

**THESE MINUTES WILL BE PRESENTED TO THE SCRUTINY COMMITTEE
ON 12 JULY 2006 FOR APPROVAL AS A CORRECT RECORD.**

West Wiltshire District Council

Minutes

- Minutes of the:** Scrutiny Committee
- Held on:** Wednesday 17 May 2006
- Held at:** Council Offices, Bradley Road, Trowbridge
- Present:**
- Councillors:** Phillips OBE, (Chairman), Blakemore, Bower, Conley, Fortescue, March, Mounde, Newbury, Oakman, Repton, Rosier and Viles
- Also in attendance:** Portfolio Holders: Cllr Carbin (part) and James (part)
- Cllrs Clark and Hawker
- Officers:** Corporate Directors (TD & IG), Head of Legal and Democratic Services (NM), Principal Lawyer (A A-P), Head of Finance (IJ), Head of Development Control Services (DH), Housing PFI Project Manager (CT), Member Support Team Leader (YR), Member Support Officer (PS) and Democratic Support Officer (KF)

44. Apologies and membership of the Committee

The Committee noted its membership following the appointments made by Annual Council on 10 May 2006 and that Cllrs Phillips and Bower had been elected Chairman and Vice-Chairman respectively.

Apologies for absence were received from Cllrs, Hames, Lewis, Manasseh, Oldrieve, Payne and While. Cllr Oldrieve was replaced for this meeting by Cllr Repton and Councillor While by Cllr Viles.

45. Minutes

The minutes of the last meeting held on 19 April 2006 were approved as a correct record and signed by the Chairman subject to:

an alteration of including the attendance of Cllr Clark (who had left the meeting after consideration of the item recorded at minute no. 31 and;

altering attendees in one instance from Hames to James.

46. Declarations of Interest

The Chairman drew Members' attention to the Protocol on Planning, Licensing and other Regulatory Functions.

He reminded Members of the advice given ahead of the PFI Council Seminar in March.

He also reminded all Members present that they were all required to abide by the Code of Conduct.

He also gave specific advice to members who also served on the Planning Committee.

The following Members declared their interests in the item Housing PFI Update and any other references to the PFI scheme:

Councillor	Interest
Bower	Council representative on West Wiltshire Housing Society
Newbury/Rosier	Chairman and Vice-Chairman respectively of the Planning Committee
Hawker	Lives close to one of the car parks mentioned in the proposals. Was not a member of any of the committees of bodies, churches or action groups and a member of the Planning Committee
Repton	Lives near one of the car parks mentioned in the proposals and a member of the Planning Committee

Viles, Oakman, Clark and March	Members of the Planning Committee
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47. Announcements from the Chairman

The Chairman explained the format of the meeting which would be taken in two parts.

In the first part, to receive legal advice from the Head of Legal and Democratic Services who would also explain the roles of the officers present.

In the second part, to receive comments from the Cabinet representative (Cllr Carbin) to explain the reasons for Cabinet's decision and comments from those who had sought the call-in (Cllrs Clark, Hawker, Mudge, Rosier and Syme). The Committee would then proceed to debate the issue. The Chairman intended to only allow members of the public to speak on conclusion of the debate if they felt that matters they wanted to draw to the Committee's attention had not been raised during the debate by Members.

48. Call-In – Council Owned Development Sites for the Housing PFI Scheme.

The Scrutiny Committee at its meeting on 19 April 2006 had resolved to call-in the Cabinet decision dated 5 April. It had deferred further consideration of the matter until this meeting in order for Members to receive and fully consider all available documentation and to allow for attendance by interested parties.

The reasons given by the members requesting the call-in raised the question of whether or not the decision was wrongly taken, in that it was within one of the categories set out in the Constitution.

The Head of Legal and Democratic Services advised the Committee on this issue, particularly on the points of unlawfulness and maladministration. She re-iterated the point made in the report presented, that neither the Deputy Monitoring Officer nor the S.151 Officer were of the opinion that there was evidence of unlawfulness or that maladministration had occurred. This was supported by advice given by the Deputy Monitoring Officer at the meeting.

She also sought the Committee's views on whether or not it would like to request Cabinet to reconsider its decision and if so, what matters it would like Cabinet to take into account in its reconsideration .

It was moved and seconded that the members of the public who had indicated they wished to speak, be allowed to speak at this point in the meeting. The Chairman agreed to accept the motion and on being put to the vote it was,

RESOLVED:

That an open forum be allowed at this point in the meeting.

Open Forum Speakers:

Hugh Ellis, Deborah Sage, Davina Griffin, John Graham-Leigh, Anthony Heath and Francis Morland.

A debate ensued, during which proposals were made to refer the matter to Council. The Head of Legal and Democratic Services advised the Committee of the call-in process, which was largely dictated by relevant legislation and the circumstances when the Committee might refer the matter to Council. She stressed that subject of the call-in was an executive decision and as such, could not be over-ridden by Council.

Cllr Carbin attended the meeting at this point and gave the Cabinet perspective.

Cllr James arrived at the meeting during the debate.

The Committee expressed the view that it would ask Cabinet to reconsider its decision. To assist the Committee, the Corporate Director gave a summary of the concerns raised by the Committee during the debate which it would like Cabinet to take into account.

On being put to the vote, it was

RESOLVED:

- (a) To refer consideration of the matter to Council to note and debate. To report that the Scrutiny Committee was unhappy with the merits of the Cabinet decision. The Committee believes that potentially there may have been maladministration and/or unlawfulness . The Committee considered that this was the only mechanism to bring it to the Council's attention.**

Note: Recorded Vote

The above decision (a) was the subject of a recorded vote, which was recorded as follows:

For referral to Council (8)

Cllrs Blakemore, Conley, March, Newbury, Oakman, Phillips, Rosier and Viles

Against referral to Council (4)

Cllrs Bower, Fortescue, Mounde and Repton

(b) That Cabinet be requested to reconsider its decision dated 5 April 2006 and in so doing, to take the following matters into account:

- **Need for more/some consultation**
- **The level of public disquiet since the Cabinet decision.**
- **Lack of consultation with those likely to be affected by the development of sites**
- **Letters received from the town Council not included in the information to Cabinet**
- **Cabinet have not (or did not at the time of the decision) have access to all the relevant information to inform their decision**
- **Cabinet decision based on inaccurate/incomplete information**
- **Concerns expressed about Cabinet overly relying on the Planning system to address specific concerns regarding specific sites**
- **The inclusion of sites which do not take account of the impact on facilities with a high community value**
- **Cabinet not having a full understanding of the planning implications or advice in respect of PPG13**
- **That Cabinet urgently reviews arrangements to identify alternative sites**

- **Concern that the Council was becoming a single issue Council and that the process was driving the decision making**
- **Concern that the view of Council would not have been the same had these issues been known at the time of that decision (ie a change from providing 100 – 200 units)**

Note: Recorded Votes

Cllrs Fortescue and Mounde requested that their votes against the above decision (b) be recorded.

- (c) That a report be prepared for consideration by the Scrutiny Committee to review the role of the Committee with particular reference to the call-in procedure was concerned, with any recommendations being channeled through established procedures.**

49. Date of Next Meeting

The next meeting will be held on 8 June 2006

(7pm – 9.16pm)

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