

APPENDIX 5 - TERMS OF REFERENCE

Call-in of the Cabinet decision: E2861

Introduction

Cabinet at its meeting on the 25th January resolved to:-

- **1.** Note that both sites F and B could deliver the required outcomes for a P&R site to the east of Bath.
- **2.** Refuse that site F with 800 or 1,200 spaces should be promoted as the preferred site for a new Park and Ride east of Bath.
- **3. Authorise:-**
 - A) that site B with 800 spaces should be promoted as the preferred site for a new Park and Ride east of Bath based on the advice in the report, but subject to satisfactory arrangements for the purchase of the site and agreement from Highways England on access.
 - B) If site B is not deliverable for the above reasons, within a reasonable timescale, then site F should be progressed.
- **4.** Delegate authority to the Strategic Director (Place), in consultation with the Cabinet Member for Transport, to make all necessary arrangements to implement the above, including, as necessary, the appropriation of land under Section 122 of the Local Government Act 1972.
- **5.** Approve all necessary expenditure to enable the site to be secured and requests the development of a full business plan for appropriate executive approval.
- **6.** Fully approve an additional £500,000 to support delivery of the next steps.

On the 1st February a call-in notice was received, signed by 13 Councillors, objecting to this decision. A copy of the call-in request is attached at Appendix 3 of the formal agenda papers. The call-in petitioners are concerned on the following grounds:

This decision relates to the proposed East of Bath Park and Ride and should be reconsidered for the following reasons:

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.
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.

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.
4. The conclusions of the PDS Scrutiny Inquiry, requested by full Council, were given insufficient weight in the Cabinet's decision-making.
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.
6. Evidence of the costs, risks, and environmental impact, need, and supposed benefits was incomplete, inaccurate in parts and inadequate for a decision of this importance and financial implication.
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.
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.
9. The report was:
 - 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.
 - 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."

- 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; site B and site F are both well within it.

Relevant PDS Panel

The 'call-in' request has been referred to Bath & North East Somerset Council's Communities, Transport & Environment Policy Development & Scrutiny Panel to review the decision.

Call-in Meeting

At the Panel meeting on 23rd February the Panel will investigate and determine the matter. They will assess in detail the reasons for the Cabinet decision and consider the objections stated in the call-in notice via a range of information from Councillors, Officers and members of the public (further details below).

Objective

The objective of the Call-in review is to determine whether or not the resolution made by the Cabinet Members should:-

- Be referred back to the Cabinet for reconsideration [**'Uphold' the call-in**]
- Proceed as agreed by the Cabinet [**'Dismiss' the call-in**], or
- Be referred to Full Council to undertake the role of the Panel [*the ultimate decision would still remain with the Cabinet*].

Method

To achieve its objective, the Panel will investigate the original decision and the objections stated in the call-in notice. The Panel will hear statements from members of the public who have registered to speak about both the substance and processes behind the decision. Public statements will be limited to 3 minutes per speaker. It will also require attendance and/or written submissions from:-

- Representative Councillor(s) for the call-in request – Cllr Alison Millar
- Lead Cabinet Member – Cllr Clarke (Cabinet Member for Transport), and key service officers

Outputs

The Panel's view and supporting findings will be made publicly and will include:

- Minutes & papers from public Panel call-in meetings.
- A summary note will be provided, setting out the result of the call-in meeting

Constraints

The Panel will only address questions from the 9 points received within the call-in notice.

- **Timescales.** The Panel must hold its initial meeting within 14 working days of the call-in being verified to consider the call-in request. The Panel has a total of 21 working days to reach its decision.
 - Initial Public Meeting must be held by 24th February [14 working days from receipt of validated call-in request]
 - If meeting adjourned, second public meeting must be held 7th March [21 working days from receipt of validated call-in request]
 - If referred directly to the Cabinet, a response must be received by 9th March [10 working days from date of 1st meeting]
 - If adjourned and then referred to the Cabinet, a response must be received by 20th March [10 working days from date of 2nd meeting]
- **Resources.** The call-in process must be managed within the budget and resources available to the Panel.
- **Council Constitution.** Part 4E, Rule 13 requires that “*Where an Overview and Scrutiny Panel makes a recommendation that would involve the Council incurring additional expenditure (or reducing income) the Panel has a responsibility to consider and / or advise on how the Council should fund that item from within its existing resources*”. Section 3.1 of the cover report (formal agenda papers) provides further explanation.