

Time Commenced – 18:30
Time Finished – 20:15

Executive Scrutiny Board 25 October 2017

Present: Stanton (Chair)
Councillors Barker, Bayliss, Carr, Eldret, Graves,
Hezelgrave, M Holmes Jackson, J Khan, Poulter, Webb

Cabinet Member: Councillor Rawson

Signatories: Councillors Ashburner, Care, Skelton
Councillors Grimadell and Harwood

Officers present: Janie Berry (Director of Governance and Monitoring
Officer), Mark Taylor (Interim Director of Finance and
S151 Officer), Greg Jennings (Acting Director of
Regeneration, Property and Housing Projects), Terry Ally
(Media Officer), Clare Harrison (Democratic Services
Manager)

Members of the press and public were also present

32/17 Apologies for Absence

Apologies were received from Councillor Pegg

33/17 Late Items

There were no late items.

34/17 Declarations of Interest

There were no declarations of interest.

35/17 Meeting procedure for call-in of Council Cabinet decision

The Chair outlined the procedure and advised members that as there were two Call-Ins on the same decision he would be taking both at the same time and allowing all signatories to present their cases before moving on the next step of the procedure. The Chair also advised that he would be allowing a representative of each of the Call-Ins to sum up their case at point 12 of the procedure.

36/17 Call-in of Council Cabinet decision 63/17

The board received a report of the Cabinet Member for Cabinet Member for Regeneration and the Economy and the Strategic Director for Communities and Place which had been considered by Council Cabinet on 04 October 2017 in respect of the development of a new Performance Venue. In addition to the report considered by Council Cabinet, revised recommendations which were put to Council Cabinet by the Cabinet Member following the submission of recommendations to Council Cabinet from the Executive Scrutiny Board, and a minute extract of the decision taken by Council Cabinet were also considered.

The board received two call-in notices in relation to the decision, submitted by Councillors Ashburner, Care and Skelton and Councillors Grimadell, Harwood and Ingall.

Signatories to the call-in notice addressed the board and highlighted the parts of the council decision-making process which they alleged to have been breached, namely: (a) proportionality, (b) due consultation, (d) a presumption in favour of openness, (e) clarity of aims and desired outcomes, (f) a record of what options were considered and giving the reasons for the decision and/or that relevant issues do not appear to have been taken into consideration.

Councillor Care made representations on the decision-making principles allegedly breached. Councillor Care referred to the lack of consultation with arts and theatre groups and the need to hear and listen to the voices of these groups and the voices of Derby people. The financial viability and risk of the preferred option and weak financial implications in the report were also raised as issues and lack of openness in relation to the exclusion of the full Cushman and Wakefield report.

Councillor Ashburner reiterated that there had been little involvement with the public and stated that further consultation with local groups and people is needed to find out what people want. It was also raised again that limited options had been put forward for consideration and stated that the consultation needs to include the full list of options considered and more detailed explanations of why some options have not been considered.

Councillor Skelton stated that the Executive Scrutiny Board's recommendations had not been fully accepted and said that it sounded as though the consultation exercise would be a 'persuasion exercise' rather than proper consultation. Councillor Skelton also stated that very little had been included about the finance and that the report had not received financial sign-off, as well as the opinion that key groups had not had any input and options had been developed through a desk-based exercise by consultants. It was also stated that the costs may not have been fully explored and that experts had claimed that there may be issues with the foundations and archaeological work that has not been costed may need to be undertaken. Councillors Skelton and Care both referred to the privately-funded work being done by the Derby Hippodrome Restoration Trust on bringing it back into use and suggested that Members should urge the Council to wait and see what comes

out of this work before proceeding with the development of a new performance venue.

Councillor Grimadell stated that more transparency is needed between political parties on the options for a new performance venue and that all groups should be working together to provide something that is right for Derby. It was felt that spend on this project already breached principles (e) and (f) and that no financial sign-off had been received. It was further stated that there had been no consultation with the arts community and therefore that the wrong option had been put forward with the absence of a fly tower orchestra pit, which seriously limits the capabilities of the venue. Councillor Grimadell also made claims that the timescales and costs were misleading and underestimated on the basis that performance venues delivered elsewhere in the country had rising costs and were not delivered within proposed timescales.

Councillor Harwood raised further points about the financial commitment of the project and felt that the Cabinet Member had committed a further £500k of spend following the £385k that had already been spent to date, without any detail about what this would be spent on. It was again raised that further consultation needs to happen with the public, outside bodies and professional organisations and suggested to members that the commitment of the £500k should be withdrawn and the project paused until the Council had received the outcomes of the consultation exercise.

Members of the board were given an opportunity to ask questions of the signatories in relation to their statements and asked questions in relation to the evidence of rising costs and extended timescales which Councillor Grimadell had suggested would also happen with the performance venue development. Councillor Grimadell responded to say that costs and timescales are frequently underestimated on these sorts of large projects. Board Members also questioned who the experts were that had provided advice to the signatories. They were informed by Councillor Skelton and Grimadell that this information had been provided by engineers and historians working with the Derby Hippodrome Restoration Trust.

The Board questioned the signatories on if they knew of any consultation that had happened with the Derby Hippodrome Restoration Trust, who claimed that no consultation had happened.

The Chair asked the signatories if they had any preferred option for the performance venue, but all felt that either there was insufficient detail to make this decision or that this was difficult to answer in the absence of a more detailed consultation exercise.

The Cabinet Member was given an opportunity to address the Board in response to the signatories' statements. Councillor Rawson, Cabinet Member for Regeneration and Economy, went through each of the decision-making principles that had been purportedly breached and made statements in defence of each of these.

Councillor Rawson stated that the original report recommendations to Council Cabinet had been revised in light of the recommendations made by the Executive Scrutiny Board and confirmed that a more detailed wider consultation exercise would be taking place. Members were informed that the outcome of the consultation would be considered before a final version of the preferred option is decided. The Cabinet Member confirmed that the £500k agreed would not be spent until the consultation exercise has been completed which will inform the decision on the final option, with the exception of £25k associated with the costs of the consultation exercise.

The Cabinet Member informed that the final functionality of the venue would not now be decided until after the consultation outcomes have been considered. It was also confirmed that the Hippodrome site had been considered earlier in the process but that a decision had been made that the Assembly Rooms site would be the best location for the new performance venue. It was confirmed that the project would be added to the capital programme through the budget process and that it is normal for a project of this size to have significant upfront spend on fees, design and development. Councillor Rawson stated that closing the funding gap would be next phase of the project.

The Acting Director of Regeneration, Property and Housing Projects stated that this project is likely to be delivered under client project management and that the Council has a project management team with lots of experience. Officers also informed the Board that lots of professional consultation had already taken place and this had included speaking to the Sinfonia Viva Orchestra, the University of Derby (Derby Playhouse) and The Derby Hippodrome Restoration Trust, although this was now over a year ago. It was confirmed that a decision had been taken at this stage not to do a wider public consultation and that this decision may be an error in judgement.

Members of the board were given an opportunity to ask questions of the Cabinet Member. Members queried the lack of clarity in the £500k spend agreed and the lack of apparent financial sign-off. It was clarified for the Board that there had not been a detailed breakdown of the agreed £500k spend because individual contracts which would inform this have not yet been let. The Cabinet Member explained that it was expected that £500k would be the upper limit for any spend during this phase of the project and that whichever option is decided upon this spend would be the same. The Acting Director of Finance explained that he had been at present at meetings of Chief Officer Group, Executive Scrutiny and Council Cabinet when this item had been considered and had not made any objection to it. It was further clarified that the £500k spend is supported by existing reserves from insurance monies received in relation to the Assembly Rooms fire.

Members queried why the Council had already identified a preferred option and asked if the options had therefore already been picked. The Cabinet Member informed the Board that a 'blank page' consultation would not provide the public with any context on affordability or cost or any realistic options and tangible examples of what could be provided.

Councillor Care summed up on behalf of the Liberal Democratic Group signatories to the call-in notice, and Councillor Harwood summed up on behalf of the Conservative Group signatories to the call-in notice. Councillor Rawson summed up on behalf of Council Cabinet.

The Chair notified members that he would be asking each member of the board in turn to vote on whether they felt there had been a breach of the council's decision-making principles and to identify which principles had been breached.

Councillor Carr voted to uphold the call-in on the basis that he felt that principle (b) had been breached.

Councillor Graves voted to uphold the call-in on the basis that he felt that principles (a) and (b) had been breached.

Councillor Poulter voted to uphold the call-in on the basis that he felt that principles (a), (b), (d), (e) and (f) had all been breached.

Councillor Holmes voted to uphold the call-in on the basis that he felt that principles (d) and (e) had been breached.

Councillor Webb voted to uphold the call-in on the basis that he felt that principles (a), (b), (d) and (e) had been breached.

Councillor Barker voted to uphold the call-in on the basis that he felt that principles (b) and (d) had been breached.

Councillor Bayliss rejected the call-in on the basis that none of the decision-making principles had been breached.

Councillor Jackson rejected the call-in on the basis that none of the decision-making principles had been breached.

Councillor Eldret rejected the call-in on the basis that none of the decision-making principles had been breached.

Councillor J Khan rejected the call-in on the basis that none of the decision-making principles had been breached.

Councillor Hezelgrave rejected the call-in on the basis that none of the decision-making principles had been breached.

Councillor Stanton rejected the call-in on the basis that none of the decision-making principles had been breached. Councillor Stanton also used his casting vote as Chair and rejected the call-in on the basis that none of the decision-making principles had been breached.

The Board resolved that in making decision 63/17, Council Cabinet had not breached the council's decision-making principles.

MINUTES END