

MINUTES of the meeting of General Overview & Scrutiny Committee held at The Council Chamber, Shire Hall, St. Peter's Square, Hereford, HR1 2HX on Tuesday 2 December 2014 at 2.00 pm

Present: Councillor WLS Bowen (Chairman)
Councillor BA Durkin (Vice-Chairman)

Councillors: AJM Blackshaw, ACR Chappell, EPJ Harvey, TM James, Brig P Jones CBE, PJ McCaull, AJW Powers and A Seldon

In attendance: Councillors PJ Edwards, J Hardwick, AW Johnson (Leader), JLV Kenyon, MD Lloyd-Hayes, PM Morgan (Cabinet Member), C Nicholls, FM Norman, GJ Powell (Cabinet Member), PD Price (Cabinet Member), P Rone (Cabinet Member) and P Sinclair-Knipe.

Officers: R Ball (Assistant Director Place Based Commissioning), M Lane (Construction Manager), B Norman (Assistant Director, Governance) and B Baugh (Democratic Services Officer). Attending as observers: G Hughes (Director for Economy, Communities, and Corporate) and A Neill (Chief Executive) for part. Details of consultants in attendance are given on the third page of this document.

The Chairman explained that the purpose of the meeting was to consider whether Cabinet followed due process in making its decision on the selection of route SC2 as the preferred route for the Southern Link Road (SLR). The Chairman emphasised that the committee needed to focus on the reasons for the call-in and he explained how the meeting would be conducted.

36. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillors DW Greenow and DB Wilcox. Apologies had also been received from Councillors RI Matthews and J Millar (Cabinet Member Young People and Children's Wellbeing).

37. NAMED SUBSTITUTES

Councillor Brigadier P Jones CBE substituted for Councillor DB Wilcox.

38. DECLARATIONS OF INTEREST

No declarations of interest were made at the meeting.

39. QUESTIONS FROM THE PUBLIC

The Chairman thanked members of the public for their interest and for the fifty questions that had been received. Attention was drawn to Supplement 2 to the agenda which contained the questions, along with officer responses to those questions considered relevant to the call-in; written responses would be provided to the remainder in due course, in the order submitted.

The Democratic Services Officer reported that a draft version of the questions had identified Mr. Bryant as a member of Callow and Haywood Group Parish Council but both Mr. Bryant and the Chairman of the group parish council wished to make it clear that the question had not been submitted on behalf of the group parish council.

40. CALL-IN OF THE CABINET DECISION ON THE SOUTH WYE TRANSPORT PACKAGE

Adjournment to review the agenda supplements

A committee member noted that Supplement 2, containing the 'Questions from the public' and the 'Response to South Wye Transport Package Call-in' documents had been published two hours before the meeting and requested that the meeting be adjourned to provide members of the committee with additional time to review the documents; it was also noted that Supplement 1, containing a report by Alan James and an extract from the draft and unapproved minutes of Cabinet of 13 November 2014, had been published the day before the meeting.

The Assistant Director, Governance suggested that an adjournment of an hour should be sufficient for members to familiarise themselves with the documents; it was noted that the response document addressed the matters set out in the call-in notice and provided further detail but it did not raise new issues. In response to a question, the mover of the motion said that he was personally content with an adjournment of an hour. The motion was seconded and agreed by the committee.

Comments by the members that submitted the call-in notice

Upon the recommencement of the meeting, the Chairman invited the members that submitted the call-in notice to address the committee.

A committee member commented on: the potential complexities of the planning process; the need to be assured that the processes were done thoroughly; the call-in provided an opportunity to review the issues ahead of any challenge; there was a perception of haste and perhaps even pre-determination; he felt that the response document raised more questions than it answered; he considered it difficult to understand some decisions without sight of the original brief to the consultants; four routes options had been ruled out as they impacted on ancient woodland but the route selected would impact on ancient woodland at Grafton Wood; and limited direct consultation with English Heritage could leave the authority vulnerable to challenge.

Another committee member commented on: it was welcomed that the call-in notice had been accepted and the level of public interest was evidence of wider public concerns; in addition to the stated reasons for the call-in, he considered that the decision was based on incomplete and flawed evidence and an unsound option appraisal process, and the consultation was based on misleading and partial information and failed to engage with key stakeholders; and he also considered that the decision could result in a challenge, with the potential for loss of scheme funding.

Executive response

The Cabinet Member Infrastructure read out a statement, the principal points included:

- Cabinet had selected route SC2 as the preferred route for the Southern Link Road (SLR) at its meeting on 13 November 2014;
- the call-in reasons were noted and Cabinet Members, whilst of the view that the decision was sound, wanted to hear what the committee had to say;
- a comprehensive response had been provided to the reasons in the call-in notice;

- Cabinet had considered the work undertaken by Parsons Brinckerhoff (PB) and the officer report;
- the aim was to promote growth by reducing congestion and enabling access to developments such as the Hereford Enterprise Zone (HEZ), along with environmental and health objectives;
- the consultants had looked at the range of options and, in accordance with the Local Transport Plan (LTP), had concluded that a package of measures comprising a new road and sustainable transport measures was proportionate;
- the decision had been informed by detailed route assessment and feedback to the consultation;
- the authority had consulted widely and had regularly updated those people most directly affected by the proposed scheme;
- a series of well attended events had been held at the Three Counties Hotel;
- responses had been received from a number of key stakeholders, such as the Highways Agency and English Heritage, and work was ongoing with key stakeholders to develop the scheme towards the submission of a planning application;
- independent advice confirmed that the consultation work was robust;
- the objectives of the SWTP had been defined clearly and the options had been appraised against these objectives and it was considered that the package would meet all of the objectives;
- detail of the potential sustainable transport measures would be set out in the Package Appraisal Report which would form part of the planning application;
- representatives of PB and officers from the project team were in attendance to respond to points in detail;
- attention was drawn to the responses already provided in the 'Questions from the public' document;
- the Marches Local Enterprise Partnership's (LEP) examination had concluded that the process and findings were robust and funding was agreed; and
- if the authority did not act, it might be a long time before such infrastructure could be provided to support the development of the local economy.

The Leader of the Council said that this was a fully funded scheme which, in the view of Cabinet, was essential to the future prosperity of the county.

'Response to South Wye Transport Package Call In', Introduction and Background
[Supplement 2, pages 21 to 22]

The Assistant Director Place Based Commissioning read out paragraphs 1 to 7 of the covering report. Mr. Williams, Contract Director (Balfour Beatty Living Places) introduced the representatives of PB in attendance at the meeting and their roles: Martyn Brooks, Project Review Lead / Transport; Ben Pritchard, Project Director; Marc Thomas, Environmental Impact Assessment Lead; Phil Davidson, Ecology Lead; Jason Collins, Transport Lead; and Gary Dymond, Highways Lead.

'Response to the South Wye Transport Package: Southern Link Road, Comments on Parsons Brinckerhoff Route Selection Report November 2014 (by Alan James)'
[Supplement 1, pages 3 to 12]

Mr. Brooks said that, whilst there had not been the chance to produce a detailed rebuttal, points needed to be addressed, including: in the section 'Scoring system', it was considered that an incorrect appendix had been used by Mr. James in the analysis; the claim that there had been 'double-counting' was incorrect as the wider benefits had been assessed in accordance with Department for Transport WebTAG guidance; referring to the section 'Chapter 7: Traffic Forecasts', the assertion in paragraph 2 that "This suggests that very little of the forecast traffic on the SLR (perhaps as little as 5%) carries on to the B4399..." was incorrect as the figures were 36% in the morning and 24% in the afternoon; and it was not considered that Mr. James' report acknowledged the benefits of the sustainable transport measures identified in the SWTP. Mr. Brooks added that PB had been balanced in the work undertaken and had been open about the adverse environmental impacts associated with the SLR but had also been open about the benefits of the road and the package of sustainable transport measures.

In response to a question from a committee member, Mr. Brooks clarified that he considered that Mr. James' should have referred to Appendix B in his analysis, as this included the sustainable transport measures. The committee member said that it was his understanding that the report challenged the objectivity of the scoring system and the way that it had been implemented. Mr. Brooks re-iterated that the benefits of the sustainable transport measures had been ignored by Mr James.

'Response to South Wye Transport Package Call In', Key Considerations, Response to Reason 1 [Supplement 2, pages 23 to 24]

The Assistant Director Place Based Commissioning gave a detailed overview of paragraphs 1.1 to 1.11 of the response.

A committee member expressed concerns about traffic figures and about the potential impact of the selected route on smallholdings. The Chairman reminded the committee of the purpose of the meeting.

A committee member noted that Cabinet considered the decision to be consistent with the council's LTP but it was his understanding that the steps set out in the Network Capacity Management Hierarchy should not relate to desktop studies and scenarios but should involve actual implementation of those steps; reference was made to a response from the Highways Agency that "[SWTP]... is welcomed in principle as under current guidance the building of new road infrastructure could only be justified in policy terms when other avenues such as travel planning and sustainable travel modes had been developed and shown not to address the transport needs and issues identified...". The Assistant Director Place Based Commissioning advised that the LTP set out the process for assessing the steps to be delivered to address problems and the appraisal process undertaken had been consistent with this and had demonstrated that those steps had been considered. In response to a further question, he commented that certain elements of the sustainable transport measures could not be implemented without new road infrastructure and it was considered that the complementary package was in line with WebTAG guidance. Mr. Brooks, using the example of a recent announcement about the upgrade of the A303, said that he did not consider the interpretation of the guidance regarding implementation by the committee member to be correct.

In response to further questions from the committee member, the Assistant Director Place Based Commissioning advised that the award of funding by the LEP was for the SWTP rather than a particular route and it was probably clearer to refer to the principle of "a preferred option" rather than "the preferred option" in paragraph 1.8 of the response. In response to further points made by the committee member about sequencing and implementation, the Cabinet Member Infrastructure said that the package had been considered by the LEP and the funding awarded, and Cabinet had made a further decision on the selection of the preferred route for the SLR which was the

subject of the call-in. The Leader added that it was sensible to get the package right, the funding right and then to look at the preferred route.

A committee member noted that the Cabinet report briefly outlined some of the aims of Sustainable Transport Max but questioned the measures included. Clarity was also sought about paragraph 46 of the Cabinet report. In response, the Assistant Director Place Based Commissioning advised the committee that:

- i. The public exhibition panels reproduced as appendix D of the PB Report on Consultation (page 290 of the Cabinet report) identified example elements that could be developed and he summarised the measures given under the bus priority, cycling, walking, safety, behavioural change and townscape headings. It was reiterated that the focus of the Cabinet report was on the selection of the preferred route and work was ongoing on the detailed design of the sustainable transport measures; and
- ii. It was considered important to look at paragraph 46 of the Cabinet report in context and paragraphs within the Financial Implications section were read out.

In response to a question about reference made in the call-in notice to de-coupling, Mr. Brooks drew attention to paragraph 4.6 of the Response to Reason 4 [Supplement 2, page 30] which stated that it was not correct to assert that "...the SLR has been de-coupled from the Package for separate appraisal and decision". In response to a question about reference made in the call-in notice to planning conditions, the Assistant Director Place Based Commissioning suggested that it was an appropriate point to look at the related traffic considerations in the Response to Reason 3.

'Response to South Wye Transport Package Call In', Key Considerations, Response to Reason 3 [Supplement 2, pages 28 to 29]

Mr. Brooks summarised paragraphs 3.1 to 3.3 and read out paragraphs 3.4 to 3.6 of the response. He drew attention to Figures 16 and 17 of the Preferred Option Report [reproduced in Supplement 2, pages 33 and 34] and made a number of points, including:

- a. Figure 16 showed '2017 Do Minimum Traffic Flows', Figure 17 showed '2017 Traffic Flows with an SLR', with each point having four boxes; two for the morning peak and two for the evening peak. Both peaks had a demand flow and an actual flow but, for simplicity, the presentation concentrated on actual flow comparisons.
- b. For east to west movements (including Holme Lacy Road, Walnut Tree Avenue and Haywood Lane) reductions in traffic flow were shown where the SLR was added in both time periods and in both directions.
- c. Along the A465, there were 14 different boxes with 28 comparisons. Of these 28 comparisons, 23 showed reductions in traffic. Of the remaining 5, 2 were adjacent to the SLR and 2 were close by; this was not unexpected, as traffic would find its way to the new road. It was reported the majority of the A465 would benefit from the introduction of the SLR and would enable elements of the sustainable transport measures to be implemented.
- d. Along the A49, there were 8 boxes with 16 comparisons. Of these 16 comparisons, 9 showed reductions in traffic. Of the remaining 7, 5 were adjacent to the SLR. The other 2 boxes related to locations north of the Holme Lacy Road junction; it was explained that the model was sophisticated enough to amend traffic signal arrangements to give priority to through traffic on the A49, resulting in some additional traffic due to motorists taking advantage of the change to signal timings.
- e. It was concluded that the SLR was shown to provide traffic relief over most of its length, would simplify and improve the operation of the A49, and reduce capacity constraints thereby assisting in releasing development at the HEZ.

A committee member tabled a letter dated 7 April 2014 to an unidentified recipient from Patrick Thomas, Asset Manager, Network and Delivery and Development Directorate, Midlands Team, Highways Agency. There was a short adjournment to enable the document to be circulated and read. Upon the recommencement of the meeting, the committee member drew attention to point 2 of the letter which read that the "Highways Agency has not set any 'traffic movement limits' along the length of the A49" and this was repeated at point 4. Mr. Brooks drew attention to the remainder of point 2 of the letter which confirmed that "A Local Development Order (LDO) had been put in place as part of the Hereford Enterprise Zone (HEZ)" and questioned what practical restrictions could be put in place to limit 'traffic movements' on the A49. The Assistant Director Place Based Commissioning explained the LDO process and said that he did not consider that there was any inconsistency with the advice provided by Mr. Brooks. In response to a comment by the Cabinet Member Infrastructure, the Assistant Director, Governance said that the identity of the recipient of the letter did not appear material to the content. He added that the further development of the HEZ was governed through the planning process and the generation of additional, unacceptable vehicle movements was a potential ground for refusing planning applications.

In response to questions from a member in attendance, the Assistant Director Place Based Commissioning advised that:

- 1) The purchase of land required was included within the estimated scheme costs; and
- 2) Funding was allocated for the SWTP prior to the selection of a preferred route; it was for the council to determine the route or other elements of the package. He added that the authority needed to be mindful that funding had been allocated for a particular timescale.

In response to another question, Mr. Brooks gave an overview of how, informed by various surveys, the traffic model was built, calibrated and validated. It was noted that there could be significant variations between different days and the model sought to represent average conditions for a given period. He commented on the importance of using the same traffic model to evaluate options and, whilst no model could claim to be 'absolutely accurate', it was considered that the traffic model was fit for purpose.

A committee member and ward member for St. Martin's and Hinton asked questions about the history of transport measures in the South Wye area but the Chairman explained that this was outside the scope of the call-in notice.

In response to a question from a member in attendance, Mr. Brooks commented that one of the aims of the SLR was to improve accessibility to the HEZ but acknowledged that care would be needed in terms of the potential for other induced traffic across the network. The Leader re-iterated the need to facilitate the further development of the HEZ.

A ward member for Belmont noted the council had introduced some sustainable transport measures in the area and there was more to do but current levels of congestion limited the effectiveness of public transport provision.

A committee member noted the similarity in scoring for routes SC2 and SC8, apart from the 'Cost to Broad Transport Budget' and a question was asked about the cost modelling. The Assistant Director Place Based Commissioning drew attention to the Appraisal Summary Table, reproduced at paragraph 34 of the Cabinet report (page 62), and said that the routes had been appraised to the same level of detail. The Assistant Director, Governance reminded the committee that the grounds for the call-in had been specified in the call-in notice and responses had been prepared and circulated

accordingly, members should not seek to add additional grounds at the call-in meeting itself. The committee member considered that the issue of cost modelling was relevant to Reason 5; this was further debated under Reason 5 below.

‘Response to South Wye Transport Package Call In’, Key Considerations, Response to Reason 2 [Supplement 2, pages 24 to 27]

Mr. Davidson paraphrased paragraphs 2.1 to 2.9 of the response.

A committee member noted that Cabinet had been informed that the project team had been made aware of Grafton Wood being added to Natural England’s ancient woodland inventory in July 2014 and asked for clarification about: why its status had not been reflected in subsequent consultations and reports; the potential mitigations for the loss of irreplaceable habitat and associated costs; and the ability to meet the requirements of the National Planning Policy Framework (NPPF) given the impact of the SLR on the woodland.

Mr. Davidson explained that the candidate status of Grafton Wood had become clear in July 2014 and its ecological value had been considered; the Preferred Option Report made reference to its candidate status. In response to a comment made by the committee member, the Assistant Director, Governance reminded that committee that the Cabinet decision was the subject of the call-in, not the report by PB, and the issues relating to the woodland and its status at the date of the meeting had been made clear at Cabinet and discussed before the decision was taken.

Mr. Davidson said that the woodlands within the study area had been avoided where possible but it was not possible in relation to Grafton Wood. The mitigation approaches would be dealt with in an Environmental Statement; potential mitigation measures could include replacement habitats, retaining felled timber on site, and woodland planting.

In response to a further question about the risks of challenge, the Assistant Director, Governance re-iterated that relevant information had been provided to Cabinet and the Leader confirmed that Cabinet was aware of the status of Grafton Wood at the time the decision was taken.

Mr. Davidson said that the issues relating to ancient woodland had been looked at carefully and the survey work was robust and had been peer reviewed. He added that the loss of woodland was unavoidable in this instance but, in view of other projects in the country, this was not without precedent.

A member in attendance felt that further consideration should be given to the route options to avoid the woodland. The committee was advised that the Highways Agency supported the location of the junction with the A49 at the roundabout with Rotherwas Access Road and the council had to be cognisant of the required design standards.

In response to comments by a committee member, the Assistant Director Place Based Commissioning said that it was for the planning authority to determine whether the scheme was compliant with the NPPF, whereas this committee was considering the process in relation to the Cabinet decision. An overview was provided of the potential traffic, environmental and economic benefits of the SWTP. Attention was also drawn to the response to question 6 of the ‘Questions from the Public’ document [Supplement 2, page 5] which identified that “A Benefit to Cost Ratio of 3.55 for the South Wye Transport Package was reported in the Strategic Outline Business Case submitted to the LEP”.

‘Response to South Wye Transport Package Call In’, Key Considerations, Response to Reason 4 [Supplement 2, pages 29 to 30]

Mr. Brooks noted that the second part to the reason had been dealt with earlier in the meeting [see the final paragraph of Response to Reason 1 above]. In terms of issues around consultation, he read out paragraphs 4.1 to 4.5 of the response.

The Chairman questioned whether there should have been more effort to consult English Heritage, even if was not a statutory duty at this stage. Mr. Brooks said that he did not believe so and a comprehensive advertisement process had been undertaken.

A committee member said that he had seen correspondence from English Heritage to an individual which appeared to be at odds with the response to reason 4. The committee member did not consider that the consultation was as thorough and robust as had been claimed, particularly the lack of detail about Grafton Wood's status and about the impact of the continuation of the road to the B4349.

Mr. Brooks provided an overview of the WebTAG drivers of transparency and proportionality and considered that the consultation had followed the guidance, as detailed in the response. Mr. Thomas explained the stages involved and how English Heritage had been consulted twice in 2012, when Amey were the council's consultants, about corridor options and about the Belmont Transport Package.

In response to further questions, Mr. Thomas advised that the English Heritage case officer changed between 2012 and 2014; and clarified that information that had been simplified for public exhibition, hence a comment by English Heritage about there being 'no further evidence' in respect of the appraisal scoring for historic environment. He added that negative scores recognised the adverse impact on the historic environment and this would need to be considered in the detailed design through the planning process.

A committee member drew attention to the 'The Procedure Outlined' section on page 298 of the Cabinet report and questioned the nature of the "Further Public Consultation" between "Preferred Route" and "Submit Planning Application". The Assistant Director Place Based Commissioning advised that the further consultation related to the statutory consultation as part of the formal planning process.

A ward member for Belmont commented that constituents had some of the highest rates of respiratory conditions in England, ambulances were delayed by traffic congestion, and he hoped that smoother traffic flows could be achieved.

'Response to South Wye Transport Package Call In', Key Considerations, Response to Reason 5 [Supplement 2, pages 30 to 31]

Mr. Brooks summarised paragraph 5.1 and read out paragraphs 5.2 to 5.5 of the response.

In response to a comment from a committee member, Mr. Brooks acknowledged that reference had been made to route SC2 being 'the best performing option' but he did not agree that it had been inferred that it was the preferred option during the consultation. The Assistant Director, Governance clarified that consultation exercises undertaken with only one option were recognised as being lawful but the consultation in this case contained a number of route options.

Further to a point made under Response to Reason 3 above, a committee member wished to explore the scoring in relation to the costs. The Assistant Director, Governance noted that the call-in notice did not identify dissatisfaction or concern with this particular aspect.

In response to a question, the Assistant Director Place Based Commissioning drew attention to the following:

- i. the range of scheme costs given in the Preferred Options Report: SC2 £16.5M (without contingency allowance) - £25M (with contingency allowance of 44% on construction cost), SC2A £19.5M-£29M, SC5 £24M-£35M, SC7 £21M-£31M, SC8 £17.9M-£26.5M, SC8A £25.4M-£38.6M, and SC9 £17.2M-£25.3M;
- ii. the Cost to Broad Transport Budget scoring in the Appraisal Summary Table reproduced in the Cabinet report (page 62): SC2 2, SC2A 1, SC5 0, SC7 0, SC8 1.5, SC8A 0, and SC9 2; and
- iii. the sentence in paragraph 53 of the Cabinet report (page 65) that '...the preferred SC2 route, (which was subject to public consultation), is a projected £1m less expensive than any of the alternatives, and a projected £1.6m less expensive than the alternative SC8 route.'

The committee member commented on the close scoring between routes SC2 and SC8 and considered the differences in costs to be within the margin of error. In response, Mr. Dymond explained that prices and contingency had been applied consistently across each of the routes. Mr. Williams added that the figures had been reviewed and validated by BBLP Construction Services.

'Response to South Wye Transport Package Call In', Key Considerations, Response to Reason 6 [Supplement 2, page 31]

Mr. Brooks read out the paragraphs under 6.1 of the response.

A committee member noted that the Package Assembly Report was not yet in existence and questioned whether it ought to be at this stage of the process. Mr. Brooks reiterated the concept of proportionality within WebTAG guidance, where increasingly more detailed assessment was required, and confirmed that this was being followed.

Closing comments

The Vice-Chairman felt that any doubts about consultation and woodlands had been addressed by the officer and consultant responses. In response to a question, the Assistant Director Place Based Commissioning considered that the process had been robust and there was confidence in the recommendations made.

The local ward member for Hollington wished to place on record that, although he supported measures to alleviate traffic problems, he did not prefer one route rather than another. He added that soundness was an important matter but he did not feel able to say that all of his concerns had been allayed.

The Cabinet Member Infrastructure re-iterated that he considered the decision to be robust, said that comprehensive responses had been provided to the call-in reasons, and thanked the officer and consultant teams.

A committee member noted the detail that would be required during the planning process, especially in terms of the Environmental Impact Assessment.

The Leader thanked committee members for thoroughly reviewing the documents and said that the rigorous examination of the issues had confirmed that the decision was secure and appropriate processes had been observed.

A committee member: re-iterated that the acceptance of the call-in notice was welcomed; noted that there had been a good level of public attendance throughout the

meeting; and commented that the Cabinet decision entailed the spending of significant sums of public money, therefore the meeting was warranted.

The Chairman thanked attendees for their contributions and noted that it was essential that the right outcome was achieved for the county.

There was a short intermission during which committee members identified potential recommendations. Upon recommencement of the meeting, the following motion was proposed and seconded, and supported by a majority of the committee members present.

RESOLVED:

That the decision on the preferred route option be referred back to Cabinet, with the following recommendations:

- 1. So that Cabinet can be advised by the Finance Director (and council's Section 151 Officer) as to the robustness of the approach and actuality of the cost modelling and the consequent scoring given to all routes under the options appraisal process; and**
- 2. As Grafton Wood is now designated Ancient Woodland that SC2 is re-examined, in the light of mitigations and extra costs required, as the preferred option.**

The meeting ended at 6.45 pm

CHAIRMAN