

SCRUTINY BOARD (CITY DEVELOPMENT)

WEDNESDAY, 16TH SEPTEMBER, 2009

PRESENT: Councillor R Pryke in the Chair

Councillors C Beverley, R Downes,
V Kendall, J Lewis, M Lyons, T Murray,
D Schofield, B Selby, S Smith, N Taggart
and G Wilkinson

43 Chair's Opening Remarks

The Chair welcomed everyone to the call-in meeting.

44 Apologies for Absence

Apologies for absence were submitted on behalf of Councillor S Armitage, T Grayshon, R Harington, M Lobley, and A Ogilvie.

The Board were informed that Councillor J Lewis was a substitute for Councillor S Armitage, Councillor M Lyons for Councillor R Harington, Councillor V Kendall for Councillor M Lobley and Councillor B Selby for Councillor A Ogilvie.

45 Call-In of Decision - Briefing Paper

The Head of Scrutiny and Member Development submitted a report regarding the procedural aspects of the call-in process.

Members were advised that the options available to the Board in respect of this particular called-in decision were:-

Option 1 – **Release the decision for implementation.** Having reviewed the decision, the Scrutiny Board (City Development) could decide to release it for implementation. If this option was chosen, the decision would be released for immediate implementation and the decision could not be called-in again.

Option 2 – **Recommend that the decision be reconsidered.** Having reviewed the decision, the Scrutiny Board (City Development) could recommend to the Director of City Development that the decision be reconsidered. If the Scrutiny Board (City Development) chose this option, a report would be submitted to the Director of City Development within 3 working days of this meeting. The Director of City Development would reconsider the decision and would publish the outcome of their deliberations on the delegated decision system. The decision could not be called-in again whether or not it was varied.

RESOLVED – That the report outlining the call-in procedures be noted.

46 Call-In of a Decision - Review of Executive Board Decision of 26th August 2009 - Minute 66 - Deputation to Council - North Hyde Park Residents' Association, South Headingley Community Association, and Friends of Woodhouse Moor regarding the Council's proposal to establish a barbecue area on Woodhouse Moor

The Head of Scrutiny and Member Development submitted a report, together with background papers, relating to a review of the Executive Board decision of 26th August 2009 in relation to a Deputation to Council from North Hyde Park Residents' Association, South Headingley Community Association and Friends of Woodhouse Moor, regarding the Council's proposal to establish a barbecue area on Woodhouse Moor.

Appended to the report were copies of the following documents for the information/comment of the meeting:-

- Copy of completed call-in request form
- Report of the Director of City Development – Executive Board- 26th August 2009 – Woodhouse Moor Park Barbecue Use
- Executive Board minutes of 26th August 2009

In addition to the above appendices, a copy of the following documents were circulated as supplementary information to assist the Board in their deliberations:-

- Call-in – Woodhouse Moor Park Barbecue Use – Management comments on underlying reasons for the requested Call-in
- Timeline of events relating to designated barbecue area on Woodhouse Moor from 2nd July 2008 – 1st September 2009

The decision had been called-in for review by Councillors J Illingworth and L Rhodes-Clayton on the following grounds:-

“There has been no public consultation about the currently recommended option (the trial area) and little indication of the size of this area, the surface treatment, or where exactly this area might be located.

The decision does not adequately balance the human rights of barbecue users against those of other users of the park, including disabled people.

It is not clear what the outcome will be, particularly as regards cellular concrete. A recent letter to residents says "no concrete" but it seems that likely that concrete will in fact be used. It is not clear how the exercise will be assessed, or how the park will be restored if the experiment is judged to have failed.

It is not clear what other options have been considered, or how this trial might impact upon other parks in Leeds.”

Councillors J Illingworth and L Rhodes-Clayton attended the meeting to present evidence to the Board and respond to Members' questions and comments.

The following Executive Member, officers and witnesses (who had been called by the signatories of the Call-in to support the original justification for the decision having been called in) were in attendance:-

Councillor J Procter, Executive Member for Leisure
Sean Flesher, Acting Head of Parks and Countryside, City Development
Caroline Allen, Head of Development and Regulatory, Corporate Governance
Bill McKinnon, Friends of Woodhouse Moor
Anthony Green, North Hyde Park Association
Kathleen Mason, representing those suffering from Chronic obstructive pulmonary disease (COPD)

The Chair informed the meeting that Councillor J Illingworth had been provided with a copy of all of the consultation forms returned to the City Development department with confidential information removed. It was noted that a copy of these documents could be made available to the Board on request.

Prior to hearing the request for Call-In, the Chair requested Board Members to take an early view as to whether the consultation papers were relevant to the case or not and if they were, whether they wished to see the original questionnaires, including the confidential items.

Following a brief discussion, the Board agreed that the consultation papers were not relevant to the case, but noted that they could be made available upon request.

The Board then questioned Councillors Illingworth and Rhodes-Clayton, together with Councillor Procter, officers and witnesses at length on the evidence submitted.

In summary, the main points raised by Councillor Illingworth, Councillor Rhodes-Clayton and their witnesses were:-

- that in relation to the consultation documents and the methodology, the Council had, in their opinion, been inherently biased towards the option of a barbecue area
- the fact that there had been no public consultation about Option 3 which the Executive Board had introduced and approved. There were no details of the trial in relation to size of the area/surface treatment / location and markings.
- that, in their opinion, the decision of the Executive Board did not balance the human rights of barbecue users against those of other users of the park, including disabled people

- concern about whether the relevant Byelaws permit was being proposed
- that in their view it was not clear what the outcome would be regarding the proposed use of cellular concrete and how the trial would be assessed
- that it was not clear what other options had been considered and how the trial might impact upon other parks within the city
- the view that the use of grass-crete was not suitable for the proposed barbecue area
- the fact that people with breathing difficulties (in particular those who suffered from a condition known as Chronic Obstructive Pulmonary Disease (COPD)) would be excluded from using the parks facilities as a result of the smoke pollution
- the concern that a previous trial for a designated barbecue area on Woodhouse Moor had failed in 2006
- the need for the Council to consider the cost implications, together with adequate enforcement arrangements

As part of his presentation to the Board, Bill McKinnon circulated a number of photographs highlighting barbecue activity on Woodhouse Moor and the smoke pollution caused by such an activity for the information/comment of the meeting.

In explaining the reasons for the decision, Councillor Procter and officer made the following comments:-

- the fact that the report presented to Executive Board on 26th August 2009 outlined the results of a recent consultation exercise with local residents and stakeholders and following detailed discussions by the Board, Option 3 to trial a designated barbecue area on Woodhouse Moor was agreed
- that it was the view of the Executive Board and the Director of City Development that consideration of this issue has been open and transparent
- that it was the view of the Director of City Development that while the report did not make any specific reference to human rights issues, given the balance of views expressed throughout the consultation exercise, the trialling of a designated barbecue area could be seen as offering a pragmatic solution that balanced the rights of all park users
- that it was the view of Executive Board and the Director of City Development that while the report did not state explicitly how the trial would be assessed, or how the park would be restored if the trial was judged unsuccessful, it was considered that the most appropriate way to progress would be to implement Option 3 to trial a designated barbecue area
- the fact that this issue had been fully debated at the Scrutiny Board (City Development) meetings held on 7th July 2009 (Consultation process) and 1st September 2009 (Cost benefit analysis) and that the Board had resolved that the consultation process had been carried

out in a proper and through manner and that the request for a cost benefit analysis was refused

- a copy of the plan showing the proposals for a designated barbecue area had Option1 been accepted was tabled for information

The Chair then invited questions and comments from Board Members and, in summary, the main areas of discussion were:-

- a substitute Member referred to the Leeds City Council Byelaw for Pleasure Grounds, Public Walks and Open Spaces and expressed a number of concerns
(The Head of Development and Regulatory responded and confirmed that provision existed within the byelaws for the Council to move towards a designated trial area. The substitute Member stated he would write formally to her on the matters raised)
- reference to the photographic evidence circulated and the scale of the problem
- clarification of current barbecue activity on Woodhouse Moor and on how the byelaws would be enforced outside the designated area
(The Executive Board Member for Leisure responded and outlined the current activities and concerns, in particular around the increasing use of camp fires)
- reference to a previous debate at the North West (Inner) Area Committee where it was acknowledged that having a trial area would make it easier for the situation to be enforced.
- clarification as to why a previous trial undertaken in 2006 for a designated barbecue area on Woodhouse Moor had failed and on the success rate of other designated barbecue areas in Otley Chevin Park and the Wilderness, Wetherby
(The Acting Head of Parks and Countryside responded and outlined the basis of the trial scheme undertaken in 2006 which was not evaluated due to time constraints and opposition from community groups. The Board noted that in relation to Otley Chevin Park and the Wilderness, Wetherby the designated barbecue areas were working effectively with no complaints received from the public)
- clarification of how the designated barbecue area would be enforced, and the resource implications arising from this and whether the department was intending to extend similar trials to other parks
(The Executive Member for Leisure responded that enforcement would be carried out by the Parks Watch Service and acknowledged that this was a major resource commitment. He confirmed that, in view of the difficulties in imposing fines in this regard, it was not the intention to implement similar trials in other parts of the city)
- clarification of the budget set aside for enforcement
(The Executive Director for Leisure responded and confirmed that there was no designated sum of money set aside for enforcement. However, he confirmed that Parkswatch would consider deploying resources at the appropriate time)

- clarification as to why there was no specific mention of the size or location of the area (including materials, bins and signage) within the Executive Board report relating to Option 3
(*The Executive Member for Leisure responded and confirmed that as discussions were ongoing in this regard between officers and interested groups, a designated area had yet to be determined*))

Following this process, the Chair allowed the Call-In signatories and the witnesses to sum up.

On behalf of the Call-In signatories, Councillor J Illingworth highlighted the following issues:-

- that he wished to see a copy of the disability assessment for the proposals that had been undertaken by the department and referred to in the earlier discussions
- that, in his view, the public consultation had been inherently biased against those opposing the introduction of a designated barbecue area
- that, in his view, the proposals did not balance the human rights of those who wish to barbecue in the park and other users of the park
- that smoke pollution from barbecues was a major issue as it produced more pollution than a modern industrial incinerator

On behalf of the witnesses, Bill McKinnon stated that there was a need for the Council to be flexible in relation to this issue and for public consultation to take place prior to agreeing a preferred option.

In conclusion, the Chair thanked Councillor J Illingworth, Councillor L Rhodes-Clayton, together with Councillor J Procter, officers and witnesses, for their attendance and contribution to the call-in meeting.

RESOLVED –

- (a) That the report and information provided be noted.
- (b) That a copy of the disability assessment for the proposals be circulated to all Members of the Board and Councillors Illingworth and Rhodes-Clayton.

(Councillor N Taggart joined the meeting at 9.20am during discussions of the above item)

47 Outcome of Call-In

Following consideration of evidence presented to them, the Board passed the following resolution:-

RESOLVED – That the report of the Director of City Development on Woodhouse Moor Park Barbecue use previously considered at the Executive Board meeting on 26th August 2009 be immediately released for implementation.

(The meeting concluded at 11.05am)