

Draft Minutes

of the Meeting of

The Partnerships, Corporate Organisation and Overview Management Policy and Scrutiny Panel Thursday, 5 August 2021

New Council Chamber - Town Hall

Meeting Commenced: 6.00 pm

Meeting Concluded: 6.55 pm

Councillors:

P Geoff Richardson (Chairman)

A Stuart McQuillan (Vice Chairman)

N Gill Bute

P John Cato

N James Clayton

P Peter Crew

P Mark Crosby

A Huw James

P John Ley-Morgan

A Robert Payne

N Terry Porter

Vacancy

P Wendy Griggs (substituting for Robert Payne)

P Patrick Keating (substituting for Huw James)

P Phil Neve (substituting for Stuart McQuillan)

P: Present

A: Apologies for absence submitted

N: Not present

Other Councillors in attendance: Mike Bird, Steve Bridger

Officers in attendance: Nicholas Brain, Philippa Penney, (Corporate Services), Jenny Ford, Lucy Shomali (Place)

PCO Chairman's Welcome

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The Chairman welcomed everyone to the meeting and also to those watching online as the meeting was being live streamed on YouTube. He explained that the Panel had been convened following the call-in of Executive Member decision 21/22 DP 130 Appropriation of open space to planning purposes: land south of The Uplands, Nailsea.

The purpose of the meeting was to debate the decision and the reasons for the call-in, at the end of which, the panel would agree either: to recommend to the Executive Member that the decision should be reconsidered or; not to recommend

that the decision should be reconsidered.

The subject of the decision was specific to the appropriation of the land, which was a legal process distinct from any matters relating to planning for that land.

The Council's power to appropriate was detailed in the decision notice and was an independent process to that of planning.

The Council needed to be satisfied that a) land was no longer required for the current purpose, and b) the purpose for which the Council was appropriating was authorised by statute.

In respect of the use of the land The Executive member needed to be satisfied that on balance the benefits to North Somerset residents and the wider community would be greater for the proposed use than for the existing one.

PCO 2 Public Discussion (Standing Order SSO 9) (Agenda Item 1) -Executive Member decision 21/22 DP 130 Appropriation of open space to planning purposes: land south of The Uplands, Nailsea (1)

Ms Angela Love, local resident, addressed the Panel.

Ms Love stated that she believed the council had not provided compelling evidence demonstrating that it had properly addressed the issue of whether the land south of the Uplands, Nailsea was no longer needed for its current purpose – public open space. She stated that no robust and recent Public Open Space Assessment (as required by both NPPF & NPPG) had been carried out prior to inclusion in the SAP, the planning application, or the Appropriation Decision. She also stated that evidence of claimed benefits, which genuinely outweighed its current benefit to the community, were not substantiated by the EIAs for both Appropriation and Development Proposal and in particular with regard to the impact on disabled people, people in particular age groups and on health and wellbeing. She added that sufficient scrutiny had not been given to public concern about the change of public use with negative impact on between 3000 to 7000 existing residents of Nailsea. She concluded that it was clear from much documentation, including the Business Case, that the motivation to develop the 'Land South of the Uplands' was financial, with council processes and timings including the Appropriation Decision, being made to fit this predetermined aim.

The Chairman asked members if they wished to question Ms Love. There were no questions.

The Chairman thanked Ms Love for her address.

PCO 3 Public Discussion (Standing Order SSO 9) (Agenda Item 1) - Executive Member decision 21/22 DP 130 Appropriation of open space to planning purposes: land south of The Uplands, Nailsea (2)

Mr Anthony Evans, local resident, addressed the Panel

Mr Evans stated that he was in favour of retaining the land to the south of the Uplands as green public open space for which it had been for many years and for which there was documentary evidence dating back to 1966. He noted that it was widely felt in the community that this had not been sufficiently taken into account. Far from presenting truly compelling evidence for the case, in his opinion, the council had stretched points to suggest that it was surplus to requirements without any suggestion that the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location.

The Chairman asked members if they wished to question Mr Evans.

The Chairman asked Mr Evans if he felt that the alternative areas of open space were sufficient. Mr Evans replied that these were small and too far away.

The Chairman thanked Mr Evans for his address.

PCO 4 Public Discussion (Standing Order SSO 9) (Agenda Item 1)- Executive Member decision 21/22 DP 130 Appropriation of open space to planning purposes: land south of The Uplands, Nailsea (3)

Ms Jo Duffy, Town Clerk, Nailsea Town Council, addressed the Panel.

Ms Duffy informed the Panel that Nailsea Town Council believed that North Somerset Council had not carried out due diligence when looking at the land that was no longer required for the current purpose. The land was identified in 1966 as public space and had been under the local authority jurisdiction since 1997 for the purposes under the Community Land Act. It had been planted, had fencing and a footpath. It had been used as a football pitch in the past and for football, recreation and play for as long as people could remember. She noted that it had not been shown in any evidence that the land was no longer required. There was limited space in Nailsea and during the current pandemic this space was in even greater demand. The Uplands was special to the local community and evidence could be provided to show the land was genuinely valued by the local community and held a particular local significance for its recreational value, its tranquillity and for the richness of its wildlife. No alternative had been offered by North Somerset to replace this much-loved space. Ms Duffy concluded that without the evidence from North Somerset the land could not be shown to be no longer required for the purpose for which it was currently used.

The Chairman asked members if they wished to question Ms Duffy. There were no questions.

The Chairman thanked Ms Duffy for her address

PCO 5 Declaration of Disclosable Pecuniary Interest (Standing Order 37) (Agenda item 3)

None

PCO 6 Call in of Executive Member Decision - Appropriation of open space to planning purposes: land south of The Uplands, Nailsea (Agenda item 4)

Councillor Crosby, as proposer, explained his reasons for the call in. He felt that there was little that described the efforts in the report to assess the public value of the site and the social and economic contribution that public open space made towards the welfare and wellbeing of the public. He stated that without compelling evidence he was not convinced that the proposed housing was a greater community benefit that outweighed the site's value and use as public and open space. He pointed out that this was not the only site within the district that the Council may have to consider appropriating in response to the government's demands for housing. The Council would need to be able to demonstrate to its communities that the evidence put to them was assured and compelling and that the decisions taken were truly tested and balanced in their conclusions.

Councillor Crew, as seconder, explained his reasons for the call in, giving his full support to the comments made by Councillor Crosby. He stated that it was clear the Council had not convinced the residents of Nailsea, the town councillors and its own district councillors that the Council had given due diligence in the appropriation of the land and therefore he endorsed what had been said and that a recommendation be made by the Panel for the decision to be reconsidered.

The Executive Member for Assets and Capital Delivery welcomed the debate. As a former Chair to the precursor of the Panel he respected and supported the role of elected members to test and challenge Executive member decisions. He felt that it was a good report and he was very happy with the documents that supported it. He referred to the phrase contained in the report 'no longer required for the purpose for which it is held' which had been referenced from the Local Government Act 1972 Section 122 A and that the phrase needed to be contained in the report, but he understood why that would be questioned if taken literally. It had been considered in a number of legal cases and in particular the London Borough of Merton case which was referenced in the report.

He further added that he had taken everything into account when making the decision and in particular in relation to the land being used as public space during the pandemic and the increased use of public space that had been referenced in Section 4.4. He rejected the notion that it had been a financially motivated decision. It was not a decision he had taken lightly and was one he had considered at great length, reading all the comments from those who responded to the consultation and visiting the site on two occasions. He noted that the site itself would not be fully taken up with the development as there was a small open area of woodland, and a bridleway. He pointed out that the council was the sole judge of whether or not the land was required for the purpose of which it was held immediately before the appropriation decision. That was not to suggest it was not being used by the public for its current use. Neither was the council bound by any previous uses with regards to the previous uses of the land. He added that the decision was subjective.

In supporting the call in, members of the panel made reference to the fact that as owner of the freehold of the site the Council needed to be fully satisfied that the land was no longer required for a particular purpose for which it was currently

held. It was felt that North Somerset Council had not shown enough evidence that the open space was no longer required for the purpose for which it was held and that nothing in the history of the current site seemed to have been taken as evidence in the document.

Reference was made to The Green Book (Central Government Guidance on Appraisal and Evaluation) which considered that when balancing exercises were required in decision making there should be consideration of the need for a cost benefit analysis to weigh up all the factors having regard to the existing and proposed use of the land. The metrics in the book were wide ranging and presented the perspective of society and from the context of different stakeholders. These would be calculated over the lifetime of the project and should be considered over a period of 60 years.

Metrics to be considered were numerous but included: carbon emissions assessment (before and after); social cost benefit analysis; social cost effectiveness analysis; biodiversity assessment; community wellbeing; transport impact assessment; quality provision of public space in general (not merely the assertion that something one kilometre away is an acceptable alternative); what are the other benefits such as whether more schools, leisure centres, parks are to be provided.

The Green Book raised some key points regarding appraisal and evaluation underlining the inclusion of welfare economics and concerns regarding overall social welfare efficiency. The decision-making process should begin with an open and objective evidence base. Members agreed the need to weigh all these factors in a way that was meaningful using proper metrics, and that this was not apparent in this decision.

It was proposed by Councillor Crosby and seconded by Councillor Crew that the Executive Member be requested to reconsider his decision for appropriation of open space to planning purposes: land south of The Uplands, Nailsea for the reasons outlined below.

The proposal was put to the vote by Members of that Panel and was CARRIED (7 votes in favour, 0 against, 1 abstention).

Recommended:

that the Executive member for Assets and Capital Delivery be requested to reconsider the decision number 21/22 DP 130 (Appropriation of open space to planning purposes: land south of The Uplands, Nailsea) for the reasons that the measured social value had not been carried out sufficiently against the benefits of the development and to also take into account other relevant metrics including: quality of provision of replacement public open space; carbon emissions; social cost benefit analysis; social cost effectiveness analysis; biodiversity assessment; community wellbeing; transport impact assessment; other benefits such as schools, leisure centre, new parks and health centre provision.

Chairman
