

## **BATH AND NORTH EAST SOMERSET**

### **CORPORATE POLICY DEVELOPMENT AND SCRUTINY PANEL**

Monday, 10th February, 2020

**Present:-** Councillors Paul Myers (Chair), Winston Duguid (Vice-Chair), Mark Elliott, Hal MacFie, Alastair Singleton, Shaun Hughes, Karen Warrington and Lucy Hodge

**Cabinet Member for Resources:** Councillor Richard Samuel

**Also in attendance:** Andy Rothery (Head of Management Accounts), Marc Higgins (Head of Leisure & Projects Development), John Wilkinson (Director of Economy and Growth) and Andrea Frow (Landlord and Tenant Team Manager)

#### **48 WELCOME AND INTRODUCTIONS**

The Chairman welcomed everyone to the meeting. He reminded everyone that only points 2, 8 & 9 from the call-in notice were valid and that the Panel were attempting to put themselves into the shoes of the decision maker.

#### **49 EMERGENCY EVACUATION PROCEDURE**

The Chairman drew attention to the emergency evacuation procedure.

#### **50 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **51 DECLARATIONS OF INTEREST**

Councillor Winston Duguid declared an other interest as he is a non-executive director of Somerset Cricket Board

Councillor Lucy Hodge declared an other interest as her son trains at Bath Cricket Club.

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

There was none.

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

Councillor Eleanor Jackson addressed the Panel, a summary is set out below. She stated that a key focus of the decision is that B&NES land is to be disposed at less than best consideration and that she would expect financial prudence and for the Council to achieve value for money as part of this process.

She questioned who would actually benefit from this decision and that it was most likely to be the developer of the student housing accommodation.

She stated that having heard the original application at the Development Management Committee she was surprised that the development did not have disabled access.

She said that the issue of land ownership should have been identified before planning consent was given and that the decision should therefore be delayed.

Bob Goodman addressed the Panel, a summary is set out below. He said that 5 years ago, he was fortunate to be asked by Cllr Liz Richardson, the then Cabinet Member for Planning, to look at the effect that the Universities were having on the City, particularly student accommodation.

I believe I had a good working relationship with both Universities which resulted in the reduction of the 25% rule on HMO's down to the now 10%.

I made it clear to both Universities and, more importantly to Developers, that the "grave train" of P.B.S.A. had to end within the City and both campuses had to "consume their own smoke".

So, in 2016 when Bath Cricket Club came to me to talk about their Car Park, wanting to know if I would support a development, I said that I thought some sort of development was possible (maybe for the elderly), but that was a matter for the Planners, but I made it crystal clear I would not support student accommodation in any way.

Somehow the Committee approved the student development 18 months later.

I was not made aware, at any time, as the Cabinet Member for Planning, there was a Ransom Strip which was owned by the Council and indeed when you look at the Site Plan which was part of the Application, the red-line included the land owned by the Authority – that itself needs to be looked into.

Let's have transparency with this valuation which has been carried out. I cannot see this strip is worth only £150k even if you want to sell it, which this Council should not. Just because there is Planning Permission, doesn't mean the strip has to be sold.

Who is holding the Developers to account? Certainly not this Council. There are now countless applications for P.B.S.A. in the City coming in; Scala, BMW, Hartwells, Bath City Football Club and, recently, Regency Cleaners – the Developers are rubbing their hands together with the support they are now getting from this Council.

Finally, I urge any of the Committee who love this City as I do, to reject the proposal of the Cabinet Member to approve this asset transfer.

Councillor Shaun Hughes asked if he had a view on what the land in question was worth.

Bob Goodman replied that he was not qualified to answer, but in his opinion each unit of student accommodation would be worth in the region of £70,000 – £80,000 and that he valued the land at £3m - £4m.

Patrick Anketell-Jones addressed the Panel, a summary is set out below. With reference to report item 3.3, I sat on the planning committee in 2018 when this application came forward and I do not understand why it has now become dependent on the acquisition of this strip of land. At the time of the committee, no Council service made mention of it and Highways said they had no particular objection to the application.

As the rationale for the asset transfer is the provision of community benefit I would like to focus on that aspect of the development and to request that enthusiasm for this call in does not jeopardise the project's completion.

Bath is a city undergoing fundamental economic change. This development meets the challenges of that change. Universities are now the dominant sector in the local economy as BANES transforms itself to a wider knowledge based economy. Students and accommodation for students are the ubiquitous evidence of the change. For too long we have tolerated the use of family homes for housing students and PBSA such as this brings relief to that misconceived usage.

We need to find new uses for city centres. The most effective use is residency. By creating town centre populations, you create an in-situ customer base for small retailers as well as a pool of potential employees. To be socially successful, the centre of Bath will need higher levels of residential amenity and a strong community will benefit only where there is a vibrant local economy.

The Cricket School will strengthen the sport's importance in Bath through the inclusion of young female players. This will be a facility encouraging young people to participate in a healthy activity at precisely the age when encouragement is required.

Finally, there is an aesthetic bonus in all this. The development covers over an ugly area of surface parking. Using city centre land for parking spaces is unacceptably extravagant and disfiguring. By building over the car park benefit is extracted from ugliness and value is added.

The benefits this development will bring to the people of Bath are not all necessarily site specific but distributed in and around its locality. Please do not allow this application to fail.

Councillor Vic Pritchard addressed the Panel, a summary is set out below. He said that the Council should aim to get the best value for the land in respect of its residents. He criticised the vagueness of the process in reaching the decision and said that it was not favourable for the majority of B&NES.

**54 CALL-IN OF DECISION E3191: PROPOSED ASSET TRANSFER OF LAND AT NORTH PARADE ROAD TO THE BATH CRICKET CLUB AT LESS THAN BEST CONSIDERATION**

Councillor Colin Blackburn, Lead Call-in Member addressed the Panel, a summary of his submission is set out below.

The key focus of my words today are towards Transparency, Commercial Sensitivity and who is pulling the strings.

Bath Cricket Club approached the Cabinet Member responsible about 3 years ago to informally scope out the willingness to allow them to re-develop their land. At that time, they made no reference to the fact the Council owned the 'ransom strip' in question. The Cabinet Member was unaware of that fact, gave them positive feedback but a clear warning that the Administration's Policy was 'No more Student Blocks'. Nothing further was said. A year later, 8th September 2017 a planning application arrived from Gilltown Ltd, a student development company. As they didn't own the land in question, they correctly submitted Certificates of Ownership to B&NES and Bath Cricket Club.

I cannot find out who in B&NES at Lewis House received this, but it was a clear flag that someone wanted to build, on our land, something that clearly was against the Administration's Policy and at that stage the CEO, Leader and Cabinet members should have been made aware of our ownership of the ransom strip and key role in being able to determine what could be built on the site.

Work should also have started to create a report determining value, community benefits etc. 2 and half years ago and a transparent report created, on what was becoming a land transaction, and given to the leadership of this Council. It wasn't, B&NES could have stopped this application but someone in Property Services took it upon themselves to not inform anyone, ignore the elected administration's stated policy regarding student accommodation, and must have entered into some form of negotiations with the developers.

Who was it that negotiated and on who's authority?

I call upon our CEO to take swift and decisive action to regain control in the Property Services Department. We have heard 'a report' is being done. This was stated after the last call in over 23 Grosvenor Place and told us there would be 'refinement to its decision-making processes to ensure better democratic accountability and transparency'. I ask the CEO to publish a timeline when it will be completed, by whom and then publish the findings.

How much is this land really worth? 30% of the development value I have been reliably told. At £150,000, this land is being cheaply given away to benefit a developer of a student block. We should be given the information that underpins the scant assumptions we have been told. How is the Community benefit actually measured? By definition, a ransom strip allows the owner to control what ultimately gets built there and extract a premium against the development. I think we have achieved neither.

Boosting the health of our community has been attributed a value of £2 million, a fantastic thing we can all agree but how has that figure been determined and why haven't those findings been made public?

How can we explain to our residents why another student block has been allowed to go ahead (when all noises coming from cabinet were saying, no more) and B&NES have actually facilitated it to be viable?

I ask Councillor Samuel to get more details and publish them. It looks like this is yet again a 'done deal' like the last one and we cannot get out of it..... what a terrible position our Cabinet Member has inherited.

We need transparency, to understand who and how commercial sensitive negotiations are conducted and as elected members we should know who is pulling the strings.

Councillor Shaun Hughes asked what should have happened when the application was first submitted.

Councillor Blackburn replied that whoever received it should have notified the Chief Executive, Monitoring Officer and the Leader of the Council that Certificates of Ownership had been served on the Council.

Councillor Eleanor Jackson commented that she sat on the Development Management Committee which heard the original application and confirmed that they were not told that the developer did not own the land in question. She added that in her opinion, had this been known, a standard condition should have been set for ownership to be gained before any development took place.

Councillor Richard Samuel, Cabinet Member for Resources addressed the Panel, a summary of his submission is set out below.

He confirmed that the Certificate of Ownership had been properly served on the Council and informed the Panel that the officer recommendation regarding the application was to refuse. He added though that the decision made by the Development Management Committee will not be reviewed.

He said that he felt that there was an issue for the Council to review in terms of how a decision is made when the Council is the land owner.

He stated that with regard to his decision it was a release of access rights that were required and that he was mindful of the community and financial benefits the development would offer.

He said that contact must have been made between the Council and the developer at some point near the beginning of the application and that he would consider how this can be done better in the future to show a public understanding of the process. He added that he was not aware of the nature of these discussions as this would have been done under the previous Cabinet.

He said that under the circumstances following the decision made by the

Development Management Committee it would have been more perverse if he had not made any decision at all.

The Chairman asked if anything in the process had changed as far as he was aware since he had taken up his post within the new administration.

Councillor Samuel replied that he was not aware that it had, but hoped that following the comments made that issues such as this will be better addressed in the future. He added that he would have been furious if he had been in post and that this had not been brought to his attention.

Councillor Winston Duguid asked if as part of the process whether the affordability of Bath Cricket Club was taken into account.

Councillor Samuel replied that it was not. He added that a published policy of the Council in relation to student accommodation was required so that a basis for refusal would then exist.

The Legal Services Manager commented that a policy would not be able to overwrite any form of legislation.

On a motion from Councillor Paul Myers, seconded by Councillor Karen Warrington the Panel, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, RESOLVED that the public should be excluded from the next part of the meeting, because of the likely disclosure of exempt information as defined in paragraphs 1 & 3 of Part 1 of Schedule 12A of the Act.

On their return the Chairman thanked those assembled for their patience.

Councillor Samuel made a closing statement to the Panel. He said that he hoped he had explained process carried out in making his decision. He added that he had assessed the information supplied to him before making his decision.

Councillor Blackburn made a closing statement to the Panel. He said that he acknowledged the position that Cllr Samuel has been put in and stated that future decisions must be made with greater transparency.

He called for the decision to be reconsidered and for details of it to be shared in public.

Councillor Mark Elliott commented that having been presented with the figures behind the decision he was reasonably comfortable with the value placed on the land, but that the community benefits were more subjective.

Councillor Hal MacFie said that once the deal has been concluded he would like the details of it to be published and that the figures should then be scrutinised in the months and years to come.

Councillor Lucy Hodge said that for her the figure that is most crucial in this decision is that of the proposed community benefit. She called for improvements to be made to the planning process and would especially like to see any comments or objections

relating to applications remain on the Council's website until a decision has been finalised.

Councillor Karen Warrington commented that the Development Management Committee should have been made aware of the issue relating to land ownership and hoped that steps will be taken so that this does not happen again. She said that she still questioned how much the whole Council will benefit from this decision in relation to the benefits that will be seen by Bath Cricket Club.

Councillor Alastair Singleton said that he began the meeting concerned over the true social value of the decision, but that having been made aware of the proposals he was more comfortable. He said he agreed with comments made to scrutinise the community benefit at future meetings.

Councillor Winston Duguid said that he was happy with the valuation of the ransom strip, but less happy with the calculation of social benefit and therefore how the figure of £150k was arrived at as representing best consideration. He said that he felt that Bath Cricket Club had a good economic model and he was aware of their outreach work and involvement in disabled cricket.

He added that a message must be given to the Property Services that matters such as land ownership must be given to the Cabinet Member and the Planning Committee prior to decisions being made.

The Chairman, Councillor Paul Myers commented that it appeared that the Cabinet Member had been put in an invidious position and that the process needs to be reviewed to ensure clarity and transparency in the future.

He said that the Panel had discussed whether it would have been possible to receive the full land value and then to disperse it as the development progressed, but it was explained that this would not be achievable.

He proposed that the Call-in be upheld and referred back to the Cabinet Member for Resources for further consideration and proposed the following recommendations to the Panel.

- i) Ask the Cabinet Member to review the process between Property Services and Planning Services to ensure that information relating to land ownership is clearly stated on future applications
- ii) Ask the Cabinet Member to satisfy himself that the proposed community benefits relating to the decision have been valued appropriately
- iii) Ask the Cabinet Member to seek that the community benefits will be experienced in communities across Bath and North East Somerset, not just in Bath
- iv) Ask the Cabinet Member to publish details of the community benefits at the earliest possible opportunity
- v) Ask the Cabinet Member to ensure that the community benefits are incorporated as a schedule to the lease and therefore not lost in due course.

Councillor Mark Elliott seconded the recommendations.

The Panel agreed unanimously with the recommendations proposed and therefore the Call-in was upheld.

The meeting ended at 7.15 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**