benefits to this scheme.

DEFRA no longer supports Park and Rides as a way to reduce congestion or air pollution. Evidence shows that unless you reduce the number of parking spaces in the centre by the same amount that you build on the periphery in Park and Rides, then you will not reduce traffic in the city centre. At certain times of the day Bath is already at a congested equilibrium, people change their behaviour according to traffic levels and make decisions about whether to drive depending on the ease of finding a parking space. Parking spaces in the centre of town vacated by people using the Park and Ride will be filled by other drivers.

Even the council now admits that an East Park and Ride will do little or nothing to improve congestion on the London Road and thus in turn will do little or nothing to improve air pollution, as peak usage of Park and Rides in the middle of the day does not coincide with peak congestion during morning and afternoon rush hours. A Park and Ride may actually increase congestion on the main eastern routes and in east of Bath rural areas, as more people use their cars to get to the Park and Ride rather than use public transport. Even with a Park and Ride the main A4 London Road into Bath will continue to be heavily used by A46/A36 through traffic by coaches, lorries and other vehicles, by local residents and by parents doing the school run.

The council's own data shows that Park and Rides are not popular in Bath and are underutilised. On an average day there are 1,600 free spaces across Bath's existing Park and Rides and they are only 41% full. Demand has not changed over the past five years. No recent research has been conducted about whether anyone would actually use a new east of Bath P&R.

Park and Rides put other bus services at risk, which will not help with the stated aims of improving the proportion of journeys made by public transport. Park and Ride buses offer cheaper fares to Park and Ride customers, who stop using bus services that are vital to the local community.

ClientEarth won its High Court case against the Government over its failure to tackle illegal air pollution across the UK. In September 2016 DEFRA recommended that B&NES merge transport and air quality plans to ensure that air quality is central to traffic management. Not only does this advice seem to have been ignored but with the recent presentations by B&NES Environmental Monitoring who are in the process of reviewing and updating the Bath Air Quality Action Plan we have been advised that they have no budget to put any recommendations into action. Air pollution has been recognised as the worst single environmental health problem in urban areas and instead of a costly Park and Ride, we should use those funds to prioritise a modal shift from cars to public transport, bikes and walking.

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Response to notice requesting a call in of Cabinet Member Decision E2861

“Park & Ride East of Bath”

| Reasons for call in | Response |
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| <p>1. The resolutions approved by Cabinet, laid out in paragraphs 2.1 to 2.5 of the accompanying report, are not adequately, transparently or coherently justified by the rationales, evaluation criteria, evidence, risk assessment, policies and stakeholder concerns presented in the body of the report.</p> | <p>Cabinet were able to make an informed decision as both the Cabinet report and associated background documents provided a clear rationale for developing a park & ride (P&R) site to the east of Bath and addressed all the key issues raised during the consultation process, specifically in relation to how:</p> <ul style="list-style-type: none"> • provision of a park and ride site to the east of Bath is embedded in Council policy (paragraphs 4.6 to 4.21 of the Cabinet report and item 3 of the background information refer); • aspects raised by both scrutiny and the LDF Steering Group have been addressed (paragraphs 4.23 to 4.30 of the Cabinet report refers); • the evidential need for a park and ride has been identified (paragraphs 4.31 to 4.51 of the Cabinet report and item 4 of the background information document refers); • the sites have been evaluated against relevant planning policy, for this stage of the project and transport criteria (section 6 of the Cabinet report refers); and • a risk register has been prepared (section 10 of the Cabinet report refers). <p>The recommendations in paragraph 2.1 to 2.5 are therefore clearly linked to the conclusions of the comprehensive work highlighted above.</p> |
| <p>2. The stakeholder consultation process was inadequate and not robust. Meaningful engagement with residents was impossible given the short timescale and poor quality of information and evidence provided. The results of the consultation are misrepresented in the report.</p> | <p>The stakeholder consultation period lasted for at least 5 weeks between 8th September and 18th October 2015. The consultation was initially launched with the publication of Connect Magazine, delivered to every household across the Bath & North East Somerset area in the week of 8th September 2015.</p> <p>Three public exhibitions were held:</p> <ul style="list-style-type: none"> • Bathampton on 19/9/15; • Guildhall, Bath on 22/9/15; and • Batheaston on 29/9/15. <p>The recorded attendance at these exhibitions was 439 people.</p> <p>The consultation provided a sound platform to raise the profile of the project, distribute information and receive comments/suggestions. Residents will have the</p> |

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| | <p>opportunity to take part in the more formal consultation process when a planning application for the development has been submitted.</p> <p>In addition to the period of consultation there has also been:</p> <ul style="list-style-type: none"> • ongoing correspondence between Members, officers and Bathampton Parish Council, the Bathampton Meadows Alliance, the Bath Alliance for Transport and the Public Realm, and the Bath Transport Commission; • a scrutiny day held on 22/3/16; • Local Development Framework (LDF) Steering Group Task and Finish Exercise (meetings were held on 7/12/15, 18/1/16, 9/2/16, 22/2/16 and 21/3/16); • consultation through the Joint Transport Study (12 week consultation period between 9/11/15 and 29/1/16); • consultation on the draft Placemaking Plan (7 weeks between 16/12/15 and 3/2/16) and the opportunity to present evidence at the Examination in Public held between 13/9/16 and 30/9/16; • consultation on the Placemaking Plan Modifications (6 weeks between 5/1/17 and 14/2/17); • consultation on the Bath Transport Strategy (30/6/14 to 25/7/14); • full responses to questions raised, set out in the background information (Q&A) document; and • the opportunity for members of the public to attend Cabinet meetings and make representations in person. <p>No evidence is provided regarding the claim that the results of the consultation are misrepresented in the report.</p> |
| <p>3. The consultation materials covered only 3 sites (A, B and F); residents have not been given the opportunity to comment on other sites which have been considered by the Local Development Framework steering group and by Cabinet as part of the pre-planning advice.</p> | <p>Sites A,B and F were three viable sites emerging from the Halcrow report (entitled Site Options: High Level Review, May 2013) which were consequently consulted upon. As a result of views expressed by both Councillors and the public it was recommended at the Council meeting on 12th November 2015 to investigate further site options and integrated transport solutions. The outcomes associated with this additional analysis undertaken by the LDF Steering Group and CTE scrutiny are detailed within the text of the Cabinet report paragraphs 4.23 to 4.30</p> <p>The selection of a preferred site for the East of Bath P&R has undergone a comprehensive 3 stage process:</p> <ol style="list-style-type: none"> 1) In May 2013, Halcrow issue a report that identified and assessed 8 potential sites. 2) In July 2015, Cabinet agreed to consult on 3 sites (A, B & F) that were considered to be viable options. |

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| | <p>3) In November 2015, Council asked the LDF steering group and Communities, Transport and Environment Policy Development (CTEPD) & Scrutiny Panel to review the options for a P&R to the east of Bath. The resolution did not require wider public consultation in relation to the long list of sites being considered by the LDF steering group. However, ward councillors were invited to the LDF steering group and their input was welcomed. The meetings considered a review of possible sites for the P&R, including a number of additional sites suggested by both Members and the Community and how they might work in combination, and a shortlist of 21 sites was reviewed in line with the Council resolution. It is reasonable to accept the judgement of the cross party LDF steering group in relation to identifying a shortlist of sites to go forward to the Council's pre application planning process.</p> |
| <p>4. The conclusions of the PDS Scrutiny Inquiry, requested by full Council, were given insufficient weight in the Cabinet's decision-making.</p> | <p>The conclusions of the CTEPD & Scrutiny Inquiry have been given significant weight and the conclusions addressed within paragraph 4.29 of the report. It addresses each recommendation in turn and the associated response. All recommendations have been accepted although one, linked to work place charging, is to be considered on a wider West of England level.</p> <p>Cabinet Members are able to decide, individually and collectively, what weight they apportion to the evidence put before them.</p> |
| <p>5. Too much reliance has been placed on recommendations by the Local Development Framework [LDF] steering group. This body did not produce a formal report or written minutes; no votes were taken and individual Councillors' opinions were reported back on an informal and ad hoc basis. The LDF steering group has no formal role within the Council's decision-making structure and was not created for this purpose.</p> | <p>It was accepted as an approved recommendation from the Council meeting on 12/11/15 to use the cross party LDF Steering Group to look at specific issues. At the subsequent meeting of the LDF Steering Group, on 7/12/15, it was agreed to extend membership of the group to ward councillors (where a site was being considered within their ward boundary) so that they could represent local views. The Terms of Reference were amended to reflect this change.</p> <p>The Terms of Reference for the LDF steering group include:</p> <p>'2 The purpose of the Group is to advise the Council's Planning Committee, Cabinet and Full Council on the preparation of the Local Development Framework and its constituent documents. The Group will also give officers a steer on emerging policy proposals.'</p> <p>'3. The Group is not a decision making body, its recommendations will be reported back through the Cabinet and Council.'</p> |

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| | <p>'5. A key role of the members on the Group is to act as a conduit, informing their groups of emerging policy and reporting views back to the LDF Steering group'</p> <p>'7. The Scope of the work considered by the Group will include : -</p> <p>(i) The assimilation and consideration of all background evidence and technical studies together with the various planning policy options required as background work to the preparation of the LDF.</p> <p>(ii) Scrutinising policy content and the detail of LDF documents</p> <p>(iii) Consideration of arrangements for consultation / engagement with local communities on LDF issues win accordance with the Council's Statement of Community Involvement.</p> <p>(iv) Receiving and discussing the studies commissioned by the Council as part of the evidence base.....'</p> <p>The full terms of reference and the Council resolution from 12th November 2015 are included as Appendix A. The role and the weight afforded to the work of the group is therefore appropriate.</p> |
| <p>6. Evidence of the costs, risks, environmental impact, need, and supposed benefits was incomplete, inaccurate in parts and inadequate for a decision of this importance and financial implication.</p> | <p>Initial analysis is that an East of Bath Park and Ride can be delivered within the budget identified. Now that a preferred site has been identified a detailed business case can now be produced. This business case will be subject to approval by the Section 151 officer.</p> <p>Environmental Impact has been assessed as part of an initial pre planning application appraisal process. A full EIA will be produced as part of the planning application process.</p> <p>As previously stated, need has been comprehensively identified within the main body of the report.</p> <p>A risk register has also been prepared.</p> |
| <p>7. Unclear advice was given by the Council's solicitor on the meaning and implications of s122 of the Local Government Act 1972. A commitment to supply that information at a later stage in writing means that Cabinet members approved the resolutions without understanding the relevance and meaning of the delegated authority they agreed in paragraph 4.</p> | <p>The Cabinet members understood the implications of s122 of the Local Government Act 1972, which was also explained in paragraph 8.2 of the main report.</p> <p>Furthermore, the Leader clarified that Cabinet was not considering a Compulsory Purchase Order (CPO) in relation to the proposed park and ride.</p> <p>The Cabinet resolution was under item 4 that the Strategic Director (Place) should have authority to implement the resolutions "including, as necessary, the appropriation of land under section 122 of the Local Government Act 1972."</p> |

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| <p>8. Paragraph 3 (B) of the resolution refers to a “reasonable timescale”. No substantive definition was given for what would constitute “reasonable”, despite the request of a Cabinet member. Therefore this important aspect of the resolution was not adequately discussed or explained before the resolution was passed.</p> | <p>Paragraph 8.4 in the main report states that <i>‘it would be reasonable to allow a period of around 4 weeks to determine if this can be taken forward’</i> therefore a substantive definition is provided.</p> |
| <p>9. The report was:</p> <p>a. Misleading: for example, paragraph 8.1 states that the government planning Inspector has accepted the need for an East of Bath P&R at the recent Placemaking Plan Examination. The Inspector has now stated that "this is the Council's interpretation" only.</p> <p>b. Incomplete: for example, the B&NES World Heritage Site Setting SPD is not mentioned in the list of adopted Council policies and there no reference is made to the adopted UNESCO 2009 Mission Report, which stated that: “[w]ith regard to the protection of the property, the mission recommends that the State Party act on the reinforced protection of the surrounding landscape to prevent any future developments which could have adverse and cumulative impact on the Outstanding Universal Value of the property.”</p> <p>c. Inaccurate: for example, the map in Appendix 1 of the report shows sites B and F outside the red line described as the "boundary of the World Heritage Site Setting" when in fact the red line is the boundary of the World Heritage Site. Map 2 of the World Heritage Site Setting SPD shows the indicative extent of the setting;</p> | <p>a) Placemaking Plan Examination.</p> <ul style="list-style-type: none"> • At the PMP Examination hearing it was agreed by the inspector and Council witness that some wording revisions were required to Policy ST6 to ensure compliance with NPPF. The Inspector confirmed the revised wording and this is publicly available. • In accordance with the NPPF the Council is proposing to give Policy ST6 significant weight. • Cabinet has seen the Main Modifications as they relate to Policy ST6 and the officer comments relating to the process followed at and after the PMP Examination. The officer comments are included as Appendix B. • Bathampton Meadows Alliance can make representations on the Modifications to the Placemaking Plan. • Cllr Clarke made Cabinet aware of these points at the beginning of the Special Cabinet meeting. • Officers are aware that correspondence has taken place between the Programme Officer and a local resident in relation to paragraph 8.1 of the report. It would seem that there is a misunderstanding in that the Programme officer made reference to the Council’s interpretation of events rather than the Inspector. • The Inspector has confirmed that she is unable to intervene in matters connected with the site allocation plan as these are matters for the Council. <p>b) Completeness</p> <ul style="list-style-type: none"> • The Report sets out the relevant planning policy context for Park and Ride sites, the main planning constraints and the context. • A preferred site will need to be considered through remaining procedures which will include the planning process where full consideration of planning policy and material considerations will take place. • The level of advice is appropriate to the purpose and function of this report. • Cllr Clarke made Cabinet aware of these points at the |

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| <p>site B and site F are both well within it.</p> | <p>beginning of the Special Cabinet meeting.</p> <p>The 2009 UNESCO Mission report is not the appropriate report to refer to as it is not a key policy document. The key policy documents are the NPPF and B&NES Development Plan Documents. This is not a report to the planning committee and the level of advice is appropriate to the purpose and function of this report. As part of the work associated with the greater analysis (requested following the May Cabinet decision) of sites was the potential impact on the WHS which was considered by senior Conservation Officers within the Council. The Cabinet member at the last Cabinet meeting referred to the letter received from Historic England dated 24th January 2017, and the need to ensure that the WHS is recognised as a heritage asset of the highest significance, which is derived from its setting as well as its physical presence and that the Outstanding Universal Value of the WHS will be protected as stated under the 1972 Convention. Consequently, robust and convincing justification is required for any harm to the WHS. Now that a preferred site has been identified a Heritage Impact Assessment will be prepared as part of the planning process.</p> <p>c) Accuracy</p> <p>It is accepted that there is an inaccuracy in relation to the map, but the report clearly states that the heritage aspects including the setting has been addressed.</p> <p>The Legend to the plan at Appendix 1 refers to the “boundary of the world heritage site setting” in error. A plan showing the WHS setting is attached at Appendix C and a hyperlink is provided Here.</p> <p>The Cabinet report at Paragraph 7.2 makes it clear “The Planning service considered the impact of B and F on the setting of the WHS, neither site is within the WHS itself, and gave a preference to site F, due to the potential mitigation that can be provided in this location”. The pre application planning advice included assessment of the WHS and its setting by a conservation officer and landscape architect.</p> <p>Cllr Clarke provided the following update to at the beginning of the Special Cabinet meeting:</p> <p>“A letter has been received from Historic England dated 24th January making representations regarding the World Heritage Site. I have considered these and taken advice from officers. I can advise Cabinet as follows:- Cabinet will be aware that members are not dealing with an application for planning permission and all the proper</p> |
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| | <p>statutory procedures for any such determination will be gone through.</p> <p>Cabinet should note that:</p> <ul style="list-style-type: none">• the World Heritage Site is a heritage asset of the highest significance and that its significance derives from its setting as well as its physical presence;• as the UK government is a State Party to the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage there is an expectation that the Outstanding Universal Values of the World Heritage Site will be protected; and• the setting of the World Heritage Site is protected by local and national policies. Robust and convincing justification is required for any harm to the World Heritage Site. <p>Cabinet will recall receiving reports from the LDF Steering Group and the CTE Scrutiny Panel in May 2016 and the World Heritage Site and its Setting were integral to their assessment of the various options.</p> <p>Furthermore, following the May 2016 Cabinet, officers were asked to work up detailed drawings of the options for sites and to instruct planning agents and landscape architects to develop pre-application submissions on a number of options. This submission included reference to World Heritage Site and relevant guidance. These options were considered by the Council's Development Team, which included a Senior Conservation Officer and appropriate heritage advice was provided.</p> <p>Historic England have suggested that a Heritage Impact Assessment be prepared to inform this stage of the process however officers consider that it would be more appropriate at the planning stage. However, heritage advice was obtained and is included in the report.</p> <p>To clarify, a designated Area of Outstanding Natural Beauty (AONB) is of no greater importance in planning terms than a World Heritage Site. The importance of the World Heritage Site and its setting is fully recognised in the recommendations made".</p> |
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**Local Development Framework Steering Group
Park and Ride to the East of Bath**

12th November Council Resolution

1. The Council on 12th November 2015 resolved in relation to the East of Bath Park and Ride proposal:

'To ask that the cross-party Local Development Framework Steering Group review all the options for the location of an East of Bath Park & Ride prior to Cabinet selecting a preferred site early next year, giving due consideration to the following:

- *responses received to the East of Bath Park& Ride consultation;*
- *feasibility and deliverability of each site option;*
- *costs associated with each site option;*
- *transport benefits of each site option;*
- *visual impact of each site option.'*

2. The LDF meets as required to provide a steer to the development of Planning and Transport strategies, policies and proposals. The location of the Park and Ride site to the East of Bath falls within this remit as it presently forms a key component of the transport policy context.

3. In order to enable consideration of the issues listed above, the LDF Steering Group will be provided with :

- an understanding of the work undertaken to date;
- a breakdown of the public responses received during the consultation;
- an analysis of the anticipated transport and environmental consequences linked to the proposal;
- an assessment of deliverability
- approximate construction costs; and
- the potential visual impact.

4. This will include information (including site specific information where needed) on the;

- engineering work required and overall feasibility;
- approximate operating costs as well as construction costs;

- transport benefits potential.
 - business case potential;
 - Site attributes;
 - Planning and environmental considerations.
 - potential mitigation options.
5. Additional work required as part of this process will be funded through the present budget allocation.
 6. Ward Councillors that have any of the three sites identified through the consultation process within their ward boundaries will be invited to LDF meetings. If a situation arises where a vote is required, this will be limited to the original LDF members.
 7. It is proposed that the findings of the LDF Group are presented to the Community, Transport and Environment Scrutiny Panel on 14th March, with the recommendations of both being presented to Cabinet outlining the findings and the preferred site option.
 8. Meetings of the LDF Steering Group have been arranged for December, then in January, February and March as needed. The December meeting will be used to set the parameters of the study and to determine how the Steering Group would like the information presented. It is anticipated that the remaining meetings will be two to three hours duration to ensure that sufficient time is allocated to the task.
 9. It is proposed that the outcomes of the meetings are presented in a report to Cabinet members and the CTE Scrutiny Panel for consideration.
 10. In light of the terms of reference of the LDF Steering Group (attached), the primary role of the LDF for this round of meetings will be to
 - a) consider the evidence and technical studies relating to the site options
 - b) consider the options in light of the evidence.
 - c) act as a conduit, informing their groups of emerging policy and reporting views back to the LDF Steering Group
 - d) advise the Cabinet of its findings and recommendations

LOCAL DEVELOPMENT FRAMEWORK STEERING GROUP

TERMS OF REFERENCE

updated 31st July 2015

1. Membership of the Local Development Framework Members Steering Group is comprised of Council Members with a proportionate representation of all groups.
 - (i) (Chair) Portfolio Cabinet Member
 - (ii) The Chair or Vice Chair of Development Control Committee
 - (iii) Other Members including Members of the Development Management Committee

2. The purpose of the Group is to advise the Council's Planning Committee, Cabinet and Full Council on the preparation of the Local Development Framework and its constituent documents. The Group will also give officers a steer on emerging policy proposals.

3. The Group is not a decision making body, its recommendations will be reported back through the Cabinet and Council.

4. The Group will meet on a monthly basis, or as required. There are times when the Group will need to meet more or less frequently.

5. A key role of the members on the Group is to act as a conduit, informing their groups of emerging policy and reporting views back to the LDF Steering Group

6. A number of the issues that will be discussed by the Group will be of a confidential nature.

7. The Scope of the work considered by the Group will include : -
 - (i) The assimilation and consideration of all background evidence and technical studies together with the various planning policy options required as background work to the preparation of the LDF.
 - (ii) Scrutinising policy content and the detail of LDF documents

- (iii) Consideration of arrangements for consultation / engagement with local communities on LDF issues in accordance with the Council's Statement of Community Involvement.
 - (iv) Receiving and discussing the studies commissioned by the Council as part of the evidence base.
 - (v) The content of all subsequent LDDs prepared including the broad locational development requirements, the specific designation of land for development and protection and the wording of policies / proposals
 - (vi) Consideration of the LDF Authority Monitoring Report
 - (vii) Advice on the acceptability of the range of options the Council has to put forward in all LDF documents.
 - (vii) Through liaison with stakeholders assisting in putting forward sites that may need to be allocated in the Site Specific Proposals document
 - (ix) Provide advice on the review of the scope and content of Local Development Scheme reviews.
 - (x) Provide a steer on Local Development Document preparation procedures when needed.
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The current proportionate representation for the LDF Steering Group is;

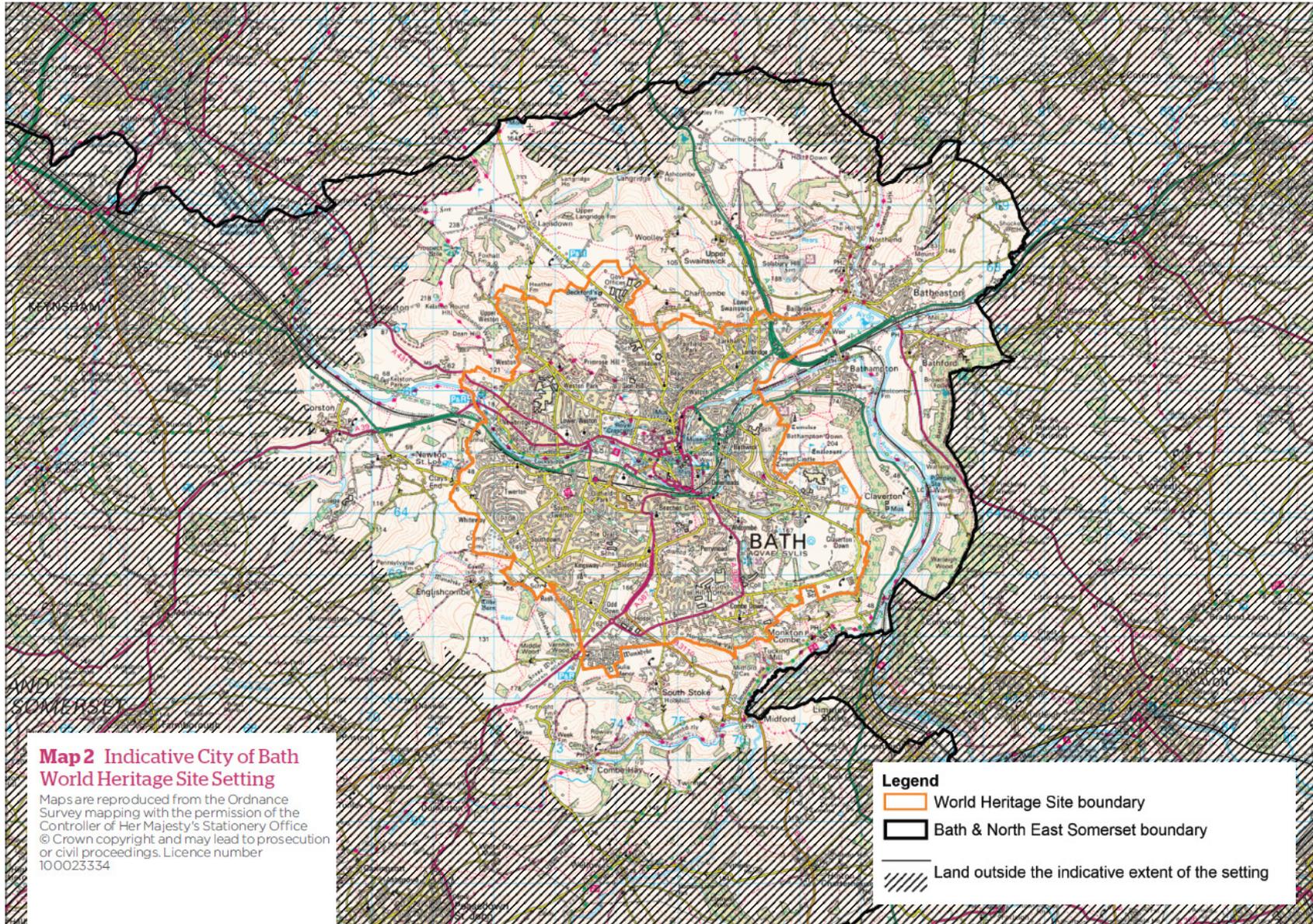
- 5 Conservative
- 2 Lib Dem
- 1 Labour
- 1 Independent

Policy ST6 Placemaking Plan: Reasons leading to proposed Main Modifications

“The reasons for the modification to Policy ST6 and the process of preparing it are set out below in response to the assertions set out in the BMA representations (4th paragraph under ‘Impact of New Information and Site Analysis on the Placemaking Plan’ heading)

- a. At the Examination hearing the purpose and meaning of Policy ST6 was clear. The Inspector raised concerns that the policy wording was ineffective in implementing/articulating its intended purpose and process of determining an application. It was therefore agreed verbally at the hearings between the Council witness and the Inspector that some wording revisions were necessary for effectiveness of the policy and that these revisions need to closely reflect and ensure compliance with national policy set out in the NPPF
- b. Subsequent to the Examination hearing the Council proposed changes to Policy ST6 and its supporting text to address the issues raised and agreed verbally with the Inspector (included in the Council’s Schedule of Rolling Changes)
- c. Following the issuing of her Interim Findings (document ID/17) relating to overarching issues (but not including the East P&R) the Inspector contacted the Council (initially by email) to confirm that the Council should consult on Main Modifications to the Plan and what those modifications should be. The Inspector reviewed the Council’s Schedule of Rolling Changes and confirmed that the wording proposed by the Council is appropriate and that she is not proposing further modifications to the Plan necessary for soundness. The email (or informal comment as referred to in para 4.15 of the Cabinet report) has now with the agreement of the Inspector been published as an Inspector’s note (ref ID/18).
- d. Given the process above the Council has made the reasonable interpretation that the Inspector considers the proposed modification to the wording of Policy ST6 address any issues of unsoundness in the Policy as submitted, including its consistency with the NPPF.

In accordance with para 216 of the NPPF the Council is proposing, in the context of the process outlined above, to give Policy ST6 as proposed to be modified significant weight.”



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