

**OVERVIEW AND SCRUTINY
COMMITTEE**

6.00 P.M.

16TH AUGUST 2006

PRESENT:- Councillors Stuart Langhorn (Chairman), David Kerr (Vice-Chairman), Evelyn Archer, Susan Bray, Ken Brown, Rebekah Gerrard, Emily Heath, Robert Redfern and Rob Smith (substitute for Peter Robinson)

Also present:

Councillors Ian Barker, Alex Stone, John Whitelegg (part)
Councillors Sarah Fishwick, Jon Barry and Suzie Charles
Members of the public

Apologies for Absence

Councillor Peter Robinson,
Councillor Catriona Stamp (signatory to call-in)

Officers in attendance:-

John Donnellon	Corporate Director (Regeneration)
Sarah Taylor	Head of Legal and Human Resources
Graham Cox	Head of Property Services
David Lawson	Forward Planning Officer
James Doble	Principal Democratic Support Officer
Liz Bateson	Senior Democratic Support Officer

10 REQUEST TO CALL-IN CABINET DECISION - CANAL CORRIDOR DEVELOPMENT AGREEMENT

Members were advised that the Cabinet decision in relation to the Canal Corridor Development Agreement had been Called-in by the following 5 Members:

Councillors Emily Heath, David Kerr, John Whitelegg, Evelyn Archer and Catriona Stamp.

Members were informed that the Call-in had been made on the basis that the decision of Cabinet had not been made in accordance with all the principles set out in Article 13.02 (Decision Making) of the Constitution, in particular:

- (b) Due consultation and the taking of professional advice from Officers.
- (c) A presumption in favour of openness.
- (f) Options that were considered and the reasons for arriving at the decision will be explained.

The Chairman outlined the procedure to be followed and confirmed that in the event of the meeting going into closed session, this would be moved after the public comments.

The Chairman invited Councillor Whitelegg to address the meeting on behalf of the Call-in signatories.

Councillor Whitelegg confirmed that the decision had been called in for three reasons.

With regard to (b) due consultation and the taking of professional advice from Officers, it was suggested that the decision taken was not based on the result of a consultation exercise as Cabinet had not been provided with this information and there was a deficit in the scope of the information and advice provided by Officers.

With regard to (c) a presumption in favour of openness, it was suggested that important matters of debate were exempt which should not have been and that there was little attempt to widen the discussion to include Morecambe, Heysham or Carnforth.

It was suggested that in relation to (f) options that were considered and the reasons for arriving at the decision will be explained, the options considered were inadequate and the decision was therefore based on restricted options.

Councillor Whitelegg read out the following statement:

'The decision was made in the absence of any information available to cabinet members on the results of the household consultation. The canal corridor brief explicitly states that the views of members of the public will be taken into account and they were not. Further the financial implications did not take into account the possibility that losses will be greater than presented as a result of the abstraction of car parking revenues across the city by the 800 new spaces on this development (500 more than presently available). This option should have been included with an appropriate risk assessment in the information presented to Cabinet.

The decision was, moreover, based on an inadequate consideration of the potential damage to Morecambe's regeneration ambitions, to the financial viability of Lancaster market and its implications for the MTFS and the impact of extra traffic on traffic congestion on the gyratory system.'

Councillor Barker outlined that the principal decision before Cabinet had been with regard to a development agreement and the terms on which land could be transferred to Centros Miller together with financial agreements. It was suggested that this was an important decision in terms of the future of Lancaster retailing and in relation to jobs and that Lancaster had been identified within the Regional Spatial Strategy as a key town for retail. Councillor Barker confirmed that in order for the agreement to be implemented planning permission would be required and this was dependent on the results of an independently tested robust retail impact assessment together with a detailed and validated traffic impact study.

Councillor Barker suggested that the leasehold element enabled the Council to have some control over lettings and confirmed that the risk lay with the developer. The development would enable the Council to preserve its existing income stream and take part in future growth. The development would not consist of a closed shopping mall but also include affordable housing and open space. He suggested that a decent development required City Council intervention and this had been supported in the survey undertaken by White, Young and Green.

The Cabinet Member with special responsibility, Councillor Alex Stone addressed the Committee. He pointed out that as 60% of the land concerned was privately owned the Council only owned the remaining 40% and without the development agreement would have no control over any future proposals which could go directly to Planning Committee.

Councillor Stone addressed the issues raised by Councillor Whitelegg concerning Household consultation and Regeneration and suggested that Cabinet's role was to secure the assets of the Council and the Household consultation was not part of Cabinet's brief. It would however be considered by the Planning Committee. With regard to the regeneration of Morecambe, Councillor Stone suggested that this development would be complimentary to this and that it was a means of improving the amount of retail space and economic viability of Morecambe and the surrounding areas.

The Chairman invited the signatories to the Call-in to ask questions.

Councillor Archer questioned the necessity of supporting a development which exceeded the recommendations within the White, Young and Green report and the adverse effect this would have on Morecambe.

In response, Councillor Barker suggested that White, Young & Green had produced a range of figures. He pointed out that the Local Development Framework strategy identified one retail expansion area, namely the canal corridor and this was unopposed at Council. With regard to any possible adverse effect on Morecambe, Councillor Barker reiterated that the retail impact study would address this.

Councillor Whitelegg questioned whether the scale of development was appropriate given the impact of additional traffic on the already congested system.

In reply, Councillor Barker suggested that this was indeed the largest single hurdle that needed to be addressed prior to the granting of planning permission. It was noted that Centros Miller had engaged traffic consultants and their solutions would be the subject of independent evaluation.

Councillor Heath questioned the need for an additional 800 car parking spaces.

In response, Councillor Stone suggested that the additional 500 car parking spaces would have to be approved by the Planning Committee and this figure would be reduced if valid reasons for this approval could not be provided.

In response to questions concerning consultations and public opinion raised by Councillor Heath, Councillor Barker reported that the Council had undertaken a consultation in 2001/02 prior to the involvement of Centros Miller and confirmed that the consultations undertaken by Centros Miller would be considered at Planning.

In response to concerns with regard to credit worthiness, the Corporate Director (Regeneration) confirmed that this was being addressed and the Head of Property Services confirmed that a viability appraisal would be undertaken. Councillor Stone reported that the costs of development would be met by Centros Miller.

Councillor Kerr asked on what basis the decision was made to give Lancaster 100% of retail development and what retail space would be available for Morecambe and the rurals.

In response, Councillor Barker suggested that in order to increase the market share something different, like a department store, was required but this would not prevent further retail in other parts of the district.

Councillor Kerr sought further clarification as to whether the decisions were led by spending power or population figures particularly since the population of Morecambe exceeded that of Lancaster.

In response, Councillor Barker suggested that consideration needed to be given to where people shopped, that it was difficult to deliver a lot of additional retail in Morecambe and that trading was less profitable in Morecambe.

The meeting adjourned for a comfort break at 8.45pm

The meeting reconvened at 8.56pm

The Chairman invited other Members of the Overview and Scrutiny Committee to ask questions.

In response to a question from Councillor Bray, Councillor Barker confirmed that in the absence of the agreement, Centros Miller would be in a position to submit a planning application on the brewery site alone.

In reply to Councillor Brown's concerns regarding a possible detrimental impact on Morecambe, Heysham and Carnforth, Councillor Barker confirmed that the retail capacity study would address this.

In response to Councillor Smith's question on job creation, Councillor Barker suggested that several hundred jobs would be created, many within the service sector or part-time. If the Council chose the 'do nothing' approach there would be a danger regarding the viability of existing retail.

Councillor Langhorn asked for clarification as to the current position with Centros Miller and it was noted that negotiations were ongoing and Property Services would ensure that the interests of the Council were protected. It was noted that there were provisions within the lease to safeguard the Council but these were not public.

The Chairman then invited other Members present to question the decision makers

Councillor Barry outlined the reasons why he had requested an amendment at Cabinet to defer consideration of the development agreement until further information was provided and asked whether it was sufficient for Cabinet to reach an agreement without a proper report and presentation by Centros Miller and detailed plans.

In response, Councillor Barker confirmed that the majority of Cabinet had already seen a presentation and further information was made available to Cabinet following observations raised at Cabinet briefing. Councillor Stone confirmed that detailed plans would not be produced until the agreement had been approved.

The Chairman then invited the members of the public present to make statements directed to the Committee.

Members of the public made various statements with regard to concern over an increase in traffic volume and the potential impact of this on air quality. It was suggested that elected Councillors had ignored the views of the public and that the consultation should

have been wider.

The Chairman thanked the members of the public for their contributions.

EXCLUSION OF PRESS AND PUBLIC

It was proposed by Councillor Langhorn, seconded by Councillor Redfern and resolved unanimously:

That, in accordance with S100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it may involve the possible disclosure of exempt information as defined in Paragraph 3 of Schedule 12A of the Act.

Clarification was sought by Members with regard to exempt material.

**A decision was taken to re-admit the press and public at 9.55pm.
The meeting adjourned at 9.55pm.
The meeting reconvened at 10.00pm.**

On behalf of the Call-in signatories, Councillor Heath outlined the reasons for making the recommendations and Councillor Kerr requested that consideration be given to appointing a liaison member on the canal corridor.

It was proposed by Councillor Heath and seconded by Councillor Kerr:

“Overview & Scrutiny notes that the City Council, as a community leader and as a major land owner for the Canal Corridor North development, has the right and the responsibility to take full account of the impact of the proposed development on the whole of the Lancaster District before entering into a development agreement.

We therefore recommend that Cabinet postpones a decision on the Canal Corridor Development Agreement until the following information is available to be taken into account:

- The precise mix of uses as proposed by Centros Miller, and options for varying the mix.
- Results of public consultations carried out by Centros Milller.
- A risk assessment of the potential impact on Lancaster Market, Lancaster City Centre, and Morecambe and Carnforth Town Centres.
- Financial information on the impact of the net increase of 500 car parking spaces on the City Council's other car parks.
- A full traffic impact study, including the impact of any additional traffic-related air pollution on the Air Quality Management Zone.
- Further information on alternative sites for existing users of the site including the Dance Studio and the Homeless Action Centre.
- The rights of the public to use the public space in the new scheme.”

On being put to the vote, 3 Members voted in favour of the proposition, 5 Members against with 1 abstention, whereupon the Chairman declared the proposal to be lost.

It was then proposed by Councillor Heath and seconded by Councillor Kerr that the

proposal be amended to include just the first two bullet points and Members were asked to vote on the revised proposition.

Upon being put to the vote, 3 Members voted in favour of the revised proposal and 6 against, whereupon the Chairman declared the proposition to be lost.

A further recommendation was proposed by Councillor Kerr and seconded by Councillor Langhorn:

“That the consideration of a Cabinet Liaison Member for the Canal Corridor Development be included in the Overview and Scrutiny work programme.”

Upon being put to the vote, Members voted unanimously in favour of the proposal, whereupon the Chairman declared the proposition carried.

Resolved:

- (1) That the consideration of a Cabinet Liaison Member for the Canal Corridor Development be included in the Overview and Scrutiny work programme.
- (2) That the Overview and Scrutiny Committee would not refer the decision back to Cabinet and the decision could therefore be implemented by Officers.

Chairman

(The meeting ended at 10.20 pm.)

**Any queries regarding these Minutes, please contact
Liz Bateson, Democratic Services - telephone (01524) 582047 or email
ebateson@lancaster.gov.uk**