

# CORPORATE OVERVIEW AND SCRUTINY COMMITTEE

**MINUTES** of a meeting of the Corporate Overview and Scrutiny Committee held on Wednesday 13 October 2021 at the Council Chamber - Shire Hall, Gloucester.

**PRESENT:**

Cllr Phil Awford (Chair)	Cllr Colin Hay
Cllr Matt Babbage	Cllr Jeremy Hilton
Cllr John Bloxsom	Cllr Stephen Hirst
Cllr Terry Hale	Cllr Chloe Turner

**Substitutes:** Cllr Alex Hegenbarth (In place of Cllr Lisa Spivey)  
Cllr Nick Housden (In place of Cllr Dominic Morris)  
Cllr Roger Whyborn (In place of Cllr Ben Evans)  
Cllr Susan Williams (In place of Cllr Dr Andrew Miller)

Officers in attendance:

Apologies:

**1. APOLOGIES**

See above

**2. DECLARATION OF INTERESTS**

No declarations made at the meeting.

**3. CALL-IN OF CABINET DECISION**

3.1 A report responding to the call-in and setting out the matters to be considered by the Committee had been circulated before the meeting. The decision called-in had been taken by the Cabinet on 22 September 2021:

**Financial Monitoring Report 2021/22.**

“support a transfer of £435k developer contribution within the Highways capital budget from Cheltenham to Bishops Cleeve Cycle Track project to the A435 Bishops CI' to Racecourse Capacity project.”

3.2 The signatories to the call-in were:

1. Cllr Paul Hodgkinson
2. Cllr David Willingham
3. Cllr Alex Hegenbarth
4. Cllr Ben Evans
5. Cllr Roger Whyborn
6. Cllr Jeremy Hilton

Outline the process

- 3.3 The Chair invited the Monitoring Officer to set out the process for the committee to consider the call-in. By way of background it was outlined that the procedure rules were set out in detail in the constitution and summarised in the report within the meeting papers.
- 3.4 The committee was advised that members were to consider the grounds at '3.1' in the call-in notice which were:
- The decision would conflict in whole or in part with any existing policy that has been formally approved or adopted by the Council.
  - The Cabinet, the Leader of the Council or a Cabinet Member or Officer under delegated powers acted contrary to the Cabinet Procedure Rules, the Access to Information about the County Council's Formal Business and/or the principles of decision making set out in Part 2, Article 7.02 of the Constitution.

The matter contravened is:

7.02.8: They should be properly reasoned and alternatives that are discounted should be identified and the reasons for their rejection explained adequately.

The first stage was for the committee to decide whether the committee agreed wholly or partially with the ground for call-in. If they did agree with any of the grounds, then there were four possible options for the committee to decide:

- Support the Cabinet's decision without comment
- Make adverse comment about the way they reached their decision, but no adverse view on the decision itself
- Propose changes to the decision – modifications or an alternative to achieve the same effect.
- In exceptional circumstances, which the committee must determine, arrange for full council to review or scrutinise the decision.

Initially the lead signatory would be asked to speak followed by the Cabinet Member in response.

### Consideration of the Call-in

- 3.5 Cllr Alex Hegenbarth, as a signatory to the call-in, outlined that the reasons why the decision had been called in emphasising that this was a vital scheme and it was important it was properly scrutinised. He explained that no reasons for the decision were given in the report and the detail was lacking.
- 3.6 Cllr Lynden Stowe, Deputy Leader and Cabinet Member for Finance and Change, addressed the committee in response to the call-in notice. He introduced his response outlined within the paper and emphasised the following key points:
- This was a pragmatic solution to a funding requirement to ensure that the capacity scheme was progressed as soon as possible.
  - There was a funding gap of nearly £9m on the cycle track scheme and this was the subject of a bid to central government.
  - The Cabinet were committed to the climate change agenda and this was embedded within all policies.
  - He felt that this was 'borderline an abuse of the call-in process'
  - He acknowledged that questions had been submitted and answers provided from officers that he hoped would alleviate concerns.
- 3.7 The first stage of the process was for the committee to decide whether they agreed wholly or partially with the grounds for call-in. The Chair invited members to make comments before putting this question to them.

Those in favour of the call-in:

- explained that it was important to scrutinise the issue. They sought further details on when the funds would be available for the cycle track scheme and a timeline of how it would be progressed. They were looking for a guarantee that the scheme would be delivered.
- expressed disappointment at the lack of certainty over the scheme and questioned statements that had been made that there were risks to the section 106 money if the transfer was not been made.

- questioned whether the funding that was being transferred from the scheme would be replaced.
- sought clarity over the Council's legal obligations under the various developer agreements.
- emphasised the importance of cabinet taking proper account and consultation with others before making a decision of this nature.
- defended the action of calling in the decision stating that this had not led to any funding being put in jeopardy and had allowed more information and assurances to be received on the scheme.
- explained the level of interest and concern amongst local residents that the cycle way scheme should progress.
- asked the Cabinet Member if he agreed with the comments made by the Leader of Council that the call-in had placed Section 106 funding at risk.

3.8 In response, the Cabinet Member outlined that:

- a response from DfT was likely within the next 6 weeks and at that stage more information would be available as to how the scheme could be funded. If external funding was not sought then the possibility of a bid into the MTFS process was being looked at.
- it was for Council to decide on the priorities for capital funding.
- personally he was keen that the cycleway scheme was progressed.
- there were contractual obligations in relation to the section 106 money that needed to be considered.
- Cabinet papers were published in advance of the meetings and there had been opportunities to ask questions and provide challenge at that stage.
- It was important to ensure the infrastructure was in place to allow delivery of the cycle works.
- The funding transfer of £435,000 was not a substantial amount to replace at a later stage, it was the £9m funding gap that needed to be resolved. Moving the funding across did not impact on the potential to deliver the cycle scheme and actually facilitated the scheme.

- The leader had been well briefed on the issue and Cllr Stowe agreed that the call-in process provided unnecessary delay. Should the Committee be minded to, the potential was there for further delay to the decision that could risk the funding.

3.9 In response to questions regarding the section 106 funding:

- Consideration needed to be given around construction time frames – the example of the Cheltenham Gold Cup was given
- Some section 106 schemes had prescribed funds with specific deliverables and for other schemes there was a block of funding against a variety of priorities.
- There was a contractual obligation to deliver the capacity scheme, but not the same obligation to deliver the cycle scheme.
- The risk that funding would have to be returned if unused therefore related to the developer contribution of £974,084 from the homeland farms scheme

3.10 At the conclusion of the discussion:

- Some members commented that there were still concerns around how the decision had been made and the lack of detailed information.
- One member requested a detailed report back on the bid to DfT on the cycleway and further details of designs and plans around the scheme for proper scrutiny.
- Other members stated that the infrastructure work was needed before any cycleway could be put in place and that the movement of funds was a pragmatic way forward. It was efficient and cost effective to progress both schemes in this way.
- Some members expressed their frustration that this had gone through the call-in process and felt that this could have been raised with officers or questions asked at Council or Cabinet.
- The Cabinet member explained that he had provided a commitment that the cycle scheme was part of the MTFs discussion with Cabinet Members, that members would be updated on further progress. He emphasised that the Council had to move forward with the capacity scheme but that he was personally keen to progress the cycle track.

*Minutes subject to their acceptance as a correct record at the next meeting*

- 3.11 Following the discussion, the committee was asked to vote on whether they agreed wholly or partially with the ground for call-in as set out in the call-in notice.

On being put to the vote, the grounds for call-in was not accepted.  
Therefore it was

**RESOLVED to support the Cabinet decision. The decision could therefore be implemented immediately without being considered again by the Cabinet, the Leader of the Council or Cabinet Member**

**4. ANSWERS TO WRITTEN QUESTIONS FROM MEMBERS AHEAD OF CORPORATE OVERVIEW AND SCRUTINY 13/10/21**

**CHAIRMAN**

Meeting concluded at 11.45 am

# Minute Item 4

## Answers to written questions submitted by members ahead of the Corporate Overview and Scrutiny Committee on 13 October 2021

1 Can officers please confirm that the S106 contributions from the three developments (totalling £3,926,761) are in GCC's possession?

Yes all contributions have been received.

2 Can officers please confirm in what schemes the £3,926,761 has been distributed into?

Planning Agreement	£	Scheme Description
Wingmoor Farm East Landfill, Stoke Orchard Rd, Bishops Cleeve	60,000	A435 Bishops Cl' to Racecourse Capacity
10/01216/OUT Land at Cleevelands, Dean Farm, Bishop's Cleeve	1,854,714	Revenue -local bus service improvements
10/01216/OUT Land at Cleevelands, Dean Farm, Bishop's Cleeve	27,291	Bishops Cleeve Centre & Schs Cycle Park
10/01216/OUT Land at Cleevelands, Dean Farm, Bishop's Cleeve	56,709	Cleeve School Safer Routes School & Xing
10/01216/OUT Land at Cleevelands, Dean Farm, Bishop's Cleeve	40,000	RTPi Bishops Cleeve Centre Bus Shelters
10/01216/OUT Land at Cleevelands, Dean Farm, Bishop's Cleeve	20,000	Signals - Bishops Cleeve Bus Priority
10/01216/OUT Land at Cleevelands, Dean Farm, Bishop's Cleeve	635,000	Cheltenham to Bishops Cleeve Cycle Track
10/01216/OUT Land at Cleevelands, Dean Farm, Bishop's Cleeve	200,000	A435 Bishops Cl' to Racecourse Capacity
10/01216/OUT Land at Cleevelands, Dean Farm, Bishop's Cleeve	574	Currently unallocated
10/1005/OUT Land at Homelands Farm, Gotherington Lane (Phase 2)	9,520	Bishops Cleeve to Tewks Cycle Route Sign
10/1005/OUT Land at Homelands Farm, Gotherington Lane (Phase 2)	48,869	Cheltenham to Bishops Cleeve Cycle Track
10/1005/OUT Land at Homelands Farm, Gotherington Lane (Phase 2)	974,084	A435 Bishops Cl' to Racecourse Capacity
	<b>3,926,761</b>	

3 Can officers please confirm the full make-up of these capital schemes (i.e. how much of these schemes are made up from these specific S106 contributions and how much are made up from other capital funds?)

Revenue		Examined Contributions	Other Contributions	Other funding	
local bus service improvements		1,854,714			10/01216/OUT Land at Cleevelands, Dean Farm, Bishop's Cleeve
Currently unallocated		574			10/01216/OUT Land at Cleevelands, Dean Farm, Bishop's Cleeve
<b>Capital</b>	<b>Overall Budget</b>				
Bishops Cleeve Centre & Schs Cycle Park	27,291	27,291			10/01216/OUT Land at Cleevelands, Dean Farm, Bishop's Cleeve
Cleeve School Safer Routes School & Xing	106,709	56,709			10/01216/OUT Land at Cleevelands, Dean Farm, Bishop's Cleeve
			50,000		Land at Homelands Farm, Gotherington Lane (Phase 1)
RTPi Bishops Cleeve Centre Bus Shelters	40,000	40,000			10/01216/OUT Land at Cleevelands, Dean Farm, Bishop's Cleeve
Signals - Bishops Cleeve Bus Priority	20,000	20,000			10/01216/OUT Land at Cleevelands, Dean Farm, Bishop's Cleeve
Bishops Cleeve to Tewks Cycle Route Sign	14,853	9,520			10/1005/OUT Land at Homelands Farm, Gotherington Lane (Phase 2)
				5,333	DfT Block Grant Funding etc
Cheltenham to Bishops Cleeve Cycle Track	1,027,587	635,000			10/01216/OUT Land at Cleevelands, Dean Farm, Bishop's Cleeve
		48,869			10/1005/OUT Land at Homelands Farm, Gotherington Lane (Phase 2)
			11,000		(29) Planet Building Design New Barn Lane
			98,541		10/01243/OUT Starvehall Farm, Prestbury, Cheltenham
			218,485		10/01243/OUT Starvehall Farm, Prestbury, Cheltenham
				15,692	DfT Block Grant Funding
A435 Bishops Cl' to Racecourse Capacity	1,234,084	200,000			10/01216/OUT Land at Cleevelands, Dean Farm, Bishop's Cleeve
		974,084			10/1005/OUT Land at Homelands Farm, Gotherington Lane (Phase 2)
		60,000			Wingmoor Farm East Landfill, Stoke Orchard Rd, Bishops Cleeve
		<b>3,926,761</b>			

4 Can officers please confirm what the revised totals of these schemes would be if the transfer is accepted?

The transfer recommended in the Financial Monitoring Report that went to Cabinet on 22 September 2021 would have the following impact on the Capital budgets – see highlighted figures below.

Revenue		Examined Contributions	Other Contributions	Other funding	
Local bus service improvements		1,854,714			10/01216/OUT Land at Cleavelands, Dean Farm, Bishop's Cleeve
Currently unallocated		574			10/01216/OUT Land at Cleavelands, Dean Farm, Bishop's Cleeve
	<b>Overall Budget</b>				
Capital					
Bishops Cleeve Centre & Schs Cycle Park	27,291	27,291			10/01216/OUT Land at Cleavelands, Dean Farm, Bishop's Cleeve
Cleeve School Safer Routes School & Xing	106,709	56,709			10/01216/OUT Land at Cleavelands, Dean Farm, Bishop's Cleeve
			50,000		Land at Homelands Farm, Gotherington Lane (Phase 1)
RTP Bishops Cleeve Centre Bus Shelters	40,000	40,000			10/01216/OUT Land at Cleavelands, Dean Farm, Bishop's Cleeve
Signals - Bishops Cleeve Bus Priority	20,000	20,000			10/01216/OUT Land at Cleavelands, Dean Farm, Bishop's Cleeve
Bishops Cleeve to Tew ks Cycle Route Sign	14,853	9,520			10/1005/OUT Land at Homelands Farm, Gotherington Lane (Phase 2)
				5,333	DfT Block Grant Funding etc
Cheltenham to Bishops Cleeve Cycle Track	592,587	200,000			10/01216/OUT Land at Cleavelands, Dean Farm, Bishop's Cleeve
		48,869			10/1005/OUT Land at Homelands Farm, Gotherington Lane (Phase 2)
			11,000		(29) Planet Building Design New Barn Lane
			98,541		10/01243/OUT Starvehall Farm, Prestbury, Cheltenham
			218,485		10/01243/OUT Starvehall Farm, Prestbury, Cheltenham
				15,692	DfT Block Grant Funding
A435 Bishops Cl' to Racecourse Capacity	1,669,084	635,000			10/01216/OUT Land at Cleavelands, Dean Farm, Bishop's Cleeve
		974,084			10/1005/OUT Land at Homelands Farm, Gotherington Lane (Phase 2)
		60,000			Wingmoor Farm East Landfill, Stoke Orchard Rd, Bishops Cleeve
		3,926,761			

The total funding available for the Cheltenham to Bishops Cleeve Cycle Track will be £592,587 after the recommended transfer. The scheme has been redesigned as a result of revised design standards issued by the Department for Transport. The available funding remains a small proportion of the overall projected scheme cost. The Council is currently pursuing additional funding from the DfT Active Travel Fund, Levelling Up Fund and Sustrans as well as through the Council's MTFS process. This funding situation is not unusual for major highway schemes and as with many other similar schemes a phased delivery is likely as the remaining funding is secured.

The transfer of £435,000 to the A435 Capacity Scheme is necessary to undertake vital works in preparation for the full scheme (including the cycle track) to be implemented.

- 5 Can officers please provide the planning reference numbers and decision notices for the planning applications for Homelands 2, Wingmoor Farm and Cleevelands

**S106/Land at Homelands Farm, Gotherington Lane (Phase 2)**

Planning reference - 10/01005/OUT and appeal decision letter dated 16 July 2012 see link below - note this also relates to Deans Farm, Cleevelands10/01216/OUT

<https://publicaccess.tewkesbury.gov.uk/online-applications/applicationDetails.do?keyVal=LBPYX9QD0CX00&activeTab=summary>

**S106/Starvehall Farm, Prestbury, Cheltenham**

Planning reference - 10/01243/OUT. Decision dated 12/01/2015 see link below:

<https://publicaccess.cheltenham.gov.uk/online-applications/applicationDetails.do?keyVal=L67WVPEL08300&activeTab=summary>

**Section 278 agreement WINGMOOR FARM EAST LANDFILL, STOKE ORCHARD ROAD, BISHOPS CLEEVE**

Planning reference – 18/00249/OUT approved on 11/11/2019

<https://publicaccess.tewkesbury.gov.uk/online-applications/applicationDetails.do?keyVal=P5HI2VQD0IA00&activeTab=summary>

- 6 Can officers please confirm when each of the above planning applications were approved

All planning applications approved as follows (subject to revisions) -

**Homelands Farm, Gotherington Lane (Phase 2)** – decision dated 24<sup>h</sup> August 2012

**Starvehall Farm, Prestbury, Cheltenham** – decision dated 12 January 2015

**Wingmoor Farm, Stoke Orchard Road, Bishops Cleeve** – decision dated 11 November 2019

- 7 Can officers please confirm when each of the above S106 agreements were signed

All developer agreements signed -

**Homelands Farm, Gotherington Lane (Phase 2)** – Original S106 Agreement dated 13 December 2011, Deed of Variation and supplemental agreement dated 10 June 2016.

**Starvehall Farm, Prestbury, Cheltenham** - agreement dated 12 April 2015

**Wingmoor Farm, Stoke Orchard Road, Bishops Cleeve** – agreement dated 5 November 2019

- 8 Can officers please provide the director report and/or plans of the Cycle Track scheme

It would be premature to release the report until this decision (on which it is contingent) is resolved. It will be published and taken in line with the legal requirements for key decisions and the Council's rules on Access to Information.

- 9 Can officers please itemise the costs for each of the separate elements of the capacity scheme as listed in the report titled "The procurement of highway works in connection with the delivery of the A435 Bishops Cleeve to Cheltenham Capacity Improvements"

The capacity project costings have been produced by work activity rather than by the separate elements described in the procurement paper. The description of works elements has been provided to enable a better understanding of what we are aiming to deliver. To align the project costings as requested will require an extensive reworking of the project costings and considerable time and cost.

- 10 Can officers please confirm the phrase "condition on completing capacity scheme before any occupation can occur" in relation to the Cleavelands S106 funds, and what that might actually mean for expiry dates?

The phrase 'condition on completing capacity scheme before any occupation can occur' refers broadly to the phasing of the development, and means that none of the residential units can be occupied by new residents until such time as the capacity improvement scheme has been completed and is open to traffic. This will not effect the expiry date of the funds, which remains August 31 as per the table supplied in the call in report.

12 October 2021