

## **BATH AND NORTH EAST SOMERSET**

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

Thursday, 23rd February, 2017

Present:- **Councillors** John Bull, Brian Simmons, Colin Barrett (in place of Peter Turner), Lisa O'Brien (in place of Alan Hale), Neil Butters, Lizzie Gladwyn, Mark Shelford (in place of Bob Goodman), Ian Gilchrist and Lin Patterson

#### **129 WELCOME AND INTRODUCTIONS**

The Chairman welcomed everyone to the meeting and explained that the purpose of this meeting is for this panel to decide whether Cabinet should be requested to reconsider its decision of 25 January 2017 to allocate a site for an East of Bath Park and Ride. He further explained that today's meeting will be limited to considering the Cabinet decision and the reasons for it; plus the issues set out in the Call in request (contained in appendices to the report). The Chairman asked that speakers and participants confine their remarks to those issues and that he would not allow the introduction of new issues.

The Chairman advised that the panel had three options available to it:

- The first option was that the Panel could dismiss the Call in. This would mean that Cabinet's decision would take effect immediately.
- The second option was that the Panel could uphold all or part of the Call in. This would mean that Cabinet would have to re-consider its decision in light of the Panel's comments.
- The third option was that the Panel could decide that the Call in request should be considered by the full Council instead of by the panel, who would be fulfilling the role of the Scrutiny Panel in upholding or dismissing the Call in. If Council upheld all or part of the Call in, this would also mean that Cabinet would have to reconsider its decision in the light of this.

The Chairman stated that whatever the outcome of the meeting, it was important to remember that the final decision on the allocation of a site for an East of Bath Park and Ride will rest with the Council's Cabinet.

The Chairman then read the following statement; -

"The East of Bath Park and Ride is a high profile issue upon which many members of the Council have expressed opinions, including myself; and I have also put my name to the Call in notice.

However, we are not here to decide upon the merits of the Park and Ride proposal. Our job is to decide if Cabinet should re-consider its decision. Therefore, I wish to make it clear that I am entirely open minded about the outcome of this Call in application and I will be basing my decision upon the evidence and representations before me.

If any member of the panel feels that they are unable to make a decision on the Call in with an open mind, please would they say so now”.

The Chairman then went on to state that:

“Members of the panel should also be aware that, under the Council’s constitution, members have a duty to declare that they are subject to a party whip and the nature of it. I can confirm that I am not subject to a party whip in this meeting. If any members of the panel are subject to a party whip, please would they declare it now”.

(None of the Panel members declared on either of the above)

Finally the Chairman asked that no members of the public pass notes to Panel members and also explained that the camera recording the meeting had been organised by the Bathampton Meadows Alliance.

### **130 EMERGENCY EVACUATION PROCEDURE**

The Chairman drew attention to the emergency evacuation procedure.

### **131 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Councillor Alan Hale gave his apologies and was substituted by Councillor Lisa O’ Brien.

Councillor Bob Goodman gave his apologies and was substituted by Councillor Mark Shelford.

Councillor Peter Turner gave his apologies and was substituted by Councillor Colin Barrett.

### **132 DECLARATIONS OF INTEREST**

As noted above, the Chairman asked members to declare if they did not have an open mind, no Panel members declared.

The Chairman also asked members to declare if they were subject to a party whip, no Panel members declared.

The following Councillors declared that they had signed the Call in notice and/or made comments at the Cabinet meeting on 25 January 2017:

Councillor John Bull  
Councillor Neil Butters  
Councillor Ian Gilchrist  
Councillor Lin Patterson

Councillor Lisa O’Brien

**133 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN**

There was none.

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

All statements on the issue are made under item 7 on the agenda.

The Chair explained that a request had been received from Christine Boyd to make a statement which would require rule 27 to be used, to suspend rule 32.

Panel members voted unanimously to agree to use rule 27 to suspend rule 32.

**135 CALL-IN OF DECISION E2861 - PARK AND RIDE EAST OF BATH**

As noted above, the Chair explained that a request had been received from Christine Boyd to make a statement which would require rule 27 to be used, to suspend rule 32. Panel members voted unanimously to agree to use rule 27 to suspend rule 32.

The Chair asked if any Panel members were minded to refer the Call-in to full Council at this point. No members indicated that they were.

**Statements from Councillor Millar (Call-in Lead Member) and Councillor Clarke (Cabinet Member for Transport) and Panel questions:**

Councillor Bull invited the Lead Councillor for the call-in, Councillor Alison Millar, to make her statement (*a copy of this statement is attached to the minutes for this meeting*). Councillor Millar spoke to the points in the Call-in notice with particular reference to: loss making options being chosen; the cost of an RUH service not being factored in; the need for a Park and Ride to the East not established; flawed consultation; the final decision being delegated to an officer and therefore not transparent; no business case; lack of Heritage study and flood risk analysis. She stated that the decision had not been sound or robust.

Questions from the Panel to the Lead Call-in Councillor

Councillor Bull asked Councillor Millar to explain how the consultation had not been clear. Councillor Millar explained that the way the questions were set out were not clear and that the consultation was now 15 months old and irrelevant.

Councillor Patterson asked if we should not be pleased that two thousand cars will use Park and Ride services. Councillor Millar stated that she does not think that this would be the result of the project (she explained that a public statement later in the meeting would cover this point in more detail).

Councillor Patterson asked if there were any other areas that should have been covered by the business case. Councillor Millar replied that there was no business case yet.

Following a request from the panel, the Principal Solicitor explained the effect of section 122 of the Local Government Act 1972.

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Councillor Bull invited the Cabinet Member for Transport, Councillor Anthony Clarke to make his statement. Councillor Clarke explained that a clear decision had been made on 25<sup>th</sup> January 2017 at the Cabinet meeting. He explained that the Cabinet were not asked to make a planning decision and were not asked to give approval for a full business case; Cabinet was asked to decide on a preferred location which they did. He explained that the decision was well informed with ample evidence. Councillor Clarke addressed the 9 points of the Call-in notice referring to the Response table circulated at the meeting (*a copy of this document is kept on the Council's minute book*). Councillor Clarke made reference to the following points in the Response table: sites F and B were consulted on; all but one of the recommendations from the Scrutiny Inquiry Day were accepted; the LDF group included ward members and no objections were raised to this in 2015; it was stressed at Cabinet that there was no intention of using CPO (information on this was requested for the public record); he concluded that planning issues were not within the remit of the Cabinet.

#### Questions from the Panel to the Cabinet Member for Transport

Councillor Shelford stated his concern on the loss of the direct bus line to the RUH. Councillor Clarke explained that this was not one of the things that the Cabinet needed to address at the 25<sup>th</sup> January meeting. He reassured the Panel that this issue is being explored.

Councillor Butters asked if intervention regarding the school run had been considered. Councillor Clarke stated that it was not relevant to this issue but for information, school travel plans are being looked at across the authority.

Councillor Patterson asked if there had been contact with the Planning Inspector, Councillor Clarke stated that he was not aware that there had been any conversations with a Planning Inspector.

Councillor Bull referred to the part of the decision that was delegated to the Strategic Director for Place – he explained that some may see this as the Director making the choice on the site and asked for clarification. Councillor Clarke explained that a decision register entry must be made and that the decision would be in consultation with him.

Councillor Shelford asked if work has been done regarding flooding issues on both sites. Councillor Clarke explained that if something would not get through the planning process then there was no point pursuing it – he acknowledged that sites B

and F are near the floodplain but 6-7 meters away. Councillor Gilchrist stated that he disagreed with this estimate and asked if all risks had been considered. Councillor Clarke explained that this would be part of the planning process and a full planning application had not been done yet. Councillor Patterson expressed concern that no cognisance of risk had been taken at this stage.

Councillor Shelford asked for an update on the AONB and UNESCO issues and asked what mitigation and screening could be put in place. Councillor Clarke stated that it was accepted that plans would impact upon the green belt but there were methods of landscaping and mitigation.

Councillor Butters stated that he thought that the role of rail should be investigated and prioritised and that there should be better signage for the Lansdown Park and Ride on the A46. Councillor Clarke supported the use of rail but stated that it was not relevant to the question in front of the Panel today. In response to a question from Councillor O' Brien he explained that there is potential for rail on site B but this was unlikely to be possible within the next 5 years.

### **Statements from Members of the Public and Councillors:**

The following members of the public made statements:

1. Nicolette Boater stated that she understood the difficulties of making the right decision at the right time in the right way. She referenced her many statements made on this issue and asked the Panel to uphold the Call-in and help the Cabinet to make a better decision (*a copy of this statement is attached to the minutes for this meeting*).
2. Tom Marshall, Trustee, Bath Preservation Trust stated that he felt the Cabinet had been misled in relation to - the requirements of Historic England in relation to the site selection and also the Planning Inspector's input. He asked that the Cabinet reconsider their flawed decision (*a copy of this statement is attached to the minutes for this meeting*)
3. Tom Boden, General Manager, Dyrham Park and Bath National Trust stated his concerns regarding harm to the landscape and heritage. He also felt that landscaping and mitigation to screen the development would not be effective. He added that the decision was also premature in advance of adoption of the Placemaking Plan (*a copy of this statement is attached to the minutes for this meeting*)
4. Patrick Rotheram, FOBRA (Federation of Bath Residents Association) stated that FOBRA supported a Park and Ride to the East especially in light of the strategies to reduce city centre parking and traffic. He felt that the meadows was not more important than the jewel that is the city centre.
5. Louise Prynne, Chief Executive, Bath BID Company, stated that a Park and Ride to the East will send a message that Bath is open for business and it will boost the local economy and is good for jobs. She added that the development would be part of a bigger jigsaw.
6. Christine Boyd (for Fiona Powell), Bathampton Meadows Alliance, stated that the Cabinet resolution was not justified and while the Cabinet prefer site B, the officers

- preferred site is F. She stated that the Panel are the only body that can ask for the decision to be reconsidered and asked the Panel to exercise its powers.
7. Louise Hidalgo (addressing points 1, 2, 3 & 7 of the Call-in notice) questioned whether the development was 'embedded in Council policy' when no Council body had approved it. She questioned the surveys taken eg. one taken during the Christmas market. She added that the Halcrow Report did not consider site F. She concluded that the Cabinet report was misleading and inaccurate (*a copy of this statement is attached to the minutes for this meeting*)
  8. Annie Kilvington (addressing points 1,6 & 9 of the Call-in notice) asked about UNESCO and Heritage impact assessments and also the fact that Historic England had pressed for site selection before the decision was taken.
  9. Christine Boyd, Bathampton Meadows Alliance (addressing point 9a of the Call-in notice), stated that the Cabinet report misled them about the Placemaking Plan on which consultation on modifications closed 9 days ago. She also questioned the part of the report which stated that the Council had received informal comment from the Planning Inspector. She concluded that the Council should not have selected a site before the Placemaking Plan was approved. (*a copy of this statement is attached to the minutes for this meeting*)
  10. Sian James stated that there were large financial risks with this development and yet no business case. She asked if knock on effects have been considered such as on the parking strategy; the effect on existing bus users and therefore the effect on bus subsidies. She asked that the initial business case be published and discussed at full Council (*a copy of this statement is attached to the minutes for this meeting*).
  11. Andrew Lea stated three areas to question – what are people doing now? Why are they doing it; what will they do in the future and why. He also queried the survey results from the Christmas market; the old census data and the models used by Mott and CH2M. He concluded that there was no evidence of the need for a Park and Ride.
  12. Alison Smith (addressing point 2 of the Call-in notice) stated that the consultation was inadequate and that the objectives originally stated that carbon emissions were the priority and economic reasons came lower down but respondents may have answered differently if the objectives were re-arranged as they were in a later report where economic factors are listed first. She stated that 85% of those consulted did not agree with site F. She asked that this issue be taken back to the public.
  13. Julia Williams (for Tim Williams) stated that the Cabinet report was inadequate and that the following should be provided before a decision was made: a business case; information from Historic England; Placemaking Plan; Equality Impact Assessment and Parking Review (*a copy of this statement is attached to the minutes for this meeting*).
  14. Alex Noman stated that the development will move pollution from one area to another. He added that the Cabinet say they were elected based on an East of Bath Park and Ride but that nobody knew this was on the agenda.
  15. Gillian Risbridger (Transition Bath) stated that there was no proof of the benefits of this scheme and spaces in the city center must be reduced. She added that a Park and Ride may cause more congestion as people drive to it and suggested that the London Road will still be heavily used (*a copy of this statement is attached to the minutes for this meeting*).

16. Ped Asgarian (Transition Bath) stated that a Park and Ride may encourage more people to drive to the area.

### **Statements from Councillors (not on the Panel):**

1. Councillor Martin Veal made a statement and asked that the Panel refer the matter to full Council for consideration. He also stated that the Panel must decide if a proper consultation had taken place. He talked about the desecration of the setting and stated that Historic England had questioned meadow site selection. He concluded that weighing up the potential harm caused against the benefits needs a business case.
2. Councillor Liz Richardson (addressing point 5 of the Call-in notice) spoke as Chair of the LDF, she described how the Terms of Reference were varied for this issue to include Ward Councillors. She reported that the Chair of the Meadows Alliance had also attended. She concluded that the LDF is a consultative and advisory body and that the process was appropriate and robust.
3. Councillor Dine Romero stated that she felt the Cabinet did not have the facts to make an informed decision, that the Halcrow report was discredited and the RUH issue not shown. She stated that a decision of this magnitude must be evidence based. She urged the Panel to uphold the Call-in in its entirety.
4. Councillor Geoff Ward stated that this was the 11<sup>th</sup> hour to save the meadows. He added that the site cannot be adequately screened, there will be light pollution. He stated that he proposed site A+ which has not been fully considered.

The Chairman announced a 10 minute comfort break.

### **Closing statements from Councillor Millar (Call-in Lead Member) and Councillor Clarke (Cabinet Member for Transport)**

Councillor Bull invited the Cabinet Member for Transport, Councillor Anthony Clarke to make his closing statement. He stated that all potential sites were assessed by the LDF and external consultants and narrowed down to 6 sites, the pre application review then narrowed this down to 4 sites – the 2 sites on Box Road were rejected for operational reasons. He explained that a clear path was laid out in the Cabinet resolution to allow the Council to proceed with the planning process and the business case. He further explained that the authority could not go to the expense of a business case until there was a single proposed site. Regarding the RUH, he explained that he had received a supportive letter. He stated that there was adequate information for the Cabinet to decide on the single decision it had before it and urged the Panel to dismiss the Call-in.

Councillor Bull invited the Lead Councillor for the call-in, Councillor Alison Millar, to make her closing statement. Councillor Millar stated that she was disappointed that we were back to the same solution after all of the time and effort spent, she explained that the members of the public present had analysed the data and found huge gaps in the documentation. She added that the decision was premature without

the Placemaking Plan being in place and she was worried about private conversations. She referred to the great speakers the Panel has heard from and stated that as the picture was not complete, the Panel should send back the decision and uphold the call-in.

### **Panel Discussion**

Councillor Butters felt that there were too many holes and rail options should be further pursued.

Councillor Patterson stated that she wished to uphold the Call-in for the following reasons: Historic England assessment should precede the decision; the duty to preserve the setting of the World Heritage Site; no business case; unrepresentative surveys and DEFRA no longer supports Park and Rides.

Councillor Gilchrist stated that he wished to uphold the Call-in as the costs and risks were too great.

Councillor Lisa O' Brien thanked all who attended and stated that the Cabinet had made their decision and now there was a huge mountain to climb in terms of a planning application and business case. She explained that she did not feel it was the best way forward to uphold the Call-in.

Mark Shelford asked for clarification on the World Heritage impact. The Strategic Director explained that a Heritage Impact Assessment will be undertaken as part of the planning application process but that it was not financially feasible to do this for every site considered. She added that the initial analysis did take into account the potential impact. She stated that there is a difference of opinion in relation to this with Historic England Officers.

Councillor Bull stated that while he did not support all 9 reasons in the Call-in notice he supports upholding the Call-in as a precautionary principle. He listed his reasons as – possible faults with the consultation; a mismatch in evidence of use of Park and Ride sites; Historic England input; no details on air pollution; failure to consult the RUH; the role of the Placemaking Plan; Councillor Ward's point about the site that did not get consideration. He concluded that it was safer to send the decision back to the Cabinet.

### **Panel Decision**

On a motion from Councillor Barrett, seconded by Councillor O' Brien, it was:

**RESOLVED** that the Call-in of Decision E2861 – Park and Ride East of Bath be dismissed.

(5 members voted for the motion and 4 against)

*During debate an unsuccessful motion was moved by Councillor Butters and seconded by Councillor Patterson seeking to refer the decision back to the decision*

*making body for reconsideration. This was lost on a vote with 4 Councillors voting in favour and 5 against.*

**Supplementary Information**

The meeting ended at 4.40 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**