

BRISTOL CITY COUNCIL
EXTRAORDINARY FULL COUNCIL MEETING
2 JUNE 2015

Report of: Sanjay Prashar, Service Director – Legal & Democratic Services

Title: Call-in referral – Mayor’s decision on Digital Advertising

Ward: Cabot

RECOMMENDATION

That the Full Council debates the Mayor’s decision on Digital Advertising, in light of the call-in of this decision, and that the Full Council determines either:

- a. To object to the decision and refer it back to the Mayor, together with its views; or:**
- b. Not to object to the decision, in which case the decision becomes effective immediately.**

BACKGROUND

Mayor’s decision:

1. A report was submitted to the 13 January 2015 Cabinet meeting seeking the approval of the appointment of JC Decaux as the preferred operating company to partner the Council in establishing digital advertising at Bond Street and Temple Way underpass plus a possible third option; and to delegate authority to the Service Director - Property to agree appropriate terms and establish a suitable agreement between the Council and the operating company to govern the operation of any sites established.

2. A copy of the 13 January Cabinet report is attached at appendix 1.
3. On 13 January, the Mayor took the following decision:
 1. That approval be given to the appointment of JC Decaux as the preferred operating company to partner the Council in establishing digital advertising at Bond Street and Temple Way underpass plus a possible third option.
 2. That authority be delegated to the Service Director - Property to agree appropriate terms and establish a suitable agreement between the Council and the operating company to govern the operation of any sites established.
4. A copy of the 13 January Mayor's decision recording form (decision no. 36.1/15) is attached at Appendix 2.

Call-in of the Mayor's decision:

5. The 13 January Cabinet decision was then the subject of a Call-In from Councillors Bolton, Hoyt, Fodor, Malnick and Telford.
6. A copy of the Call-In form submitted by the councillors is included at Appendix 3.
7. A meeting of the Call-In Sub-Committee was held on 13 March 2015 to review the Mayor's decision.
8. The Call-In Sub-Committee resolved that the Mayor's decision should be referred to the Full Council for debate.
9. The minutes of the 13 March Call-In Sub-Committee are set out at Appendix 4.

Exempt information:

10. The 13 January Cabinet report referred to an exempt appendix, containing exempt financial information.
11. Under arrangements approved by the Service Director - Legal and Democratic Services, all members of Council have been given an opportunity to inspect /read the exempt appendix in advance of this meeting of the Full Council.

Guidance to Full Council:

12. In accordance with the decision taken at the 13 March Call-In Sub-Committee, the Full Council is asked to debate the Mayor's 13 January decision.
13. The Full Council can determine either:
 - a. To object to the decision and refer it back to the Mayor, together with its views; or:
 - b. Not to object to the decision, in which case the decision becomes effective immediately.
14. Details of the financial and legal implications of the digital advertising proposal are set out in the 13 January Cabinet report included at Appendix 1.
15. An additional officer comment from the Service Director - Property (i.e. setting further context since the time of the original report) is set out below:
 - a. The use of advertising as a way of funding demolition works to the redundant escalators and walkway on the Old Market roundabout has been discussed for a number of years. Although planning permission was given for two traditional style advertising units, the original operator withdrew, stating that they were no longer viable with the advent of digital technology. JC Decaux have indicated that the digital site in that location would give them more flexibility to find a way to fund the necessary works.
 - b. JC Decaux have confirmed that they are still keen to go ahead.

Appendices:

- Appendix 1 - Cabinet report - 13 January 2015 - Digital advertising
- Appendix 2 - Mayor's decision recording form - 13 January 2015
(decision no. 36.1/15)

Appendix 3 - Call-In form submitted by Councillors Telford, Fodor, Hoyt, Malnick and Bolton

Appendix 4 - Minutes of Call-In Sub-Committee - 13 March 2015

APPENDIX 1

CABINET REPORT – 13 JANUARY 2015

DIGITAL ADVERTISING

CABINET – 13 January 2015 EXECUTIVE SUMMARY OF AGENDA ITEM 6

Report title: Digital advertising

Wards affected: Cabot

Strategic Director: Barra Mac Ruairi / Strategic Director Place

Report Author: Mike Ayres

RECOMMENDATION for the Mayor's approval:

1. To approve the appointment of JC Decaux as the preferred operating company to partner the Council in establishing digital advertising at Bond Street & Temple Way Underway plus a possible third option.
2. That authority be delegated to the Service Director Property to agree appropriate terms and establish a suitable agreement between the Council and the operating company to govern the operation of any sites established.

Key background / detail:

Purpose of report:

To seek approval for two initial digital advertising sites.

Key details:

1. It is proposed to establish two initial digital advertising sites.
2. Out of Home Media Consultancy (OHMC) have been appointed and undertook the tender of the digital rights on behalf of the Council and received three bids. After a robust evaluation, it is proposed to accept the tender from JC Decaux.
3. The operating company will provide all capital costs associated with the establishment of the sites. The Council will also receive a share of net profits which will be underpinned by a guaranteed minimum annual payment.
4. The establishment of the sites will be subject to the successful acquisition of all necessary consents for which the operator will be responsible including the payment of all associated costs.
5. It is proposed that the chosen Operating Company will now work with the Council and the Consultant in collaboration to further develop the proposals for each location in such a way as to both optimise benefit and provide the greatest chance of securing the necessary consents.

**BRISTOL CITY COUNCIL
CABINET
13 January 2015**

REPORT TITLE: Digital advertising

Ward(s) affected by this report: Cabot

Strategic Director: Barra Mac Ruairi / Strategic Director Place

Report author: Mike Ayres / PPMO

Contact telephone no. & e-mail address: x24044
mike.ayres@bristol.gov.uk

Purpose of the report:

To seek approval for two initial digital advertising sites.

RECOMMENDATION for the Mayor's approval:

1. To approve the appointment of JC Decaux as the preferred operating company to partner the Council in establishing digital advertising at Bond Street & Temple Way Underpass plus a possible third option.
2. That authority be delegated to the Service Director Property to agree appropriate terms and establish a suitable agreement between the Council and the operating company to govern the operation of any sites established.

The proposal:

1. The provisional locations are the two gateway points shown on the attached plan plus a potential third option; visual mock ups of the locations are also attached as Appendix A. The tender was based on three sites, but applies equally to the two sites chosen. The aim of the sites will be to generate much needed income as well as bringing a commercial vibrancy and vitality to a relatively bland stretch of road uniquely suited to this form of advertising, although the consultant has advised that any further visual amenity should be considered by the Council once the screens are in place. The consultant has advised that inevitably, due to market pressures digital advertising will be coming to Bristol (and many other cities) whether BCC go ahead or not. As there is a limited amount of demand for premium sites it would seem preferable that the Council take the initiative to capture and maximise this revenue opportunity and exert control rather than leave the benefit to flow to private landlords and a situation where the Council's influence is limited to statutory process.

2. The Council has appointed a consultant, Steve Cowell from Out Of Home Media Consultancy Ltd (OHMC) after consultation and a tender process to advise on this specialist area of advertising which has only been considered a serious commercial proposition outside of London within the last 18 months. It should be noted that OHMC are totally

independent and impartial, they are not associated with any operating company or product and do not operate any form of advertising.

3. OHMC undertook the tender of the digital rights described above on behalf of the Council which made clear that if the Council chose to go ahead with one of the bids, this would still be dependent on getting all necessary approvals. The Operators are aware that it is subject to approval by Cabinet. Three bids have been received by the deadline a summary of which can be found in the exempt appendix. OHMC have now completed a detailed evaluation of the tender submissions which were assessed to establish the 'most economically advantageous' tender based on a price/quality ratio of 60/40. The evaluation process indicated the most advantageous bid to be that submitted by JC Decaux and they have therefore recommended that JC Decaux be selected as 'preferred bidder' and the Council's partner in the ongoing process to establish and operate digital advertising at the locations specified. The evaluation process was on a site by site basis and therefore equally applies to two sites. The summary for the two sites gives the figures offered by the Operator – A minimum guarantee figure which will be due to the Council without deduction plus a profit share. The Operator is responsible for all outgoings including Business Rates.

4. The operating company will provide all capital costs associated with the establishment of the sites. The Council will also receive a share of net profits which will be underpinned by a guaranteed minimum annual payment. It should be noted that the financial offers received are based on achieving the detail of the bidder's respective schemes. It is likely that during the development process changes to the preferred bidder's scheme/s will be required (e.g. for planning reasons); depending upon the nature of those changes this may impact on the scale and nature of the financial offer.

5. The establishment of the sites will be subject to the successful acquisition of all necessary consents for which the operator will be responsible including the payment of all associated costs. Additional measures to mitigate risk to the Council (e.g. control over advertising content) will be imposed as appropriate via the operational agreement between the Council and Operating Company. It should be noted that one of the sites would also need agreement from the owners of Cabot Circus.

6. It is proposed that the chosen Operating Company will now work with the Council and the Consultant in collaboration to further develop the proposals for each location in such a way as to both optimise benefit and provide the greatest chance of securing the necessary consents. Discussions will take place with the Operator to find a way to deal with the Old Market escalators, which has been identified as a priority by the local community.

Consultation and scrutiny input:

a. Internal consultation:

Legal Services
Development Services
City Design
Transport Development

b. External consultation:

Hammerson
Out of Home Media Consultancy

Public sector equality duties:

The recommendations in this report do not have any direct impact in terms of public sector equality duty responsibilities.

Eco impact assessment

The significant impacts of this proposal are:
Consumption of electricity and visual impact.

The proposals include the following measures to mitigate the impacts:
The displays will have an energy-efficiency design and visual impact will be managed through community consultation and the planning process, together with using renewable energy wherever possible.

Advice given by Steve Ransom / Environmental Programme Manager
Date 28 November 2014

Resource and legal implications:***Finance*****a. Financial (revenue) implications:**

The recommendation is for the acceptance of a tender for Digital Advertising. The Council will benefit from income from the contract which is at nil cost to the Council. The Council has selected the best bid from a financial point of view. The income is a combination of a guaranteed annual payment (the Operator responsible for all outgoings including Business Rates) plus additional income from profit share, subject to the caveats set out above in respect of developing the project post contract close.

Advice given by Mike Allen / Finance Business Partner
Date 28 November 2014

b. Financial (capital) implications:

The contractor will provide all capital resources required for the provision of the advertising infrastructure and there will be not impact upon Council capital resources.

Advice given by Mike Allen / Finance Business Partner
Date 28 November 2014

Comments from the Corporate Capital Programme Board:

n/a

c. Legal implications:

It is assumed that both the appointment of OHMC, and the subsequent procurement process leading to the selection of JC Decaux (carried out by OHMC on behalf of the Council), have complied with EU procurement regulations and the Councils own procurement rules.

Following approval to proceed the Council will need to settle the terms of contract with JC Decaux before the project can move forward.

Advice given by Eric Andrews / Senior Solicitor, Place
Date 23 December 2014

d. Land / property implications

All sites are owned by the Council subject to Highway restrictions.

Advice given by Mike Ayres / PPMO
Date 27/11/14

Appendices:

Appendix A – Site plan and visual mock-ups

Appendix B – Eco impact checklist

Exempt Appendix – Financial offer.



Old Market Roundabout Underpass - Northbound



Old Market Roundabout Underpass - Southbound

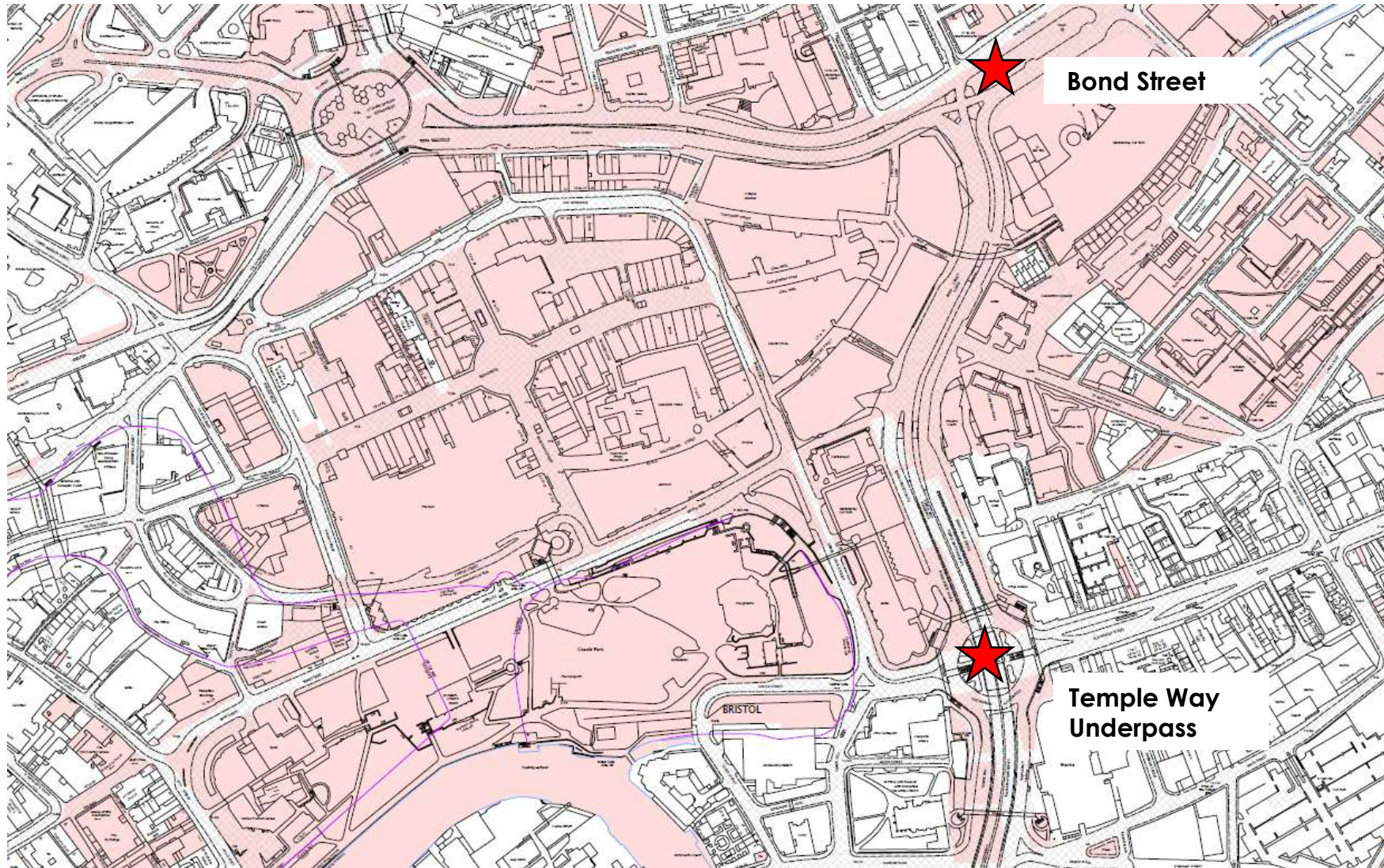


Newfoundland Avenue – Central Reservation - Eastbound



Newfoundland Avenue – Central Reservation – Westbound

PROPOSED DIGITAL LOCATIONS



Appendix B - Eco Impact Checklist

Title of report: Digital Advertising				
Report author: Mike Ayres				
Anticipated date of key decision: 15th January 2015				
Summary of proposals: Establishment of digital advertising at up to three locations, as set out in the report.				
Will the proposal impact on...	Yes/ No	+ive or -ive	If Yes...	
			Briefly describe impact	Briefly describe Mitigation measures
Emission of Climate Changing Gases?	Y	-ve	Emissions will be emitted indirectly through the production of electricity consumed by the displays	Energy efficient design includes LED lighting and daylight sensitive dimming. The preferred operator will purchase "green tariff" electricity.
Bristol's resilience to the effects of climate change?	N			
Consumption of non-renewable resources?	Y	-ve	Raw materials are required for manufacturing the displays – including metal and plastic	
Production, recycling or disposal of waste	Y	-ve	Displays will need to be disposed at the end of their operating life.	Preferred operator claims that 98% of the materials used are recyclable.
The appearance of the city?	Y	-ve	Displays are conspicuous.	Communities will be consulted and installation is subject to planning approval.
Pollution to land, water, or air?	N			
Wildlife and habitats?	N			
Consulted with: Steve Ransom, Environmental Programme Manager				
Summary of impacts and Mitigation - <u>to go into the main Cabinet/ Council Report</u>				
The significant impacts of this proposal are... Consumption of electricity and visual impact.				
The proposals include the following measures to mitigate the impacts ... The displays will have an energy-efficiency design and visual impact will be managed through community consultation and the planning process.				

The net effects of the proposals are....
Negative

Checklist completed by:

Name:	Mike Ayres
Dept.:	
Extension:	
Date:	01/12/14
Verified by Energy Service	Steve Ransom

APPENDIX 2

MAYOR'S DECISION RECORDING FORM –

13 JANUARY 2015

(decision no. 36.1/15)

Decision Recording Form

**Mayor's decision determined at Cabinet meeting
on 13 JANUARY 2015**

**Decision will come into effect on 21 January 2015
(subject to any call-in referral before that date)**

- (a) **Subject:** Digital advertising
(agenda item 6)
- (b) **Ward:** Cabot
- (c) **Decision taker:** George Ferguson, Mayor

Cabinet members present:

Cllr Geoff Gollop, Deputy Mayor

Cllr Mark Bradshaw, Assistant Mayor for Place, including Transport & Regeneration

Cllr Simon Cook, Assistant Mayor for Business Change, Resources & the Arts

Cllr Daniella Radice, Assistant Mayor for Neighbourhoods, including Health, Sport & Leisure

Cllr Brenda Massey, Assistant Mayor for People, including Education & Social Services

- (d) **Declarations of interest:**

None.

- (e) **Decision taken by the Mayor:**

1. That approval be given to the appointment of JC Decaux as the preferred operating company to partner the Council in establishing digital advertising at Bond Street & Temple Way underpass plus a possible third option.
2. That authority be delegated to the Service Director – Property to agree appropriate terms and establish a suitable agreement between the Council and the operating company to govern the operation of any sites established.

(f) Other options considered and rejected:

As set out in the report.

(g) Exempt information?

An exempt appendix contained commercially sensitive information.

(h) Decision made in exempt session?

No.

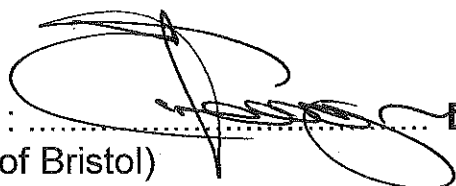
(i) Additional information at the meeting /documents taken into account:

1. One public statement.
2. One councillor question.
3. The Mayor noted that Cllr Radice had indicated at this meeting that she did not support this proposal / decision.

(j) Reason for decision:

As set out in the report.

Signed :
(Mayor of Bristol)



Date : 2011.2015

APPENDIX 3

**CALL-IN FORM SUBMITTED BY COUNCILLORS
TELFORD, FODOR, HOYT, MALNICK & BOLTON**

BRISTOL CITY COUNCIL

Request to the Proper Officer to call in an Executive Decision

(This form should only be completed after the accompanying guidance notes have been read. It should be completed fully in order that the Proper Officer has an adequate basis upon which to call in the decision)

Names of the non-executive members requesting the proper officer to call the decision in :	ROB TELFORD GUS HOYT MARTIN FODOR TIM MALNICK CHARLIE BOLTON
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Date and time request submitted :	TUESDAY 20/01/2015
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Details of Executive or officer acting under delegated power)	GEORGE FERGUSON (MAYOR OF BRISTOL)
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Decision number and date	
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Description of decision or part of decision (if you only quote the subject then everything in the decision could be suspended pending the Call In's Sub meeting)	The decision made at Cabinet at 6pm in the Council Chamber at the City Hall, College Green, Bristol BS1 5TR under agenda item 6. Report title: Digital advertising. Wards affected: Cabot Strategic Director: Barra Mac Rusiri / Strategic Director Place Report Author: Mike Ayres
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State which principle(s) in Article 14 of the	We feel the executive has breached A.14.02 (e), described as such:
---	--

Constitution you believe the executive has breached and set out any evidence to support this.

"(e) A presumption in favour of openness
Decisions taken by executive members or by officers should be taken under this presumption.
Access to material contributing to a decision should be made available to anyone with a legitimate interest in it unless this would involve disclosing exempt or confidential information."

We feel that the financial and revenue implications of this decision should be made open to the public.

We also need to know, to the fullest extent possible, the plans of other commercial operators to bring forward other similar proposals for digital street advertising. This is so that all Bristol residents have the opportunity to contribute to an open dialogue as part of the Mayor and the council's decision-making about use of public space for private purposes.

There should be evidence/process to show a strategy is in place for public and private sites.

Signed by Councillors  

 T. Mahesh

Please now hand to Democratic Services Section for actioning
- Democratic Services, Floor 4, Brunel House - Clifton Wing
(NB to ensure prompt action do not put in the internal mail)

APPENDIX 4

MINUTES OF CALL-IN SUB-COMMITTEE -

13 MARCH 2015



Agenda Item No:

Bristol City Council
Minutes of Call In Sub-Committee
Friday 13 March 2015 at 2.00pm

Members Present:-

Councillor Pearce (Chair), Councillor Goulandris, Councillor Holland, Councillor Negus, Councillor Mongon.

Officers in Attendance:- Sanjay Prashar – Service Director – Legal and Democratic Services, Robert Orrett – Service Director – Property, Mike Ayres, Principal Manager, Asset Management

1. Apologies for Absence

There were no apologies.

2. Public Forum.

The following Statements were received and is held as a public record on the Minute Book.

- John Morison (Ref PFS.13.3.15/01)
- Barney Smith (Ref PFS.13.3.15/02)
- Joel Moreland (Ref PFS.13.3.15/03)
- Stephen Clarke (Ref PFS.13.3.15/04)
- John Payne, Chair Bristol Civic society's Planning Applications Group (Ref 13.3.15/05)

RESOLVED – that the statements be noted.

3. Declarations of Interest.

The Chair and Councillor Negus stated that they were members of the Civic Society.

4. Whipping.

There was no whipping.

5. Call In of the Mayor's decision (taken at the 13 January 2015 Cabinet meeting) on Digital Advertising.

Before the meeting began, Councillor Negus requested that the Service Director – Legal and Democratic Services clarify a constitutional point as to whether the decision that was being reviewed was a Cabinet decision or a Mayoral decision. The Service Director – Legal and Democratic Services confirmed that the process at this meeting would follow the same route whether it was a Mayoral decision or a Cabinet one.

The Chair reminded the panel and public in attendance that this Sub-Committee could not alter the decision of the Mayor but could simply review the way in which the decision was reached. There were a limited number of actions the Sub-Committee could take, namely:-

- Take no further action;
- Refer the matter to Full Council for debate;
- Refer the matter back to the Mayor with recommendations.

The Callers in presented as followed:-

- Councillor Telford stated that decision breached the openness requirement as the financial revenue and plans for further proposals should be made available to the public. There was no evidence and process for the strategy and it should have been more widely consulted on. He was disappointed that the Mayor had not attended this meeting;
- Councillor Hoyt stated that there was a need to focus on what our city should look like. This type of advertising demonstrated the negative effects of a throw away culture and where communities have banned advertising, there was a stronger retail presence. Bristol was an independent city and the cityscape should reflect this. There was a danger these proposals would set a precedent for what was a relatively small income. There had been no consultation with communities, businesses, schools or Universities prior to the Cabinet meeting. The process was therefore fundamentally flawed at the highest level and he

recommended that it be referred to Full Council for debate;

- Councillor Fodor stated that there had been a lack of strategy and policy in this decision. The Mayor's manifesto had included the reduction of visual clutter yet this decision contradicted this. The decision had focussed on the budget needs of the authority rather than the built environment. The focus was on less sensitive areas of the city – where might these be? A debate was needed to inform a policy. In summary, the lack of strategy meant that the decision was not properly made and should therefore be sent to Full Council for debate.

Councillor Negus referred to the Call in proforma, observing that the first part of the reasons for call in stated the presumption of openness element of the constitution then referred to the financial implications. If the reason for call in was based on the finances and revenue, was it reasonable to consider the visual merits of the decision ?

Councillor Telford replied that the call in was based on lack of transparency as members were unaware of this proposal before the decision. In summary, this was a decision of strategic importance and there therefore should have been full consultation.

The Service Director - Legal and Democratic Services stated that the ground for Call In was based on the presumption of openness ie. the exempt appendix should not have been exempt and was not confined to lack of consultation when it could have been and therefore the criteria was not met for a debate on consultation.

Councillor Telford replied that openness was not possible if there was not consultation. Councillor Negus stated that he might have conceded openness had the proforma not then referred immediately to finances and revenue and he agreed with the Service Director's view.

Councillor Holland agreed and was sorry that the Call In had not been made on sounder grounds as the public were attending regarding the wider arguments of digital advertising. Even if the decision was referred to Council, they would be in the same dilemma as they would need to consider the report minus the financial appendix. The Sub-Committee could only consider what was in writing and could not therefore widen the debate to consultation.

Councillor Fodor stated that the lack of strategy and policy referred to in the proforma addressed the issue of consultation and allowed the wider debate.

Councillor Mongon observed that there was nothing in the officer response

regarding whether consideration had been given to excluding the financial information from the report and asked whether proper consideration had been given to the presumption in favour of openness for the financial part of the report. He asked whether the Sub-Committee was constrained to consultation on the financial aspects only or could widen the consideration to other areas ? The Service Director replied that the presumption in favour of openness must refer to the report ie. what Councillors outside Cabinet and the public could see. There was provision in the constitution for exempt and confidential information.

Councillor Negus referred to the wording within the proforma 'Access to material contributing to a decision...' and suggested that this could mean local plans or other documents and not just finances and could it therefore be construed that the material could be considered in its widest context ?

The Service Director responded that the issue was should the exempt information have gone into the main report. The Sub-Committee might wish to consider whether the report itself was not properly informed to guide the Mayor in his decision. He emphasised that the Sub-committee's remit was not to assess if the presumption of openness was met in respect of all background information as if that premise was taken to the Nth degree the authority would be in an invidious position of always having to have regard to what information went into a report and it was not possible to cover all eventualities.

Councillor Negus noted that the wording of the proforma stated openness and then went on to finances so openness was a separate element of the Call In.

The Service Director replied that openness might be considered on two levels:-

- Why any part of the report should be exempt;
- Whether the report should be more developed with information.

His main concern with the latter type of openness was that officers might be constantly faced with Called In decisions as this argument would be regularly used.

Councillor Mongon noted that the report referred to consultation with officers but did not expand on that. Was it not reasonable and in the public interest to expect details of the consultation to be incorporated into a report requiring a decision from the Mayor ?

The Chair agreed to hear from the officers in attendance regarding this Call In. They commented as follows:-

- The Service Director – Property stated that he had not expected to discuss the issues that had been so far debated and was therefore concerned that he was unprepared to respond. He had responded to the Call In on the basis of the financial information being excluded. He had been involved throughout the process but had not brought information on the history of the decision;
- The Principal Manager, Asset Management stated that a digital advertising consultant had proposed the four iconic points to place the digital screens. It had been necessary to make the financial information exempt as it would prejudice commercial interests and weaken the preferred bidder in the commercial environment as well as jeopardise the Council's ability to get best value. Competition in this area was very fierce and the disclosure of a company's bid would give advantage to competitors. Releasing such information would cause a breakdown of goodwill and cause negotiations to flounder and the preferred bidder might withdraw requiring the Council to retender. All planning permissions were still needed and planning would consider the applications just like any other application;
- The Service Director – Property added that this professional area was part of a large market. Almost always competitiveness needed to be managed to reach a conclusive point which was in the best financial interests of the Council. Officers were therefore acknowledging the presumption to openness but having regard to not undermining the best outcome from a negotiation. This was a practical situation that occurred regularly when commercial opportunities came to the market which were likely to prejudice the Council's position. There was a continued dialogue with legal services regarding the balancing of Freedom of Information and public openness against damaging outcomes. It would have been recommended at the Cabinet agenda conference that the financial information be made exempt and that the matter proceed on that basis;
- It was noted that the decision was on the Forward Plan with 'no scrutiny envisaged' annotated against it. He referred to the exempt appendix and noted that there should have been the opportunity for the scrutiny process and the public to evaluate the relative strength of the bid as it was a huge sum of money. The balance of the finances against what was in the report was crucial to the decision and should have been consulted upon somewhere along the process. In summary, he accepted the qualitative element of the outcomes in the exempt appendix but believed there should have been greater openness;
- Councillor Holland noted that there were no background papers in the report and that it had been on the Forward Plan for long enough to allow scrutiny;
- The Chair agreed noting that background papers should have been

available at Informal Cabinet. He asked whose idea this had been if there was no current policy on the matter. The 'generation of income and commercial vibrancy' were not planning officer's words. Assessing whether the screens were a problem when they were in place was too late. This decision appeared to be a money making exercise only. The Service Director – Property replied that the idea had started with City Design and concerned the need to enhance and animate the underpass at Old Market. Property officers were then involved when it became clear that it might be possible to create a funding platform by linking it to demand for digital advertising;

- Councillor Mongon expressed surprise at the background to this decision as it had not been included in the report. He could not understand why the report would state that the proposals had a negative environmental impact but the Mayor had still approved the decision;
- Councillor Negus believed that these sites would set a precedent and commercial operators would then come forward with further sites. It was clear that the full story had not been set out in the report;
- Councillor Holland asked for clarification regarding the Council's strength in respect of statutory processes as there appeared to be contradictions. The Service Director – Property replied that planning applications could be appealed but the Council was averse to appealing its own applications;
- Councillor Holland asked how an agreement had been reached with the operator if the Council's policy was against digital advertising and was informed that Planning had not categorically stated this was not possible. Discussions had taken place with planning officers. This decision was never simply about making money and Planning liked that the authority could influence the operator. Talks had therefore taken place with Planning that were over and above their statutory responsibilities;
- The Service Director – Property added that how officers reported on initial consultations was a matter for the future but this was the adopted report format. The reference to identifying other sites had been made because the removal of one of the sites would have implications on delivery of funding;
- Councillor Negus argued that this sentence referred to a number of possible sites and not just a replacement for the one which had fallen away;
- Councillor Holland believed this was not a sound report and fell short of what was needed if it allowed internal and external challenge.

In summing up the following points were made:-

- Councillor Fodor reiterated that material contributing to a decision were policy issues. He noted that the public sites where there was most community engagement had been withdrawn. He asked for more evidence

and explanation of processes to show there was a strategy to handle these proposals in the city;

- Councillor Negus stated that this Call In had been difficult due to the way the proforma had been drawn up. He concluded that the first paragraph of the proforma did not restrict consideration to the financial matters as what followed from the financial statement was sufficient wording to find that information had not been disclosed which could have been and was material to the decision;
- Councillor Mongon believed there were three areas of concern:-
 - Openness – he was not convinced that the original Cabinet report had sufficient detail;
 - Internal consultation;
 - Why was this option being pursued in the first place – aesthetic value or financial gain;
- The Service Director – Legal and Democratic Services cautioned against the use of the word ‘material’. It was not material information but material ie. information used in the report;
- Councillor Holland requested advice regarding straying from the interpretation of the proforma and also asked what was the worst that could happen if the interpretation was flexibly applied – it was not possible to appeal a Called In decision. She expressed concern regarding things she had heard in the meeting and had moved to a position she did not think was possible. The Mayor’s initiative to animate spaces had not been set out in the report. There appeared to be a lack of joined up thinking from the Council;
- Councillor Goulandris observed that this decision should have gone through the scrutiny process and asked whether lack of consultation could be used;
- The Service Director – Legal and Democratic Services suggested that the discussion had moved away from the correct parameters. The terms of reference were clear – it was not to decide the merits or reasonableness of the decision and noted that some questions lead to that conclusion. The key issues was whether there was any information which contributed to the decision that was not made public. The draft of the Call In had been unfortunate;
- Councillor Mongon argued that there were two pieces of information that were contributed to the report that was missing which were the background to the decision and detailed feedback of the internal consultation.

The Chair, in sum up, stated that the Sub-Committee had little concern regarding the financial information but were very concerned regarding the policy issue, including scrutiny and the development of the idea and the

effects on the public.

Councillor Negus moved that the decision be referred to Full Council for debate. This was seconded by Councillor Mongon.

Before moving to the vote, the Service Director – Legal and Democratic Services advised that the Sub-Committee might wish to hear from officers regarding the viability of the decision if delayed. The Service Director - Property asked that the meeting move into closed session for this.

Councillor Negus proposed that this be ruled out as the finances had not been a key point in the debate to refer to Full Council.

On being put to the vote, it was agreed that the meeting move into closed session and the press and public left the room.

RESOLVED - that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in part 1 of Schedule 12a to the Act, Category 3 as amended by the Local Government (Access to Information) (Variation) Order 2006.

On reconvening in open session, the Chair reminded the meeting of the original motion from Councillor Negus to refer the decision to Full Council for debate. This was again seconded by Councillor Mongon.

On being put to the vote, it was carried, 4 in favour and 1 abstention.

The Service Director Legal and Democratic Services asked that his concern as to the reasoning behind the Panel's decision be minuted.

RESOLVED: that the Mayor's decision on Digital Advertising, taken at the Cabinet meeting on 13 January 2015, be referred to Full Council for debate.

END: 4:15PM

(Chair)