Cabinet 18 October 2011

Public Questions

1.	Question from Andy Beer to the Cabinet Member Sustainability (absence the question and response were read out)	(in his
	I wish to put in writing my objections to your proposal to set an upper days for Festivals in Montpellier Gardens, for the following reasons;	limit of 75
	The Heritage Lottery Trust granted Cheltenham Council £744 k in 20 refurbish Montpellier Gardens, on the understanding that you, the Ch Council, would always ensure, that following the refurbishment, the g would be freely available and widely used by the general public, with restriction of appropriate access.	eltenham ardens
	The event history, shown below, from that date clearly shows that you breach of that understanding: because restricted full access for the general public will rise from a 20 days to 75 days between	
	 Spring and Autumn, equating to a loss of 40% of the total time avail May to October come 2012. Furthermore, this 40% level of restriction is NOT acceptable to the m use the lawns for informal leisure. 	
	Event History Year Winter Time Days	May to
	October Days 2006 2007 2008 56 (Skating Rink Trial)	14 16 22
	(Food Festival added) 2009 1 2010 1 2011 ?	24 24.5 60
	(Literature Festival added for Sept/Oct) 2012 ? (New Jazz Festival proposed in May)	75*
	You need to remember that those, like me who live in small flats with and rely on Montpellier Gardens for their informal relaxation, will not more contractor noise, from metal framework being erected, bleepe on reversing lorries, blaring radios and wooden flooring being dragge dropped into position, but will find that whilst the Festivals are on, th sounds from bird calls, the whisper of wind blowing through the trees laughter from families enjoying the outdoor life, replaced with late nig music, loud speaker announcements, drunken shouting continuous the air conditioning fans and power generators and last but not leas car engines, car exhausts and slamming car doors, as patrons drive around our streets, especially at the weekend and evenings. During spring to autumn our windows are often open so this outside r	a only suffer er sounders ed and e lovely s and ht Jazz hums from t, noise from e around and

heard more easily.

	rish to place before you is this 'Are you prepared to support Payers and listen to the voice of the locals'?
for the per- encourage times, whe ambitious 2. Set maxim have thin 3. Impose st loud speal 4. Make the' the Festive 5. Support ye therefore t tents are s many Cafe 6. Finally by offer two e	act on our feedback and set a sensible limit of around 50 days Friod from May and October, rather than 75 , as this will be you to look for shorter, more efficient set up / dismantlement en you award the Festival contracts, in order to complete your festival programme hum noise levels in dB at which music can be broadcast as tents walls. rict time limits on setting up, the playing of music and making of ker announcements. residents only' parking bays around the Gardens, 24/7, whilst
Deen on op from d	Cabinet Member Sustainability
The short answer chosen to put lin largely a result of 1) I do not see sc areas by hirers. T planning for Impe 2010 was unacce was then read ac but will always ke	er is "yes we are listening", and the fact that we have nits on density of tentage, and on days of occupancy is of listening to residents and local Council tax payers. ope to negotiate on the number of days of occupancy of turfed he 75 days was a compromise figure, originally introduced in rial Gardens, because the 107 days which were actually used in ptable both to residents, and in its effect on the turf. 75 days ross to Montpellier. The Council considers 75 days reasonable, ep this under review, bearing in mind the effects on the turf, and es of both residents and festival goers and other users.
in residential area	ous rules and regulations as to what noise levels are acceptable as, and our Environmental enforcement teams will work closely rs to ensure noise is kept to acceptable levels.
	ng time limits on activities in the gardens, both during festivals breaking down, and these will be reflected in land use
4) On-street Park	ing regulations are the responsibility of the County Council, but

	we have joined-up governance approach to this and are happy to facilitate meetings between residents and the highway authority if asked to do so.
	5) We are always supportive of local business, whilst recognising that festivals generate additional requirements for food and drink that are not necessarily able to be met by existing establishments. One local cafe which was visited near the
	site reported business to be up during the festival period. Should fast food outlets give rise to excessive amounts of litter and odour etc. in the future, we will certainly review that.
	6) The question of discounts to local residents in compensation for loss of use and noise, is one for Cheltenham Festivals and other hirers, which you would need to take up with them direct. However I understand that some hirers are sympathetic to the idea in principle.
2.	Question from John Hopwood to the Cabinet Member Built Environment, Councillor John Rawson (intends to be present)
	Regarding the proposed development of North Place car park, has an analysis been made of the reasons for the withdrawal of the alternative developers' proposals? If so, what are your conclusions?"
	Response from Cabinet Member Built Environment
	I presume Mr Hopwood is referring to the withdrawal of Salmon Harvester, as opposed to another developer who withdrew at a very early stage of the process and two other bidders who did not withdraw but were eliminated by an evaluation panel.
	Salmon Harvester took their own decision to withdraw, for reasons which they explained to us in confidence at the time. These reasons are a matter for them to disclose or not as they see fit. I cannot do so without risking disclosing information which may be commercially sensitive for them as the OJEU (Official Journal of the European Union) rules dictate that both parties (i.e. Borough Council and bidder) enter into confidentiality agreements.
	In a supplementary question, Mr Hopwood challenged why the analysis requested had not been provided. He asked if this was the best time to be making a decision on the site, given the current economic situation and could the council get a better deal by delaying it.
	In response, Councillor Rawson said that commercially sensitive information could not be disclosed at this stage so he was unable to make any further comment. The Leader added that once the commercial decision had been made, the council would be able to provide the public with information but at this stage they must respect the commercial sensitivity for both the council and the organisations involved.
3.	Question from Alykhan Karim to the Cabinet Member Built Environment
	The Councils proposal to turn the North Place and Portland Street car parks into

	homes is extremely good idea, but to also build an hotel and supermarket is not. Firstly when regards to the hotel, why is this needed when a couple of doors down is a fairly new Holiday Inn Express?
	Secondly when regards to the Supermarket, there are within a half a mile radius three Supermarkets. There is a Tesco's, Wilkinson's and Marks and Spencer's. So why is a fourth one needed?
	Cheltenham is already plagued by so many supermarkets why add another one?
	By agreeing to let another supermarket open on this site will cause severe traffic problems, and already at present time the area is already gridlocked, so what will come of that. How will this Big problem be resolved?
	I read in the papers that there are serious issues when regards to housing in that there aren't enough and that now the government agreeing more with developers to build within the green belts, so I ask why build a Hotel and Supermarket when more homes could be built?
	Response from Cabinet Member Built Environment
	When it approved the development brief for the site, the Council allowed developers scope to bring forward proposals which they believed were economically viable. All four shortlisted bidders for the site proposed a food store, which is very strong evidence that the store is viable. Augur Buchler, whose scheme is currently under consideration, also proposed a hotel. The Council's role is not to establish need, nor does it have the right to turn down planning proposals on the grounds that they are not needed. It is our job simply to say whether these uses are acceptable in principle in planning terms.
	However, an economic impact assessment will need to be carried out as part of the planning process, and this will give us more information about what the effect on other businesses is likely to be. The traffic impact of the new development as a whole will also need to be modelled and assessed by Gloucestershire Highways as an integral part of the planning process.
4.	Question from Ashifa Karim to the Cabinet Member Built Environment
	Regarding the New Proposal, I have a few questions of my own which I need answering as I feel it may affect myself and my family in the near future if this Proposal goes ahead.
	Firstly I would like to know why another Supermarket is necessary when there are already so many Supermarkets in such a small town like Cheltenham?
	Secondly, myself and my family run a business on Prestbury Road and if this proposal goes ahead this will affect us on a greater scale, as will the other 5 Independent Convenient Stores in the area. As you are aware we are already in difficult times due to the Recession, so what

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	is the need to have yet another Supermarket when we already have a pick of Tesco, Waitrose, 2 Sainsburys, the new Asda, Marks and Spencers and not to mention all their little Express' scattered around Cheltenham.
	Many of us have done our research and we are aware that our town is struggling with homes, so why not use the area to build more houses for people? I feel another Supermarket and another Hotel should not be on the list of priorities as these are not necessary for our Town, and, not to mention the extra congestion.
	So I ask, why do we need ANOTHER Supermarket? ANOTHER Hotel? MORE Congestion on our doorstep? But on top of all this, WHY would you want Independent Businesses to suffer when all they are trying to do is earn a living?
	Response from Cabinet Member Built Environment
	I fully understand why the possible opening of a large new food store in the centre of Cheltenham is so unwelcome to Ms Karim. I can only say that, in my view, such a store will do more good and less damage if it is in the town's commercial core rather than on the periphery. It may well attract customers into the centre to do their food shopping and to visit other shops while they are there. In this way, a new food store may well help other town centre retailers.
	As I said in response to the previous question, the Council's role is not to establish need but to determine whether the proposed uses are acceptable in terms of their impact on the area.
	As part of this process, an economic impact assessment will need to be carried out as part of the planning process, assessing both the positive and the negative impacts of the proposal, and this will give us more information about what the effect on other businesses is likely to be. The traffic impact of the new development as a whole will also need to be modelled and assessed by Gloucestershire Highways as an integral part of the planning process.
5.	Question from Adam Lillywhite to the Cabinet Member Built Environment
	"The Joint Core strategy when considered and the Tourism strategy, both suggest that building an additional hotel before the town needs one would be damaging to the character and fabric of the town. The JCS identifies a threshold occupancy level, 70%. In 2008 we were below this level and since then occupancies have fallen. The TIC does not believe the town needs a new hotel. These are the inconvenient facts,
	Over the last three weeks I have repeatedly asked the lead Council officer and Councillor to state why these strategies have been ignored. They have not answered the question. Worse still these facts have not been brought before the councillors for debate despite both these individuals giving progress updates on this scheme on the 10th.
	Does this Cabinet believe that democracy is being served when the councillors debate was not presented with the recommendations of the relevant CBC

strategies and the public were not able to ask a single question because the
meeting had been brought forward and not properly advertised."
Response from Cabinet Member Built Environment
The answer to Mr Lillywhite's question is that no council strategies are being ignored.
The draft Joint Core Strategy has no specific policies on hotel provision. However, Mr Lillywhite is presumably referring to the hotel capacity study published in May 2009. This does not preclude the expansion of hotel capacity. Indeed it says (page 14): "At our projected level of demand, Cheltenham may well need a total of 150 additional rooms by 2016, with 100 rooms coming on stream by 2013 and a further 50 by 2015. At our optimistic level of demand, Cheltenham may well need a total of 250 additional rooms by 2016, with 100 rooms coming on stream by 2012 and an additional 100 in 2014 and 50 in 2018."
I would make the point that, given the need to secure planning permission and then build the development (which is likely to take 18 months), it is unlikely that any new provision on North Place would come on stream until late 2013 or early 2014 at the earliest.
I would add that the estimates of future growth in the hotel capacity study were based on a forecast of demand made in 2009 and an assumption of 70% occupancy, which the study regarded as a healthy level. However in no way was this figure presented as a threshold below which no further expansion of capacity could take place. On the contrary, the conclusion of the study, on page 66, was that "local planning authorities must recognise the importance of maintaining stock to support and grow the industry, but not to create a framework that is so restrictive that it attempts to perpetuate outdated forms of accommodation for which there is no longer a demand."
Furthermore, despite Mr Lillywhite's statements to the contrary, the hotel capacity study is remarkably consistent with the proposal now being made. It says on page 14: "Clearly, the need for extra capacity will be most strongly felt in the central areaThe industry will decide on what is an appropriate investment decisionHowever, industry trends are likely to want to deliver the majority of supply as Limited Service." The proposed hotel would certainly be central and almost certainly Limited Service: precisely the kind of accommodation that the study says is most likely to be viable.
Turning to the Tourism Strategy, this quotes the figures for projected demand from the hotel capacity study and recommends caution in expanding hotel capacity in a difficult economic climate. It does not suggest that no expansion should take place.
The hotel capacity study took place during the downturn and this was taken into account in the forecasting. However, I accept that the optimistic demand forecast may not come to fruition, and to that extent I agree with the CHA. However, I am puzzled by the radical differences between the case being argued

 by the CHA and the advice offered by the British Hospitality Association in a report called <i>Hospitality: Driving Local Economies</i> that was published only this month. In the report, the BHA says it believes that it is possible to increase the number of jobs in Cheltenham that are directly hospitality-related from 4,811 to 5,743 – that's an increase of nearly 20 per cent – by 2020. It believes this growth can be achieved "if national and local government removes the barriers to growth". It adds "BHA welcomes a less restrictive planning regime". I must say that, in this argument, I side more with the CHA than with the BHA. As a Council, we have no intention of breaking down planning restrictions in order to speed up the growth of the hospitality industry in Cheltenham. This project, like every other, will need to go through a rigorous planning process. But we do nonetheless welcome new investment on suitable sites in Cheltenham, which is what this development is about.
In order to ensure that the impacts of a new hotel are properly considered, I want to ensure that a hotel impact assessment is done, using the most recent available data, before this scheme is considered by the Planning Committee. This assessment will be commissioned from a consultant at the developers' expense and audited by a consultant appointed by the Council.
I regret that at the exhibition on the North Place/Portland Street scheme, Mr Lillywhite was misinformed as to which council meeting was considering the appointment of the Preferred Developer. The matter was brought forward to the October meeting to allow the full Council to take a view before the Cabinet decided on the appointment. I would emphasise that constitutionally the Cabinet is the decision-maker as far as the appointment of the Preferred Developer is concerned. Had the matter come to Council in November, this would have post- dated the Cabinet's decision. This would have made the Council discussion and indeed any contributions from the public pointless. As matters stand I am pleased to be able to answer his questions and consider his objections very fully at this meeting.
In a supplementary question, Mr Lillywhite asked why only one of the nine bids included a hotel and he suggested that this was because there was no demand. He sought further clarification on his original question.
In response, Councillor Rawson said he was unaware that there was only one hotel in the nine bids as he had not been involved in the shortlisting. He had only been involved in the last five bids. He reiterated that as a planning authority the Council could not turn down a planning application on the basis that it was not needed, but could only consider the impact it would have, and Auger Buchler had agreed to pay for a consultant to carry out an impact assessment. He advised that he had been chair of the tourism strategy working group and at the time the group had been sceptical of the more optimistic projections of demand for hotel accommodation contained in the JCS hotel capacity study. However, there was no suggestion in the hotel capacity study or the tourism strategy that there should be no expansion.
6. Question from Geoffrey Bloxsom to the Cabinet Member Built Environment

(intends to be present at the meeting)	
"I deplore the undue haste that the council are applying to approve the sole development proposal received. This acceleration of procedure is particularly unacceptable in view of the timing(August bank holiday period)and the very brier public consultation period. As a result only 168 citizens commented on the proposal, less than 0.2% of the 114,000 population!	f
The result was almost 50/50 for and against. Accordingly, the cabinet should be very wary of granting "preferred bidder" status to Auger Buchler and subsequent signing a Development Agreement and accepting a 5% deposit. This is a step to far, too soon.	tly
I implore the cabinet to defer a decision until a further, more extensive and democratic public consultation has been undertaken."	
Response from Cabinet Member Built Environment	
Vigorous efforts were made by the Council, the developers and the local media conduct a very high profile consultation process.	to
The consultation process consisted of:	
 22nd August – 10th September Static, unmanned displays throughout the period at Municipal Offices (main and Built Environment receptions) Hester's Way Resource Centre Springbank Resource Centre Oakley Resource Centre The new Lower High Street Community Resource Centre Charlton Kings Library Hill View Community Centre/Hatherley Library Council website, with on-line comment form 	
 3rd September – 10th September (excluding Sunday 4th) Manned exhibition in High Street (outside Marks & Spencer) – 1 Coun officer and 2 Augur Buchler representatives available from 9-5 each day. Written comment forms available. 6th September Face to face discussions with officers and Augur Buchler representative negatives available from 9-5 each day. 	ve
It is disappointing that the numbers participating were not higher, but that is not unusual for a public consultation exercise. I am not clear why Mr Bloxsom thinks that repeating the exercise, even on a larger scale, would produce a significantly different outcome.	
A majority of those consulted broadly approved of the scheme, but I agree that a significant number of people raised objections and concerns. These people will	

	not be ignored, and their concerns are already being taken into account as detailed work on the scheme takes place. Many aspects of the scheme, including the economic impact and the traffic impact, will be the subject of further work.
	There will of course be a further consultation exercise – the statutory consultation process when the planning application comes forward.
	The subject of the appointment of the Preferred Developer was brought forward to the October meeting to allow the full Council to take a view before the Cabinet decided on the appointment. Had the matter come to Council in November, this would have post-dated the Cabinet's decision. This would have made the Council discussion and indeed any contributions from the public pointless.
	Can I also add that I would not be supporting the appointment of Augur Buchler as Preferred Developer if this was simply 'Hobson's choice', as Mr Bloxsom implies. The scheme was one of the two finalists in a distinguished field and meets the financial and environmental objectives of the Council, as set out in the development brief, in every respect. It would be perverse to send a developer packing when they had delivered everything you asked for. People often say that local authorities should behave more like businesses. No business would survive long if it behaved like that.
	In a supplementary question, Mr Bloxsom was still concerned about the lack of public consultation and asked whether there should be a referendum which the current government were recommending on issues of public concern.
	In response, Councillor Rawson said that there was no process for a referendum on a planning issue and he found it difficult to see how the council could have done more in terms of public consultation. He reminded Mr Bloxsom that this would come forward as a planning application along with a series of impact assessments. The Planning Committee would then make a decision independent of politics and consider all the public concerns and ensure they were addressed before making a decision.
7.	Question from Peter V. Christensen to the Cabinet Member Built Environment (will be present)
	Regarding North Place Car Park Development As there is now only one bidder for this development, how can the Council demonstrate that it is getting the best deal for the taxpayer and for the project?
	Response from Cabinet Member Built Environment
	The Council is obliged by law to achieve the 'best consideration' for any public asset, and that includes the North Place and Portland Street sites. We have retained the leading property valuers GVA to give their professional advice and to certify that the Council has achieved best consideration.
	I should add that Augur Buchler submitted their financial bid at a time when they were still in a competitive situation, that is to say, before Salmon Harvester

withdrew. Shortly after Salmon Harvester's withdrawal, representatives of Augur Buchler met the Leader and Chief Executive of Cheltenham Borough Council and gave assurances that they would honour their bid. We expect them to do so as a condition of being appointed Preferred Developer.
In a supplementary question, Mr Christensen asked why the bid was still secret given that it was no longer a competitive process.
In response, Councillor John Rawson reiterated his previous response that this was commercially sensitive information for Auger Buchler and the council and could only be made public once the deal had been signed and sealed.
Question from Michael Reynolds to the Cabinet Member Built Environment
 Question regarding North Place Car Park development Before I was an hotelier I was a property finance specialist. I understand the key drivers of developers and the Council's need to maximise capital values of this site. The accommodation survey undertaken in early 2009 as part of the Joint Core Strategy document shows that Cheltenham does not have a need for additional hotel rooms now or in the near future. It also shows that the development of additional hotel space will be to the detriment of existing accommodation providers, which will be forced to close. Cheltenham currently has a wide variety of good quality accommodation provided by everything from simple 2 room B&Bs to luxury hotels at the top of the market. Many of these establishments have won awards and are highly rated by Quality in Tourism and the AA. This provision is a key part of Cheltenham's character and welcomes both commercial and leisure visitors to the town. The provision of a new100 room hotel will dramatically change Cheltenham's character for the worse. What are the legal and commercial impediments preventing the council from asking the developer to amend this scheme omitting the hotel and substituting an alternative development at equal or greater capital value?
Response from Cabinet Member Built Environment
I am unable to identify the passage Mr Reynolds refers to in the JCS hotel capacity study which states that, in his words, "Cheltenham does not have a need for additional hotel rooms in the near future". I am also unable to locate where it says that "the development of additional hotel space will be to the detriment of existing accommodation providers, which will be forced to close." These are not, as far as I can see, quotations from the document or even paraphrases. On the contrary, the conclusion of this study (page 66) is that: "At our projected level of demand, Cheltenham may well need 100 rooms coming on stream by 2013 and a further 50 by 2015." It adds (page 14) that: "Clearly, the need for extra capacity will be most strongly felt in the central area."

	I very much agree with Mr Reynolds that Cheltenham currently has a wide variety of good quality accommodation, and I believe there will continue to be a demand for high quality, full service hotels and small B&Bs. Customers who want to stay in these places, particularly people staying in Cheltenham for pleasure rather than business, will continue to choose them, regardless of how many limited service chain hotels there may be.
	Regarding Mr Reynolds' final point, the Cabinet could clearly reject the Augur Buchler scheme and start the development process again with a new brief that precluded hotel development. In doing this, we would effectively be saying that we disagree with the brief we voted through Council by a very large majority only last December. But if we did this, I doubt whether any developer would want to bid or indeed to have anything to do with the Borough Council the second time around.
	The Council is also bound by European procurement legislation (OJEU) and accepts bids on their merits. Unfortunately it is not a 'pick and mix' scenario where CBC can choose elements from one scheme and mix them with another. Nor is it in our gift to demand withdrawal of any specific element. For that reason, I believe the choice is not between a hotel or no hotel, but between development and no development.
	Of course the planning process could determine that certain components are not acceptable but that would be beyond the stage which we have now reached.
	In a supplementary question, Mr Reynolds suggested that the impact assessment was likely to confirm that there was no demand for a hotel and therefore wouldn't it be better to decide on an alternative use now, such as a care home, rather than let it proceed.
	In response, Councillor Rawson said that the council was now following a legal process and it was not possible to eliminate one element at this stage. The Planning Committee would make its decision entirely independently and would consider the hotel impact assessment. If their decision resulted in any renegotiations of the scheme, that would be done at that time
9.	Question from Guy Hunter to the Cabinet Member Built Environment
	Will the Cabinet please confirm that the council members were fully briefed on the Tourism Strategy and the Hotel requirement projections in the 2009 JCS hotel capacity study before debating development plans for North Place?"
	Response from Cabinet Member Built Environment
	The discussion at Council on October 10 th was not a debate on the development plans, which will form part of a separate planning process, but on the principle of appointing Augur Buchler as Preferred Developer.
	The report and presentation at Council on October 10 th did not refer to the JCS

	hotel capacity study, the tourism strategy or indeed many other documents that may be material at the planning stage of this process but which are not strictly relevant to the appointment of a preferred developer. However, neither of the documents Mr Hunter refers to has been ignored and neither is inconsistent with the scheme currently being proposed. On the contrary, both assume there will be some expansion in the next few years, as I have explained in my answer to Mr Lillywhite. The hotel capacity survey (page 66) also specifically urges local planning authorities not to create an excessively restrictive framework for the hotel industry. The hotel capacity study was carried out during the downturn and this was taken into account in the forecasting. However, I do want to make sure that the impacts of a new hotel are properly considered, and, for that reason, I want to ensure that a hotel impact assessment is done, using the most recent available data, before the planning application is considered by the Planning Committee. In a supplementary question, Mr Hunter asked whether the names and figures in the hotel impact assessment would be made public. In response, Councillor John Rawson said that he would need to take advice on this as there may be issues of confidentiality in terms of the businesses who supply the information. He would be happy to provide Mr Hunter with a written
	response.
10.	Question from Poter Rouman to the Cabinet Member Duilt Environment
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10.	I understand that there is estimated to be sufficient parking to cope with cars evicted from North Place and Portland Street car parks during the development. Allowing for the projected 15% in the UK population by 2030;does the Council have plans in hand to deliver further town centre sites to maintain the benefits of the current level of in town parking, which is such a unique and attractive factor, compared to Bath or Oxford, for those visiting the borough to shop?
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increases in the South, over and above the loss of spaces already accounted for in the North Place redevelopment. Evidently there was increased demand in the south particularly during the festivals and in the lead up to Christmas where more people may want to shop and visit the Promenade.