

BATH AND NORTH EAST SOMERSET

RESOURCES POLICY DEVELOPMENT AND SCRUTINY PANEL

Wednesday, 23rd November, 2016

Present:- Councillors Sarah Bevan (Chair), Bob Goodman (Vice-Chair), Christopher Pearce, Jasper Becker, Colin Barrett, Andrew Furse and Eleanor Jackson (in place of Chris Dando)

36 WELCOME AND INTRODUCTIONS

The Chairman welcomed everyone to the meeting.

37 EMERGENCY EVACUATION PROCEDURE

The Chairman drew attention to the emergency evacuation procedure.

38 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Councillor Dando sent his apologies and was substituted by Councillor Jackson.

39 DECLARATIONS OF INTEREST

Councillor Goodman declared an interest in item 9 in that he sometimes acts for clients involved in the Commercial Estate.

Councillor Jackson mentioned that, as a member of the Development Management Committee, she would not take part in any debate regarding an East of Bath Park and Ride.

40 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN

The Chair, Councillor Sarah Bevan announced that she had accepted an item of urgent business on to the agenda. She explained that item for discussion involved the two specific financial aspects of the invalid call-in regarding 'E2900 Getting Around Bath Transport Strategy'. These relate well to the panel's remit and given the urgency, together with the level of interest, she as Chairman had agreed that they should be discussed. She also emphasised that the discussion would not involve a consideration of the strategy or the East of Bath Park and Ride options. These would be on a Cabinet agenda in the early part of the new year. She asked all present to keep their remarks relevant to the agenda and the Panel remit.

Andrew Pate, Strategic Director for Resources and Tim Richens, Divisional Director for Business Support and 151 officer introduced the item. It was explained that there are numerous examples of projects where provisional approval is converted into full approval. It was explained that this process is set out and is commonly done through the Single Member Decisions. Regarding risk, it was confirmed that it is appropriate for the decision maker to consider the risks involved and take them into account.

This has been done. Following a question, the Strategic Director explained that paragraph 5.8 in the panel's paper refers to the reversion risk.

Councillor Furse stated that it could be seen as suspicious that every draw down of money is a tranche of £300k and maybe above this level would bring scrutiny. He asked how much had already been spent. The Divisional Director confirmed that of the £1.1M budget £941k has been contractually committed and that the fact that each tranche of draw down had a similar value had no specific relevance. Councillor Furse asked if the Cabinet had overcommitted themselves before the extra £300k. The Divisional Director explained that transport officers had advised that £300k was the additional sum needed to facilitate the Cabinet decision. The Strategic Director for Place explained that the aim had been to get to a position where the cabinet member did not need to request more financial approvals but instead could progress to a decision report in the new year. Councillor Barrett asked how much has been spent on public consultation on the sites. The Strategic Director for Place explained that an element of the expenditure was on the Scrutiny Inquiry Day and the LDF work.

Councillor Jackson stated that the issue is complex but that the process must be transparent for residents and it is good that the issue is being given a good amount of scrutiny. She further explained that when members criticise the process, it is not a personal criticism of officers.

Councillor Furse asked if the Heritage Impact Assessment was part of the cost so far. The Strategic Director for Place explained that all sites have now had Heritage Impact Approval and she has a further meeting with Historic England next week. The Strategic Director for Resources confirmed that the costs include this.

Councillor Furse asked if the risk register for this project has been seen by Corporate Audit, also has the revenue reversion risk been seen and where will this be scrutinised. The Strategic Director explained that capital projects are generally not on the Corporate Risk Register and but that for each project there are procedures to analyse risk and these procedures do not routinely involve internal audit or the Audit Committee. He confirmed that the 151 officer will consider the financial impact when a decision report is drafted in the new year.

Councillor Furse stated that he had sent a request to the Divisional Director for Business Support (S151 officer) asking for financial information on how much money has been spent on the Park and Ride on a year by year basis. He recommended that the Panel see this information. It was **RESOLVED** that:

- Information on the public spend on the East of Bath Park and Ride (analysed between years) be brought to the Panel; and
- The Panels concern on £300k tranches being taken to fund this be referred to the Cabinet Member.

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

- Councillor Karen Walker made a statement to the Panel regarding the budget and Peasedown St John. *A copy of the statement is appended to these minutes.*

The Panel and Cabinet member for Efficiency and Finance noted the statement.

- Nicolette Boater made a statement to the Panel regarding 'The adequacy of Overview and Scrutiny with respect to current and future challenges'. The Panel also noted Nicolette Boater's question and the answer provided. *A copy of the statement and of the question and answer is attached to these minutes.*

The Panel and Cabinet Member for Efficiency and Finance noted the statement.

- Christine Boyd made a statement to the Panel regarding the East of Bath Park and Ride. She stated that nobody had made a formal decision to approve a Park and Ride or identified a need for it yet a large amount of money has been spent. She urged the Cabinet members to produce a fully costed report. *A copy of the statement is appended to these minutes.*

The Chair stated that the Panel will take her comments into account in consideration of this item on the agenda.

- Annie Kilvington made a statement to the Panel regarding the East of Bath Park and Ride. She stated that large sums of money had been spent delivering a commercial agenda and asked for transparency on this spend. *A copy of the statement is appended to these minutes.*

The Chair stated that the Panel will take her comments into account in consideration of this item on the agenda. Ms Kilvington questioned why any Panel concerns are sent to the Cabinet Member for Transport, she stated that this is not appropriate. The Monitoring Officer, Maria Lucas explained that this is how Scrutiny works and set out in legislation.

- Sian James made a statement to the Panel regarding the East of Bath Park and Ride. She spoke about the risk on this project and asked what would be cut to pay for the work done on it so far. She asked if the Panel had seen the Risk Register and stated that the risk of reversion is real. The Strategic Director for Resources explained that the Panel does not routinely see the Risk Register and that Corporate Audit Committee would have sight of it.

The Chair stated that the Panel will take her comments into account in consideration of this item on the agenda.

- Councillor Rayment made a statement to the Panel. He questioned why the recent call-in was judged invalid by unelected officers. He thanked the Chair for taking this item but stated that the call-in should not have been judged invalid and that this represented an attack on democracy. He stated that the

Labour and Liberal Democrat Groups will not stand for this and urged other groups to join them in order that the call-in system be effective.

The Monitoring Officer explained that Group Leaders will be asked to clarify the Constitution in relation to future call-in requests. She further explained that the call-in would not have necessarily stopped implementation of the decision, if a call-in is upheld by a Scrutiny Panel, the issues goes back to the Cabinet Member for consideration.

Councillor Furse stated that there is no history of frivolous call-ins in this Council and those that have happened have extracted further information on the issue and sometimes the Cabinet Member has amended their view.

Councillor Rayment stated that the Panel have Legal and Democratic Services in their remit. The Strategic Director for Resources explained that two matters from the invalid call-in are on the agenda today, the Councils constitution is not.

- Councillor Millar made a statement to the Panel. She endorsed the comments made by Councillor Rayment and added that Scrutiny is an important role. She stated that the decision in question should not have been taken under the Single Member Decision (SMD) process and should have been a key decision. She asked that the money spent on consultants on the Park and Ride be made available. She further asked why officers cannot defend the money spent in public. The Monitoring Officer explained that the decision in question was in fact a key decision and it was taken in public by a single member.
- Councillor Romero made a statement to the Panel. She stated that call-ins should not be feared and the total spend on the Park and Ride is large and not all has been done publically. She asked the Panel to launch an investigation on how much has been spent.
- Councillor Moss made a statement to the Panel. He questioned the decision that the call-in was not allowed and stated that it is about the rights of backbench Councillors to ask legitimate questions. The Monitoring Officer explained that a briefing note will be sent to all Councillors settling out how the Constitution works which will reference Article 13 in the Council constitution as well as the rules of public law. The Strategic Director of Resources stated that it is not for this Panel to rule on the Constitution. Councillor Furse asked that the Panel be sent a copy of the legal advice on this call-in. The Monitoring Officer confirmed that written legal advice would be obtained from the QC. Following a query from Councillor Millar, the Monitoring Officer confirmed that a public law QC had been consulted.

Councillor Barrett expressed concerns about the criticism made about officers in this meeting, as officers are professionals and cannot fully reply in public.

(Please note that the issue on the Park and Ride in some of the above statements and debate is minuted under item 5 on this agenda, minute number 40)

42 MINUTES

The Panel confirmed the minutes of the previous meeting as a true record and they were duly signed by the Chairman.

43 2016/17 BUDGET MONITORING AND THE PROGRESS WITH STRATEGIC REVIEW IMPLEMENTATION

Tim Richens, Divisional Director for Business Support introduced the report.

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

Councillor Furse mentioned three aspects of the report; he noted the income from the Thermae Spa; he asked about the payroll shortfall and about the overspend on SEN home to school transport. The Cabinet Member for Finance and Efficiency, Councillor Charles Gerrish explained that regarding payroll, the technical project known as ITrent did not create the planned saving in the timescale that was envisaged. He explained that part of the income from the Spa was due to a one off payment. Regarding SEN transport, he explained that schools within the authority are oversubscribed so there are more children being taken to schools outside the authority.

Councillor Barrett asked to be sent the business plan for two weekly waste collections. The Cabinet Member explained that there is no business case yet as the process does not start until next year. Councillor Barrett asked to be sent the business plan when it is produced and asked for it to come to this Panel. The Strategic Director explained that it would normally go to the Communities, Transport and Environment Panel if requested and in any case this would be part of the Budget Report for next year which would be brought to this Panel.

Councillor Jackson asked about Adult Social Care. The Cabinet Member stated that there was additional funding from the 2% Council Tax 'precept' last year.

Councillor Becker asked about the overspend on Community Services. The Cabinet Member explained that the reason is that the tenders for getting rid of waste came in higher than expected.

Councillor Barrett asked how much the Council are getting for recycling this year. The Cabinet Member explained that part of the contract with Keir enables them to sell the recycling and they take the return on the sale.

Councillor Jackson stated that the reason for the underspend in the housing and planning is because the Development Management and Enforcement Team have won every appeal in the last 12 months.

Councillor Furse asked about the cost of the relocation of the street cleaner depot. The Cabinet Member explained that this cost also relates to the planned move to Pixash.

44 COMMERCIAL ESTATE

Derek Quilter, Divisional Director Property and Project Management gave a presentation to the Panel which covered the following:

- Overview of the Commercial Estate
- Key Facts
- Gross Income Growth (Including Acquisitions)
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- Breakdown of portfolio by type
- Property types
- Commercial Estate Ownership – Bath
- Interesting facts
- Current Commercial Estate Objectives
- Statutory powers
- Performance of the Commercial Estate
- Performance
- Gross Revenue Return Performance
- Rent Arrears
- Voids
- Management Cost
- Management Team of the Commercial Estate
- Internal Staffing
- Critical Partner
- Acquisitions and Estate Development
- Acquisition and Restructures
- Office Development – BQS
- Major Commercial Estate Development
- Investment Funding
- Emerging Strategy for the Commercial Estate
- Context – Strategic Review Targets
- Performance Targets
- Existing Estate Management
- Acquisition – future approach
- Commercial Estate Objectives

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

Councillor Barrett asked about the residential section and asked how many properties have been purchased, for how much and what is the income. The officer explained that 15 properties have been transferred to ADL. He added that ADL are producing a business plan that could come to this Panel if requested. He also indicated that Commercial Estate is nevertheless separate from ADL and this needs

to be understood as the distinction is important, each having separate governance and objectives.

Councillor Pearce asked if the Council operates on a level playing field with other commercial landlords. The Strategic Director explained that the Council are subject to FOI requests, procurement rules and public scrutiny but that the Council's tax status is beneficial as is its ability to borrow at exceptionally low rates.

Councillor Furse stated that diversity in the city centre estate is good, the Council should value diversity and local businesses.

Councillor Goodman asked David Stubbs – BNP Paribas if this report is the same as the one that came to the Panel in July. David Stubbs explained that it is a different report addressing different issues. The Strategic Director explained that the report that was brought to the Panel in July was written by officers, informed by work with BNP Paribas and 10% of the report was not included as there were references that were not suitable for publication. He further explained that today the Panel have an updated report which responds to requests for a lot of background information so there is more detail in this report. Councillor Goodman stated that the Panel do not have the full original report that he requested in July. He asked David Stubbs how the department could get the higher figure. David Stubbs explained that the Council could always do better and the key to future success is that targets should be constantly challenging. He explained that there is a big difference in the private sector as there are shareholders and drivers that are hard to inject into the Property department of a local authority. He explained that Shaftsbury Estate is a good exemplar.

Councillor Paul May, Cabinet Assistant (Finance and Efficiency) stated that we are a fortunate local authority to have the volume of property. He suggested a session on Commercial Estate property to explore if we are getting enough out of our properties and also are we investing enough. Councillor Becker supported the idea. He suggested also exploring the suggestion from BNP about premium and luxury brands.

Councillor Goodman asked if we have a strategy for working with shops who are struggling. Richard Long, Head of Property Services explained that officers have a good relationship with tenants and try to monitor rent arrears closely plus have agreed practices to support those that are in difficulty.

45 CABINET MEMBER UPDATE

The Cabinet Member for Finance and Efficiency Councillor Charles Gerrish stated that he had mainly been working on the budget.

46 PANEL WORKPLAN

The Panel noted the workplan with the following additions:

- Commercial Estate Property Strategy

It was noted that the Chair and Strategic Director would meet to discuss the workplan and feed back to the Panel.

The meeting ended at 7.30 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services