

Commenced – 6.04 pm
Adjourned – 8.14 pm
Reconvened – 8.27pm
Concluded – 9.23pm

Neighbourhoods Overview and Scrutiny Board
1 May 2013

Present: Councillor Afzal (Chair)
Councillors Barker, Keith, S. Khan, MacDonald, Pegg, Poulter and L.
Winter

In attendance: Councillors Banwait, Davis, Harwood, Hickson, Hillier, Jones,
Shanker, Skelton, Troup, Webb, Wood and Williams

65/12 Apologies for Absence

An apology for absence was received from Councillor Naitta.

66/12 Late Items

There were no late items.

67/12 Declarations of Interest

There were no declarations of interest.

68/12 Call-in Procedure

The Chair introduced the call-in procedure and reminded members of the board of the need to ensure their approach remained inquisitorial rather than adversarial. The Chair advised that he would use his discretion to depart from the printed procedure where it was felt contributions from others would be helpful, commencing with two members of the public who had been invited to speak by the Vice Chair.

69/12 Call-in of Council Cabinet decision 197/12: Redistribution of Community Budgets

The Chair highlighted that this issue had been before the board previously, at its meeting on 11 December 2012. Members were reminded that the board had resolved to recommend that the Cabinet Member for Neighbourhoods and Streetpride review the system by which the Neighbourhood Boards' devolved budgets were proposed to decrease by £42,000 in 2015/16. It was explained that the board had requested that the cabinet member consider the implementation of a fairer system when applying the budget reduction.

Councillor Poulter requested that it be noted that he had not agreed with that decision at the time. The Chair confirmed this was the case.

Following a request by the Vice Chair, the Chair invited two members of the public to address the board. Mr Mark Davis, of Spondon, suggested that insufficient notice had been given of the changes and the proposed timing would result in existing plans being undeliverable. Mr Davis proposed that the decision be postponed for a year to allow time to plan. Mr Peter Steer, of Allestree, suggested that the exclusive use of the Indices of Multiple Deprivation was unfair and that the allocation should be separated into two distinct parts: a core budget and a discretionary budget based on deprivation. The Chair thanked both Mr Davis and Mr Steer for their contributions.

The Chair invited the three signatories to the first call-in received on Council Cabinet decision 197/12, Councillors Harwood, Wood and Hickson, to address the board. The members suggested that the reasons behind the decision were unclear and suggested they were political, that there had been a lack of any meaningful consultation, that the decision was disproportionate and that no alternatives appeared to have been considered. It was proposed by Councillor Wood that a reasonable way forward would be to establish what would be a reasonable minimum amount for those wards that would receive the least and recalculate the funding accordingly. Members suggested there had been no impact assessment.

The Chair invited the three signatories to the second call-in received on Council Cabinet decision 197/12, Councillors Troup, Skelton and Jones, to address the board. The members suggested that the reasoning behind the distribution was flawed and that there had been no consultation behind the decision. It was also suggested that there was no clear indication as to what the Council Cabinet hoped the decision would achieve. Councillor Jones highlighted that existing proposed schemes in Mickleover would need to be scrapped as there would be insufficient funding and that the Indices of Multiple Deprivation was not an appropriate measure against which to base the allocation. It was further suggested that the Council Cabinet had said it would reverse the decision if the Conservative and Liberal Democrat groups joined the council's Fair Deal for Derby campaign.

Members of the board were invited to put questions to the six signatories. There were none.

Councillor Banwait, Council Cabinet Member for Neighbourhoods and Streetpride, was invited to address the board. Councillor Banwait suggested there was inconsistency between the six signatories' description of the reductions of thousand of pounds as 'devastating' given that they had not opposed the tens of millions of pounds of Government reductions impacting on the council's budget. Councillor Banwait responded to criticism of the use of the Indices of Multiple Deprivation by stating that this was an established measure being used by the Government. The board was told that the decision was proportionate as it recognised the needs of the city's poorest wards. Councillor Banwait responded to the issue about a lack of consultation by highlighting that officers' advice had been sought throughout the process and that the Labour group had made clear in its manifesto that, if elected to power, it would seek to support the most deprived. It was suggested that previous administrations had focused resources on less deprived areas, such as the investment of £1m on Gayton Swimming Pool in Blagreaves, and that the most deprived wards had been neglected as a result. Councillor Banwait said that other

options had been considered but that distributing funding based on need was considered to be the most appropriate use of discretionary funding at a time when other changes were impacting on people less well equipped to cope.

The Chair invited questions from the board. Councillor Poulter asked whether Councillor Banwait had considered that core funding had enabled the wards that would lose most under the proposals to make a big difference in their areas. Councillor Banwait said he had but that in the context of Government cuts the council had to prioritise.

Councillor Barker asked why the deprivation index had also been applied to the Streetpride element of the budget. Councillor Banwait said that this was because essential works such as road repairs that met the council's intervention criteria would still be carried out. After further questions from Councillor Barker, the board were told by Councillor Banwait that wards would still be able to highlight their highways priorities.

Councillor Keith asked whether the needs of children crossing the road in Mickleover were any different to those in deprived areas. Councillor Banwait responded that the needs of children in deprived areas were more broadly greater than the needs of children in less deprived areas. Councillor Banwait said that the needs of children crossing the road were the same but reiterated that the boards would continue to be able to highlight their highways priorities.

Councillor Winter referred to the decision of the board in December when it had asked Councillor Banwait to consider the implementation of a fairer system when applying the budget reduction. Councillor Winter asked whether Councillor Banwait had done this. Councillor Banwait confirmed he had.

Councillor Khan asked whether Councillor Banwait's predecessors had ever approached him in his previous role as Shadow Cabinet Member or Deputy Leader of the Labour Group and said they wanted to address the issue of deprivation. Councillor Banwait confirmed they had not.

The board received timed summaries from Councillors Hickson, Troup and Banwait.

Councillor Winter moved that the board progress to the vote. The Chair advised that members should have an opportunity to debate the issue first and invite members to speak. In lieu of any members wishing to debate the issue, and to ensure the decision of the board was supported by proper reasoning, the Chair invited each member of the board in turn to offer their views of the arguments they had heard and to state whether they felt there had been a breach of the council's decision making principles in the reaching of Council Cabinet decision 197/12.

Councillor Poulter stated that he felt there had been a breach of the council's decision making principles in that the decision was not proportional and there was insufficient consultation.

Councillor Barker stated that he felt there had been a breach of the council's decision making principles in that he was not satisfied due consultation had been undertaken,

the report was not published until a week before the meeting and there was a lack of consultation.

Councillor Keith stated that he felt there had been a breach of the council's decision making principles relating to proportionality, due consultation and the taking of professional advice and clarity of aims and desired outcomes.

Councillor Pegg stated that he did not feel there had been a breach of the council's decision making principles as Councillor Banwait had responded adequately to the signatories' concerns.

Councillor MacDonald stated that she did not feel there had been a breach of the council's decision making principles as she had not heard sufficient evidence to justify the call-in.

Councillor Khan stated that he did not feel there had been a breach of the council's decision making principles, adding that the use of the Multiple Deprivation Index had been justified and it was very clear that the Council Cabinet was trying to help the most needy wards.

Councillor L Winter stated that she did not feel there had been a breach of the council's decision making principles as the Council Cabinet Member had justified his actions and the decision.

Resolved that the council's decision making principles had not been breached.

The Chair adjourned the meeting at 8.14pm and reconvened at 8.27pm.

70/12 Call-in of Council Cabinet decision 198/12: Review of the Waste Management Contract

The Chair invited the three signatories, Councillors Wood, Harwood and Williams to outline why they had brought the matter before the board's attention. Councillors Wood and Harwood addressed the board.

Councillor Wood acknowledged that there had been an abundance of consultation on the issue of the council's waste management contract over several years. He stated that few issues had prompted such an overwhelming reaction in opposition to the plans. It was suggested that the Secretary of State had been wrong to grant planning consent for the waste treatment plant in Sinfin. Councillor Wood suggested that with such a wealth of local opposition to the proposals, he found it difficult to accept the Council Cabinet had agreed to continue with the plans. Councillor Harwood stated that he had been on the Planning Control Committee that originally rejected the planning application in Sinfin and reiterated his continued opposition to the proposals.

The Chair invited board members to put questions. Councillor Khan highlighted that the Planning Control Committee had rejected the proposals, that a planning inspector had overturned that decision and that the inspectors actions had been supported

following a judicial review. Councillor Khan asked Councillor Harwood what he expected Councillor Banwait to do. Councillor Harwood stated that he felt the administration should have rejected the continuation of the scheme.

Councillor Pegg highlighted that Councillor Jennings had chaired a meeting of Council Cabinet in 2011 when the then-Conservative cabinet members had agreed not to implement a break clause in the contract. Councillor Pegg asked why the Conservative group had decided not to end the process at that stage. Councillor Wood stated that it was not for him to answer.

The Chair invited Councillor Banwait to address the board. Councillor Banwait suggested that the Council Cabinet had no option but to proceed because of the situation it had inherited. Councillor Banwait detailed how there had been opportunities to exit the process when previous administrations had opted instead to enter into the inter-authority agreement and not exercise the contract break clause, but that those opportunities had now passed. Councillor Banwait detailed how the Planning Inspector had already dealt with the issues of proportionality and respect for human rights in his report and that no fault had been found with this following the judicial review. Councillor Banwait suggested, then, that there was no further point of recourse as the council did not have the authority to overturn the court's decision. Councillor Banwait made specific reference to paragraphs 75, 96, 109 and 130 of the Planning Inspector's report. Councillor Banwait also read to the board an extract from a letter detailing the previous Director of Legal and Democratic Services' legal advice to the Council Cabinet on the issue of the waste contract. The letter detailed that if the Council Cabinet had opted to break the inter-authority contract or prevent the planning permission being enacted then both the Director of Legal and Democratic Services and Strategic Director of Resources would be bound to report to Council Cabinet that such an action was unlawful.

Councillor Banwait asked the Chair if the board would receive supporting comments from his Council Cabinet colleague, Councillor Shanker, who had been involved in the process from the outset as a Sinfin ward councillor. The Chair agreed that this would be acceptable. Councillor Shanker addressed the board.

The Chair invited the board to put questions to Councillor Banwait. Councillor Poulter asked where the review of the decision to proceed was evidenced and whether there was any financial modelling. Councillor Banwait responded that this was in the report that had been considered by Council Cabinet.

Councillor Keith asked whether Councillor Banwait had taken into account the traffic implications. Councillor Banwait said that the Planning Inspector had addressed this point specifically in his report which the council was not in a position to challenge.

The board received timed summaries from Councillors Wood and Banwait.

The Chair invited members of the board to make contributions and discuss the evidence they had heard. Councillor Pegg sought legal clarification on the council's position from the Director of Legal and Democratic Services. The director explained that the council was bound by the decision of the High Court. Councillor Wood asked whether this also related to Council Cabinet decision 198/12. The director responded

that the council was bound by the inter-authority agreement. Councillor Poulter asked for clarification on whether Councillor Banwait had any discretion. The director responded that Councillor Banwait was also bound by the inter-authority agreement on behalf of the council, and that the only discretion available to him would be in relation to the timetabling of the scheme.

As there were no further contributions, the Chair invited each member of the board in turn to offer their views of the arguments they had heard and to state whether they felt there had been a breach of the council's decision making principles in the reaching of Council Cabinet decision 198/12.

Councillor Poulter stated that he felt there had been a breach of the council's decision making principles in that the decision was not proportional as issues remained on the financial modelling..

Councillor Barker stated that he felt there had been a breach of the council's decision making principles because he did not see why the council had to make the decision at the present time.

Councillor Keith stated that he felt there had been a breach of the council's decision making principles.

Councillor Pegg stated that he did not feel there had been a breach of the council's decision making principles as Councillor Banwait had acted appropriately.

Councillor MacDonald stated that she did not feel there had been a breach of the council's decision making principles as the signatories had not justified the call-in.

Councillor Khan stated that he did not feel there had been a breach of the council's decision making principles, adding that the opportunity to intervene had passed in previous years and the council was now bound by those previous decisions.

Councillor L Winter stated that she did not feel there had been a breach of the council's decision making principles as the decision taken was consistent with the Planning Inspector's findings.

Resolved that the council's decision making principles had not been breached.

MINUTES END