

Place Overview and Scrutiny Committee Call-in  
12<sup>th</sup> August 2024 17:00  
Hove Town Hall

Present: Cllrs Amanda Evans (Chair), Julie Cattell (Deputy Chair), Hewitt, Lyons, Pickett, Sheard, Thomson, Winder.

Others Present: Mark Strong (CVS Representative), Mary Davies (Older Peoples Council)

Procedural business

a) Substitutions

There are none. Apologies from Cllr Fowler

b) Interests

There are none.

c) Exclusion of press and public

The Chair gave the following statement: "Amongst the papers circulated to elected members were confidential (Part 2) papers from the Cabinet Meeting. Any discussion of these papers will need to be in confidential session and will need to exclude the press & public from these discussions. We will move into a Part 2 confidential session towards the end of the meeting, if members indicate that they wish to discuss information shared in the Part 2 papers. All elected members are reminded not to raise matters contained in the Part 2 documentation during the public meeting."

Mark Strong called a point of order regarding access to documents, particularly for co-optees such as himself, who did not have access to the part 2 papers. The chair noted the request. Liz Culbert, Assistant Director Legal and Democratic Service said that each case of access to part 2 papers would be looked at individually on a case-by-case basis.

Cllr Pickett stated that in the Constitution part 3E refers to a need to know basis allowing access to documents, that Cllrs Davis and Sykes did have a need to know and therefore should have been given access to the part 2 papers. Liz Culbert said that this had been taken into account but in this case it was decided that it was not appropriate to share the documents more widely.

d) Chairs Communications

The Chair gave the following communication:

"This is the first time that we have held a call-in meeting under our new governance arrangements, and I would like to thank everyone for finding the time to attend at relatively short notice.

I'd like to start off by briefly explaining the purpose of a call-in meeting. If anyone has any questions, I'm sure that Liz and Giles will be happy to respond.

Call-in is an essential, and legally required, part of any Leader & Cabinet governance model. The council has to have a process in place that allows non-executive members to challenge a decision of the executive, after it has been taken but before it has been implemented.

Call-in is not intended to be used frivolously or simply because members disagree with a decision. For a call-in request to be accepted, the members requesting the call-in must detail why they think the executive decision was flawed. The Council's procedure rules list a number of legitimate grounds for call-in, as well as requiring that a call-in request be signed by at least 6 members from at least 2 political groups.

If a call-in request is made, and if the request is accepted by the Chief Executive, after consultation with the council's Monitoring Officer, then a meeting of the relevant Overview & Scrutiny committee must be arranged. We are here today because a call-in request has been submitted and accepted.

At the call-in meeting, the committee will hear from one of the members who submitted the call-in request – in this instance Cllr Sykes. Once the member presenting the call-in request has spoken, they will take no further part in the meeting, although they are welcome to observe public proceedings.

The committee will then hear from the relevant cabinet members, in this instance Cllrs Taylor and Robins; and from officers if a detailed explanation of issues is necessary.

After this, committee members will have the opportunity to ask questions of the Cabinet Members to assist the Committee in reaching its decision on the call-in. The Cabinet Members may refer to officers to provide the response as they consider appropriate.

Having heard from the member requesting call-in and from the Cabinet Members and officers, and having had the opportunity to ask questions of the Cabinet Member and officers, committee members will then debate whether to accept or reject the call-in.

Members will note that one of the possible actions for the call-in committee is to refer the Cabinet decision to full Council. Just so we're clear an O&S committee can refer a decision that has been called-in to Council, but only if the committee believes that the decision was contrary to the budget and policy framework previously agreed by Council. There is no role for Council in determining call-in requests other than in this context. As today's call-in request does not suggest that the King Alfred decision was contrary to the budget and policy framework, I think it's unlikely that we'll want to refer to Council.

There are two other options. The committee can decide that the original executive decision was properly made, in which case the decision may be implemented immediately. Or it can decide that the original executive decision was not properly made and refer it back to Cabinet for re-consideration. If the committee chooses to refer the decision back to Cabinet, members must agree reasons for the referral.

It is very important for members to bear in mind that they are not being asked to debate the merits of the original executive decision. Rather, they are being asked to consider whether the decision was properly made, given the concerns about process outlined in the call-in request.

I appreciate that members will need some context in order to make the decision on whether to refer the decision back to Cabinet or not, but I do ask that we try to limit questions to the process of decision-making. I will stop questioners if they are veering too far from the brief of the committee.

I am also keen that we conduct as much of this meeting as possible in public session. When we come to questioning Cabinet members and officers, I would therefore request that members reserve any questions about confidential papers until there are no more questions that can be taken in public session.”

## 1) King Alfred Leisure Centre Regeneration Project Call-in

1.1 The Chair welcomed Cllr Sykes to the committee and asked him to present his call-in to the committee.

1.2 Cllr Sykes said that he would speak about the call in request and also reference addendum 2 that has been published as a response to the call-in. Cllr Sykes made the point that despite what some had said, the call-in was not frivolous opposition but was genuine scrutiny. He said that he was conscious that the project had been decades in discussion and he wanted it to proceed, but in a clear and robust manner, in compliance with HMT guidance, maximising government funding potential, with clear basis for options chosen, clear and robust capital and revenue provision, maximising innovation and sustainability to make this a flagship scheme for the city.

Cllr Sykes noted there was precedent for large capital projects to overrun in terms of both costs and time frame and that the difference between poor risk provision and good is massive. It is about more than having enough money, but what happens when you run out of money. Listing a number of projects that have overrun, including Shelter Hall, Worthing's integrated care centre, Madeira Terraces, the observation tower by Regency Square, he noted the common factor in all but one was that they are complex capital brownfield schemes on an exposed coast involving demolition. Cllr Sykes asked why the King Alfred was any different.

Cllr Sykes questioned the figures used for the risk budget and optimism bias, asking what the costs in the outline business case were based on concept drawing or based on high level per metre sports and leisure centre guidance. He said that as this was in the part 2 papers that he did not have access to the answer may be in there. If not on concept drawings Cllr Sykes felt that the optimism bias should be higher.

Cllr Sykes went on to question the use of figures for a standard project when he felt it was not a standard project because it involved demolition on a brownfield site, which are non-standard elements.

Cllr Sykes spoke about the differential benefits period and having a potentially incorrect set of benefit cost ratios but said that this point of the call-in was answered in addendum 2 and that he was reasonably content with the response given.

Cllr Sykes questioned the net zero ambition and sustainability of the project. Cllr Sykes argued that the cabinet papers asserted that sustainability and energy use was a key element of keeping costs down and maintaining revenue and that if this was weak or flawed or not able to be fulfilled it would impact on the future financial case. He questioned if there

was enough sustainability ambitions to underpin net financial revenues. Cllr Sykes thought that if costs began to overrun, sustainability elements may be cut and then the project would not be sustainable and this would impact future revenue.

Cllr Sykes went on to raise concerns about access to documents and said that it was a matter of trust and respect. Cllr Sykes further pointed out that when reading the Council's constitution part 3E on this matter it referred him to section 17 but that this was not about access to documents and believed that this was a typo or a mistake that should be looked at.

Cllr Sykes concluded by summing up his arguments to the committee.

1.3 Cllr Jacob Taylor, Deputy Leader and cabinet member for Finance and city regeneration, called a point of order stating that sustainability and its link to future revenue was not part of the organ call-in request and therefore should not be considered by the committee.

1.4 Liz Culbert said that the call-in request (at appendix C) was made in line with the constitution and scrutiny rules, and that this should be the focus for members.

1.5 The chair asked the cabinet members to speak to the committee.

1.6 Cllr Alan Robins, cabinet member for sport and recreation began by saying that of the 5 points made in the call-in request number 2 was not a question but a lead in to point 3. He said that he would be answering points 1 and 4, whereas Cllr Taylor would be answering points 3 and 5.

Cllr Robins thanked officers for their hard work on this over the last 18 months. He said that the papers to the cabinet meeting on 18<sup>th</sup> July were informed by the detailed programme of work undertaken over 2 years. The key part of this was the Treasury Green Book business case to extensively examine and evaluate the investment options. The business case was presented to cabinet members and due to commercial sensitivities it was exempt from publication under schedule 12A of the Local Government Act 1972 paragraph 3.

Cllr Robins said that the business case was complemented by an extensive site search, a thorough examination of the legal and planning matters on each site and a wide programme of resident engagement, the outcome of all of this work was considered by the cabinet in formulating their decision.

Cllr Robins responded to the first point of the call-in request saying that the part 1 papers presented to cabinet represented a detailed report providing all of the necessary information to make the decision and that the appendices provided further details. He said that 3.3 and 3.6 set out an explanation of the green book approach and the investment appraisals, 4.1 and 4.4 setting out the benefit cost ratios together with tabulated summary of economic costs and benefits of each option supported by explanatory texts.

Cllr Robins said that 4.7, 5.1 and 5.8 set out a detailed explanation of the financial viability of each option with online build costs and borrowing costs at 4.8 and 4.16.8.1 and 8.5 provided a detailed explanation of the equalities implications. All of this was considered by members when making their decision, along with the two detailed appendices.

Cllr Robins added that the public papers were supplemented by the Part 2 papers including the business case which was developed by consultants Continuum Sport and Leisure supported by architects Faulkner Brown and placemakers and economic consultants Genecon. This was not made public due to commercial sensitivities.

Cllr Robins said that cabinet members therefore had access to all the supporting information to ensure that their decision was properly made.

Cllrs Robins then moved on to respond to point 4 of the call-in request, saying the point 4 suggested that the refurbishment option had been unfairly understated, but that this was not the case as set out in 3.14 the same appraisal period had been used for all option to allow for consistent comparison, even though a refurbishment would not last as long as a new build. The calculations were made for a 20-year lifespan, but a refurbishment would last 10 years, and a new build 40 years. Therefore, the costs and benefits of refurbishment was not unfairly represented.

Cllr Robins explained that a refurbishment of the current site would never be able to meet the standards set out by Sports England or to meet the commitments in the Sports Facilities Investment Plan (SFIP). He said that it had been a long-established policy to replace rather than refurbish the King Alfred, a policy that was confirmed when the SFIP was adopted in 2021 under the committee system at the P and R committee chaired by the Green administration at the time.

1.7 Cllr Taylor spoke to the committee and began by addressing point 5 of the call-in, saying that the business case was commercially sensitive and was therefore not made public. Cllr Taylor said that this was standard and would have been the same under the old committee system as in the new cabinet system, and that this was standard practice across other councils as well. However, Cllr Taylor did say that under the new system the decision makers allowed to see the papers no longer included opposition members and perhaps there would be some mechanism to allow scrutiny to see documents before call-in to not require future call-ins just to see the papers.

Moving on to point 3 Cllr Taylor said optimism bias is the reflection of factual history, which is that over making decades project managers, planners and those looking to build things tend to have an optimism bias and underestimate the cost of things. He said that as guided by treasury the council applies optimism bias and what Cllr Sykes is saying is 'have we applied the wrong rate of optimism bias?', the answer to that is clearly no.

Cllr Taylor disputed Cllr Sykes quoting of the Treasury Green Book, as Cllr Sykes had inserted the words swimming pool into the quote he used. He said that swimming pools and leisure centres were a very standard thing for local authorities to build. Cllr Taylor listed standard building projects from the Treasury Green book including, accommodation, offices, hospitals, prisons and airport terminals. He said that most members of the public and the committee would think an airport terminal or hospital would be in most cases more complex than a swimming pool and leisure centre.

Cllr Taylor noted that Cllr Sykes' list of projects that had overrun did not include any swimming pools or leisure centres. The officers and specialists that we employed looked far and wide for examples and it is not standard at all to consider swimming pools and leisure centres as non-standard buildings which need the higher rate of optimism bias applied. Cllr Taylor said they had used a figure that was at the higher end of the range used for stand

buildings, using a figure of 20%, with an upper limit of 24%, and therefore the core challenge doesn't hold out.

Cllr Taylor said that he did not think that referring the decision back to cabinet would not add scrutiny or change the decision, as officers would still provide the same figures to cabinet and therefore the same decision would be made again, only delaying it.

1.8 The chair thanked Cllr Taylor and said that it would be up to the committee if they wanted to refer the decision back to the Cabinet. The Chair asked if any of the officers present wanted to present to committee.

1.9 Mark Healy, City Regeneration Programme Manager, spoke to the committee and said that officers were very conscious of the previous failures of attempts to regenerate the site. The team therefore made sure to include more detailed comprehensive documents than previously. This included an outline business case which is a very detailed document.

Mark said that the team made sure that they were very judicious in getting the right consultants with the right skills mix, the right track record and the right experience to deliver. The team brought on board included Continuum Sport and Leisure, one of the leading sports consultancies in the country who had been involved in large and successful projects across the country. Faulkner Brown, architects with a recent track record of successfully delivering leisure centres like the Britannia Leisure Centre in Hackney. As well as economic development consultancy, Genecon, who have been involved in the Eden Project in Lancashire.

Mark went on to set out some of the detailed work done by the consultants towards the business case and said that the business case was a robust document, but that the cabinet were not just looking at the business case as there was also the public engagement, planning constraints and legal factors and other points.

1.10 Liz Culbert confirmed for transparency and openness that all voting members of the committee had received access to the part 2 papers prior to the meeting.

1.11 The chair said that the meeting would go into part 2 private session to discuss aspects of the part 2 papers later in the meeting and asked that members please be mindful of what they say and save those questions on the part 2 papers for later.

1.12 Cllr Fishleigh asked a question regarding when the council had ruled out going out to the commercial market for this development. Max Woodford, Assistant Director City Development and Regeneration, said that consideration was given to all option but one of the key learning from the previous two deals that they were very complex commercial arrangements that ended up not delivering, and so the view was taken that a simpler more direct delivery option would be better. He added that exactly how the leisure centre would be delivered and what kind of partnerships or arrangements the council would get into were yet to be determined.

1.13 Cllr Fishleigh asked Cllr Taylor to guarantee that the project would not exceed £47 million. Cllr Taylor responded that no one could give that guarantee but that and so he would not do so, but that the estimates and business case were made on sound footing by experts in the field.

1.14 Cllr Fishleigh asked why an ice rink was not being considered as most people asked her about this. The Chair ruled that this was not covered by the call-in request.

1.15 Cllr Fishleigh questioned the need for the business case to have been in part 2 papers and suggested that most of it was not confidential, except the value of the land sale, and that a redacted version should have been considered. Cllr Taylor responded that in the executive and under the previous committee system there was always a balance between the detailed elements that underlie a decision and the summary output which goes into a public paper which member debate in public. He felt that they had got the balance about right. However, Cllr Taylor said that he was open more generally for a discussion about how this would work going forward and what other members outside of the cabinet can see, possibly putting more into the summary in the public papers.

1.16 Mark Strong said that having done similar consultancy work and agree with Cllr Fishleigh that it should be possible to redact a business case so that the commercial elements were removed. Mark asked what optimism bias had been used for the Hackney leisure centre as they were similar. He further asked about a breakdown of the economic benefits as health benefits are normally 75-80% of this, and that social value was also not mentioned in the public papers. Mark also asked about the proposed environmental rating, which is envisaged to be very good, compared to the Britannia, which is outstanding. Mark also asked if scope 3 emissions, caused by travelling to and from the site had been considered. Mark asked a question regarding engagement and believed that it had been poor, particularly engagement with younger people. Cllr Taylor said that the consultation received around 3600 responses, which was a very high level of responses and even more than some of the more difficult issues such as school organisation. He did agree that he would like all groups to be responding to consultations in similar numbers. Cllr Taylor did not know the optimism bias used in Hackney, and said that the basis for the economic case may be able to be discussed even if the details could not be. Mark Healy said that he did not know the optimism bias used for the Hackney site but that Faulkner Brown believed that the 20% figure the council was using was the right figure. Mark Healy said that the consultants had kept the economic case limited as the business case may be used in the future to bid for different or potentially new government funding pots and with that in mind, they put their main focus on health benefits for the exchequer and benefits in terms of quality of life for people arising from higher levels of physical activity and on land value uplift. He added that they had also separately included the value of jobs created in construction as part of the local benefits. There were also many other aspects that were wanted to be included by officers but the consultants were keen to keep it simpler to keep the business case on sound footing, should it be used to bid for grant funding in the future. Mark Strong came back to ask about potential loss of health benefits during the rebuild. The Chair responded that the plan was to build on a different part of the site allowing it to remain open during construction. Cllr Robins added that the plan was to keep the current facility open for as long as possible to ensure no loss of provision. Regarding the scope 3 emissions Mark Healy said that no detailed transport modelling had been done but would be coming soon if able to go ahead but that the specification from the Sports Facilities Investment Plan was to provide car parking as although the council would be encouraging active transport there was also a recognition that many people required private car use. Cllr Taylor said that they did consider transport in the decision making as the King Alfred currently has the highest footfall in the city and people are already choosing to travel to that site and that there would be no point in building a leisure centre on a site that they did not have confidence that people would travel to.

1.17 Cllr Fishleigh asked a point of order saying that Mark Strong had asked about scope 3 emissions but answers were given based on transport emissions, which are not the same. Max Woodford answered that the point remained that they were not at the stage of carrying out whole life carbon assessment yet, but that this would be coming.

1.18 Cllr Pickett asked a question regarding the business case and if the costs within it were based on detailed architectural drawings. Mark Healy responded that the outline design work included a graphic brief outlining what was required and how it would fit together, two designs were then looked at for the King Alfred site and used to calculate costs. Mark emphasised that the cost was not based on per square metre costings but outline designs.

1.19 Cllr Pickett asked a question regarding the optimism bias and said that standard building does not include demolition, so why would the King Alfred not be counted as not standard. Mark Healy replied that this would be the case if the plan was to build on the existing building footprint, but as the plan was to build on the car park, although it could be considered as a brownfield site the steer from the consultants and architects was that it is a standard site.

1.20 Cllr Thomson asked a question regarding the Eden Project North and the green credentials of that project. Mark Healy responded that his reference to the Eden Project North so in relation to the track record of the partners that had been brought in to work on the project. Mark said that Genecon who were working on the financial modelling, had worked on the business case for the Eden Project North. Mark added that as well as this experience, other partners also brought in a great deal of experience including Continuum Sport and Leisure and the architects Faulkner Brown. Mark explained that Faulkner Brown had recently delivered Portsmouth University's Ravelin Sports Centre, and Continuum had worked on St Sidwell's sport and leisure centre, which is the first Passivhaus leisure centre in the country. Mark said that they would be aiming for the energy rating to be very good or outstanding and would look to do better if possible, with the chosen architects and structural engineers given the key priority of sustainability as this was needed in terms of economic costs but also the city's wider net zero ambitions.

1.21 Cllr Cattell asked if officers were satisfied, in terms of planning policy and net zero, that the new leisure centre would be of the highest sustainability specification. Max Woodford said that yes it would be but to bear in mind that the project was not in the detailed plan stage yet, but that they would be looking to whether there were other opportunities to look at energy.

1.22 Cllr Cattell asked if it was standard with major projects at this stage not to go into as much detail as has been requested by some of the members. Cllr Robins responded that the only detail at this stage is the chosen site and that the council could now look at the exciting bit of choosing designs, and that the sustainability levels would be up to the council. Cllr Cattell clarified that she was asking officers if at this stage of a major project the level of information provided in the cabinet papers was considered satisfactory. Max Woodford responded that as much information as necessary to help cabinet make the design was included.

1.23 Cllr Cattell asked Cllr Taylor and Cllr Robins if they were satisfied that the correct procedure was followed when making the decision. Cllr Robins replied that he was more than satisfied and that he had been working for many months, and officers for many years, to progress this. He said that they had taken on board all comments and have not just



chosen the best financial option but looked at all aspects and come to the decision that they feel is best. Cllr Taylor agreed with Cllr Robins and said he felt the process had been very robust. Cllr Taylor said he felt that the level of detail and level of work that had gone into preparing and conducting the consultation and analysing to core case for the different options had been very robust. Cllr Taylor thought that the balance of what could be published in part 2 papers and what could be published publicly was about right. Cllr Taylor said that the cabinet had given it a lot of thought and challenged officers in terms of things that have gone into the numbers and that it was one of the decisions that had considered most carefully and in most detail.

1.24 Cllr Pickett asked a question regarding if climate change and rising sea levels had been considered for both the leisure centre and housing on the site when putting the business case together as this might negatively impact the costs. Cllr Taylor said he would refer to officers, although it was not within the scope of the call-in, but that yes they were aware that the chosen site was on the seafront and this was very much a part of the assessment. Max Woodford said that there was an active project being delivered by the transport team around sea defences in that part of Hove, and climate change will be factored in going forward into more detailed design stages.

1.25 Mark Strong asked a question regarding a basement car park being below sea level and if this was accounted for in the costings. He also said that the council's website stated a car parking capacity of 200, which is almost double the existing capacity. Cllr Taylor responded that building underground near the sea they would need to consider sea levels and probably put tanking in. In terms of parking I think the point Cllr Robins was trying to make was to distinguish between a project where you have to demolish the building and put one on top. Essentially the project will be to build on the existing car park and separate that project to decouple the risk and say there will be a separate potential disposal or development on the existing site. Cllr Robins said that the website might be suggesting what might be possible under different designs and no decision had been made.

1.26 Cllr Pickett said that section 3.9 said that only two sites emerged, she asked if there was ever a consideration for using both sites, for example by having a large cost effective leisure facility at Benfield and perhaps a smaller pool only facility at the existing site, paid for with additional housing development. The Chair said that despite it being an interesting question it was not within the remit of the call-in.

1.27 Cllr Pickett asked why the full structural survey could not be released to the public. The Chair said that she didn't think this was within the remit. Cllr Robins said that in the Sports Facilities Investment Plan it did say that a full structural survey had been taken. Cllr Robins quoted from the Sports Facilities Investment Plan, which stated that the aging building required an estimated £20 million to maintain, and said that the SFIP was adopted at the P&R Committee in July 2021 under the previous Green administration. Cllr Pickett asked if this was public and Cllr Robins confirmed that it was public and available on the council's website or in hard copies in libraries.

1.28. The Chair said that as all questions not involving part 2 had finished that the committee would go into part 2 private session, asking that any members of the press, public and non-voting committee members to please leave the chamber.

The Committee went into private session.

1.29 Following the readmission of the press, public, and non-voting members the Chair said that the committee was now ready to discuss the options available to it as detailed in the recommendations, which were to take no further action and allow the decision implemented or to refer the decision back to the cabinet for reconsideration, in which case the committee members must agree reasons as to why. Giving her opinion the Chair said that she was excited to see the new call-in system working and that the committee had had the opportunity to question the cabinet members on their decision making. Having come into the call-in with an open mind and having read the papers she felt that she was overwhelmed with the amount of information that the cabinet had to make their decision.

1.30 Cllr Cattell said that she felt there had been a lot of irrelevant questioning and that for efficiency of the scrutiny committee they should stick to what the committee was asked to determine, which was: was there enough information given to cabinet members to make their decision? She said that she absolutely agreed with the Chair that yes there was and she recommended not taking the call-in any further.

1.31 Cllr Fishleigh agreed and said that she thought the business case was absolutely excellent and congratulated officers on their work. Cllr Fishleigh made the further point that the lesson for the future would be how councillors can access confidential documents without having to call-in a decision and hold a meeting.

1.32 Mark Strong also made a similar point regarding access to confidential documents being made more available. Cllr Taylor said that he would reiterate his earlier point for the minutes that the council would consider the balance of information in part 1 and part 2 papers and would also consider what the mechanism should be for scrutiny to view part 2 papers, as he agreed it would be silly if every decision was being called into and committees being set up just to see the papers. He said that his commitment to the committee was that they would think about this and revert back as soon as possible. The Chair said that Mark had made a fair point and that we should be careful about what is actually confidential and what isn't, and try to be as open and transparent as possible. Cllr Robins said that the cabinet had not taken the decision to block site of the part 2 papers but had taken the advice given to them, he did however understand concerns that when people cannot see things they do not know the contents and start to wonder what is in them.

1.33 Cllr Hewitt said he felt that the cabinet members had all the information presented to them to make the decision and he was minded that no further action was required.

1.34 The chair said that having regards to the call in and the information supplied in response the committee have to decide either: 2.1 the challenge to the decision should be taken not further and the decision may be implemented immediately, 2.2 to determine the decision called in is contrary to the policy framework or contrary to or not wholly in accordance with the budget framework and that it should be referred to full council (but the chair pointed out that this did not apply to this call in), or to refer the decision back to the cabinet setting out the committees concerns. Taking in mind the comments and likely outcome the chair put option 2.1 to the vote first. The committee voted 7 in favour, 1 against, and 1 abstention. The Chair announced that recommendation 2.1 that the challenge to the decision should be taken not further and the decision may be implemented immediately was passed and closed the meeting at 19:02.



