

MEETING:	Overview and Scrutiny Committee - Special Meeting to Consider Call-in
DATE:	Wednesday, 24 July 2019
TIME:	2.00 pm
VENUE:	Council Chamber - Barnsley Town Hall

MINUTES

Present

Councillors Ennis OBE (Chair), Bowler, Carr, T. Cave, Felton, Fielding, Frost, Green, Daniel Griffin, Hayward, Higginbottom, Hunt, W. Johnson, Leech, Lodge, Lofts, Makinson, McCarthy, Mitchell, Noble, Phillips, Richardson, Sumner, Tattersall, Williams, Wilson and Wright together with non-Committee Members Pickering and Kitching

1 Apologies for Absence - Parent Governor Representation

An apology for absence was received in accordance with Regulation 7(6) of the Parent Governor Representatives (England) Regulations 2001 from Kate Morrill Parent Governor Co-optee.

2 Declarations of Pecuniary and Non-Pecuniary Interest

Non-pecuniary interests were recorded by Cllrs David Leech, Cllr Ken Richardson, Cllr Kath Mitchell, Cllr Joe Hayward, Cllr Trevor Cave, Cllr Sarah Tattersall, Cllr Pauline McCarthy, Cllr Dorothy Higginbottom, Cllr Gill Carr, Cllr John Wilson and Cllr Caroline Makinson by virtue of being Members of the Planning Regulatory Board

Cllr Sarah Tattersall declared an additional non-pecuniary interest by virtue of being the Cabinet Support Member for the Cabinet Spokesperson for Place (Regeneration and Culture).

3 Call-In of Cabinet Decision Cab.10.7.2019/6 - Appropriation of Land at Penny Pie Park for Highway Purposes

The Chair welcomed Members to the meeting and set out the relevant constitutional guidance under which the meeting would be conducted.

In accordance with the Council's Standing Order 25 (2), the Committee agreed for Councillor Kitching to be given permission to speak at the meeting, but not submit a motion or vote.

Reports were received to permit consideration of a report of the Executive Director: Core Services in respect of a call-in request of a Cabinet decision regarding the Appropriation of Land at Penny Pie Park for Highway Purposes.

It was noted that Cabinet resolved that, under Section 122 of the Local Government Act 1972, having considered and assessed the representations received that the open space shown in Appendix 1 to the report forming approximately 1.133 hectares (11,330 square metres) of Penny Pie Park, no longer be required for the purposes for which it is currently held and may be used instead for highway purposes.

The reasons for the call in were set out by the proposing Member Cllr Fielding.

It was suggested the objecting Members felt that Cabinet had wrongly concluded that the land known as Penny Pie Park was no longer needed as a park because they were presented with misleading and incomplete evidence, meaning that a sound decision could not be made in good faith. In particular it was suggested the Cabinet report:

1. Relied on the use of a flawed and unrepresentative usage survey.
2. Failed to fairly represent the extensive level of public opposition to the scheme and the objections received.
3. Failed to give due weight to the fact that the park was designated as public green space in the Council's own Local Plan, agreed in January 2019.
4. Was misleading in its assertion that only 1.2 hectares of the park was being used, when the proximity of 3 lanes of traffic will render the entire park un-useable.
5. Misrepresented the mitigation measures for the loss of green space as effective when they were in fact detrimental.
6. Failed to fairly consider alternative solutions including modal shift and other initiatives to reduce single occupancy car usage.
7. Failed to consider potential new development proposals in the area such as a new school.
8. Was misleading in its reference to queueing on M1 and pressure from Highways England.
9. Failed to give sufficient weight to the adverse effects on the local community of increased noise and air pollution and the loss of green space as a result of the scheme.

Further statistical information was presented to support the challenges pertaining to the suggestion the new scheme would reduce air quality emissions.

The Chair welcomed the following witnesses to the meeting:

Councillor Tim Cheetham, Cabinet Spokesperson - Place (Regeneration and Culture)

Andrew Frosdick, Executive Director – Core Services

David Shepherd, Service Director - Regeneration and Culture (on behalf of Matt Gladstone, Executive Director - Place)

Rachel Allington, Major Projects Group Leader

Ian Wilson, Group Manager – Highways and Engineering

Andrew Burton, Group Leader – Development Management

Cllr Cheetham opened the witnesses statements advising Members that all reports received by Cabinet and all actions undertaken by officers in relation to the development of the Penny Pie Park Scheme had followed all appropriate statutory and regulatory requirements.

Cllr Cheetham proposed that much of the evidence heard in objection to the decision under scrutiny was not within the context of that decision. It was further proposed that much of that context is not being questioned but it has previously been resolved by Cabinet that something must be done to address future traffic issues in that locality and the Penny Pie Park scheme had been agreed to be the most appropriate option.

The Executive Director Core Services set out as the Council's legal advisor that the Committee has been convened to scrutinise the decision taken by Cabinet on 10th July in accordance with proper procedure and requested Members focus on this matter. It was noted the scheme has already been approved and has planning permission and through that process a number of the matters set out in the objections will have been heard and considered by the Planning Regulatory Board in reaching their decision to approve the scheme.

The Chair invited the witnesses present to address the objections raised.

Witnesses drew Members' attention to the relevant parts of the Cabinet report to address the objections as proposed.

The Chair invited the Members present to propose questions to the objecting Members and witnesses.

Matters subsequently debated by Members of the Committee included representations by stakeholders and how these had been addressed noting the neutral stance taken by the Planning Inspectorate, the benefits to the environment of moving traffic rather than stationary traffic, the comparative example of the Cundy Cross scheme for which it was suggested had not been successful in addressing traffic problems and why the Penny Pie Park scheme differs from this scheme, the responses received via the consultation process and how these had been addressed by legal officers rather than the planning team, the statistical evidence presented by the objecting Members, the results identified by the consideration of alternate options to the preferred scheme, whether appropriate consideration has been given to climate change matters as part of the planning process, whether active travel options had been given due consideration as alternates to the scheme aligned to the ambitions of the Sheffield City Region Mayor, road safety audits, impacts on the public's wider travel patterns that the scheme may affect.

The Executive Director Core Services reminded Members they can only legally take professional advice from the officers of the Council and asserted the officers stand by the validity of the information contained within their reports.

It was suggested it is appropriate to discuss alternate options in the interests of these being relevant should the decision be returned for consideration. However, it was asserted this would not facilitate the reconsideration of the original planning application, subject to the Committee requesting the matter be returned to first principles.

Closing Statements were invited by the Chair.

Cllr Fielding commented on the proposed siting of the children's play area and its proximity to new roads, impacts on the local public and the environment, and

unknown impacts on neighbouring junctions. Cllr Fielding again asserted that Cabinet had wrongly concluded that the land known as Penny Pie Park was no longer needed as a park because they were presented with misleading and incomplete evidence.

Witnesses asserted the appropriation report was just and that nothing had come to light during the meeting to warrant the pending decision being returned to Cabinet for reconsideration.

RESOLVED that the Scrutiny Committee supports the Cabinet's original decision, this decision stands and can be implemented from the date of the Scrutiny Committee concerned.

Chair