

Cabinet

Monday, 26th June, 2017
5.05 - 5.45 pm

Attendees	
Councillors:	Steve Jordan (Leader of the Council), Flo Clucas (Cabinet Member Healthy Lifestyles), Chris Coleman (Cabinet Member Clean and Green Environment), Andrew McKinlay (Cabinet Member Development and Safety) and Roger Whyborn (Cabinet Member Corporate Services)
Also in attendance:	Tracey Crews (Director of Planning), Councillor Harman (O&S Chairman), Peter Lewis (Head of Law), Phil Stephenson (Development Manager) and Pat Pratley (Head of Paid Service)Councillor Wendy Flynn, Councillor Tim Harman and Councillor Jon Walklett

Minutes

1. APOLOGIES

Councillor Hay and Jeffries had given their apologies.

2. DECLARATIONS OF INTEREST

No interests were declared.

3. MINUTES OF THE LAST MEETING

The minutes of the last meeting would be tabled for approval at the next meeting of Cabinet (11 July).

4. PUBLIC AND MEMBER QUESTIONS AND PETITIONS

None had been received.

5. REPORT FROM O&S ON CALL IN REGARDING SPRINGBANK NEIGHBOURHOOD FORUM

The Leader proposed to take the scrutiny report under this section, before taking the Cabinet Member response (shown as the 'officer advice note' at page 25 of the pack) under Section 5 (Reports from Cabinet Members and/or Officers) and that this would be presented by the Cabinet Member Development and Safety.

The Chairman of the Overview and Scrutiny Committee (O&S), Councillor Harman, explained that he had called-in the decision following a request from Councillor Flynn, the first call-in he had undertaken in his time as Chair. The call-in meeting was held on the 12 June 2017 and the debate was set out in the minutes of that meeting (Appendix 1 of the O&S report). In summary the Committee felt that there were inconsistencies in the way in which Cabinet had dealt with the Springbank and West Cheltenham applications and they hoped that if the Springbank decision was to be rescinded, there would be an opportunity for both groups to reach a more appropriate solution, which would bring the communities together. He noted that all but one member, who had chosen to abstain, had supported this recommendation and whilst the process

had been followed, it had been divisive and the spirit of what was trying to be achieved, had been lost. He hoped that Cabinet would reconsider their original decision and help to re-join these communities.

A number of Cabinet Members queried the assertion by the O&S Committee that there was inconsistency in the way that Cabinet had dealt with the applications for Springbank and West Cheltenham and asked for examples. The Chairman referred members to the draft minutes of the meeting, which many of them had attended, and which summarised the debate and conclusions of the committee.

The Cabinet Member Development and Safety concluded that rather than there being an issue with the process or the decision on the Springbank application itself, the issue for Overview and Scrutiny was that Cabinet had not taken account of the wider implications. Councillor Harman considered this to be a fair assessment. The Cabinet Member went on to accept that the conflict between the two parts of this community was unfortunate but the problem Cabinet faced was that the group behind the Springbank application had been asked if they would consider withdrawing their application and had declined to do so. Cabinet were being asked to reject the Springbank application in consideration of wider issues but could only base their decision on what was before them, which was a valid application and therein lay the problem.

It was suggested, by the Cabinet Member Healthy Lifestyles, that in effect what the O&S Committee were asking Cabinet to do, was punish Springbank as a result of West Cheltenham not having revised their original application or reapplied after their first application was refused. Cabinet had expressed concerns on the 6 December 2016, that the proposed neighbourhood area would bisect the existing ward boundaries and the emerging West Cheltenham Strategic Allocation as proposed by the emerging JCS main modifications. The applicants were asked to reconsider their application and the decision was deferred until the 13 December. The West Cheltenham application was not revised and it was therefore refused.

The Chairman of the O&S Committee accepted that the call-in related to the Springbank decision but noted the letter of objection, dated the 8 May 2017, from Charmian Sheppard, on behalf of the West Cheltenham Forum.

There were no further questions.

6. RECONSIDERATION OF APPLICATION FOR DESIGNATION OF A NEIGHBOURHOOD AREA AND NEIGHBOURHOOD FORUM BY THE SPRINGBANK NEIGHBOURHOOD FORUM

The Cabinet Member Development and Safety felt that it was unfortunate that a dispute had arisen between two communities. However, Cabinet could only assess applications against the national legislation and local guidance and he was mindful that the call-in related to the Springbank application and not the West Cheltenham application. It was accepted, by all, that the Springbank application was valid and that the decision had been taken properly and not in conflict with any other application, as no more had been received. In view of this, he considered it to be unreasonably punitive to refuse the Springbank application and therefore recommended that approval of the Springbank application be restated.

The Cabinet Member Corporate Services explained that Cabinet were obliged to deal with applications as they arrived and not in a preferred order. Whilst he understood the views of those that had supported the call-in and those that called for the application to be refused, essentially the request was that Cabinet refuse a valid application in order to consider wider issues; when no further application had been received from West Cheltenham. He suggested that the Springbank application should be approved and all parties asked to consider options for modifying boundaries in the future.

The Cabinet Member Healthy Lifestyles sought advice from the Head of Law on three points. Firstly, the Head of Law explained that the authority must determine the Springbank application by the 27 June 2017 (tomorrow) and that if this deadline was not met, the authority must designate all of the area applied for. Secondly, he repeated the advice that he had given at the last meeting (16 May) that the Regulations were detailed technical requirements which planning officers had considered and were clearly satisfied with in bringing this and the original report to Cabinet for decision. Members should be satisfied that they had been provided with sufficient facts and information, including the officer advice and report, to enable them to reach a balanced and reasoned decision on the recommendations before them. Were Cabinet to refuse the application at this stage, the authority would be vulnerable to challenge. Thirdly, the Head of Law said that a further neighbourhood plan application could not be made in respect of an area already designated but that there could be liaison between adjoining areas; he suggested that the planning officers address this point.

In response to the query raised by the Cabinet Member Healthy Lifestyles, the Development Manager confirmed that the Planning Practice Guidance stated that a local planning authority could amend the boundary of a neighbourhood area after it had been designated only if responding to an application for a neighbourhood area to be designated. He gave further explanation that were a further application to be submitted by West Cheltenham, that the boundaries could not overlap with Springbank boundaries but could be adjacent to them and that it would be possible for a number of neighbourhood areas to work together to develop a joint plan.

The Cabinet Member Clean and Green Environment stressed that debate of the West Cheltenham application had been deferred and the applicants asked to make revisions. When no revisions were made, Cabinet were forced to make a decision and duly refused it, which was an appropriate decision and one which was not called-in. Cabinet subsequently considered the Springbank application and in receipt of clear written and verbal advice from the planning officers and the Head of Law, approved the application. He suggested that for Cabinet to now refuse that application would result in the council being open to challenge and this was not an acceptable option. He also had concerns about the message that such a decision would send to Springbank and any potential future applicants. Whilst he found the current situation regrettable, he had been reassured by the officer advice that approving the Springbank application did not preclude others from submitting an application and would be supporting the recommendation for approval.

The Leader highlighted the minimal powers Cabinet possessed in relation to these applications, which were limited to receiving applications and approving or refusing them. The original legislation was based on parish wards and Cheltenham was split between parished and non-parished areas, which made

the process less than simple. Though he understood the request from O&S for Cabinet to try and resolve this issue, multiple attempts had been made to do this earlier in the year, following the decision to reject the West Cheltenham application on the 13 December 2016, but to no avail, and he was therefore unclear as to what the Committee expected Cabinet to do. In the absence of an alternative he proposed that the recommendation to approve the Springbank application be accepted and if the communities wished to have discussions and put forward an alternative, Cabinet would be happy to consider this in the future.

The Cabinet Member Corporate Services took the opportunity to pay tribute to those that had been working behind the scenes to try and bring this issue to a sensible conclusion and, in view of the advice from the Development Manager, he looked forward to welcoming future applications from other groups.

In closing, the Cabinet Member Development and Safety thanked his fellow Cabinet Members for their support. He acknowledged that one of the issues in relation to this matter, was the lack of government guidance and rules and in recognition of this he had agreed local guidance which he had hoped would assist communities when putting together an application. He felt that it was important that Cabinet approved the Springbank application as it demonstrated the authority's commitment and support for the neighbourhood planning process.

Upon a vote it was (unanimously)

RESOLVED THAT

- 1. the designation of the Springbank Neighbourhood Forum area (the current Springbank Ward) be approved for the purpose of preparing a Neighbourhood Development Plan**
- 2. the designation of the Springbank Neighbourhood Forum be approved as a neighbourhood forum .**

7. BRIEFING FROM CABINET MEMBERS

The Cabinet Member Development and Safety announced that, in light of current national security issues, a full review of security measures in the town centre would be undertaken. This review would include the Business Improvement District (BID) and relevant partners and would consider shared safety arrangements, ensuring maximum co-operation and co-ordination in the event of a security issue in the town.

8. DECISIONS OF CABINET MEMBERS

Cabinet Member	Decision
Clean and Green Environment	Recycling materials tender acceptance

Chairman