

## **BATH AND NORTH EAST SOMERSET**

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

Tuesday, 2nd May, 2017

Present:- **Councillors** John Bull, Brian Simmons, Peter Turner, Alan Hale, Neil Butters, Deirdre Horstmann (in place of Lizzie Gladwyn), Bob Goodman and Ian Gilchrist

#### **149 WELCOME AND INTRODUCTIONS**

The Chairman welcomed everyone to the meeting.

#### **150 EMERGENCY EVACUATION PROCEDURE**

The Chairman drew attention to the emergency evacuation procedure.

#### **151 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Councillor Gladwyn gave her apologies and was substituted by Councillor Deirdre Horstmann.

#### **152 DECLARATIONS OF INTEREST**

Councillor Horstmann stated that, while she had signed the Call in notice, she had come to the meeting with an open mind on the issue.

#### **153 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN**

There was none.

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

There were 4 statements from members of the public and 2 from Councillors – these were included under item 7.

#### **155 CALL-IN OF CABINET MEMBER DECISION E2939 - WARM WATER SWIMMING PROVISION WITHIN BATH SPORTS AND LEISURE CENTRE AND KEYNSHAM LEISURE CENTRE**

The Chair invited the Lead Call in Member Councillor Dine Romero to make a statement. Councillor Romero pointed to the reasons for the Call in as set out in the papers which concern the depth required by WWISE. She explained that there is no comparable accessible pool and the pool at the RUH has a long waiting list. Councillor Romero stated that there is an aging population and as both Bath and

Keynsham pools are being refurbished, this is the time to put into place the WWISE requirements. She stated that the decision was well meaning.

The Panel made the following points and asked the following questions:

Councillor Bull asked if the Bath Leisure Centre pool is still heated on Thursdays. Councillor Romero stated that she is aware of this but there are often complications with the length of time taken to heat and cool the pool.

The Chair invited The Cabinet Member for Community Services, Councillor Martin Veal to make a statement. Councillor Veal stated that the Call in is not a challenge to the procurement process but concerns the depth of the teaching pool. He referred to the Panel consideration of the issue at its meeting in January 2017. He quoted Panel members comments and the Chair's conclusion that the WWISE request is irreconcilable. He asked if things had changed since then. He explained that the WWISE proposals are not considered to be a reasonable adjustment as the required depth would affect the children's swimming provision and the desired higher temperature would also have consequences. He stated that WWISE have presented at 28 meetings since 2003. Officers have explained that their requirements are not viable and the additional cost is prohibitive. ASA have said the requirements are not something they would support and Sport England refers to the significant effect the requirements would have on Capital cost. The Cabinet member concluded that this was not a decision that was taken lightly and considerable time has been invested. He stated that the decision represented a sustainable financial way forward.

The Panel made the following points and asked the following questions:

Councillor Bull observed that the main obstacle to the WWISE proposals is cost, he asked if this is just the Capital cost? Councillor Veal stated that if the proposals were to be taken forward then there would be ongoing revenue costs and implications for GLL who may not see it as a viable proposition.

Councillor Butters asked what the issues are with the WWISE proposals regarding Keynsham Leisure Centre pool. Marc Higgins – Team Manager, Leisure and Business Development – explained that a moveable floor would have to be installed at significant cost (minimum £1million).

Councillor Bull asked about the heating of the pool on Thursdays in Bath. The officer explained that the main pool is heated for morning and afternoon sessions on Thursdays, it takes time (24hours) to heat the water and is not ideal but part of the measures put in place to attempt to address the issue. There have been problems with this over the years but the boilers are now being replaced.

Councillor Hale asked if there is an ongoing benefit to warm water swimming. Councillor Veal stated that the CCG have not prioritised warm water swimming.

There was some discussion about the subsidy that had been negotiated at the Cross Bath (Thermae Spa). It was reported that there had been a 50% discount rate but this had not been taken up by users.

### Items from the public or Councillors (Item 6 on the agenda)

The Chairman announced the sad news that Pamela Galloway, a WWISE campaigner has passed away and informed the Panel that her colleague Susan Charles (WWISE) will make a statement on behalf of Pamela.

Susan Charles made a statement on behalf of Pamela Galloway (WWISE Group). She spoke about the history of the campaign to replace warm water swimming facilities starting with Margaret Farley, there was a petition with 3,000 signatures presented to the Council in 1996.

Nicolette Boater made a statement to the Panel. She made several points including that there was no EIA (Equalities Impact Assessment) completed during the procurement process; the WWISE group had no input in the refurbishment design and the decision seems to have been made on the grounds of capital costs. A copy of this statement is attached to the minutes.

Ian Pring, Chair of the Bath District MS Society made a statement to the Panel. He explained that the MS Society has 180 members and there are 500 MS sufferers in BANES. He explained that fitness is important to combat the effects of MS but the society is unable to subsidise warm water swimming at present. He stated that the Society fully supports the specification drawn up by WWISE.

### Questions from the Panel

Councillor Bull asked if a subsidy for the Spa would be useful, Mr Pring stated that anything that improves access is welcome but even at £34 per session, it is costly. He added that it is open air so would not provide the same facility.

Councillor Hale asked if warm water swimming is a treatment and therefore could be paid for by the NHS. Mr Pring stated that he did not consider it a treatment but a form of exercise.

Councillor Barrett made statement to the Panel, he stated that Bath is renowned for the Roman Baths and spa waters. He explained that the use of the spa waters at the Leisure Centre had been stopped due to safety rules and that he would like to see this facility restored. He explained that the temperature was 31-32 degrees so could not be used for vigorous swimmers. When asked about the cost, Councillor Barrett explained that if the group had been listened to 21 years ago, the cost to replace the facility now would not be so high.

Councillor Patterson made a statement to the Panel, she explained that people with disabilities and long term conditions need warm water for exercise to help improve their long term fitness. She explained that the BANES website says it supports a healthy lifestyle. She urged the Panel to refer the matter to Council in light of the overwhelming support.

Susan Charles (WWISE Group) made a statement to the Panel. She explained that WWISE feels that disabled people and those with mobility challenges are not being

provided for by the Council in line with the Disability Discrimination Act (1999) in terms of warm water exercise provision.

### Questions from the Panel

Councillor Goodman asked that if the temperature reached 32 degrees in Bath pool on a Thursday, would that be acceptable. Susan Charles stated that one morning per week is discriminatory. Councillor Bull asked what the take up would be for a warm water pool, Susan stated that in 1996 there were over 500 users per week.

Councillor Hale asked that, if the Call in is dismissed, will she still liaise with the Council to look at alternatives. Susan stated that she would. Councillor Butters asked if Susan would agree that a survey is desirable as to how many people would use the facility – she agreed that this would be desirable.

The Panel noted the Question & Answer document which was circulated (2 questions from Nicolette Boater with answers provided from officers). This document is attached to the minutes.

The Chair thanked members of the public and Councillors for their submissions.

### Panel debate

Councillor Butters asked if a survey could be done of the different needs of different groups.

Councillor Horstmann stated that she is a supporter of warm water swimming and worked in hydrotherapy at the Mineral Hospital. She added that Bath and Keynsham Leisure Centre plans are underway and there would be a knock on effect if the Call-in was upheld. She stated that the Council have to make £37million of savings (£16million this year) and there are other provisions – Thermae Spa, Radstock and Mineral Hospital.

Councillor Hale stated that he was concerned that if the decision is referred back (Call in upheld) then the refurbishment of both Leisure Centres would not move forward so he could not support the Call in but supported a survey to look at the provision of a stand-alone warm water pool.

*NB. The Panel asked the Cabinet Member to consider a survey to establish usage and potential cost of a stand-alone provision (this suggestion was raised later in the meeting).*

### Closing statement from Cabinet Member – Councillor Martin Veal

Councillor Veal made the following points:

- The use of spa water stopped because of bacteria;
- Reference to the views of ASA and Sport England as mentioned in his earlier statement;
- The WWISE request is for an enhanced leisure facility and the Council has no statutory responsibility to provide this;

- Another survey cannot be done because the strategy informed the contract on which WWISE was fully consulted;
- Any negotiations with Bath Rugby would be for WWISE to take forward;
- Warm water sessions are currently the lowest usage sessions;
- Full consultations took place while the procurement process was going on; and
- WWISE have attended 28 public Council meetings.

Councillor Veal concluded by saying that he has explored all options and has engaged with WWISE group on many occasions but with regret, cannot explore the issue any further.

#### Closing statement from Lead Call in Member – Councillor Dine Romero

Councillor Romero stated that experts and the CCG agree on the benefits of warm water exercise and the Council does have responsibility for residents and should not discriminate or push the responsibility onto others. She added that now is the moment to reconsider as if the right facility exists, people would use it. She concluded that the Cabinet Member should be asked to reconsider that the decision is reasonable.

#### Panel decision

On a motion from Councillor Hall, seconded by Councillor Goodman, it was:

**RESOLVED** that the Call-in of Decision E2939 – Warm Water Swimming Provision within Bath Sports and Leisure Centre and Keynsham Leisure Centre be dismissed.

(5 members voted for the motion, 2 abstained and 1 member did not vote)

The meeting ended at 1.00 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

This page is intentionally left blank

**Statement to the 2.5.17 Call-In meeting (Warm Water Swimming Provision)**  
**of B&NES Council CTE PDS Panel**

Thank you Chair.

I welcome this five party call-In, reflecting concern at what despite exemplary community contributions, is a disturbing, and from at least an equality perspective, an undesirable outcome.

Although speaking as a resident, my view is informed both by my experience advising various public sector organizations on the Public Private Partnership procurement of serviced facilities, and by my understanding of the strategic, policy and funding context of this particular Council decision. As such I would like to share a few insights into why this decision is so very challenging:

1. Equality impact assessment

Despite its evident impact on disabled and older people and the Council's statutory duties to reducing inequalities, this decision has been made and a public service is thus being provided without regard to the needs of two protected groups. Furthermore not only does no Equality Impact Analysis appear to have been conducted during<sup>1</sup> the procurement process, but the one written 14 months after the start of the service delivery contract is not fit for purpose.<sup>2</sup>

2. Nature of the service delivery partnership

Whilst the officer report alludes<sup>3</sup> to the decision-making importance of the procurement and contracting process, it is silent as to its nature and content. This is a significant omission for it is the inclusion at this stage of such things as outcome and risk allocation specifications, and bid evaluation criteria that might have made it more feasible to accommodate the needs of the protected groups. Some remarks<sup>4</sup> in the officer report also raise concerns about whose vision, values and decision criteria are driving the service delivery arrangement.

3. Effectiveness of stakeholder consultation

It seems that despite a 21 year campaign, the WWISE group had little or no input into the refurbishment design<sup>5</sup> and such consultation as occurred was of a "tick box" nature<sup>6</sup>.

4. Option definition, evaluation and evidence

Last but not least, central to this decision is an officer assessment of the financial viability of various potential adjustments aimed at accommodating WWISE's requirements. However the report provides little assurance that the options evaluated are the most cost effective way<sup>7</sup> of doing this. Furthermore, this decision seems to have been made largely on grounds<sup>8</sup> of capital costs and deliverability "within the available budget", whereas what is really important to the success of a long-term contract of this nature are minimizing "whole life" costs and delivering lasting value.

Whilst your decision as to whether to uphold or dismiss this Call-In remains a difficult one, I hope that these four insights will enable you to do so in such a way that outcomes are improved not just as regards inclusive swimming, but also for the Council, as financial constraints become ever more stringent and partnership working correspondingly more prevalent.

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



This page is intentionally left blank



Q&A - CTE Panel 2<sup>nd</sup> May 2017. Call in of E2939 Warm Water Swimming

Reference number	Question	Name	Answer	Name
CT7	<p>1. Can you clarify the nature of the procurement and contracting process for the improvement and refurbishment of the Bath and Keynsham Leisure centres? In particular</p> <p>(i) Which cabinet member(s), officers and/or Council directorates led or were involved in the procurement?</p>	Nicolette Boater	David Dixon and David Bellotti were the Cabinet members and a presentation from the final 2 bidders was made to all Cabinet members during the procurement process. Officers from leisure, procurement, finance, property and public health were all involved in the procurement.	
	<p>(ii) Were an output specification, table of desired outcomes, risk allocation table and/or evaluation criteria included in the Invitation-to-Tender documentation?</p>		Yes, this can be made available on request.	
CT8	<p>2. Central to this decision is an officer assessment that various potential adjustments aimed at accommodating WWISE's requirements are not "financially viable from a capital, revenue or cost per visit subsidy perspective" (paragraph 3.5 of the officer report for to decision E2939). However it is unclear in the report why these particular options were selected and how they were evaluated to arrive at this assessment. Consequently, can you advise:</p> <p>(i) Why the additional capital costs of options 2, 3 and 4 (defined in paragraph 3.2 of the officer report) were based on depths of 1.5m, 1.38m or 1.3m respectively, and what the impact on their respective capital costs of £1.6m, £1.9m and £0.9m might be if estimated instead on a depth of 1.2m (i.e.</p>	Nicolette Boater	These options were provided by the WWISE group as examples of specific provision which met their needs and so all were assessed as part of the report development process. Officers have since evaluated a further option with the same conclusion reached. The cost is largely based on the need for a movable floor to allow the pool to be used for teaching young children to swim, so any change in depth makes little difference to the cost. Once a learner pool is deeper than 1.0m a movable floor is required.	

	the minimum compatible with WWISE needs);			
	(ii) Whether the risks to users, staff, building fabric, plant and equipment associated with increasing temperatures to above 33C (the level at which PWTAG advises against) are qualitatively different and/or significantly greater than those associated with 32C.		<p>The teaching pool would ordinarily be operated at 30 degrees with the temperature raised for specific groups who need warmer water. Therefore, having a pool operating permanently at the higher temperature would create the problems listed in the PWTAG technical guidance. Whilst the problems would be less at 32 degrees, rather than 33 degrees, they would still be measurably worse than at the standard temperature. These problems include:</p> <p>(1) Microorganisms multiply faster – up to twice as fast for a rise of 10 °c.</p> <p>(2) Bathers get hotter – limiting serious swimming and increasing sweat and grease in the water.</p> <p>(3) Increased perspiration will add to the levels of ammonia and urea in the pool producing more combined chlorine. Chlorine demand will increase simply to maintain free chlorine levels.</p> <p>(4) Increased urea levels will increase the production of irritant nitrogen trichloride. This will need to be dealt with.</p> <p>(5) Dissolved gases become less soluble – more bad smells (chloramines) and potentially harmful trihalomethanes; and pH value rises as carbon dioxide escapes.</p> <p>(6) Energy costs, direct and indirect, are higher – whatever efficiency or conservation methods are</p>	

			<p>used.</p> <p>(7) Air temperatures, which are linked to those of the water, rise too – making the atmosphere less comfortable for staff and others (as can the higher moisture levels).</p> <p>(8) There is more moisture in the pool atmosphere, even when relative humidity is controlled at the same level – with a risk of condensation and possibly corrosion and deterioration of the building fabric, structure and equipment.</p> <p>Ref : Pool Water Treatment Advisory Group (PWTAG ) Technical Note 11</p>	

This page is intentionally left blank