

# **CORPORATE OVERVIEW AND SCRUTINY COMMITTEE**

MINUTES of the meeting of the Corporate Overview and Scrutiny Committee held on Wednesday 13 October 2021 at 10.00 am at the Council Chamber - Shire Hall, Gloucester.

## **PRESENT**

Cllr Phil Awford (Chair)  
Cllr Colin Hay  
Cllr Stephen Hirst  
Cllr Terry Hale

Cllr Chloe Turner  
Cllr Jeremy Hilton  
Cllr Matt Babbage  
Cllr John Bloxsom

## **Substitutes:**

Cllr Nick Housden for Cllr Dom Morris  
Cllr Alastair Chambers for Cllr Andrew Gravells  
Cllr Sue Williams for Cllr Andrew Miller  
Cllr Alex Hegenbarth for Cllr Lisa Spivey  
Cllr Roger Whyborn for Cllr Ben Evans

## **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.**

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“support a transfer of £435k developer contribution within the Highways capital budget from Cheltenham to Bishops Cleeve Cycle Track project to the A435 Bishops Cl' 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:

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- 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:

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- 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.

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- 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.

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- 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.

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**

**CHAIR**

The meeting ended at 11:45