

Overview and Scrutiny Management Board



Supplementary Agenda

4. Minutes of the previous meeting

Overview and Scrutiny Management Board – 12th April 18

Overview and Scrutiny Management Board – 18th June 18 A & B

(Pages 2 - 19)



Bristol City Council
Minutes of the Extraordinary Overview and Scrutiny
Management Board



12th April 2018 at 6pm

Members of OSMB Present;

Councillors Don Alexander, Charlie Bolton, Tom Brook, Jude English, Geoff Gollop (in the Chair), John Goulandris, Gill Kirk (left at 7.55pm), Anthony Negus and Jo Sergeant.

Cabinet Members in Attendance (in full or part);

Councillors Asher Craig, Kye Dudd and Helen Holland.

Officers in Attendance (in full or part);

Tim Borrett – Director, Policy & Strategy; Alison Comley – Executive Director, Communities; Shahzia Daya – Service Director, Legal; Andrea Dell - Head of Democratic Engagement; Lucy Fleming – Democratic and Scrutiny Manager; Chris Holme – Director, Finance; Jacqui Jenson – Interim Head of Paid Service & Executive Director, Adults, Children & Education; and James Perkins, Waste Strategic Lead.

1. Welcome, Introductions and Safety Information

The Chair welcomed all those in attendance.

2. Apologies for Absence;

Apologies for absence were received from Councillors Pearce and Tincknell. Councillor John Goulandris substituted for Councillor Morris and Councillor Sergeant substituted for Councillor Massey.

Apologies were also received from Councillor Craig Cheney, Designated Deputy Mayor with responsibility for Finance, Governance and Performance.

3. Declarations of Interest;

There were no declarations of interest.



4. Minutes and Actions from the Previous Meetings

The minutes from the meetings on 18th December, 12th February and 8th March 2018 were approved as a correct record.

RESOLVED; That approval of the minutes of the meeting on 18th December 2017, 12th February 2018 and 8th March 2018 be approved as a correct record.

5. Chair's Business

There was no Chair's Business.

6. Public Forum

The following items of public forum business were received and a copy placed in the minute book;

Statements

No.	Name	Subject
1.	Martin Garret	Arena
2.	Cllr Bolton	Bailiffs
3.	David Redgewell	Light Rail Bristol and Bath
4.	David Redgewell	Temple Meads Interchange

Members noted that officers were reviewing arrangements in relation to Council bailiffs and agreed that an update would be provided in due course.

RESOLVED; That the public forum submissions be added to the Minute Book.

7. Bristol City Council's Business Plans

The Board were provided with an update on Bristol City's Council's Corporate Strategy which was adopted at the Full Council meeting on 20th February 18. It was noted that the Corporate Strategy articulated the Policy Framework, with Corporate Strategy at the top tier, moving down through thematic Business Plans, linking to Service Plans at operational level. Members went on to consider the information provided. The following is a summary of the salient points;

- The Business Plans were supported although it was recognised that they were intentionally high level and OSMB would like to see further information on Key Performance Indicators as part of the emerging Performance Framework. The Chair suggested approximately 10 per Cabinet Member so that progress could be monitored.
- Where the Business Plan 2018/19 specified a measurable target e.g. in relation to reducing the number of rough sleepers from 86 to 75, in many cases it was not ambitious enough. In response it was noted that the targets would be exceeded wherever possible and should be seen in context



as part of a five year Corporate Strategy and ongoing journey, and that it was important that the goals be realistic.

- Many of the criteria would be measured by the Quality of Life Indicators (QoL) and it was noted that modest targets (which in some cases reflected limited resources available and/or issues outside of the Council's control) were not necessarily at a statistically significant level. In response it was noted that QoL methodology changed in 2017/18 due to a corporate spending freeze and was 'self-selecting', making the results unreliable as an accurate reflection of overall public views. Steps would be taken to ensure the quality of the data was robust by reinstating the previous methodology in future and this may require re-baselining of targets in future.
- Some of the objectives of the Business Plans could not be achieved by the Council in isolation and it was important to consider that close working relationships with key partners would be needed to secure the best outcomes and whether the Business Plan was the best place to state these targets.

RESOLVED – That the update be noted.

8. Waste and Recycling Collection Methodology Review

The item was introduced by Councillor Kye Dudd, Cabinet Member for Energy, Waste and Regulatory Services, following which a presentation was provided by officers (which can be found at appendix A). Members were advised that various options had been modelled to inform the Waste and Recycling Collection Methodology review. The proposal with the most benefits would be moving to recycling separated at source and 3 weekly collections of residual waste (leading to a predicted 2% increase in recycling and the biggest cost saving). However, this option had not been selected since 3 weekly collections were unpopular with residents; therefore provision of an additional recycling bin was being recommended.

The Board went on to consider the information provided and ask for additional details in a number of areas. The discussion was as follows;

- It was difficult to adopt a universal approach to waste collection since preferences and practices varied by ward, and some methodology was not suited to flats or areas with narrow pavements. More work should be done to improve recycling rates in flats, for example planning permission should not be granted to blocks of flats without adequate provision.
- Recycling rates had remained largely unchanged in recent years, which was disappointing and the Council should set more ambitious targets.
- Food waste collections were weekly and would remain so. Residual bins should only consist of 'dry' waste that did not encourage fly infestations, yet 53% of bins were contaminated (with as much as 22% of bins consisting of food waste).
- The nature of vehicles used for waste collection was a matter for the Waste Company, although the Council could influence decisions.
- An education campaign around waste would be funded by income generated from litter penalty charges.



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- Residents should be informed about the significant cost savings that could be achieved by moving to 3 weekly residual collections so they could fully understand the benefits. Wales had moved to 3 weekly collections although the arrangements were statutory so less open to challenge. None of the UK's Core Cities currently had 3 weekly collections. Following a show of hands, the majority of OSMB Members would consider supporting 3 weekly collections.

RESOLVED; that the Cabinet Member for Energy, Waste and Regulatory Services be asked to consider the views of OSMB, particularly in relation to exploring the benefits of 3 weekly residual waste collection.

9. The Arena - Information Item

The Board noted that the decision on the future site of the Arena was expected to be made at the Cabinet meeting in May 18. Members agreed that significant scrutiny of the proposals set out in the Cabinet report would be necessary, even if the meetings needed to take place at short notice.

RESOLVED – That Scrutiny of the Cabinet report setting out proposals in relation to the Arena take place as soon as the relevant information was available.

10. Task and Finish Group Updates

Members noted the information set out in the accompanying report. The Chair of the Libraries Task and Finish Group report advised that additional work would take place in advance of the Cabinet report setting out the proposals regarding the future of the Library Service.

RESOLVED – that the report be noted.

11. Scrutiny Ways of Working - Verbal Up-Dates

The Board noted that their proposals for a revised structure of Scrutiny (OSMB plus directorate Commissions meeting three times a year and a range of Task and Finish Groups) would be considered by Full Council in May 18.

RESOLVED – that the update be noted.

12. Information Item - Social Action Plan 2018-2020

There was no discussion on this item.

13. Information Item - Period 10 Budget Monitor Report



There was no discussion on this item.

14. Information Item - Mayor's Forward Plan

There was no discussion on this item.

The Meeting ended at 8.17pm

CHAIR _____

Appendix A - Waste and Recycling Collection Methodology Review



Bristol City Council

Minutes of the Overview and Scrutiny Management Board Meetings



18th, 20th & 22nd June 2018

Members of the Overview and Scrutiny Management Board Present (in full or part); Councillors Don Alexander, Geoff Gollop (Chair), Tom Brook, Stephen Clarke, Gary Hopkins, Claire Hiscott, Celia Phipps, Paula O'Rourke, Carole Johnson, Jo Sergeant and Estella Tincknell.

Other Members present (in full or part); Councillors Eleanor Combley, Carla Denyer, Olly Mead, Jerome Thomas, Anthony Negus and Clive Stevens

1. Welcome

The Chair welcomed all attendees to the meeting.

2. Apologies for Absence and Substitutions

None received

3. Declarations of Interest

None received

4. Public Forum

The following public forum was received and a copy placed in the minute book;

- Fifteen Public Forum Statements
- Eight Public Forum Questions from Members of the Public; one from a local MP and twenty seven from Members, plus some grouped questions from both the Conservative and Green Groups

5. Review of the Arena Value for Money Study Outcomes:

The Overview and Scrutiny Management Board met on 18th June and reconvened the meeting twice with additional sessions taking place on 20th and 22nd June. An overview of each session is set out below, as well as the comments that were submitted to Cabinet.

All 3 sessions were webcast and the discussion can be accessed in full from this link:

<https://www.youtube.com/channel/UChYwQT6nK-mPU3K8bYsZ17g>



1. Session 1: 4.15 – 7.00 pm, 18 June 2018

- At this first session, the Board received 16 public statements. Those present were invited to present their statements to the Board.
- The Board also received a wide range of questions that had been submitted, from both members of the public and Councillors.
- The Board was collectively impressed by the quality of the statements and questions received, noting that these were invaluable in assisting OSM with their interrogation of the VFM study outcomes.
- Over the course of the session, extensive time was taken in allowing questioners, OSM members and other Councillors to hear verbal replies. Depending on the nature of questions, replies were given as appropriate by KPMG representatives, the Bristol City Council (BCC) Arena team, or the BCC Finance and Legal Directors. A very full opportunity was given for supplementary questions to be asked.

2. Session 2: 4.00 – 7.00 pm, 20 June 2018

At this second session, the Board focused on:

- Alternative proposals for the Temple Meads site.
- Further questions to KPMG and officers.
- Questions to the contractor, Buckingham Group, with particular reference to the statement submitted by Buckingham Group.

3. Session 3: 10.00 am – 1.00 pm, 22 June 2018

At this third session, the Board focused on:

- Questions to the operator, Arena Island Limited, with particular reference to the statement submitted by Arena Island Limited.
- Questions to YTL

KEY CONCLUSIONS AND COMMENTS TO CABINET AS SUMMARISED BY THE CHAIR, COUNCILLOR GOLLOP;

There appears to be a fair degree of consensus amongst members and across parties. We see that the proposed Arena at Temple Meads is a fully developed project that is ready to start, and that the alternative proposal is very much at its early stages.

We see that KPMG indicate that the potential benefits are greater from the alternative site and alternative use for Arena Island, but KPMG also state that the risks attached to the alternative projects have not been quantified and that has to be considered by the Mayor in making his decision.



We sense that officers favour the Filton proposal. Whilst we understand that in that scenario YTL take the project risk, Members also see that they are the main beneficiary of the significant infrastructure investment.

It is the considered view of OSM members that;

- The existing Arena figures are cautious*
- The Brabazon Arena figures are optimistic*
- Insufficient attention had been paid to social value in concentrating purely on value for money*
- Environmental impact has been ignored in terms of the Filton proposal*
- An arena for all of Bristol requires accessibility for all and that case is not proven at Filton*
- The Arena Island proposal is close to being “shovel ready”*
- The needs for planning, traffic planning and infrastructure at Filton mean the time line is much longer than the Temple Meads proposal*
- We urge the Mayor to meet with the OSM party leads to discuss our report before concluding his decision*
- The sale of the land for the university campus at Temple Meads has damaged the economic case for the Arena. The site is now smaller and there is reduced opportunity to boost the economy of the area, part of which forms one of Bristol’s most deprived wards.*
- Members were encouraged by YTL’s vision for the Filton site, however, there were many details still to be confirmed as the scheme is only at an outline stage. In particular the major caveats in relation to planning permission (the sequential test) and the delivery of essential transport infrastructure.*
- The delayed publication of Value for Money reports created unnecessary pressures on officers and scrutiny to complete their work*
- There is little or no time for the Mayor to take note of the views of scrutiny before his decision is published on Monday*

Members are finding it hard to understand how the Filton project with so much uncertainty can be compared with the detailed information available at Temple Meads and are concerned that choosing Filton will delay the arena for many more years (and risk that it could be stopped by YTL at any time with no ability to influence by the City Council).

One of the biggest concerns from Members was the imminent planning decision on Cribbs Causeway. Members are concerned that relocating the arena to Filton could signal the demise of Broadmead for retail and leisure and the transfer of trade to South Gloucestershire.

Whilst not a unanimous view, 10 out of 11 Members of the Board agreed on the substantive issue that Arena Island is the only viable option for Bristol’s arena.

In conclusion I quote from the last paragraph of KPMG’s 3rd Report

- 1. ‘There is considerable difference in the stage of development of the plans for the propositions and the details on which the assessments are based. In comparison to the Filton Arena development, the Temple Island Arena is a well-developed project and as a result could be considered, at this point in time, to be more deliverable.’***



On behalf of the members of OSM, can I particularly thank;

- *Colin Molton and his team for their detailed work, the speedy response to detailed questions and the way they have approached this series of meetings*
- *Denise Murray and Chris Holme for their independence and professionalism*
- *Lucy Fleming and the scrutiny team for keeping us going and for ensuring the webcast worked and all the behind the scenes support*
- *KPMG for a robust response to our questions*
- *Representatives of Buckingham, Arena Island and YTL for attending and answering our questions*
- *The media and members of the public in the gallery or watching on the internet and other members of Council for showing such interest in this critical issue*

Summary of Additional Comments Raised by OSMB Over All Three Sessions;

- The location of the Arena was a strategic decision with long term and wide reaching implications for the city.
- Further delaying the scheme will put the costs up again and potentially bring reputational risk to the Council.
- Concern that if the Arena Island site was halted the negotiating position of the Council regarding any future schemes could be compromised.
- A firm proposal (Arena Island) was being compared with two high level estimates (Brabazon and the mixed use of Arena Island). Risk criteria – it is easier to measure risk on a well-developed proposal; it is more difficult to do this on high level proposals.
- There are concerns about no clear answers being available to explain why the cost of the Arena Island proposal is higher.
- The LEP funding situation and the position / requirements regarding the reallocation of £53m LEP funding that would need to be followed if a decision was taken to halt the Arena Island project and support the Brabazon option. Specifically, Members wanted assurances that the funding could be transferred to the Filton site.
- Leakage figure regarding benefits to north Bristol / South Gloucestershire – is this figure right? Is there potential for more leakage to South Gloucestershire given the site is virtually on the boundary between the two authority areas?
- The wider “catalytic” economic impact of either site is not fully measured.
- The building of an arena at Filton will add value to the YTL site, but not so in the case of the building of an arena at the Arena Island site (given the sale of land for the University of Bristol campus).
- That situating the Arena at Filton, in the north of the city, would result in further disadvantage to the residents of south Bristol in terms of access to employment and culture as well as the general potential benefits from regeneration.
- Both KPMG and officers confirmed that building the Arena at Arena Island would not impact on the Council’s wider revenue budget.
- The Arena Island site was anticipated to be completed by 2020, but it would be at least 2022 until an Arena could be provided at Filton.
- The operators of the Arena Island site had offered to make further savings to their offer.



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- YTL would take all of the building risks at the Filton site but they would fall to the City Council at the Arena Island site.
 - Queries were raised about some of the data underpinning the modelling. Members were also interested to know if other modelling could be carried out, without involving significant cost?
 - There were comments about the alternative development for Arena Island being a potentially ‘bland’, generic, mixed use scheme.
 - There was concern about not always receiving objective advice in response to questions asked of some officers.
 - It was confirmed by KPMG that the GVA had not been risk adjusted on the Filton site.
 - It was felt that the sale of land to the university could be interpreted as a missed opportunity in terms of mixed use being developed around the Arena Island proposal.
 - The importance of social housing in the city centre was recognised.
 - Buckingham Group (contractor for the project) are committed to identifying further value engineering cost reductions against the target costs. The existing Arena figures seem to be too cautious.
 - Members were uncertain about the reliability of some of the information provided about projected car use and parking provision for the Arena Island site. For example, the projections of percentages of users travelling by car that didn’t appear to match other equivalent city centre arenas.
 - Concerns were raised about the terms of reference for the VFM Reports being too narrow.
 - It is noted that Buckingham Group have a tool for undertaking a social value assessment – undertaking such an assessment should be considered (it is noted that KPMG were not in a position at this meeting to be able to offer any comment on this methodology).
 - Further information should be circulated about other projects delivered by Buckingham Group, i.e. including evidence of previous completed projects and timelines.
 - There appeared to be optimism bias in a range of areas in relation to the Filton arena proposal – for example regarding delivery of any railway infrastructure and attendance figures.
 - Members thought a conference facility could be provided as part of the Arena Island development, as often found elsewhere.
 - A series of meetings were necessarily being held to respond to these reports at very short notice - the lead-in time for this is too short; the substantive reports were not published until 10.00 pm on 11 June – the people of Bristol have not had a proper opportunity to be here and participate.
 - OSM has been waiting a long time for these reports – the Chair previously submitted comments to Cabinet on behalf of OSM asking for this information – but the report was only available at the “last minute”. The effective scrutiny of such reports requires sufficient time for questions to be asked and written responses given - the process had necessarily been truncated.

RESOLVED; THAT THE COMMENTS OF THE BOARD BE REFERRED TO CABINET

CHAIR _____



Bristol City Council

Minutes of the Overview and Scrutiny Management Board



18th June 18 – Annual General Meeting

Members of Overview and Scrutiny Management Board (OSMB) Present; Councillors Don Alexander, Geoff Gollop (Chair), Tom Brook, Stephen Clarke, Gary Hopkins, Claire Hiscott, Celia Phipps, Paula O'Rourke, Carole Johnson, Jo Sergeant and Estella Tincknell.

Other Members present; Councillor Eleanor Combley, Carla Denyer, Olly Mead, Jerome Thomas, Anthony Negus and Clive Stevens

1. Welcome, Introductions and Safety Information

The Chair welcomed all attendees to the meeting and made a safety announcement in relation to the fire/emergency evacuation procedure.

2. Apologies for Absence and Substitutions

None received.

3. Declarations of Interest

None received.

4. Annual Business Report Including Election of Chair/Vice Chair and Work Programme

RESOLVED; That

- Councillor Gollop be elected Chair for the 2018/19 municipal year (moved by Councillor Hiscott, seconded by Councillor Stephen Clarke); and
- Councillor Estella Tincknell be elected Vice Chair for the 2018/19 municipal year (moved by Councillor Don Alexander and seconded by Councillor Geoff Gollop); and
- The following Scrutiny Chairs be elected; Councillor Stephen Clarke for Resources Commission; Councillor Hopkins for Communities Scrutiny Commission; Councillor Hiscott for Adults Children and Education Scrutiny Commission; and Councillor Paula O'Rourke for Growth and Regeneration Scrutiny Commission (moved by Councillor Geoff Gollop and seconded by Councillor Jo Sergeant); and
- The Board's Terms of Reference be noted; and
- Mayoral Question Time take place 4 times a year preceding OSMB meetings; and
- The Call In Sub-Committee be established; and
- The Work Programme for the 18/19 Municipal Year be noted.



5. Minutes of the Previous Meeting

It was noted that the minutes from 12th April 18 would be approved at the following meeting.

6. Public Forum

The following public forum was received and a copy placed in the minute book;

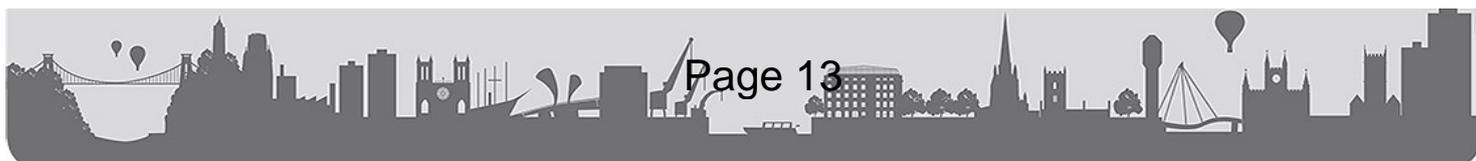
David Redgewell – Metrobus

7. Adult Social Care Scrutiny Task Group Report

The Board adopted the report from the Adult Social Care Task Group which sets out recommendations for the Cabinet, as well as suggestions for future Scrutiny Work Programme topics.

RESOLVED; That the report be shared with the Cabinet Member for Adult Social Care and the findings inform future scrutiny work programme topics.

CHAIR _____



Bristol City Council
(Draft) Minutes of the Call In Sub-Committee
(of the Overview and Scrutiny Management Board)



26 June 2018 at 4.00 pm

Members of the sub-committee present:

Councillors: Gollop (Chair), Alexander, Hopkins, Mead, O'Rourke and Langley (substitute)

Members who called-in the 5 June Cabinet decision – Enhancement of six of the Ardagh Tennis Courts:

Councillors: Combley, Fodor, Denyer, Stevens and Bolton

Cabinet Member:

Councillor Dudd, Cabinet Member for Energy, Waste and Regulatory Services

Officer Attendance (in full or in part):

Kevin Slocombe (Head of Mayor's Office), Jacqui Jensen (Executive Director: Adults, Children & Education), Dr Susan Milner (Interim Director of Public Health), Nancy Rollason (Deputy Monitoring officer and Service Manager Legal), Gemma Dando (Director: Communities), Richard Fletcher (Service Manager: Communities), Guy Fishbourne (Sport & Physical Activity Development Manager) and Louise deCordova (Scrutiny Advisor)

1. Welcome

The attendees were welcomed to the meeting.

Councillor Gollop was elected as Chair.

2. Declarations of interest

There were no declarations of interest.

3. Public forum

The sub-committee received and noted the public forum questions and statements as follows:

Questions:

1. Sam Thompson – Ardagh Community Trust



The questioner was in attendance and presented her statement. The sub-committee noted that the questioner had expressed concern that information contained in the responses to her questions differed significantly from her recollection of the matters raised.

Statements:

1. Cllr Tom Brook
2. Cllr Claire Hiscott
3. The Parks Forum
4. Ardagh Community Trust
5. Cllr Eleanor Combley
6. Cllr Clive Stevens

Those in attendance presented their statements.

4. Call In Cabinet Decision - Enhancement of six of the Ardagh Tennis Courts

In accordance with the prescribed procedure, the sub-committee reviewed the Call-in of the decision as follows:

(i) Explanation of procedure:

The Chair explained the procedure to be followed at the meeting. The purpose of this meeting was to specifically review and assess the reasons why this decision had been called-in, and then to determine one of the three options available to the sub-committee, as follows:

- a. to take no further action; or
- b. to refer the matter back to the Cabinet, identifying specific issues for the Cabinet to consider before a final decision was taken.
- c. to refer the matter to the Full Council for a wider debate, on the basis that Full Council could decide to take no further action or to refer specific issues/recommendations for the Cabinet to consider before a final decision was taken.

The Chair advised the parties that the majority of Panel Members, having reviewed the submissions, considered that the key issues in this case were to ascertain i) whether consultation had been required in making the decision and ii) if so whether the consultation that had taken place had been sufficient.

(ii) Presentation of the case by Councillors who called-in the decision:

With reference to the Call-in form included with the agenda papers, Councillors who had called-in the decision presented their case and highlighted their key points as follows:



Cllr Fodor:

- a. In the Councillor's view, silo thinking had been evident in this decision and it had raised the concern that a focus on the sports element of the investment alone, may derail the ongoing Community Asset Transfer negotiations, and in addition, did not appear to be congruent with the Mayor's Empowering Communities Strategy.
- b. A misunderstanding over ward boundaries and relevant neighbourhood partnerships had resulted in key stakeholders in relevant communities not having adequate opportunity to raise their issues and this had exacerbated tensions.
- c. The Councillor expressed the view that a commitment to genuine consultation and partnership, working with the key stakeholders involved, had not been demonstrated.

Cllr Combley:

- a. In the Councillor's view there had been a lack of legitimate consultation with an active stakeholder which had been engaged in advanced negotiations with the Council for several years on the community asset transfer of the whole site. Ardagh Community Trust currently leased the site for a range of community activities and was intrinsically involved in the working of the site.
- b. The decision to withhold a number of tennis courts from the community asset transfer had not been consulted upon.
- c. As a ward councillor, the Member had not experienced the spirit of collaboration expected, once the Lawn Tennis Associations proposals had been put forward.
- d. There had been a lack of clarity over the financial imperative for the Council continuing to be responsible for maintenance of the tennis courts when there was an offer on the table for Ardagh Community Trust to absorb this cost.

Cllr Stevens:

- a. The Councillor referred to Lord Woolf's four legal tests for good consultation and expressed the opinion that there had been no evidence provided to demonstrate that adequate consultation had taken place.
- b. Cllr Stevens played a clip of Cllr Brooks' public forum statement from the Cabinet webcast on 5th June to illustrate his view that the relevant ward councillors considered that residents that had not felt empowered in respect of this process.

The Cabinet Member for Energy, Waste and Regulatory Services, Cllr Dudd, raised a point of order, in respect of the webcast. In response to the Cabinet Member's request, the Sub-Committee noted, that Cllr Brook's public forum statement had concluded in support of the Cabinet decision.

(iii) The Sub-Committee asked questions of the Councillors who called-in the decision:

In response to the Sub-Committee's questions, the following points were raised:

- a. There was no clear evidence available that identified when the Community Trust had been made aware that six courts would be removed from the CAT process.



- b. Callers-in confirmed that there had been discrepancies between the information provided at meetings and that provided via email. Meetings had not been indicative of an ongoing dialogue but more a way for the Council to impart information to the attendees.
- c. Callers-In were of the view that whilst a city wide consultation may have had merit in respect of a Sports strategy, there was a specific and key stakeholder in this particular case that warranted a degree of consultation on the proposal.
- d. It was clear that there had been some evidence of engagement, where a series of meetings had taken place, with various parties, in a variety of contexts, but there had been a lack of consistency and no evidence of records having been kept.
- e. There was concern that meaningful consultation had not fed into the decision and it was the Callers-in view that there had been a focus on increased profitability without sufficient concern for whether the decision was right for this site. The Cabinet report had stated that the City wide model was not dependent on the Ardagh Courts.
- f. It was considered that the lack of consultation had resulted in an undermining of the relationship and negotiations with the Ardagh Community Trust and there could be a risk of undermining the potential for the engagement of other community stakeholders in respect of future community asset transfer opportunities.

(iv) Explanation of Cabinet decision by the Cabinet member and Head of Mayor's Office, and response to issues raised by the Councillors who called-in the decision.

Councillor Dudd, Cabinet Member for Energy, Waste and Regulatory Services provided an overview of the decision and referred to the Cabinet report which set out the basis for the decision and made the following points:

- a. The city wide operating model offered a household membership scheme and pay to play options, with the income generated to be paid into a sink fund which could be drawn down to maintain the courts as required, and this represented a sustainable model for the City.
- b. There had been no legal requirement to carry out consultation in respect of an in principal investment to refurbish a sports facility. However, they had engaged with stakeholders and ward councillors at a series of meetings.
- c. There was evidence that compromises had been made, demonstrated by the negotiation of the Lawn Tennis Association proposal which had resulted in a reduction from the inclusion of 11 courts to 6 courts.
- d. The report was positive and welcome good news in support of the city's pro sport strategy for elite sport.

(v) Questions asked by members of the sub-committee of the relevant Service Director / Cabinet member

In response to the Sub-Committee's questions, the following points were raised:



- a. It was clear that the potential for a Community Asset Transfer model on the Ardagh site added some complexity to what would normally be seen as a straight forward sports investment issue.
- b. There had been no statutory or legal impetus for consultation in respect of an in principal decision but engagement activity had been arranged with key stakeholders on at least 8 occasions. There was evidence of the decision maker having made some compromise in respect of the numbers of courts identified in the decision.
- c. It was not clear when key stakeholders had first been made aware that there was a compromise of 6 courts, but the proposal had been had been tabled during a meeting at City Hall in December 2017.
- d. A consultation in respect of a fee charging model on a number of sites had been carried out via survey questionnaire during 2016. A number of public tennis courts in the city were already operating a fee charging model.
- e. The Deputy Monitoring Officer clarified that a consideration should be given as to whether consultation was needed and if so what a fair and proportionate level of consultation might be in respect of any decision being taken on a case by case basis
- f. It was difficult for the Council to provide usage figures for open access tennis courts as there was no mechanism to collect the information. The Ardagh Trust had carried out surveys of the courts usage so were able to provide some evidence of existing usage.
- g. It was noted that several courts were unplayable, in part due to the open access nature of the facilities, and hence the need for investment in maintenance.
- h. Other areas of the city, such as Redcatch may have been broadly in favour of charging, but the community had raised concern that the charging proposal had come after significant community investment had already been made to refurbish the courts.
- i. The Chair sought the Sub-Committee's views on the option to ask the Cabinet Member if they would agree to have ongoing discussions about implementation of the in principle decision with the Ardagh Community Trust.
- j. Consensus could not be reached in discussion, and the Deputy Monitoring Officer referred the Sub-Committee to the Cabinet Decision Record and confirmed that the Sub-Committee's role was to determine whether the correct process had been followed in making the decision.
- k. In response to debate, the Chair sought further clarification on whether consultation had been required in this case. The Deputy Monitoring Officer referred the Committee to the Council's Code of Good Practice on consultation, the difference between engagement and consultation and the general principles to be applied in deciding whether consultation should take place and if so the principles of good consultation that needed to be followed.
- l. The Deputy Monitoring Officer advised that consultation would not normally be required on in principle decisions to invest in the upkeep of Council property and the Committee needed to consider all the circumstances of this case when making their decision.
- m. It was understood that the Community Asset Transfer discussions with the Ardagh Community Trust were ongoing, but it was recognised that these matters were not within the Cabinet Member for Energy, Waste and Regulatory Service's portfolio.



(vi) General debate and decision

In summary, the following points were raised:

- a. Members firstly considered whether consultation was required in this case. It was recognised that consultation would not usually be required on matters relating to in principle investments to enhance local facilities, and that the Officers are guided by the Council's published Consultation Guidance as to whether to consult, and if so how to do so appropriately, on a case by case basis. However, it was also recognised by the majority of Members that there was a complexity to this specific case due to the ongoing discussions with the Ardagh Community Trust in respect of their business case for a Community Asset Transfer at the same site. The Majority of Members therefore considered that a reasonable expectation of some level of consultation with key stakeholders had been warranted.
- b. Members then went on to consider whether the consultation/engagement that had taken place was sufficient. Members considered that there had been a lack of evidence presented, to support the level of engagement that had taken place, in order to be able to assess its effectiveness; in particular there had been no noting of discussion outcomes or clarity that both sides had clearly understood the evolving positions in respect of the Ardagh tennis courts. Therefore the majority of Members considered that the level of engagement had been neither sufficient nor satisfactory. The majority of members raised concern that the Council could risk undermining future negotiations with community groups if a good faith and robust process of communication could not be relied upon.
- c. Members considered that good consultation led to good decisions and the lessons learned in this case should require that future processes maintain a clear record of consultation or engagement activity.

The Sub-Committee RESOLVED:

To refer the matter back to Cabinet, with issues as detailed above, for Cabinet to reconsider before taking its final decision.

(Note: the above resolution was supported by the Chair and Cllrs O'Rourke and Hopkins. There were two Councillors Against and one Abstention).

Meeting ended at 6.35pm

CHAIR _____

