

SCRUTINY MANAGEMENT PANEL

Minutes of the meeting of the Scrutiny Management Panel held virtually on Monday, 9 November 2020 at 1.00 pm.

Present

Councillor Jason Fazackarley (in the Chair)

Councillors Leo Madden
Simon Boshier
Ben Dowling
George Fielding
David Fuller
Jo Hooper
Scott Payter-Harris
Linda Symes

5. Apologies for Absence (AI 1)

The Chair explained that the meeting was being held virtually in response to the limitations placed on governance by the COVID-19 pandemic. The City Solicitor has advised that this meeting will be run by reference to the model Standing Orders as set out in The Local Authorities (Coronavirus) (Flexibility of Local Authority Meetings) Regulations 2020 No 392.

Apologies for absence were received on behalf of Councillor Will Purvis and Councillor David Fuller deputised for him.

6. Declarations of Members' Interests (AI 2)

There were no declarations of members' interests.

7. Minutes of the meeting held on 31 January 2020 (AI 3)

RESOLVED that the minutes of the meeting held on 31 January 2020 be confirmed and signed by the Chair as a correct record.

8. Call in of decision taken by Cabinet on 6 October 2020 in respect of item 8 on that agenda - Clean Air Zone - Consultation Feedback (AI 4)

The Chair, Councillor Jason Fazackarley, explained that 5 members of the Council, Councillors Cal Corkery, Jeanette Smith, Claire Udy, Graham Heaney and Tom Coles had asked for the decision taken by Cabinet on 6 October 2020 on the Clean Air Zone- Consultation Feedback to be called in for scrutiny on the basis that they believe that the decision may have been taken based on inaccurate, incorrect or inadequate information. The Call-in process had been ruled valid by the City Solicitor.

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

being supplied to enable the Cabinet to reach its decision, then no further action is required and the matter ends here.

If the panel is not satisfied on these grounds, the panel may refer the matter back to the Cabinet for reconsideration setting out in writing the nature of its concerns that are to be addressed in conjunction with the original matter. The Chair further explained that the procedure to be followed at the meeting was included with the papers as Appendix 2 and had been previously circulated.

The Chair advised that no written deputations had been received but that Councillor Smyth wished to make a deputation. However Councillor Smyth was not present at the meeting at that point. The Chair invited Councillor Corkery, Lead Call-in Member, to present the reasons and grounds for the call-in.

Councillor Corkery outlined the reasons for the Call-in (set out in full on the Call-in form at Appendix 3).

Under the heading "believe the decision may be based on inaccurate or incorrect information (which is identified)" he included the following points

- The Integrated Impact Assessment form provided did not relate to the decision being taken. The assessment seemed to attempt to address the question of whether a Clean Air Zone should be implemented or not. However the actual decision being taken was whether to amend the previously agreed boundaries of the proposed Clean Air Zone.
- There is growing evidence of linkages between risk of serious illness from Covid 19, air pollution and disproportionate impacts on minority communities - an important topic that should have been addressed as part of the equalities part of the integrated impact assessment.
- Cabinet Members repeatedly noting the decision of the boundary being "out of their hands" when in reality the outcome from the decision meeting was to ask the government to remove Kingston Road and Fratton Road from the zones.

Under the heading "Believe the decision may have been taken without adequate information (the nature of which has been identified), Councillor Corkery included the following points

- The report did not refer to the potential benefits of a Clean Air Zone for those who work, live and learn in the Fratton Road and Kingston Road area.
- The report did not explore the particular make up of those communities and the potential implications of those social classifications
- The report did not refer to relevant evidence regarding illegal levels of pollution in the areas in question
- The report did not detail the public health risks of exposure to nitrogen dioxide

- During their deliberations decision makers repeatedly made reference to the economic case for reducing the size of the Clean Air Zone however it was unclear what the evidence base for this was.

Councillor Smyth had joined the meeting during the presentation by the Lead Call-in Member. Following a short discussion and advice from the City Solicitor, members of the Panel agreed that her deputation should be heard at this point.

Councillor Smyth gave her deputation that can be heard in full at the following link [Scrutiny Management Panel, 9 November 2020 on Livestream](#). This included her view that

- the Integrated Impact Assessment should have related more closely to the decision being taken
- more evidence should have been forthcoming relating to the effects on air quality and how it affected people.
- evidence elsewhere should have been looked at such as that the larger the clean air zone is, the more impact it has.

Members of the Panel were then invited to ask questions and make comments.

During discussion

- It was confirmed that a Clean Air Zone (CAZ) had to be implemented and the Lead Call-in Member accepted that a good consultation exercise had been carried out and Cabinet had made its decision taking that into account. However the IIA related to whether or not a clean air zone should be introduced and not to the boundary of the zone. The Lead Call-in Member believed that for that reason a revised IIA should have been appended to the report.
- A member asked whether the Lead Call-in Member would accept that it is up to the decision making body as to whether or not they accept consultation outcomes and that this did not mean the decision had been taken on inaccurate information. The Lead Call-in Member agreed that it was not mandatory for the decision making body to accept consultation outcomes but considered there to be a strong case for doing so.
- A member asked how not exploring the particular social make-up of the communities and the potential implications of those social classifications amounted to the information being inadequate or incomplete? The Lead Call-in Member said there is a link between where a person lives and health deprivation. In areas of health deprivation there is a higher incidence of respiratory problems which are worsened by air pollution.
- Officers confirmed that Clean Air Zones have to be put in where the air pollution exceeds certain levels. PCC can determine the area of the CAZ as long as it is based on modelling. The Transport Act 2000 includes a requirement for consultation to take place. Mitigation is underway for the two roads taken out of the CAZ.
- Officers confirmed that in writing the report, additional documents had been taken into account as listed under background documents.
- The City Solicitor confirmed that the call-in can only consider matters that were in the original report.

- When asked to specify the information that was alleged to be incorrect, the Lead Call-in Member said that the Integrated Impact Assessment did not relate to the decision being taken and councillors said the matter was "out of their hands" when it seems they did have some discretion.

The Lead Cabinet Member, Councillor Gerald Vernon-Jackson, was then invited to give his response and included the following points:-

- Although no report was perfect, the report that had come to Cabinet was in his view very good and contained much detail (114 pages long). Air pollution is a very important matter and he is pleased this Council is taking this seriously.
- The government requires PCC to produce a plan that addresses air pollution in those places where government modelling shows that air pollution exceeds what government has deemed to be an acceptable level. Because this is covered by government funding, PCC has to bring the places identified by government within acceptable levels in the shortest time and using the smallest area. Government will not fund the whole of Portsmouth to become a CAZ.
- PCC has to consider the effect that introducing a CAZ will have on businesses and must also be careful that its actions are not discriminatory.
- The Lead Cabinet Member said that he considered that introducing a CAZ is not necessarily the best way to reduce air pollution but although several other ways forward such as a scrappage scheme for old cars, giving bus tokens to reduce car travel etc have been put forward, government has rejected them in favour of a CAZ. Church St and Albert Rd both exceed acceptable targets. Bringing in the CAZ is likely to mean the pollution would reduce in these areas to within acceptable levels by 2022. As soon as the acceptable level is reached, then provided it is likely to keep within the acceptable level, then the CAZ goes. Some matters are government controlled so for example a bigger CAZ to cover the whole island is not permitted by government.
- The Lead Cabinet Member considered that the report was very good and detailed, did not include inaccurate or incorrect information nor was the information inadequate. He said he considered the decision by Cabinet to be entirely sensible.

A general discussion took place during which the following matters were raised

- At Cabinet some members said that there was insufficient funding to include Fratton Road and Kingston Road in the CAZ but the Lead Cabinet Member agreed that there probably could have been funding to include those roads. However, there would be a need for many cameras and also a discussion with DEFRA about additional funding.
- The consultation parameters were set by government. The obligation set is to have the smallest CAZ to hit the targets in the shortest time. Work done by the officers showed that a smaller CAZ would achieve that. 6.25 of the report shows the responses in favour of increasing the size of the CAZ but this has to be within government directives.

- The CAZ would mean that some people would be charged if they used the roads within the CAZ and this may have influenced responses in that those likely to be charged would prefer a smaller CAZ. The majority of respondents would not be charged.
- In response to a query, the Lead Cabinet Member said that he accepted that it was always possible to include additional information in any report but that this was 114 pages long and he considered that it provided enough information to make a sound decision and was accurate. He also agreed that the decision by Cabinet was not the end of the matter and may be tweaked - for the reasons set out in paragraphs 4.3 - 4.6 of the report.
- In response to a query about the letter sent by the Leader in Spring 2019 to the Secretary of State suggesting alternatives to mitigating environmental impacts, the Leader agreed to make this available to members. He said he had received a bland response and there had been no positive engagement since.
- The Lead Cabinet Member agreed that one alternative that could be suggested was the introduction of a Halt at Paulsgrove that could lead to a reduction in car use in that area. However, the rail companies wanted to maintain connection speeds so that they may not stop at the Halt or if they did, they would not stop elsewhere. Practical solutions were needed that government would support and fund.
- In response to a query about the Integrated Impact Assessment, the Lead Cabinet Member said the decision of Cabinet could have been not to proceed with the CAZ at all so believed it was the right assessment.
- In response to a query about whether removing Fratton Road and Kingston Road from the CAZ would lead to the need for a second CAZ at a later date, the Lead Cabinet Member said that the government wanted to improve air quality around the city. Introducing the CAZ should deliver that so it was not anticipated that a second CAZ would be required.
- It was confirmed by the Lead Cabinet Member and by the officers that the consultation results have to be considered by Cabinet as one of many factors to be taken into account when reaching their decision. The most important part of the decision is to create the smallest possible zone to deliver the required improvement in air quality in the shortest possible time and the modelling supports the decision taken.

Following this discussion, the Lead Call-in member summed up his case reiterating his view that the reasons for call-in should be upheld and that the matter should be referred back to Cabinet for re consideration.

The Lead Cabinet Member summed up his response to the call-in stating that no report covered everything, but that members relied on reports from officers and he considered this report had been very thorough. He thanked the officers concerned. He said he considered that the decision taken by Cabinet was based on accurate and adequate information and was sound.

It was
proposed by Councillor Scott Payter-Harris

seconded by Councillor Leo Madden

that no action should be taken in respect of the decision made by the Cabinet on 6 October 2020.

On being put to the vote this was CARRIED by a large majority of members of the Scrutiny Management Panel.

RESOLVED that the Panel having considered the evidence decided that no action should be taken in respect of the decision made by the Cabinet on 6 October 2020.

9. Update information report on the work of the themed scrutiny panels (AI 5)

(TAKE IN REPORT - for information only)

Natasha Edmunds, Director of Corporate Services, introduced the report that informed the Management Panel of the current situation regarding the 4 themed scrutiny panels.

She advised that since the report had been published, a meeting of the Health and Social Care Scrutiny Panel had been arranged for 11 November to sign off their review which would then progress to Cabinet.

The remaining reviews had been suspended owing to the impact of Covid 19. She advised that it was unlikely that the reviews that had been started would be able to complete before the end of the Municipal Year and outlined the reasons for this.

During discussion

- It was confirmed that it would be possible for the themed panels to meet to put forward other topics for review.
- It was confirmed that it may be possible for some agreed reviews to be re-scoped but several reviews had anticipated much consultation engagement and physical visits so they may have to be postponed.
- The Chair of the TECS scrutiny panel considered that a meeting of that panel should have been convened first so that they could have taken a decision about their review rather than it simply appearing in an information report at a Scrutiny Management Panel meeting.
- Consideration was given to whether scrutiny could be progressed at the current time and it was suggested that perhaps this could be discussed at Cabinet or via the Chair of SMP discussing scrutiny generally with the chairs of the themed panels and with Group Leaders

The report was noted.

The meeting concluded at 3.10 pm.

Councillor Jason Fazackarley
Chair