

Minutes

of a meeting of the

Cabinet

held on Friday, 30 October 2015 at 10.00 am

in the Meeting Room 1, 135 Eastern Avenue, Milton Park, Milton, OX14 4SB



Open to the public, including the press

Present:

Members: Councillors Matthew Barber (Chairman), Roger Cox (Vice-Chairman), Charlotte Dickson, Sandy Lovatt and Mike Murray

Officers: David Buckle, Steve Culliford, Sophie Horsley, Ian Price, Margaret Reed and Anna Robinson

Also present: Councillors Debby Hallett, Dudley Hoddinott, and Robert Sharp

Number of members of the public: 12

Ca.13 Apologies for absence

Councillors Eric Batts, Mohinder Kainth, and Elaine Ware had all sent their apologies for absence.

Ca.14 Minutes

RESOLVED: to adopt the minutes of the Cabinet meeting held on 7 August 2015 as a correct record and agree that the chairman signs them as such.

Ca.15 Declarations of interest

Councillor Matthew Barber, leader of the council and chairman of Cabinet, explained that due to his past involvement in the property matters relating to the Botley Centre site, he would leave the meeting during consideration of the planning aspects of this item and during the public speaking on this matter (minutes Ca.17 and Ca.18 refer). In his absence, the deputy leader of the council, Councillor Roger Cox, would chair those parts of the meeting.

Ca.16 Urgent business and chairman's announcements

None

Ca.17 Statements, petitions, and questions relating to matters affecting the Cabinet

Vale of White Horse District Council – Cabinet minutes

Friday, 30 October 2015

Ca.1

Five members of the public had registered to speak at the meeting, along with two district councillors who were not Cabinet members.

- 1 Dr Peter Harbour made a statement on behalf of the Friends of the Abbey Meadow Outdoor Pool. In support of his statement, he had submitted additional information in advance of the meeting and this was made available to the Cabinet members present.

Dr Harbour asked Cabinet if the Friends of the Abbey Meadow Outdoor Pool could be involved in discussions on the pool's future. The Friends had several suggestions to improve the pool and cited the Hinksey Meadow pool in Oxford as an example of what could be achieved. He asked Cabinet to endorse the Friends' attendance and involvement in early and regular meetings with the council so their ideas could be integrated into the project. In short, the Friends suggested the retention of a deep water pool, but replacing the shallow pool with a beach area. The Friends also suggested a durable pool heating system, changes to the changing rooms, and ancillary facilities.

The chairman, Councillor Matthew Barber, thanked Dr Harbour for his statement.

- 2 Dr Les Clyne had submitted a question to the leader of the council but asked the Democratic Services Officer to read it on his behalf. Dr Clyne sought a written answer from the leader of the council within seven days and also requested a verbal response at the meeting:

"For the Grove airfield Section 106 agreement and the Crab Hill Section 106 agreement, who was the most the senior councillor, and most senior Council official, in each case that authorised the backended affordable rented housing profiles, and why did they agree these backended profiles, especially the one for Crab Hill where it is proposed that NONE of the first 150 houses will be affordable rented, when there is such a pressing current and foreseeable future need for affordable rented housing in the Vale to deal with the people on the housing register?"

The leader of the council, Councillor Matthew Barber, advised Dr Clyne that he would respond in writing within seven days; his written reply is appended to these minutes.

Councillor Matthew Barber left the meeting at this point to allow Cabinet to consider the questions and statements on the Botley Centre Supplementary Planning Document.

Councillor Roger Cox, the deputy leader of the council, took the chair for the remainder of the meeting. He then moved a proposal to defer consideration of the Botley Centre Supplementary Planning Document; the reasons for this are recorded under minute Ca.18 below. Cabinet approved that motion.

Despite Cabinet agreeing to defer consideration of the Botley Centre Supplementary Planning Document, Councillor Cox invited the speakers to address the meeting.

- 3 Mary Gill asked a question on the Botley Centre Supplementary Planning Document (SPD).

“Earlier this year, I asked Matthew Barber how he would ensure that West Way Centre remained a local service centre, meeting the everyday needs of local people, as required by the local plan. His response was ‘by consultation’.

Your planning officers have now produced a supplementary planning document, and duly put it out for consultation. However, the development described, the uses included, and the sheer scale of its buildings does not look like any local centre, in the Vale or elsewhere.

I, and 356 other people, responded to the consultation. However, the planning officers took little notice of these responses, and I fear that the consultation was a sham.

It has been pointed out that the SPD contravenes a number of guidelines, in particular the requirement that it should be based on or supplement a current adopted plan (not the emerging plan). As currently drafted, the SPD appears to be as much an Area Action Plan, for which the process would need to be different.

In particular, the SPD refers to a development site which matches neither the existing nor emerging local plan, and the site includes the homes of more than 60 people. We have not been given a satisfactory answer as to why this area is chosen, other than that it is slightly larger than that in the emerging plan, and that it was included in Doric’s failed planning application. The SPD also allows buildings which are not consistent with the Vale’s own Design Guide SPD, and encourages uses for which there is no demonstrable local need. Its sustainability appraisal should have considered and assessed a range of reasonable alternative scenarios.

This SPD appears to be drafted to suit one purpose, to allow maximum development, and therefore maximum financial benefit to be achieved from the site, of which the Vale owns a large part. As we know, the Vale has a contract in place with Doric / Mace, which shows an uncanny match to the scenario presented in the SPD.

It appears that the aim of this SPD is to facilitate the completion of the deal between the Vale and Mace. It suggests that proper separation has not been maintained between Vale’s two roles as land owner and planning authority. Some supporting documents seen by planning officers are commercial-in-confidence which adds weight to that suggestion.

This SPD should be an opportunity to deliver a development with the support of the local community, a development which is sustainable, viable, and something of which we could be proud. Would adopting this SPD as written undermine the proper planning process by making policies match plans rather than vice versa? Do you, the members of cabinet responsible for planning, consider that it is appropriate to adopt an SPD which is so fundamentally flawed and of doubtful lawfulness?”

Councillor Cox thanked Mary Gill for her statement. The questions raised would be answered when Cabinet considered the supplementary planning document.

- 4 Neil Rowley of Savills had registered to make a statement in support of the Botley Centre Supplementary Planning Document but declined the opportunity to do so in light of Cabinet’s decision to defer it.

- 5 Stephen Parkinson asked a question on the Botley Centre Supplementary Planning Document.

“Para 8 subsection 2 of the Town and Country Planning (Local Planning) (England) Regulations 2012, reads (2) A local plan or a supplementary planning document must contain a reasoned justification of the policies contained in it.

The reference to justification is of course a very reasonable prescription, as it prevents Planning Authorities from inserting principles which they want, but which would not survive the scrutiny of a planning application. But the word ‘contain’ is also important, and in this respect the Evidence Base is problematic, as it is not contained in the SPD, but is part of its justification.

The Evidence Base is dated August 2015 on the cover, but was only released – selectively – in late September (the pdf is dated 21 September). It was not published until 16 October (publication for the TCPR (para 35) means being placed on the council website). The presentation of documents for this meeting attempts to make the Evidence Base part of the SPD, by lumping them together as Annex A, but it clearly is not. When the SPD was consulted on, the Evidence Base had not been published. The contents page of the SPD now presented for approval does not list the Evidence Base as an annex. The text of the SPD does not refer to it all (the word ‘evidence’ in fact only appears once, in the preamble). The Evidence Base is not explicitly referenced in the Sustainability Appraisal Report.

So the Evidence Base is not part of the SPD. However, the SPD needs it. The Planning Officer’s account of the consultation process reveals that considerations of viability are the justification for retaining elements such as a large cinema or large scale student accommodation. While the SPD alludes several times to viability, the viability of individual land uses is discussed exclusively in the Evidence Base. So the Evidence Base underlies the SPD, but the SPD itself contains no reasoned justification of its policies in terms of the Evidence Base. As an aside, considering the Evidence Base to be part of the SPD is not a get-out-of-jail card: If the Evidence Base is part of the SPD, then what was published in August was not the SPD, and the consultation period, which according to para 12 b of the TCPR begins with publication of the SPD, could not legally begin. Are the Cabinet aware then, that if they adopt the SPD at this time, and in its current form, they will have failed to comply with at least one part of the Town and Country Planning Regulations?”

The Cabinet member for planning policy, including the local plan, replied that in answer to Mr Parkinson’s question, Cabinet was not going to adopt the supplementary planning document today, but it would consider the points he had raised.

Councillor Cox then invited non-Cabinet members, Councillors Debby Hallett and Dudley Hoddinott, to address the meeting.

Councillor Debby Hallett asked Councillor Cox why he was excused from the Planning Committee meeting in December 2014 for the determination of the Doric planning application on this site. Councillor Cox reported that he did not participate in the Planning Committee meeting because it might have appeared to some people that he might have

exerted undue influence. Councillor Hallett asked what had changed between then and now, to allow him to be considering planning issues now. In response, Councillor Cox stated that since then he had had no contact during the compilation of the supplementary planning document, either with officers, developers, residents or lobby groups. He had not had prior dealings nor made any judgments on this supplementary planning document.

Councillor Dudley Hoddinott believed that the draft supplementary planning document was not fit for purpose and should be rejected. He asked three questions:

- Why had the report ignored the huge majority of consultation responses that rejected a landmark building, especially as it was suggested that it could be eight storeys high?
- The appraisal report of the original Doric proposals showed many calculations which demonstrated why one scheme was better than another. Was this type of calculation carried out for this appraisal, and if so, can we see the relevant reports?
- Oxford City Council and Oxfordshire County Council had both commented on the supplementary planning document. Why did this supplementary planning document appear to completely ignore the important comments from the City and County Council on this proposed redevelopment?

In response, it was reported that a supplementary planning document provided a framework, adding detail to the local plan policies, and guidance on the design of a particular site, like this one in Botley. It provided a guide to future development.

This site was one of only a few in the district that gave an opportunity for development and improvement; this was a highly sustainable brownfield site. The supplementary planning document had been drafted to guide development on the site. The approach taken in the supplementary planning document had not been to use the previous proposals as the framework; officers had looked at the site afresh. All consultation responses had been considered carefully; however, the council did not necessarily agree with them all.

The chairman thanked the speakers for their statements and questions and assured the public that Cabinet had the best interests of residents in their hearts and minds.

Ca.18 Botley Centre supplementary planning document

Cabinet was due to consider the head of planning's report on the draft Botley Centre Supplementary Planning Document. However, Councillor Roger Cox, in the chair, proposed that Cabinet deferred consideration of this item. He reported that various issues had been raised and he had been advised by officers that more time was required to consider the issues before Cabinet debated the draft Botley Centre Supplementary Planning Document.

The council's chief executive had received a letter from solicitors acting on behalf of West Way Community Concern suggesting a legal challenge if Cabinet adopted the supplementary planning document today. Whilst not accepting the views expressed by the solicitors, the chairman believed the issues raised should be given proper consideration before Cabinet considered the supplementary planning document.

The chairman apologised to the public in attendance that this matter had to be deferred. He reported that the council would let everyone know of the revised Cabinet meeting date in good time, which he expected to be in a couple of weeks or so.

RESOLVED: to defer consideration of the draft Botley Centre Supplementary Planning Document to allow for further consideration of the legal implications of adopting the current draft.

Exempt information under section 100A(4) of the Local Government Act 1972

None

The meeting closed at 10.30 am

Appendix

Answer to question from a member of the public

Question from Dr Les Clyne to Councillor Matthew Barber at the Cabinet meeting on 30 October 2015:

“For the Grove airfield Section 106 agreement and the Crab Hill Section 106 agreement, who was the most the senior councillor, and most senior Council official, in each case that authorised the backended affordable rented housing profiles, and why did they agree these backended profiles, especially the one for Crab Hill where it is proposed that NONE of the first 150 houses will be affordable rented, when there is such a pressing current and foreseeable future need for affordable rented housing in the Vale to deal with the people on the housing register?”

Answer from Councillor Matthew Barber to Dr Les Clyne:

“The finer technical details behind the mechanics of the legal agreement are the responsibility of the major projects planning officer, supported by our lawyers and the planning service manager. Therefore, the final agreed document lies with those officers. Consequently and in this case Councillors do not give specific approval to the finer technical details. Cllr Robert Sharp approves the overall framework for affordable housing, but the detail of phasing is delegated to officers.

In the case of Grove airfield the provision of affordable rented housing is broadly the same throughout the development. It is a few percentage points above or below the overall provision of affordable housing which remains at a minimum of 30% throughout each phase of the development.

In the case of Crab Hill the profiling of affordable housing takes into account the need to provide vital infrastructure for the development at the earliest stage, particularly the payment for the primary school (a total of £8m indexed from 2012) and early up front payment for the Wantage Eastern Link Road. Whilst this does have the effect of delaying the delivery of the some affordable housing it should be noted that the provision of affordable rent has been negotiated at a significantly higher level. It is 18.75% higher than the Local Plan expectation which equates to an additional 90 units being available for affordable rent. Overall, planning policy places clear expectations that officers have to be proportionate and reasonable in the delivery of any form of infrastructure which includes affordable housing.”