

Time commenced 4.30pm
Time finished 6.10pm

**JOINT MEETING OF THE PLANNING AND TRANSPORTATION COMMISSION
AND CHILDREN AND YOUNG PEOPLE COMMISSION
22 JULY 2009**

Present: Councillor Poulter (Chair)
Councillors Bolton, Ingall, Harwood, Ginns, Rawson, Repton and
Williams

In attendance: Councillors Allen and Care

15/09 Apologies for Absence

Apologies were received from Councillors Higginbottom and R Khan.

16/09 Late Items Introduced by the Chair

There were no late items.

17/09 Declarations of Interest

There were no declarations of interest.

18/08 Call-In

Proposed Modification of Discretionary Home to School Transport

In accordance with Overview and Scrutiny Procedure Rule OS36, the Monitoring Officer had called in for scrutiny a decision in respect of the Proposed Modification of Discretionary Home to School Transport (minute number 29/09) made by Council Cabinet at its meeting on 7 July 2009.

The request for call-in had been made by Councillors Banwait, Bayliss and Repton.

The Commission was provided with copies of the reports considered by the Council Cabinet on 7 July 2009, the letter requesting the call in, an extract of the Council Cabinet minute 20/09 and the Protocol on Call-in of Executive Decisions.

The call-in letter stated that in taking decision the Council Cabinet had breached the following two principles of decision making as set out in Rule OS33 of the Constitution:

- a – proportionality;
 - c – respect for human rights;
- and relevant issues do not appear to have been taken into consideration.

In accordance with the Protocol, Councillors Banwait, Bayliss and Repton were invited to attend the meeting and address the Commission to present the case for the call-in.

The signatories stated that the savings that would be made would not justify the impact on the families and children affected, as the decision was in breach of Article 8 of the Human Rights Act which referred to the protection of family life. It was noted that there would also be further congestion and pollution generated. Councillor Repton felt that the £1,900 gross cost per child per year for the service could be much reduced through a re-tendering process. It was noted that the Notts:Derby commercial service was predicated on a single fare of £1 per journey equating to £10 per week or approximately £380 per annum. For B-Line card holders a £320 yearly subsidy was to be paid, which means a maximum income of £700 per user. The difference was £1,200. It was noted that there was a considerable under spend in the Council's revenue budget that could be used to support these discretionary services.

The signatories asserted that the Council's priority 3 had been ignored: leading Derby towards a better environment. They stated that the decision was in breach of that priority. Councillor Banwait quoted from the poster headed 'Derby – a city for all ages'. Under the heading Leading Derby towards a better environment were the words "We will reduce the level of carbon emissions, raise awareness of climate change and local environmental issues and care for Derby's heritage".

The Cabinet Members for Planning and Transport and Children and Young People responded to the points outlined by Councillors Banwait, Bayliss and Repton.

Councillor Allen reported that the Commission would need to have regard to advice given in June 2007 about the right to education, where the United Kingdom had entered a proviso regarding Article 2 that it was accepted only so far as compatible with the provision of efficient instruction and training, and the avoidance of unreasonable public expenditure.

Councillor Care informed the Commission that it was accepted that the change to an annual charge, effective from September 2008, resulted in lower bus patronage and an increase in car journeys. It was thought that the introduction of a pay-as-you-go commercial service would hopefully see an increased bus use.

Members of the commission asked questions of the signatories and the Cabinet Members relating to the decision.

The Commission were sceptical that previous levels of bus usage could be achieved because the school run had now become established in some families as part of the daily routine. The proposed policy would remove transport for 60+ families and some were likely to transport their children by car, so increasing the level of carbon emissions.

Councillor Repton made a further statement to the commission followed by a statement from the Cabinet Members for Planning and Transport and Children and Young People.

After hearing the submissions from Councillors Banwait, Bayliss and Repton and the Cabinet Members for Planning and Transport and Children and Young People the Commission considered whether the decision of the Council Cabinet had breached any of the principles set out in Rule OS33 of the Constitution.

Resolved:

a) to uphold the Call-In of Council Cabinet minute No 29/09 in respect of:

- **Principle a)**
- **Principle c); and**
- **that other relevant issues had not been taken into consideration**

and b) to refer the matter to full Council as the Commission concluded that the proposed policy was contrary to the Policy Framework. As a reserve position, if officer advice was received that the matter was not contrary to the Policy Framework the issue was to be referred back to Council Cabinet for reconsideration.

Reasons:

- a)** The savings that will be made do not justify the impact on families and the congestion and pollution that will be generated. Further exploration of the issue strongly suggested that the £1,900 gross cost per child per year for the service could be much reduced through a re-tendering process. Even accepting that the company's chosen route was to obtain maximum loadings, it strongly indicated that that the Council could substantially cut the current costs through a contracting process. Achieving that outcome would not only cut the net budget but also much reduce the saving opportunities if the service was later ended. As a cheaper service could potentially be procured the Commissions cannot accept the premise that ending the discretionary was necessary to realise a significant part of the £280,000 savings.
- b)** The decision was in breach of Article 8 of the Human Rights Act which refers to the protection of family life. Taking into account the scope to procure the service at a lower cost (as above), the Commissions believe was that the disruption caused to families did not make the expenditure unreasonable.

Other relevant considerations were not taken into account

The Council priorities for 2008-2011 referred to by Councillor Banwait were contained in the Corporate Plan. The view of the Commissions was that the proposed policy detracted from the goal of leading Derby towards a better environment and was therefore contrary to the Policy Framework.

MINUTES END