

BATH AND NORTH EAST SOMERSET COUNCIL

MINUTES OF COUNCIL MEETING

Monday, 18th June, 2012

Present:- **Councillors** Simon Allen, Patrick Anketell-Jones, Rob Appleyard, Tim Ball, Gabriel Batt, Cherry Beath, Sarah Bevan, Mathew Blankley, Lisa Brett, John Bull, Neil Butters, Bryan Chalker, Anthony Clarke, Nicholas Coombes, Paul Crossley, Gerry Curran, Sally Davis, Douglas Deacon, David Dixon, Peter Edwards, Michael Evans, Paul Fox, Charles Gerrish, Francine Haerberling, Katie Hall, Malcolm Hanney, Liz Hardman, Nathan Hartley, Eleanor Jackson, Dave Laming, Malcolm Lees, Marie Longstaff, David Martin, Robin Moss, Paul Myers, Douglas Nicol, Bryan Organ, June Player, Vic Pritchard, Manda Rigby, Caroline Roberts, Dine Romero, Will Sandry, Brian Simmons, Kate Simmons, Jeremy Sparks, Ben Stevens, Roger Symonds, David Veale, Martin Veal, Geoff Ward, Tim Warren, Chris Watt and Brian Webber

Apologies for absence: **Councillors** Sharon Ball, Colin Barrett, David Bellotti, Andrew Furse, Ian Gilchrist, Alan Hale, Steve Hedges, Les Kew, Barry Macrae, Loraine Morgan-Brinkhurst MBE and Nigel Roberts

14 EMERGENCY EVACUATION PROCEDURE

The Chair drew attention to the emergency evacuation procedure as set out on the agenda.

15 DECLARATIONS OF INTEREST

Councillor Lisa Brett declared a personal, non-prejudicial interest in item on Gypsy and Traveller site provision as her son attends Snapdragon's nursery.

16 ANNOUNCEMENTS FROM THE CHAIRMAN OF THE COUNCIL OR FROM THE CHIEF EXECUTIVE

The Chairman welcomed everyone to the meeting and reminded people to turn off their phones. He sought and received the agreement of Council for BBC Points West to film a part of the meeting.

The Chairman announced the process that would be followed with regard to questions to be put to the Speakers. Each Group will have a maximum of 13 questions of Speakers which they may address to one or more of the Speakers as they see fit.

The Chairman welcomed Olwen Dutton, partner from Bevan Britton solicitors, who was present to advise the Council.

17 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN

There were no items of urgent business.

18 QUESTIONS, STATEMENTS, PETITIONS AND DEPUTATIONS FROM THE PUBLIC

Statements to the meeting were made by the following people (when provided, copies will be added to the Minute book);

- Andy Saxton addressed the Council regarding the negative impact the proposals had had on his family life due to their house sale falling through and the consequences of that. He urged the Council to put a stop to the consultation and remove the sites that had no chance of going ahead.
- Peter Duppa-Miller, Secretary of the Local Council's Association, called for a rigorous review of the Assessment of Need. A full copy of Peter's statement is available on the Council's Minute book and attached to the minutes.
- Giles Foster spoke as the owner of a property adjoining the Radstock site. He acknowledged the rights of temporary itinerant residents but felt little regard had been given to long standing residents who had contributed to the life of the community over generations. The Radstock site was too small, with poor access and in the middle of a conservation area. He called for the 'ill-conceived proposals' to be re-thought. In response to a question from Councillor Jackson, Giles clarified the nature of the access difficulties from Bath Old road.
- Catherine Whybrow addressed the meeting and called for the momentum to be maintained. Whilst acknowledging the difficulties with the Radstock site, she urged the Cabinet to identify some official sites soon and pointed out that the cost of official sites would be less than moving Travellers on from unofficial sites. She referenced some statistics regarding reduced life expectancy and raised infant mortality rates within the travelling community in support of her case for pressing ahead.
- Joe Evans from the Campaign to Protect Rural England made a statement calling for a pause in the consultation process pending a new Needs Assessment. In response to a question from Councillor Tim Ball regarding the Duchy of Cornwall and Diocese of Bath and Wells and their ability to offer up land, Joe responded that it was not something they could comment on. A full copy of Joe's statement is available on the Council's Minute book and attached to the minutes.
- Rosemary Collard, Director of Snapdragons Nursery, made a statement outlining her concerns regarding the Ellsbridge House site and the impact that it had already had on her new business. In response to a question from Councillor Hanney regarding whether they would have expected to have been consulted about the preferred site status before 9th May, Rosemary responded that they would have hoped to have been, especially as Children's Services knew of their plans. Councillor Bull queried whether Rosemary had intended to say "considered for designation" rather than "designated", to which Rosemary responded that she was merely a lay person. A full copy of Rosemary's statement is available on the Council's Minute book and attached to the minutes.

- Clive Fricker, Chairman of Keynsham Town Council Planning and Development Committee, raised the concerns of the Committee and called for the plans to be withdrawn pending further needs assessment and consideration of other sites. In response to a query from Councillor Ball as to Clive's views regarding the requirement for all large developments to have 1 or 2 pitches included, Clive said that he had no particular view at present. A full copy of Clive's statement is available on the Council's Minute book and attached to the minutes.
- Tony Heaford, Chairman of Publow with Pensford Parish Council made a statement opposing the Old Colliery site. He explained there had been unanimous support for a petition opposing this as it was in the heart of the conservation area, accessed by a single track road and in green belt. Pensford supported the aims of the Local Plan but didn't think these proposals would meet those aims. Councillor Ball asked Tony if he believed the Council should do its duty by providing gypsy and traveller sites, and Tony replied that it was a legal requirement.
- Judith Chubb-Whittle, Chair of Stanton Drew and Stanton Wick Parish Council, made a statement outlining the reasons why the Old Colliery buildings is inappropriate. Councillor Ball thanked Judith for her hospitality on his recent visit and enquired whether the Parish Council had had a meeting to discuss the call for sites. Judith responded that the documents had been circulated but no meeting had taken place for this purpose. Councillor Hanney asked Judith if she had evidence that the site is contaminated, which could be made available. Judith confirmed that she did have a report. Councillor Hanney also asked Judith if she had details of the issues regarding protected wildlife that had been mentioned. She replied that she knew there was a bat flight path but didn't have further details. Councillor Jackson asked if it was true that the owners of the site had offered it for sale. Judith responded that it was hearsay. A full copy of Judith's statement is available on the Council's Minute book and attached to the minutes.
- Jacqui Darbyshire, a local resident from Stanton Drew, addressed the meeting. She understood that the gypsy and traveller community deserved equal rights, but did not think they should be given an advantage. Applications from travellers should be dealt with in the same way. Jacqui listed a series of objections to development on this site and maintained that legal challenge would be inevitable. She called for a duty of care to be demonstrated to the settled community and asked for the process to go back to square one. In response to a question from Councillor Ball as to whether it would have been more diligent of this Council to have started this process many years ago rather than having to speed up due to criticism from the Inspector, Jacqui responded that we needed to focus on where we are now.
- Paul Baxter spoke regarding the Stanton Wick Old Colliery site. He called for Members to refrain from party political point scoring and to listen to the comments being made. He referred to comments made by Councillors Crossley, Beath and Ball in which he maintained they had nothing good to say about the site other than its size. Councillor Moss asked whether Paul had details of the cost of removing illegal pitches if no official sites were available. Paul responded that a Freedom of Information request he'd put in had produced a figure of £180 + VAT.

Councillor Moss then asked Paul if he was aware that Bristol City Council had had to spend £200,000 on clearing unofficial sites, but that once they had legal sites available, the figure had dropped to approx. £5000. Paul responded that he was glad that Bristol City Council had saved money but asked for consideration of the millions in lost asset value for the properties in the area.

- Richard Harwood, Counsel for Residents' groups on three of the proposed sites (the Old Colliery Stanton Wick, former Radstock Infants School canteen and land near Ellsbridge House, Keynsham) made a statement. He referred to problems with the site selection process relating to the scoring suggesting the criteria had not been followed. He mentioned the lack of amenities available to the Stanton Wick site and the contamination of the land. A full copy of Richard's submission is available on the Council's Minute book and attached to the minutes.

Councillor Ball asked Richard if he was aware of the Inspector's criticism of the Core Strategy that the Council had not identified any sites. Richard responded that he didn't dispute that sites needed to be found. The problem was that the Inspector would wonder how sites nearer the bottom of the scoring list had been selected.

Councillor Hanney asked Richard to confirm if he had acted in the judicial review for the Dale Farm site. Richard confirmed that he had.

Councillor Hanney then asked whether Richard's experience with the Dale Farm case had highlighted problems to avoid in future such cases. Richard responded that 3 main areas were relevant; an accurate and up to date needs assessment, the suitability of the site in meeting the Travellers' needs (health, education, access etc) and a credible process that stands up to scrutiny by the courts but also maintains public confidence.

Councillor Hanney noted that the site had been vacant for some years and enquired if Richard was aware of any particular steps the Council should take with regard to the protected species. Richard responded that the Stanton Wick colliery was in a site of nature conservation interest and any change to that would have a very significant adverse effect. For European protected species, it was necessary to demonstrate that no alternative sites were available for a project to proceed. In his experience, this has been a showstopper in other cases.

Councillor Hanney enquired whether, in Richard's experience, it was practical to develop part of a site without a boundary. Richard responded that it was based on context. Without a definitive boundary, it was easier for disputes to arise as to whether further permission was necessary for expansion.

Councillor Hanney asked for Richard's view of the likelihood of legal risk if the Council develops green belt land. Richard responded that development of green belt land was only permissible in specific circumstances and if no alternatives are available.

Councillor Hanney asked Richard if there was any reason why B&NES should not co-operate with other Authorities to ensure we can meet the needs of the traveller community on suitable sites. Richard responded that national policy does require

co-operation when there is an impact across areas and the Council will have to show it has co-operated with other Authorities and groups such as English Heritage, Natural England etc.

Councillor Hanney referred to the Cabinet decision of 9th May that only new sites will be considered for inclusion and not those already rejected through the initial site assessment, and asked for Richard's view as to whether the Inspector would be satisfied if, at the end of the process, the Cabinet have failed to identify appropriate pitches. Richard responded that the Inspector would need to be satisfied that the results of the consultation had been considered and would also want to know which sites were ruled out.

Council Hanney asked Richard's opinion as to whether legal options were available to Stanton Wick residents if the Old Colliery site remained as a preferred site in the Development Plan document. Richard responded that there would be potential for judicial review, it could be reviewed through the examination process and there was the potential to challenge the adopted plan. He added that the Local Authority paid the Inspector to work on their behalf but it was the Authority itself who had to defend any proceedings.

Councillor Hanney asked whether Richard considered that the fact that the current consultation on the Preferred Options document was not a statutory part of the DPD process would be a sufficient defence to any judicial review that may be sought by one or more of the Action Groups in respect of the Council's processes including the Cabinet's selection of Preferred Sites and/or any claim for compensation that may be made for negligence. Richard responded that it would be a significant part of the process so susceptible to legal challenge.

Councillor Bull commented that this was not a Planning Committee and queried whether considerations such as access, protected species etc were not better dealt with at the planning application stage. Richard responded that, at this stage, the Council had to satisfy itself and the Inspector that it had selected the best sites and be able to show that they were deliverable and, in this regard, the potential costs of challenge on contamination or protected species aspects would be considerable.

Councillor Jackson referred to the 2004 Housing Act and the Secretary of State's right to dictate sites and queried whether it would not be misguided to halt the present consultation when new sites were becoming available as part of that consultation. Richard acknowledged this was important but stated the current process was inexplicable regarding the choice of sites and said the current process didn't need to be abandoned but brought back on track to produce the right deliverable sites.

Councillor Laming queried the use of the term "spike in demand" for pitches when DCLG figures showed a steady rise from 39 in January 2010 to 71 in January 2012. Richard responded that the caravan sites in DCLG consultation are at a very low level and then a spike. These figures are 5 years old. We need to look forward. It's not a reliable exercise that's been carried out. The DCLG figures don't provide an accurate picture.

19 GYPSY & TRAVELLER SITE PROVISION

The Chairman introduced this item and invited Olwen Dutton from Bevan Britton to advise the meeting.

Olwen noted the comments that had been made thus far in the meeting but explained that this did not change the process that the Council had to follow which was governed by legislation. She stated that, whilst Council Members had called this meeting in accordance with provisions within the Constitution, the definitive view on the matter rested with Cabinet. Councillor Hanney asked whether Olwen believed that the draft officer report provided to her and/or the officer report now before Council provide sufficient necessary information and advice to Council as to the implications and risks of the decisions by Cabinet on 9th May 2012 (including but not limited to decision 7 as referred to in his motion) on the DPD and Core Strategy process and as regards potential legal challenges by one or more of the Action groups. Olwen responded that she considered they did.

Councillor Hanney then introduced the item and set out the reasons for calling the meeting and moved a motion (*note 3*), seconded by Councillor Haeberling.

An amendment (*note 2*) was then moved by Councillor Sandry, seconded by Councillor Bevan which, following a recorded vote became the substantive motion, (*note 1*) which was then

RESOLVED

1. To note that Cabinet agreed at its meeting on 9th May 2012 to take forward a list of 6 'preferred' sites for public consultation in a Preferred Options paper;
2. To note that the consultation remains open until 5:00 pm on 18th July 2012;
3. To thank all residents and Councillors for their contributions to the debate surrounding the preferred options consultation including at the meetings of the Cabinet on 9th May 2012 and the Planning, Transport and Environment Policy Development & Scrutiny Panel on 15th May 2012;
4. To ask the Cabinet, when it meets on 12 September 2012, to discuss the B&NES Gypsies, Travellers and Travelling Showpeople sites allocation plan, to consider the views expressed at this meeting and previous meetings, in order to decide whether to take forward specific proposals for consultation.

[Notes -

1. *The above resolution was carried by a named vote with 30 for, 23 against, 1 abstention* **For:** Councillors Allen, Appleyard, Tim Ball, Beath, Bevan, Brett, Bull, Butters, Coombes, Crossley, Curran, Deacon, Dixon, Fox, Hall, Hardman, Hartley, Jackson, Laming, Lees, Martin, Moss, Nicol, Player, Rigby, Roberts, Romero, Sandry, Stevens and Symonds; **Against:** Anketell-Jones, Batt, Blankley, Chalker, Clarke, Davis, Edwards, Evans, Gerrish, Haeberling,

Hanney, Longstaff, Myers, Organ, Pritchard, Brian Simmons, Kate Simmons, Veal, Veale, Ward, Warren, Watt and Webber; **Abstention:** Sparks.

2. *The amendment moved on behalf of the Liberal Democrat group (which subsequently became the substantive motion) was carried by a named vote with 30 for, 23 against, 1 abstention **For:** Councillors Allen, Appleyard, Tim Ball, Beath, Bevan, Brett, Bull, Butters, Coombes, Crossley, Curran, Deacon, Dixon, Fox, Hall, Hardman, Hartley, Jackson, Laming, Lees, Martin, Moss, Nicol, Player, Rigby, Roberts, Romero, Sandry, Stevens and Symonds; **Against:** Anketell-Jones, Batt, Blankley, Chalker, Clarke, Davis, Edwards, Evans, Gerrish, Haerberling, Hanney, Longstaff, Myers, Organ, Pritchard, Brian Simmons, Kate Simmons, Veal, Veale, Ward, Warren, Watt and Webber; **Abstention:** Sparks.*
3. *At the start of the debate, a motion was moved by Councillor Malcolm Hanney on behalf of the Conservative group calling for Cabinet to report back to Council on the appropriateness of a new Needs Assessment, requiring Cabinet to produce a new Scoring Matrix, calling for Cabinet to re-assess sites and asking Cabinet to halt the current consultation while the above actions take place. A copy of the motion is attached to the minutes on the web and held on the Council's Minute book.*

20 QUESTIONS, STATEMENTS, PETITIONS AND DEPUTATIONS FROM COUNCILLORS

There were no statements or questions from Councillors.

The meeting ended at 3.35 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services