

SCRUTINY MANAGEMENT PANEL

MINUTES OF THE MEETING of the Scrutiny Management Panel held on Friday 29 August 2014 at 3.00 pm in the Council Chamber, The Guildhall, Portsmouth.

Present

Councillor Alistair Thompson (Chair)
Councillor Simon Boshier (Vice-Chair)
Councillor Ben Dowling (deputising for
Councillor Winnington)
Councillor John Ferrett
Councillor David Fuller (deputising for
Councillor Michael Andrewes)
Councillor Steve Hastings (deputising for
Councillor Alicia Denny)
Councillor Hannah Hockaday
Councillor Darren Sanders
Councillor Phil Smith
Councillor Ken Ellcome
Councillor Lee Hunt

Councillor Luke Stubbs, Councillor Linda Symes and Councillor Margaret Adair attended the meeting as observers.

Officers Present

Michael Lawther, City Solicitor & Monitoring Officer
Simon Moon, Head of Transport & Environment
Nickii Musson, Operational Transport Planning Officer
Michael Robinson, Parking Operations Manager
Wayne Layton, Group Accountant

23 Apologies for Absence

Apologies for absence were received from Councillor Michael Andrewes, Councillor Alicia Denny and Councillor Matthew Winnington. Councillors Andrewes and Winnington had been given advice by the City Solicitor that they had a pecuniary interest.

24 Declarations of Members' Interests

Councillor Phil Smith declared that he lives in a ward where parking schemes were in operation but had sought advice from the City Solicitor who had said that this did not amount to a prejudicial interest and that he could sit on the panel today.

25 Call-in of Decision on "MB and MC Zones" taken by the Cabinet Member for Traffic & Transportation at his meeting on 24 July 2014

(TAKE IN THE DOCUMENTS ATTACHED TO THE AGENDA)

The chair of the panel, Councillor Alistair Thompson, explained that the purpose of the meeting today was for the panel to determine whether the Cabinet Member'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 24 July 2014.

The chair said that many written representations had been received and had been circulated to members of the panel. He also advised that 8 deputation requests had been received in time and one late deputation request had been received from Mr Mottershead. He said he was minded to allow the late deputation request provided that members of the panel had no objections to this, which they did not.

The chair said that he would allow six minutes for each deputation.

Deputations were received in support of calling in the decision from Mr Whiteside, Mr Roger Shepherd, Ms Suzy Horton, Mr Matt Smart and Mr Adrian Reed,

Mr Derek Wareham, Mrs Kercher, and Mrs Sawford made general comments about parking zones and felt that parking should be looked at across the whole city.

Mr Mottershead spoke on behalf of North Kings residents and said he would be happy to support neighbours in the MC zone, but would like North Kings to be part of that zone.

The chair thanked the members of the public for their deputations.

The chair said that Councillor Linda Symes and Councillor Luke Stubbs both wished to speak on the agenda item and first invited Councillor Symes to speak.

Councillor Symes' deputation included the following points

- She said she understands the strong feelings put forward by members of the public and felt that had the parking situation been addressed when it should have been, the city would not be in the position it now is.
- She said that a piecemeal approach to the introduction of parking zones was not in her view the way forward but should be a solution that is good for everyone.
- She said no consideration had currently been given to those already suffering and a fairer system was needed for everyone.

Councillor Stubbs then made his deputation which included the following points:

- The displacement factor in the MB and MC zones was greater than in other areas of the city.
- He said there was a need to consider the city as a whole as if zones were introduced in one area displacement occurred so that cars just moved elsewhere. He said that in the future there may well be a need to limit the growth of the number of cars parked in the city. He said that a strategic approach was needed.

The chair then invited Councillor Hunt as the lead call-in member to present the reasons for the call-in.

Councillor Hunt addressed the Panel and included the following points

- He said that there had been no warning about the decision being taken by the Cabinet Member on 24 July.
- He said the decision would cost more than £90,000.
- He said that the decision had been based on inaccurate and inadequate information and that consequently the Cabinet Member should be asked to reconsider his decision.
- He said that he had no problem with a citywide strategy, but that there was no need to suspend the MB and MC zones in order to allow that.
- He said that he felt that the decision was unfair and undemocratic.

The chair then invited Councillor Ellcome to respond. Councillor Ellcome's response included the following points

- the decision he had made on 24 July had not been made for political reasons.
- He was aware of and understood the anger and frustration of residents. However he had a great deal of experience in the parking environment and said that he had introduced the first residents' parking scheme in Old Portsmouth whilst working for the city council as an officer.
- there was a need to look at the history of the parking zones. These had been first requested in 2003 to 2004 and had only finally been introduced in 2011. By 2012, a buffer zone had to be created because of the pressure caused on neighbouring areas. He said that 200 people had complained about the MC zone at that time.
- He said that in 2012, Councillor Fazackarley approved the scheme. He also considered a report for schemes for a further six areas but decided not to proceed with these owing to a lack of finance. He said that a citywide survey had been carried out but there had not been a huge number of responses. He said that most of those who did respond did not wish to have a citywide scheme.
- On 4 November 2013 a report to Cabinet had recommended extending parking zones.
- He said that a comment had been made that the only zone causing severe displacement was MB zone
- He said that on 3 March 2014, he had made a deputation himself against introducing the proposed MB and MC zones as an extra £225k would be needed to extend the scheme

The chair asked Michael Lawther, the City Solicitor to respond to whether or not the decision taken was legal. Mr Lawther said that the initial report contained extensive legal comments and confirmed he was of the opinion that the decision taken was legal.

The City Solicitor went on to clarify that the grounds for call-in being considered today were (1) that inaccurate or incorrect information had been given to the Cabinet Member and (2) that inadequate information had been given to the Cabinet Member. He went on to say that the MB and MC zones had not been revoked, they had been suspended and could only be suspended for a maximum of 18 months and that there would need to be consultation.

Mr Simon Moon, Head of Transport & Environment made the following points

- in his opinion there was an absence of a sound residential parking policy overall in Portsmouth.
- In November 2013, a citywide review had been undertaken and experts in the field had been appointed.
- No solution suited every part of the city as there were different needs and requirements in different areas.
- The basis of advice given to Councillor Ellcome was to pause and review the situation. The creation of a parking zone in one area was likely to create a problem for an adjoining area
- Financial implications were difficult to gauge. There was a cost associated but there was a high likelihood of disproportionate displacement being caused
- Currently the parking zones amounted to a subsidised scheme but it all depends on how costs are assessed. It was therefore challenging to be accurate. In essence it is difficult to pin down the cost on a scheme by scheme basis. He confirmed there would also be a cost associated with suspending these zones.

In response to questions the following matters were clarified:

- It was confirmed that consultation takes place at the same time that a suspension order is implemented and that the results of the consultation is gauged during the suspension. No consultation is required before a suspension is decided upon - only after implementation.
- With regard to inadequate or incorrect information being provided to the Cabinet Member, it was confirmed that essentially this was up to Councillor Ellcome to decide.
- It was confirmed that no other parking zones in the city had been suspended or revoked once they were operating.
- It was confirmed that the reasons given for suspending both the MB and MC zones at the meeting on 24 July were in order to find the best solution for these areas going forward.
- It was confirmed that the timescale for introducing a citywide parking strategy would depend on how long it took to rectify existing schemes.
- Officers confirmed that an experimental order had not been used with regard to parking zones but had been used for other types of traffic schemes.

- It was confirmed that the North Kings area had not been included in the MC zone because the results that came back were roughly half and half and members at the time decided not to include North Kings within the MC zone.
- Officers confirmed that their expectation that displacement of parking would be the result of introducing the MB zone had been realised. In addition those just outside the zone were also suffering displacement.
- Officers confirmed that the previous administration had identified the MB zone as a problem area and were looking at options to amend the scheme.
- The Head of Transport & Environment said that in his opinion inadequate information had been provided in the November 2013 paper as there was not enough consideration being given to the overall parking strategy. The recommendation in that report he felt would just create displacement and the more fundamental problem was the absence of a coherent parking strategy in the city. He said that elements in the 2013 paper in his opinion did not include adequate information for the decision to be taken to introduce the MC zone.
- The Head of Transport & Environment confirmed that there was strong support from ward councillors before the MB zone was brought in. He also confirmed that following the introduction of the MB zone and the displacement into MC zone, enquiries were received about extending the MB zone. He said that the MC zone was one of the last zones in the city to be introduced. He said that requests had been received to extend the MB zone further south.
- The Parking Manager, Michael Robinson confirmed that nothing was laid down in statute about the length car parking spaces had to be other than in very specific bays for example disabled parking bays. He said he was aware of an experiment that had been done which concluded that fewer cars could be parked if bays were marked out individually.
- He confirmed that the size of the vehicles was not regulated but there is a weight restriction.
- Mr Michael Lawther said that an experimental order had to be in place from between six to 18 months (unless the order was changed). He confirmed that the original decision could be judicially reviewed. If the matter was lost at the first hearing, costs could be £15k but in his view there was no substance for a judicial review. If a judicial review goes further, different costs could be incurred. It was his duty as City Solicitor to pursue costs incurred by the city council in the event that a judicial review was lost.

The chair then invited the members of the Scrutiny Management Panel to put questions to Councillor Ellcome. In response to questions Councillor Ellcome clarified the following matters:

- He would not consider ruling out charging for parking permits. He said that the council could not continue to subsidise parking. In his view the more schemes that are introduced the more a deficit will arise. He said that although current figures showed that MC zone had bucked the usual trend, penalty notices made up a lot of this revenue and after a while his view was that MC zone would also run at a loss in common with all other zones in the city. He said that putting in schemes was

- costly and would put the deficit up even more.
- In response to a query about how long a parking review would take, he said this was difficult to estimate as facts and figures needed to be obtained. Since the 24 July meeting, he had put things in motion for a review. The Cabinet Member said that he was fully aware of all the issues around residents' parking. He felt it was too piecemeal and would not work.
 - He said that the reason for suspending MB and MC zones and no others was because it was these two zones that had created most complaints. He felt that the MB and MC zones had been rushed in. The MC zone had been advertised in January and implemented in March - just before the election.
 - With regard to having adequate and accurate information, he said that he had a great deal of experience in this field having been opposition spokesperson for the Traffic & Transportation portfolio during the previous administration and had seen many reports. He was satisfied that he had had sufficient information and felt he had a great deal of knowledge on this subject. He knows the areas concerned as he has lived there. If he had felt that the information before him was inadequate or incorrect he would have asked for clarification or deferred the meeting. However he was convinced that he had enough information, that it was accurate and that it was sufficient.
 - The Cabinet Member confirmed that he was not surprised at the anger of local people concerning the decision he took on 24 July but in his view he had taken the decision for the right reasons. He felt it was the right decision. He said it was not an easy decision to take and the likelihood was that he would have to face further difficult decisions in his role as Cabinet Member for Traffic & Transportation. He confirmed that he had had a number of emails in support of the decision he had taken.
 - The Cabinet Member confirmed he was aware that a number of people were signing a petition about the parking zones and that he would take this into consideration, however he wanted a scheme that benefits as many people as possible in the city.

The chair then invited members of the Scrutiny Management Panel to put questions to Councillor Hunt as lead call-in member. In response to questions Councillor Hunt clarified the following points:

- With regard to a query asking for the lead call-in member to be more specific about exactly what information had been lacking or inadequate, Councillor Hunt said that there was scant information about the money involved. There was no financial information available with regard to suspending the MB zone. He said that with regard to North Kings, officers gave incorrect information in his view as there was support to extend the zone into that area.
- Councillor Hunt said there was no data included in the report concerning numbers of free spaces in roads. He felt there was not enough information in the report on which to make a decision and felt that a revised report should be prepared and that Councillor Ellcome should then be invited to reconsider his initial decision.
- Although Councillor Hunt accepted that 300 spaces had been mentioned in the report, there was no hard data to back this figure up.

Councillor John Ferrett said that the report did include the costs of the experimental traffic regulation order and the amount of income generated from scratch cards and permits and the cost of covering or removing the 478 signs within the MC zone. His view was that there was comprehensive financial information contained in the report.

Councillor Hunt said that there was no financial information in the report about the MB zone nor the amount of revenue lost from the MB zone.

The City Solicitor confirmed that when Councillor Ellcome made his decision, he only had to have adequate information in his view.

The meeting adjourned at 5.35 pm.

The meeting resumed at 5.45 pm when the chair invited the lead call-in member to sum up his case. Councillor Hunt said that he was very concerned about this decision and many people would have personal difficulties because of it. He said that in his view this decision was unfair, undemocratic and unjust and had been carried out with no consultation. He said that suspending the zones was not part of the Traffic & Transportation agenda on 24 July 2014. He said that no comparisons had been carried out with any other schemes and that in his view MB and MC zones worked better than most of the others in the city. He said that the claims about hundreds of spaces being left empty was not backed up by evidence. He said that he did not think it was right that Councillor Ellcome relied on his personal professional experience. He said that the report was out-of-date and that people had changed their minds since the November 2013 report. MC zone was making money for the council. He said there was nothing in the report before the Cabinet Member on 24 July on which to base the decision taken on the MB zone. He felt the decision was against natural justice and that it could be judicially reviewed.

The chair invited Councillor Ellcome to sum up his case. Councillor Ellcome said that he did not take the decision lightly and had carried out personal research by driving around the specific area. He said that there were empty spaces in the MB and MC zones and that there had been displacement into surrounding areas and this did not surprise him. He said that a review had been done in 2012 but nothing had been progressed as a result of it. He said that it seemed that the problem had been left unresolved. With regard to comments about financial information, he confirmed that he had not based his decision on financial grounds but on what is right for the city within financial constraints. He considered that there is a need for a proper strategy and would try to get this resolved as soon as possible. He felt he had made his decision for the right reasons and that the MB and MC zones had generated more complaints than any others in the city. He said that the council could not subsidise residents' parking schemes at a cost of £150k per year. This was just not viable. He believed that he had correct information and adequate information to enable him to take the decision on 24 July 2014.

During general debate among Scrutiny Management Panel members the following matters were raised:

- Councillor Sanders proposed that the matter be referred back to the Cabinet Member for decision as he felt the process should be robust.

He felt that alternative options were not explored at the decision meeting. He said that there was a need to reconsider the decision.

- Councillor John Ferrett said that the issue before the panel today was whether Councillor Ellcome had had adequate and accurate information before him to enable him to take the decision he had. In Councillor Ferrett's opinion he did have this information. He said that Councillor Ellcome's decision would not be universally popular but that it was a brave decision taken in public and open to scrutiny. He said this was a hugely emotive issue. However Councillor Ellcome has set out his view about having adequate information on which to take the decision he had.
- Councillor Phil Smith said he felt the decision had been taken without adequate information as there was no longer term assessment of the effect of the MC zone making it incomplete. He said that the number of empty spaces was a material consideration in his view and that if there was no specific length for each individual space it would be impossible to decide how many spaces were available in a zone. He therefore considered the information before the Cabinet Member on 24 July to be inaccurate and inadequate and should therefore be referred back.
- Councillor Dowling said that it was very clear that the report did not outline the relevant information which would have been needed to support the decision taken on the day. He felt that a more strategic report was needed and that the matter should be referred back for reconsideration.

The chair thanked all those members of the public and councillors who made deputations and also thanked those attending the meeting in the public gallery. He also thanked officers and councillors for their time today. The chair said that having listened to the debate today and taking into account the written representations and deputations, it seemed that

- There was a need for a more strategic review of parking across the city to be undertaken.
- There was a need to engage more closely with the university with regard to discouraging students from bringing their cars to the city.

The chair said that the issue before the Scrutiny Management Panel today was whether or not the Cabinet Member had had adequate and accurate information before him in order to make his decision. The City Solicitor had said that it was not possible for the Cabinet Member to have all information before him. Officers had said they felt they had provided enough information and that they believed the information provided was accurate. Councillor Ellcome himself said he felt he had had adequate and correct information before him and that he considered everything that he was aware of. The chair said that his opinion was that the matter should not be referred back.

Upon being put to the vote the proposition put by Councillor Sanders to refer the matter back to the Cabinet Member for review was lost.

RESOLVED that the panel considered the evidence and decided that the decision taken by the Cabinet Member for Traffic & Transportation on item 3 at his meeting held on 24 July 2014 should be upheld.

26 Work Programme 2014/15 - Housing & Social Care Scrutiny Panel (H&SC)

Members of the Scrutiny Management Panel wished to consider under this minute carrying out a review of parking across the city in light of the previous item on the agenda. The City Solicitor confirmed that an ad hoc panel could be set up by Scrutiny Management Panel without the need to first go to council. He advised that a pre-scrutiny review could be undertaken by Scrutiny Management Panel itself and this would enable them to be involved in formulating the strategy which would then go to council for consideration. Members of the panel agreed to progress this. Councillor Thompson said that he would write to group leaders to advise of this decision.

The panel agreed the next topic put forward for review by the H&SC Scrutiny Panel which was entitled Support Services for Living in Isolation.

RESOLVED that

- (1) the next topic for the Housing and Social Care Scrutiny Panel (H&SC) will be "Support Services for living in isolation" and**
- (2) The Scrutiny Management Panel would set up an ad hoc scrutiny panel to undertake a review into parking and instructed officers to progress this (including the production of suggested draft terms of reference for the review) and bring relevant documents to the next scheduled meeting of the panel for its consideration**

27 Date of Next Meeting

The next meeting was scheduled for Friday 10 October 2014 at 2.30 pm.

The meeting ended at 6.40 pm.

Chair