

SCRUTINY MANAGEMENT PANEL

Minutes of the meeting of the Scrutiny Management Panel held on Monday, 21 December 2015 at 3.00 pm at the Civic Offices, Portsmouth

Present

Councillor Steve Hastings (in the Chair)

Councillors Simon Boshier
Alicia Denny
Ben Dowling
Scott Harris
Darren Sanders
(Councillor Rob Wood attended to make a deputation)

Officers Present

Michael Lawther, City Solicitor & Monitoring Officer
Pam Turton, Assistant Director Transport Environment and Business Support
Alan Cufley, Director of Transport, Environment & Business Support

26. Apologies for absence (AI 1)

Apologies for absence were received from Councillor John Ferrett, Councillor Ian Lyon and Councillor Will Purvis.

27. Declarations of Members' interests (AI 2)

Councillor Darren Sanders said that he had a personal, non-prejudicial interest in that his mother lives in one of the tower blocks in the zone concerned but said that he was able to be open minded.

28. Call-in of decision taken by the Cabinet Member for Traffic and Transportation at his meeting on 26 November 2015 in respect of item 4 of that agenda - specifically in relation to LB zone. (AI 3)

(TAKE IN THE DOCUMENTS ATTACHED TO THE AGENDA)

The chair of the panel, Councillor Steve Hastings explained that the purpose of the meeting today was for the panel to determine whether the Cabinet Member for Traffic and Transportation's decision had been based on inaccurate or incorrect information or had been taken without adequate information. He advised that if the panel is satisfied that the decision has not been based on inaccurate or incorrect information or that it was not taken without adequate information, then no further action is required and the matter ends here. He said that the meeting was not to reconsider the decision taken on 26 November 2015.

The chair said that two deputation requests had been received in support of the decision being referred back to the Cabinet Member for Traffic & Transportation for reconsideration.

Mr Tom Wood, organiser of the petition against parking zones, was invited to make his deputation and included the following points

- Residents in the LB zone should have been consulted and the report should have included LB zone in the title as many of the residents in LB zone had not been aware of the meeting.
- There had been no consultation with these residents.
- No evidence had been included in the report about displacement parking.
- The only evidence specifically about LB zone was that they had been included in the general consultation about paying for parking permits.

In summary he felt that inadequate information had appeared in the report and that it had included inaccurate information.

The chair thanked Mr Tom Wood for his deputation. Councillor Rob Wood was then invited to make his deputation which he then did. His deputation included the following points:

- Residents had written to him saying that the process had been unfair.
- There had been a lack of consultation with residents living in the LB zone.
- The situation currently is that some residents have parking and others have not.
- Residents felt that they had no voice.
- The number of responses had been affected by the fact that many students lived in this area in houses in multiple occupation and they tended not to make their opinions known.

The chair thanked Councillor Wood for his deputation.

The chair then referred to the process of the call-in meeting attached with the papers and invited Councillor Vernon-Jackson as lead call-in member to present the reasons for the call-in. Councillor Vernon-Jackson addressed the panel and said that the call-in process allows Scrutiny Management Panel to look at how the decision was reached and that in his view the decision had been taken without accurate information or adequate information and for that reason should be referred back to the Cabinet Member for reconsideration.

In support of his view he made the following points:

- The report going to the decision meeting on 26 November should have also included St Thomas in the heading in order to alert those residents that a matter was being considered which affected them. This was not done and therefore he felt that the report was inaccurate.
- With regard to consultation and petitions, much detail had been included in the report with regard to MB and MC zones but virtually nothing about LB zone. Residents in LB zone had not been consulted and therefore those residents' views had not been taken into account so the information in the report was inadequate.

Councillor Gerald Vernon-Jackson suggested that a potential way forward would be not to take any action until the next meeting of the Traffic & Transportation portfolio on 21 January 2016 at which time the Cabinet Member could look at the report again after consultation had been undertaken. This would only delay things by a matter of days but would allow additional information to be included in a new report for the Cabinet Member to consider.

The chair then invited Councillor Ken Ellcome to provide a response. Councillor Ellcome said that he accepted the criticism over the report not including in its heading reference to St Thomas ward. The Cabinet Member said that he consulted often with officers and was fully aware of the facts and received accurate information in order to enable him to make the decision in November. He had personal knowledge of more information than appeared in the report and had taken his decision in light of all the knowledge he had.

Consultation letters had been sent out giving a six month period in which to respond and when the results had been received he would decide whether or not to make the parking zone permanent.

He refuted the allegation that the information on which he based his decision had been incorrect. He was aware of the displacement from LB zone into MB and MC zones and tried to be even handed. His reason for suspending LB parking zone was to find out what effect this would have.

Looking at zones in isolation had not been successful as often when a zone was introduced it led to displacement into neighbouring parking areas.

The Cabinet Member advised that six months' consultation was being undertaken following which he could look again at his decision. In the meantime he felt that he had all the information he needed in order to take the decisions he had on 26 November.

The City Solicitor advised that the legal basis of the call-in was not whether the report itself was inaccurate or misleading - just whether the decision maker, Councillor Ken Ellcome had based his decision on information that was inaccurate or inadequate and that this was a subjective view. Similarly even though the wards mentioned on the headings of the report had not

included St Thomas ward, the test is not what the report says but whether the Cabinet Member had been misled by that.

The chair then invited the lead call-in member, Councillor Vernon-Jackson to provide a further response and to sum up his case. Councillor Vernon-Jackson made the following points:

- He was disappointed that the suggested way forward ie to revisit the decision at the January meeting of Traffic & Transportation portfolio had not been taken up.
- He reiterated his assertion that the report had been inaccurate and that adequate information had not been provided. He said that this was evidenced by the subject of the report mentioning MC and MB zones, but not LB zone, the ward mentioned was Central Southsea and there was no mention of St Thomas ward, there was mention of a petition in item 4.5.3 that had been signed by 100 people, however the other petition that was signed by 1400 people had not been referred to.
- He thought that the report generally had been badly produced.
- He thought that residents should be involved in decisions affecting them.
- In light of the comments made at the meeting today, he asked Scrutiny Management Panel to agree that the report had not contained adequate information and had been inaccurate and that they should refer it back to the Cabinet Member for those reasons in order for him to be able to reconsider his decision.

The chair then invited the Cabinet Member to sum up his case. Councillor Ellcome included the following points in his summing up:

- If the Scrutiny Management Panel decided that the decision he had taken on 26 November had to be reconsidered, then obviously that was a matter for them.
- He conceded that some of the information in the report was inaccurate but that those inaccuracies had not affected his decision as he had personal knowledge of the roads concerned and knew what he was dealing with.
- He was trying to be fair to all by treating all residents in the LB zone in the same way as he had treated those living in the MC and MB zones in that he was trying to ensure that any problems experienced would be evenly shared. In the past, decisions on zones had been made on an ad hoc basis and he had had to unpick previous decisions and try to start again. To that end he had arranged for a letter to be sent to the local residents asking for their views and reminded everyone that the parking zone had not been revoked but had been suspended and that a decision on whether or not to make this permanent would be taken at

a later time. The Cabinet Member felt that he had done all that he could to involve local people and hoped to get the best possible result for the greatest number of residents.

- He advised that the suspension could only last for 18 months.

The City Solicitor was asked to confirm whether, if the matter were to be referred back to the Cabinet Member for reconsideration, this was just in relation to LB zone or also included the decision taken in respect of MB and MC zones. Mr Lawther confirmed that the decision in respect of MB and MC zones would stand and that the only decision that would be reconsidered if the matter were to be referred back was in relation to LB zone. Mr Lawther further clarified that the question before the Scrutiny Management Panel today was whether Councillor Ellcome had come to his decision on the basis of his personal knowledge. The Scrutiny Management Panel's role was not to examine the report itself.

The chair thanked Councillor Ellcome for summing up his case and opened general debate among Scrutiny Management Panel members.

During discussion the following matters were clarified:

- Councillor Ellcome said that he had suspended LB zone because of the MB and MC displacement issues.
- The Director of Traffic & Transportation, Alan Cufley confirmed that an experimental order can stay in force for a maximum of 18 months while its effects are monitored and the Council decides whether or not to make the provisions permanent. There is no requirement for public consultation before an experimental traffic order is brought into effect, but from its commencement date there is a 6-month period that allows representations to be submitted based on experience of the traffic scheme in operation.
- Councillor Ellcome explained that different reports contained different recommendations in relation to parking zones and his decisions may therefore vary. However he said that if the majority of residents in an area wanted change, then he would be willing to look at the matter again. With regard to the LB zone, consultation had not yet been completed and he felt that suspension was the correct decision in order to be in line with MB and MC zones.
- Members felt that a critical point to consider was how it was possible to judge information available to Councillor Ellcome. The primary indication would be to consider what was in front of him in the report. It seemed that no attempt had been made to provide any evidence about possible displacement. Alan Cufley had said that the evidence used had been in relation to the information gleaned on responses to the proposed £30 charge to be imposed on residents. The point was made by one member that taking a decision based on personal knowledge without any evidence to support it in the report was in his view poor

practice. For that reason he felt that the matter should be referred back to the Cabinet Member for reconsideration and that extra information should be included in the report so that members and members of the public can see the evidence on which a decision is based.

Councillor Ellcome said that reports cannot contain absolutely everything on which the member concerned may base his decision. He said that the call-in had been based on whether he as Cabinet Member had had enough information. Whilst he accepted that others may have liked to see more evidence in the report, he personally did have accurate information and knew what was going on and made the decision on the basis of all of his knowledge, not just what had been included in the report.

- In response to queries about the decision that had been taken relating to Fratton and Stamshaw, the Cabinet Member said that the different zones experienced different problems and therefore different solutions were appropriate. Consultation was still taking place in LB zone.

Members felt that parking was a very emotive issue in the city and it was absolutely crucial to get people onside. They considered that proper consultation should take place in order to inform decisions and to be fair to those concerned. Members felt that if the report had included LB zone in the heading as well as MB and MC zones, residents would have been given a proper opportunity to seek to make deputations or provide written representations to the meeting in order to make known their views. In addition members felt that insufficient consultation had taken place specifically with those residents in LB zone. Members felt generally that cabinet members should make decisions based on evidence before them and that residents in MB and MC zones had been made more aware that a decision that affected them was about to be taken than residents of LB zone.

The chair said that whilst the decision itself was not a matter for Scrutiny Management Panel to consider, the scrutiny process looked at mechanisms and process. It was the panel's view that the report should have specifically mentioned LB zone.

It was proposed by Councillor Ben Dowling and seconded by Councillor Boshier that the decision taken by the Cabinet Member for Traffic & Transportation on 26 November 2015 - specifically in relation to LB zone - should be referred back to the Cabinet Member for reconsideration on the grounds that the decision had been taken without adequate information.

The Scrutiny Management Panel unanimously

RESOLVED

- (1) To refer back to the Cabinet Member for Traffic and Transportation the decision taken by him at his meeting on 26 November 2015 in relation to the LB zone only (as set out on the**

Decision Notice dated 30 November and as included in the draft Record of Decisions dated 26 November 2015) for reconsideration.

- (2) That the reason for referring the matter back for reconsideration is that the Panel believed that the decision had been taken without adequate information.**

29. Date of Next Meeting (AI)

The date of the next meeting is to be arranged.

The meeting concluded at 4.30 pm.

Councillor Steve Hastings
Chair