

Performance and Finance Scrutiny Committee

15 April 2020 – At a virtual meeting of the Performance and Finance Scrutiny Committee held at 10.30am.

Present: Cllr J Dennis (Chairman)

Cllr Catchpole, Cllr Barling, Cllr Barrett-Miles, Cllr Boram, Cllr Bradford, Cllr Edwards, Cllr M Jones, Cllr Kitchen, Cllr Montyn, Cllr Smytherman, Cllr Sparkes, Cllr Turner, Cllr Waight and Cllr Walsh

Also in attendance: Cllr Hunt, Cllr Crow and Cllr Marshall

Part I

54. Declarations of Interest

54.1 Cllr Boram declared a personal interest in relation to the item as an Adur District Councillor.

55. Call-in: New Monks Farm – Withy Patch land surplus to service need and development agreement FIN 18 (19/20)

55.1 Cllr Jones introduced the request to call-in the decision by the Cabinet Member for Finance concerning the New Monks Farm – Withy Patch land surplus to service need and development agreement FIN 18 (19/20) decision, (call-in request appended to the signed minutes). Cllr Jones explained that his concerns related to the land transaction as well as the effects on the residents of the Withy Patch gypsy and traveller site. Summarising his concerns he highlighted the following:

- There appears to be a lack of clarity in how the development agreement with The Community Stadium Limited (TCSL) has been agreed.
- The Council's duty of care to this protected group may not have been fulfilled as an equality impact assessment (EIA) has not been undertaken, and he has concerns that the site residents have not been fully consulted.
- Physical concerns regarding the new pitches, including pitch size, whether space for car parking is included within the pitch, location on the periphery of the development and site layout changes which may reduce privacy for residents.
- Concern that new increased rent costs have not been agreed by the Council prior to the development commencing.
- Environmental impact considered by the District council during the Planning process should also be considered by the County Council.

55.2 The Cabinet Member for Finance responded. He noted that the proposed changes to the Withy Patch site had been discussed at a number of informal meetings he had had with Mr Jones, via written questions to Full Council, a Notice of Motion to Full Council, and a debate at Full Council, and therefore have received significant officer and Member engagement. The concerns raised in the call-in are addressed in the supplementary information report. Before the decision was taken to declare the land surplus the Cabinet Member for Finance had full

engagement with other Cabinet Members and officers, and considered comments from the wider membership. He understood that most residents appreciated the benefits of the scheme, and highlighted there was also a duty to use the opportunity offered from the developer to benefit all West Sussex residents. The Withy Patch site improvements come at no cost to the Council due to the land swap, in which the Council will swap a 1.6 acre site in need of improvement for a 2.5 acre purpose built site with enhancements, and this represents good value for the Council. The section 106 monies have been agreed with the developer to benefit the local area, and the development will create investment and boost the local economy in the Adur area. The Cabinet Member for Finance took all factors into account prior to making his decision.

55.3 The Cabinet Member for Fire & Rescue and Communities responded to Cllr Jones' comments in relation to the site residents. He highlighted that the site development was a great opportunity for the residents and will provide enhanced facilities, including four extra pitches on the site, plus an amended site layout and increased pitch footprint which would enhance the service for residents. Furthermore the New Monks Farm development provides employment and encourages wider development in the local area, and the Council would be remiss in not taking the opportunity. Site residents have been consulted and the proposals are generally welcomed. The rent increases expected will be set based upon the quality of the new facilities which is in line with Council policy for residents on such sites elsewhere in the County.

55.4 The Chairman invited questions and comments from the Committee concerning the consultation with Withy Patch residents, including those that follow. The comments of members included the following:

- That an Environmental Impact Study is publicly available on the Adur District Council website, and was considered during the local authority's Planning process.
- Queried how resident's views varied (as noted at Annex 1 para 8.5), whether any strong objections were received, and if so how these were overcome or mitigated. Queried whether any issues remain outstanding to be resolved both in relation to the Withy Patch residents and residents in the wider local community. *The Cabinet Member for Fire & Rescue and Communities explained that most of the site residents were happy with the proposals. Concerns raised are being addressed, and the residents have some natural trepidation regarding the move but officers will continue to engage and provide reassurance. Both site residents and local residents were also able to make any comments during Adur District Council's Planning process.*
- That the increase to rental rates for site pitches with improved facilities were understandable.
- As the Council knew the site and facility specification, whether the estimated rental increase could be provided and if this could be deferred until all construction was complete. *The Gypsies and Travellers Manager commented that the final site design has not yet been agreed so it is not possible to advise on the rental rates. Other gypsy and traveller sites within the county have been refurbished with subsequent pitch rental increases so it would be in line with that and the quality of the facilities provided.*

- Noted that residents would experience a level of disruption on the Withy Patch site during the development, and that it would be appropriate to phase the increases to rental rates in order to acknowledge the disruption experienced. *The Cabinet Member for Fire & Rescue and Communities explained that rental increases will be discussed but cannot yet be determined. The Cabinet Member accepted the Committee's suggestion and undertook to consider a phased rental increase.*
- Sought reassurance that sufficient time was allowed in the consultation with site residents to allow their views to be received, and given sufficient weight and consideration. *The Cabinet Member for Fire & Rescue and Communities confirmed that officers have found one-to-one consultation with site residents to be the most constructive method and that this will continue as long as required.*
- Whether objections received regarding the site changes have been overcome or mitigated. *The Gypsies and Travellers Manager confirmed that the amendments and mitigations are outlined in the supplementary information report; any outstanding issues will be discussed with the developer and amended or mitigated if possible.*

55.5 The Chairman invited questions and comments from the Committee concerning the highway works required to accommodate changes to the New Monks Farm site, including:

- Whether the Council will adopt and be responsible for the maintenance and costs of the roadways within the new Withy Patch site and the north and south access routes, and also within the wider New Monks Farm development. *The Cabinet Member for Finance confirmed the Council will hold the freehold to the new Withy Patch site and therefore will maintain its roadways within the gypsy and travellers maintenance budget. There will be only one access route into the site via the south and this will be via a private road similar to the existing situation. As with the New Monks Farm roadway, the developer may request the Council adopt the roadways in which case the roads would need to be assessed for adoption in the normal manner.*
- That the roadway works cannot be carried out until the new Withy Patch site is complete and whether the move will take place soon in order that works can begin. *The Gypsies and Travellers Manager confirmed that works on the whole development have stopped due to the Covid-19 pandemic and therefore final dates cannot be confirmed at this time. It is hoped works will be able to recommence shortly and that the move would take place in the later part of 2020.*
- Whether agreement has been reached between the developer and Highways England regarding the proposed A27 configuration and roundabout access. *The Cabinet Member for Finance confirmed the roundabout layout has been agreed by all parties.*

55.6 The Chairman invited questions and comments from the Committee concerning the nearby Shoreham Airport, including:

- Whether Shoreham Airport and the Civil Aviation Authority (CAA) have been consulted, and whether the agreement of both to the new Withy Patch site has been obtained. *The Cabinet Member for Finance confirmed both have been consulted and submitted letters*

of support with no objections to the changes. Whilst both parties were included in the consultation, the location of the new site is outside of the licensed area for the Airport and therefore the CAA's approval is not a requirement. The Airport will make a slight alteration to the flight paths of helicopters in order to reduce potential noise impact.

55.7 The Chairman invited further general questions and comments from the Committee. They included:

- Comments made by a number of members of the Committee that they did not support the reasons given for calling-in the decision.
- Comments that officers be thanked and commended for the extensive consultation undertaken with groups and individuals for the New Monks Farm development and Withy Patch site relocation.
- A question whether the Council is party to the section 106 agreement, and whether there is a separate agreement with the developer to swap the land involved to construct the site. *The Director of Law and Assurance confirmed the section 106 agreement is concluded and in place to provide local amenities and services. There will be a separate legal agreement for the land swap and development of the site.*
- A question whether there is any alternative for residents who do not wish to relocate to the new Withy Patch site, and whether the relocation fees for residents who do wish to move will be paid for. *The Valuation and Estates Manager confirmed the developer will bear the relocation expenses for mobile homes and personal possessions, and that residents will get like-for-like replacement of items like planters and paving in their new plots.*
- A question whether during the negotiations with the developer consideration was given to purchasing new mobile homes for those relocating to the new site. *The Gypsy and Travellers Manager explained that recent discussions have not covered the provision of new mobile homes and there is no indication that the developer intends to do this.*
- A Member commented that he considered there to be four legal issues with the decision and questioned if these would stand up to a judicial review. *The Director of Law and Assurance noted that the four legal points were addressed in the supplementary information report for the decision to respond to the concerns outlined in the call-in. The consultation with those affected has been thorough and any outstanding issues will be addressed so this is not considered to be a vulnerability. The Public sector equality duty does apply to this development, and has been assessed throughout the process and no adverse concerns have been identified as outlined in the report. The Human Rights Act requirement is covered in the report and the specific concern raised regarding the right to privacy is not considered relevant to the proposed changes, as moving from linear plots to the proposed layout brings the site in line with all other sites in the county and does not infringe privacy rights. In regard to the comment concerning compensation being due to the site residents, the Director of Law and Assurance confirmed that the former owner of the site is the Department for Transport therefore there is no benefit of the covenant on the land between the Council*

benefitting the residents and compensation to the occupants of the site would not be required.

55.8 The Cabinet Member for Finance summed up, stating it has been demonstrated beyond reasonable doubt that all concerns raised have been addressed. Discussions are ongoing and any outstanding issues will be addressed. His position in making the Executive decision FIN 18 (19/20) remains unchanged and he is satisfied to proceed with the decision.

55.9 The Cabinet Member for Fire & Rescue and Communities summed up, thanked officers for going the extra mile for their site residents in this decision, and commended the recommendations in the original decision report for consideration by the Committee.

55.10 Cllr Jones thanked officers and Cabinet Members for their answers, and the Committee for the debate on this call-in. Summarising his outstanding concerns following the debate, specific issues and recommendations for consideration by the Committee were highlighted, including those that follow:

- Some answers given were not known by the residents which indicates that effective communications may have failed.
- Suggested a further six week public consultation should be undertaken prior to signing of the agreement with the developer.
- Requested that the size and layout of the pitches be agreed prior to development (including the rental increase) and communicated to site residents.
- Agreed that any rent increase should be phased to reflect the disruption residents will experience.
- Suggested that a review be undertaken regarding his concerns on air quality, traffic, noise, flooding and drainage, the effects of the nearby Shoreham Airport, and the Council's duty of care being exercised.

55.11 The Chairman summed up the Committee's comments and views. There was general agreement within the Committee that the proposal represented a good outcome for the residents of the site and good value for the Council, that the surplus declaration was the best use of the land, and that the recommendations noted in the original decision report (Annex 1) be agreed and supported. The Committee agreed that an additional recommendation be made to the Cabinet Member for Finance that the impact of future rent increases be mitigated by adopting a phased approach to increases; this approach should also take into account the disruption for residents during the re-development of the site.

55.12 The Chairman reiterated that as the Committee supported the proposed decision FIN18 (19/20) it became effective from the end of the meeting. The Cabinet Member for Finance's response to the additional recommendation will be reported to the Committee in due course and published on the website.

55.13 Resolved -

- 1) That the Committee supports the Cabinet Member's proposed decision FIN 18 (19/20) and the recommendations detailed in the decision report, as follows:
 - i. That the current Withy Patch Gypsy and Traveller Site be declared surplus to service operational requirements on the basis that the County Council enters into a development agreement with The Community Stadium Limited (TCSL) for TCSL to construct a new Gypsy and Traveller site, to an agreed specification, within the New Monks Farm development; and that
 - ii. Authority is delegated to the Director of Property and Assets, in consultation with the Director of Law and Assurance, to complete the development agreement and the land transfer transaction.
- 2) That the Committee recognise the concerns about the rent changes and recommends that a phased approach to increases be introduced, particularly whilst the building development is taking place.

56. Date of Next Meeting

56.1 The Committee notes its next meeting will take place on Friday 15 May, commencing at 10.30am.

The meeting ended at 12.12 pm

Chairman