

MINUTES of the meeting of Environment Scrutiny Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Monday, 24th September, 2007 at 9.30 a.m.

Present: Councillor RI Matthews (Chairman)
Councillor KG Grumbley (Vice Chairman)

Councillors: CM Bartrum, JHR Goodwin, JW Hope MBE, MAF Hubbard, TW Hunt, MD Lloyd-Hayes, PM Morgan, A Seldon and PJ Watts

In attendance: Councillors AJM Blackshaw (Cabinet Member - Economic Development and Community Services), WLS Bowen, ACR Chappell, GFM Dawe, JP French, TM James, JG Jarvis (Cabinet Member - Environment and Strategic Housing), J Stone and DB Wilcox (Cabinet Member – Highways and Transportation)

Persons specifically invited to attend the meeting and additional papers circulated

Prior to the meeting the Chairman had agreed that the persons listed below be specifically invited to attend the meeting. Those unable to attend were invited to submit written comment.

In attendance:

Mr Jonathan Hines; Dr Stewart Bryant; Mrs Bobbie Heavens; Mr B Clay; Mr M George.

Apologies:

Mr Andrew Boucher; Mr William Wilson; Mr Nigel Swift; a representative from Kilmartin House Museum, Argyllshire.

The following additional papers were placed on the Members and invited persons desks prior to the meeting. Copies were also issued to the public and press.

1. Extract from the leaflet "Visit Herefordshire – Tourism Matters" dated Summer 2007.
2. Response from the Chamber of Commerce Herefordshire and Worcestershire.
3. E-mail from Mr Bill Klemperer, English Heritage dated 21st September 2007.
4. Letter dated 21st September 2007 from Mr W. Wilson to the Chairman of the Committee.
5. Letter from Mr Bob Clay, Save the Rotherwas Ribbon Campaign, dated 24.09.07 to Councillor Bob Matthews and Councillor Phil Edwards.

The following papers were issued to all present during the meeting:

6. E-mail from Andy Boucher to Hubbard, Mark (Cllr) dated 21/09/07
7. "An alternative vision for the Rotherwas Ribbon" issued by Mr J Hines

The Chairman allowed time for Members, invited persons and the public to read the additional papers referred to at 1-5 above.

16. APOLOGIES FOR ABSENCE

Apologies were received from Councillor AT Oliver.

17. NAMED SUBSTITUTES (IF ANY)

Councillor CM Bartrum substituted for Councillor AT Oliver.

18. DECLARATIONS OF INTEREST

Councillor CM Bartrum	Personal (owner of a bed a breakfast establishment)
Councillor AJM Blackshaw	Personal (owner of a bed a breakfast establishment)
Councillor MAF Hubbard	Personal (owner of a bed a breakfast establishment)
Councillor JG Jarvis	Personal (owner of a bed a breakfast establishment)
Councillor MD Lloyd-Hayes	Personal.

19. MINUTES

RESOLVED: That the minutes of the meeting held on 19th June, 2007 be approved and signed by the Chairman.

20. SUGGESTIONS FROM MEMBERS OF THE PUBLIC ON ISSUES FOR FUTURE SCRUTINY

No suggestions were made by members of the public.

21. CALL-IN OF CABINET DECISION ON ROTHERWAS ARCHAEOLOGY: OPTIONS FOR THE PRESERVATION OF THE RIBBON AND COMPLETION OF THE ROTHERWAS ACCESS ROAD

The Committee considered Cabinet's decision on the preservation of the Rotherwas Ribbon and completion of the Rotherwas Access Road which had been called in by three Members of the Committee: Councillors MD Lloyd-Hayes, AT Oliver and MAF Hubbard.

The stated reasons for the call-in were set out in the agenda report. The draft decision notice (Ref No:2007.CAB.070KEY), together with the report to Cabinet on 6th September were included in the agenda.

The Chairman opened the discussion by emphasising that the focus of the meeting would be to review the decision by Cabinet as set out in the agenda papers.

A Member called into question the intention to deal with the issue at this meeting rather than programme it into the Committee work programme for a later meeting thereby allowing time for the Committee to gather evidence. Reference was then made to guidance given by the Head of Legal and Democratic Services at Strategic Monitoring Committee on 17th September 2007 on this point. The Legal Practice Manager clarified that, in relation to call-in, the expectation and good practice was that the Committee would meet and consider the issues before it within the 10 day period set out in the Council's Constitution. Only in exceptional circumstances would the period be longer.

On seeking clarification concerning the calling of 'witnesses' to the meeting the Chairman confirmed that an approach had been made by one of the Councillors initiating the call-in requesting that a number of persons be invited to the meeting so that further sources of information be on hand during deliberations. The Legal Practice Manager clarified the term witnesses in terms of the Council's Constitution as being more an invited contributor to the meeting rather than a witness in the courtroom context. The Democratic Services Officer reported upon actions he had taken to invite specific people to attend the meeting.

Mr B. Clay, Save the Ribbon Campaign Organiser, questioned why the Council's Scrutiny function had no dedicated budget. He also referred to an earlier conversation Councillor Lloyd-Hayes had had with the Chairman when she had suggested Mr Clay be co-opted onto the Committee. The Chairman reported that he had previously clarified this issue with Councillor Lloyd-Hayes in that his intention had been that Mr Clay be invited to the meeting, along with others on the invitation list, and that he intended to ensure that those invited had ample opportunity to put their comments. The Legal Practice Manager advised that in view of Mr Clay's close involvement with the Ribbon campaign his co-option to the Committee would probably have required him to declare a prejudicial interest. In relation to formal co-option this was the prerogative of the whole Committee. The Committee decided not to make any co-options.

At this point the Legal Practice Manager raised the question of declaring interests with Councillor MD Lloyd-Hayes in view of the contents of her website (www.marcelllloydhayes.com) of which he had a screen print. Councillor Lloyd-Hayes referred to a letter from the Head of Legal and Democratic Services and to her response dated 19th September 2007 on this issue. The Legal Practice Manager advised Councillor Lloyd-Hayes to consider declaring a prejudicial interest. In response Councillor Lloyd-Hayes stated that she had not predetermined the issue or was biased in her consideration of it. Councillor Lloyd-Hayes then declared a personal interest.

The Chairman invited Councillor JG Jarvis, Cabinet Member (Environment and Strategic Housing) to comment on the decision of Cabinet.

Councillor Jarvis commented that a number of issues had had to be considered by Cabinet. He referred to the letter dated 14th August 2007 from English Heritage concerning the action taken by the Council; English Heritage's intention concerning scheduling the site and advice that the archaeological remains should be preserved in situ.

He commented that for various reasons the extent of the site had not been quantified and that this could take years. If further funding could be obtained then further exploration of the surrounding site could be undertaken. While the Director of Environment would be able to comment on funding he was aware that there was no specific budget for this. In relation to the potential tourist value of the site he had based his opinion that the existing site lacked tourist potential, on his professional experience and the opinion expressed by a number of "Visit Herefordshire" Board members.

He accepted that it had been unfortunate and unacceptable that the Peer Review document (Appendix A to the report to Cabinet 6th September 2007 and contained in the agenda papers for the Committee) had been issued to Cabinet late in the day. The document had been received on the 5th September and in hindsight could have been e-mailed to Cabinet Members. He did, however, think it right that no undue pressure had been placed on the report author to get the report completed to a shorter timescale. He pointed out that the preliminary conclusions in the Peer

Review report commended the Council as an example of best practice.

He then described his rationale for the decision as being: Bridge or Tunnel (options C or D) would be too expensive and would require planning approval which could also be subject to judicial review; moving the line of the road north or south (options A or B) could encounter further archaeological remains and the problem would then arise how to cross those and would significantly delay the project while the alternative routes were surveyed. The option chosen (option F – continuation of the road on its proposed course) complied with planning guidance PPG 16 and was acceptable to English Heritage.

A question was raised on the possible extent of the find to either north or south of the existing find. In response Dr Ray, County Archaeologist, commented that the extent of the find was unknown and therefore an application had been made to English Heritage for funding to help establish its extent. Slight topographical indications did exist towards the former munitions factory site and therefore limited geophysical work within the industrial estate had been recommended. There had not been the interest to record any finds when the munitions factory had been built in 1914-1918 or when the site was further developed just before the Second World War. English Heritage are advisors to the Government and they are usually cautious concerning recommendations for scheduling any monument. He confirmed that this was an exceptional find however and may well meet the criteria for scheduling.

Councillor Jarvis was questioned on whether he could see the potential for tourism from the find. In response he agreed that it would be appropriate for a proper display with appropriate supporting information to be made available, possibly at the City museum.

Questioned on when he first knew of the find Councillor Jarvis responded that in June 2007, around the time his name had been put forward as a Cabinet Member, he had been invited to a press conference on the subject but had been unable to attend. This was the first time he had known about the find.

Questions were put to Dr. Ray as to whether further funding would be made available from English Heritage to survey the site, and the potential for the monument to be scheduled. It was also put that the cost of such survey would be small compared to the overall cost of the Rotherwas Futures project. Dr Ray commented that English Heritage would require more information and probably an evaluation of the monument before it could be considered for scheduling. As to whether it would ultimately be scheduled, it was difficult for him to say. He thought it was likely to be a number of years until the full extent of the site was known. However, that may not mean that English Heritage do not recommend scheduling at least part of it. As for the timing of surveys, he understood that some of the land on either side of the road corridor was under Environmental Stewardship and therefore permission would need to be gained both from the landowner and Natural England before archaeological investigations could be undertaken.

At this point copies of additional paper 6 (E-mail from Andy Boucher) were issued to the meeting and questions were raised concerning the time and cost to commission geophysical surveys to discover the extent of the find. In response Dr Ray reported that the find had been made as a result of a carefully co-ordinated and painstaking process of excavation being undertaken in advance of the main construction programme for the road. Had only a watching brief been in place for this part of the scheme, the monument could have been missed altogether. He noted that although the Council were as concerned as anyone to have geophysical survey undertaken to chart the further course of the monument beyond the road scheme limits, he cautioned that for this type of find geophysical survey techniques were at their

technical limit and therefore it would also be necessary for exploratory trenches to be dug to reliably trace its course. He reported that there had been no brief to get access to private land as part of the road scheme archaeological works. Should funding become available then survey work, such as that indicated in additional paper 6, may be undertaken

The Committee then sought to establish the significance of the find as it had been referred to as 'significant' in Ms M Lane e-mail of 11th May, and whether the subsequent reporting of the find had been in accordance with procedures (members referred to Codes of Conduct and Protocols - 4 Local Members - particularly referring to "keeping local members informed about significant issues which affect their ward..."). Dr Ray explained that the context of the e-mail needed to be understood. At the time of the initial partial uncovering of the find it was acknowledged that it was likely to be significant, but it required further examination to establish how significant. In view of this instructions were issued to the archaeological contractors to undertake a more detailed recording of the site than would normally be done. As time went on and more was known the monument became more certainly significant. In view of this he had recommended that a design solution be formulated - a step he had not taken lightly.

Questioning then turned to the cost of Option G (suspend the construction of the road for 6 months £430K). In response the Head of Highways and Transportation reported that this figure was an indicative cost based on the contract rate. The Cabinet Member (Environment & Strategic Housing) commented that option G only delayed the project and would add £430k, plus inflation and time delays, to whatever final option were chosen. The Committee noted that any delay would not help the businesses on the Rotherwas Estate who had campaigned for the road.

Responding to possible similarities with the archaeological feature in Ohio, USA known as the Ohio Serpent, Dr Ray reported that the Ohio Serpent had been known about for many hundreds of years.

Questioned about the recipients of the Ms M Lane e-mail of 11th May, (reference was made to section 12.1.1.3 second bullet of the Council's Constitution) Dr Ray reported that this was outside his remit. However, the minutes of the access road scheme project team meetings recorded the find. The Cabinet Member (Environment & Strategic Housing) acknowledged that there may be an issue concerning the dissemination of information concerning the find due to the pre election (purdah period) and post election period, being a period prior to the appointment of Cabinet Members.

(At this point the Committee adjourned at 11.05am for 10 minutes and resumed at 11.15am)

The Chairman invited Councillor AJM Blackshaw, Cabinet Member (Economic Development and Community Services) to comment on the Cabinet decision.

The Cabinet Member (Economic Development and Community Services) commented that from the Tourism aspect he had viewed the Ribbon with a number of "Visit Herefordshire" Board Members who then had formed the view that the find was not a visually impressive feature to view and use to promote tourism. This view had been communicated via the 'Visit Herefordshire' leaflet to 1600 people involved in the tourism industry in addition to over 300 members of Visit Herefordshire, no criticism or challenge to this view had been voiced. (see additional paper 1). From the economic aspect Rotherwas Estate had 130 businesses with over 2,000 employees and a potential for a further 2,000 to be employed. Subject to funding for further investigations or the discovery of significant archaeological finds then Cabinet

may consider options relating to tourism education or heritage e.g. a display at the City Museum.

Responding to comments on the long term implications of building a road over a potentially major archaeological find and the potential for it to be a significant tourist attraction the Cabinet Member (Economic Development and Community Services) commented that it had land drains cut through it and that it would quickly deteriorate if left uncovered. He thought that the feature itself lacked visual or aesthetic appeal. He could see some merit in delineating the line of the feature in the landscape. The commercial viability of a visitor centre on site would depend on what further finds were made. Cabinet may need to consider the possible provision of a visitor centre in due course.

The Head of Economic and Community Services agreed that it was too early to tell the extent of the site and what it may contain. The current Ribbon site was unlikely to give a visitor value for money.

Questioned on when the Cabinet Member (Economic Development and Community Services) first knew of the find he responded that this had been just after the May election but was unable to recall the precise date.

Responding to comments on the feasibility of 2,000 further jobs at the Rotherwas Estate the Cabinet Member (Economic Development and Community Services) reported that unfortunately many young people were leaving the county for better jobs elsewhere. The Rotherwas Access road gave businesses in the estate a degree of long-term reassurance to make further investment.

The Ward Member for St Martins & Hinton (Councillor Chappell) briefly informed the Committee of the work of the South Wye Regeneration Partnership in encouraging businesses to stay in the area and improving the quality of jobs and pay. He added that many of the residents were in favour of the new access road. He commented that the high number of visitors required for a visitor centre to be viable could have a significant adverse effect on transport in the area. The Committee noted that conversely there had also been a petition to preserve the area from the access road.

The Director of Environment was asked if he knew about the Ms M Lane e-mail of 11th May. He responded that if he had been listed as a recipient then yes.

The Chairman invited Mr Malcolm George, former Chief Executive, Heart of England Tourist Board, to comment on the tourism aspect.

Mr George briefly outlined a number of thoughts on the issue and specifically commented that while it may be too early to think about visitor numbers to the area, destinations were always looking for ways to promote their area and this may be a 'new symbol' that could be linked or promoted via other destinations in the area. He also commented that the economic impact should be considered and recommended undertaking discussions with for example Advantage West Midlands and Tourism West Midlands and that a scoping report i.e. a feasibility study of the nature of the attraction, the potential market and funding requirement for the project, be formulated.

The Chairman invited Councillor DB Wilcox, Cabinet Member (Highways and Transportation) to comment on the decision.

The Cabinet Member (Highways and Transportation) reported that he had first heard about the Ribbon when a press conference was being arranged but was unable to remember the precise date. He had attempted to step back from the overall debate

so that the issue concerning the road was not the main focus and in order that a proper balanced view could be taken. He commented that the access road was a key element of the Rotherwas futures project and appreciated that any deviation of the route would cause problems e.g. via the Unitary Development Plan and further development of land at Rotherwas. He had been to see the Ribbon as someone interested in heritage and subjectively had been unable to see any tourism benefit. He had later returned to the site with the Leader of the Council following heavy rain and noted that silt had moved on the site. The Cabinet decision preserved the Ribbon in situ for future generations.

The Chairman invited Dr S Bryant, Head of Historic Environment, Hertfordshire County Council, to comment.

Dr Bryant reported that he had been requested by Herefordshire Council to assess whether the Council's procedures in respect of the Rotherwas Access Road had been undertaken in accordance with the principles of statutory planning guidance on archaeological and planning: Planning Policy Guidance Note 16. (Peer Review at Appendix A to Cabinet report). His preliminary conclusions, based on the documents received as set out in his report to Cabinet (appendix A), was that in almost all respects the guidance within PPG16 had been adhered to. He commented that further archaeological assessment of the site prior to the planning application may have identified more of the find and therefore provided further opportunity for archaeological mitigation. However, he acknowledged that access to the site may have been an issue. He further commented that the Council had considered options to preserve the find in situ, an opportunity rarely found in other major developments. On the evidence he had received he considered that best practice had occurred.

Responding to a question as to whether if a private developer had found the Ribbon the same outcome would have been achieved Dr Bryant responded that the same outcome may have occurred but it would probably have been far more difficult to achieve.

The Committee was informed that the Council did not own the land on either side of the road and therefore were currently unable to undertake further investigations. Preliminary negotiations had been held with the land owner who had indicated they had plans for their land and therefore would no doubt be looking to be compensated in the event of further archaeological investigations.

Questioned on the educational potential e.g. had archaeology students from the Hereford 6th Form College been given the opportunity to visit the site, Dr Ray responded that the opportunities for public visits to the site had been during the school holidays, and that in the experience of the archaeology service formal educational visits required considerable forward planning. Numbers of children of school age had been taken to visit the site by their parents on the public visits days.

On the question of whether scientific foundation funding had been looked at the Cabinet Member (Economic Development and Community Services) responded that following further consideration by English Heritage concerning the precise extent of the find then funding opportunities may be explored.

The Committee further debated the issues of who knew what when about the find and who had reported what to whom and whether Cabinet Members or Ward Members had been informed. The importance of getting the information into the correct context to avoid misunderstandings was noted.

The Chairman invited Mrs B Heavens, Chair, Hereford City Partnership; current

Director of Tourism West Midlands and former Association for the Promotion of Herefordshire to comment on the tourism aspect.

Mrs Heavens reported that she had been to see the Ribbon and commented that it was not a very visually attractive feature and from the tourist point of view would need a lot more information or explanation to be made available. She agreed with the views expressed in "Visit Herefordshire" leaflet (additional paper No 1) in that a balanced view needed to be struck. She thought the Ribbon was probably part of a bigger story and therefore may provide an opportunity for a visitor interpretation centre. She agreed that the road should continue; that the Ribbon be protected and funding for site investigation, and if appropriate a visitor centre, be explored.

The Committee then heard from Mr J Hines who presented the meeting with copies of "An alternative vision for the Rotherwas Ribbon" (additional paper No 7). This was his suggestion for the road construction to be used creatively; providing a vision for a new visitor facility to include an interpretation for the Ribbon, and a tourism gateway for Herefordshire.

The Cabinet Member (Economic Development and Community Services) thanked Mr Hines and undertook to read the suggestions made.

Mr Clay complained at this point that the Committee had not addressed the fundamental questions concerning the call-in and that the Council's call-in procedure was messy.

(The Committee adjourned for 10 minutes and resumed at 1.15pm)

On resuming the meeting the Committee considered whether it wished to accept the decision of Cabinet or to refer the decision back to Cabinet for further consideration and if so what recommendations it wished to make to Cabinet.

Councillor MAF Hubbard put forward a suggestion that the Committee recommend that Cabinet suspend the road build to more properly evaluate the issues of conserving the archaeological find.

The Vice-Chairman proposed an amendment, which was read to the Committee.

The matter was put to the vote whereupon Councillor Hubbard's proposal was defeated and the Vice-Chairman's was accepted.

RESOLVED: That

- 1) the decision taken by Cabinet on 6th September 2007 with regard to proceeding with option F for the completion of the Rotherwas Access Road be endorsed;**
- 2) While endorsing this decision the Committee notes that there might have been instances when information flow within the Council fell short of that normally expected. Cabinet is recommended to set in place work to address this for the future during periods of "purdah" and immediately following elections.**
- 3) the County Archaeologist be congratulated on the universally acknowledged standards and quality of his work on the ribbon thus far. We sincerely hope he will be able to lead further researches either side of the present find in due course.**

- 4) We urge Cabinet to continue to seek funding for further research into the ribbon including a tourism scoping report when appropriate.**

The Cabinet Member (Highways and Transportation) thanked the Committee and reported that the Committees recommendation would be reported back to Cabinet.

Mr. Hines commented that in his view the recommendations had not reflected the opinions expressed during the meeting.

Mr. Clay claimed that the Council's Standing Orders had not been complied with and due process had not been followed.

The Chairman commented that a number of issues, not strictly relating to the Rotherwas Ribbon decision, had been raised and that he would be taking further advice on those issues and would, if he thought appropriate, take the matters further.

The meeting ended at 1.25 p.m.

CHAIRMAN