



Cabinet minutes

Minutes of the meeting of the Cabinet held on Monday 13 September 2021 in The Oculus, Buckinghamshire Council, Gatehouse Road, HP19 8FF, commencing at 10.00 am and concluding at 11.39 am.

Members present

M Tett, A Macpherson, G Williams, S Bowles, S Broadbent, J Chilver, A Cranmer, C Harriss, N Naylor and P Strachan

Others in attendance

Z Mohammed, R Stuchbury and A Wheelhouse

Agenda Item

1 Apologies

There were none.

2 Minutes

RESOLVED –

That the Minutes of the meeting held on 20 July, 2021, be approved as a correct record.

3 Declarations of interest

There were none.

4 Hot Topics

The following hot topics were reported:-

The Leader

The Leader encouraged those that would like to continue to receive regular communications from the Council on events, services, project and consultations in their area to sign up for newsletters at www.buckinghamshire.gov.uk.signup.

Deputy Leader and Cabinet Member for Health and Wellbeing

Cabinet were informed that Government's announcement last week on adult social care reform was a welcome step in the right direction. An Adult and Social Care

White Paper would come forward in due course that the Council would ensure it responded to. The Government needed to ensure it worked with councils, their partners and those with lived experience, in order to develop a care and support system that was fit for the future and had sustainability of funding.

Deputy Leader and Cabinet Member for Planning and Regeneration

Cabinet were informed of two issues:

- Local Heritage List Campaign– the Council was one of 22 areas in the country participating in a MHCLG pilot scheme, which was now live, to identify non-designated local heritage assets (buildings, monuments, sites, places, areas or landscapes which had been identified as having a degree of significance meriting consideration in planning decisions, because of their heritage interest), but must include buildings. Members of the public were encouraged to identify assets they believed should be added to the list.
- Design Code pilot – the Council was one of 14 local planning authorities in England selected by the MHCLG to apply the new National Model Design Code (NMDC) to their areas in a six-month testing programme. The code would give local planning authorities a toolkit of design principles to consider for new developments, such as street character, building type and façade. It also features environmental, heritage and wellbeing factors. It would also help place shape for the new Buckinghamshire Local Plan.

Cabinet Member for Transport

Cabinet were informed that the Council had been awarded £0.5m from the Department of Transport to enhance and maintain signalisation (i.e. traffic lights and sensors) around the Aylesbury gyratory.

Cabinet Member for Culture and Leisure

Cabinet were informed that local theatres had recently opened, which had included a production of 'Hairspray' at the Aylesbury Waterside theatre. Buckinghamshire had recently featured in coverage that it was the home of the Paralympics. Finally, the return of Pub in the Park would be taking place in Marlow from 16-19 September 2021.

Cabinet Member for Communities

Cabinet were informed of two issues:

- Community Boards update – a successful meeting of Community Board Chairmen and Vice Chairmen had been held on 6 September looking at projects and activities being undertaken. Some of the projects being worked up included some Boards joining up to work on tackling speeding, the environment and a community karting project at Silverstone. 3 project approval panels had been held and considered 26 projects valued at approximately £500K. Projects approved included for highways projects with feasibility studies, super health and wellbeing projects including outdoor gyms in 2 Parishes, a new BMX park, 7 dementia projects to raise awareness in the community and a Community fridge. To date, approximately £800K in projects had been approved.

- Community Safety funding – the Thames Valley Police and Crime Commissioner had announced additional Community Safety funding for Buckinghamshire: £50K in 2023-24 and £51K in 2024-25. This would bring the total funding to £537,585.

Cabinet Member for Climate Change and Environment

Cabinet were informed that the national shortage of HGV drivers continued to impact refuse collections, in particular in the Chiltern and Wycombe areas. The contractors (Veolia) had reported on Friday that they only were able to put out 41 of the normal 61 rounds in these areas due to driver shortages. While this situation continued it had been agreed to continue the practice of collecting food waste alongside recyclates. Buckinghamshire Council had continued to collect green waste across the area, although this service had been suspended by some other nearby Councils due to driver shortages.

5 Question Time

Question from Councillor Robin Stuchbury to Councillor Gareth Williams, Deputy Leader and Cabinet Member for Planning and Regeneration

“As you are aware a number of bodies were uncovered during excavations ahead of work at West End Farm, on Brackley Road in Buckingham for a planned care home. This included skeletons of 80 bodies with hands tied behind their backs. I would be grateful if the Cabinet Member for Planning and Regeneration could provide an interim report of the basic analysis of this major historic site to provide clarification of what took place and in what date period for local residents. I understand that some of the investigations have been halted due to financial issues between the developer and Network Archaeology, which have been ongoing for some considerable time, and if this is the case what action can be taken by officers to bring this to a quick resolution?”

Response

“We are aware of the issues surrounding this archaeological excavation, which took place in 2018-19, in accordance with a condition attached to planning consent 16/00847/APP granted to Brio Homes through appeal. Between 70 and 80 irregular burials were excavated, some singular and others multiple, with some of the skeletons appearing to be face down with their hands behind their backs. There was limited artefactual evidence recovered but two medieval buckles suggested a long-lived medieval burial ground. The excavation was carried out by Network Archaeology in accordance with a Written Scheme of Investigation approved by the Council’s archaeology service.

Following the completion of the excavation, it was agreed that the development could commence, with an archaeological watching brief to be carried out on any groundworks. This was to ensure any further burials be identified and appropriately excavated. It was agreed that the reporting could be postponed until all archaeological works had finished. However, in 2019 all works ceased on site whilst Brio Homes awaited the result of a Variation of Permission application.

After raising our concerns about storage and conservation of the skeletons, Brio Homes agreed in February 2020 to pay for the initial stabilisation of the human remains. This work was completed in August 2020, but is only the first stage in the post-excavation process, and to date no further works have been undertaken. In April 2021 it became apparent that Brio Homes had failed to settle the outstanding balance on works already completed, and as such Network Archaeology were no longer prepared to undertake any further works, including producing a written report on the skeletons.

It is unfortunate that the planning permission Brio Homes won under appeal has lapsed, and there has been no approach for a renewal. Brio Homes have also withdrawn their application for a variation of permission. It appears that they have decided against developing the site and therefore have no intention of funding the post-excavation works. Brio Homes do not appear to be in breach of any condition due to the final phase of works having not taken place, nor will they need the archaeological condition discharged if they do not progress with the development. It therefore seems that Buckinghamshire Council cannot insist that they fund the post excavation works and Network Archaeology cannot undertake the works without payment.

Since April 2021 Buckinghamshire Council archaeology service have made repeated requests for updates from Network Archaeology. There is an outstanding contractual issue between Brio Homes and Network Archaeology that needs to be resolved in order for this project to progress. We have repeatedly requested the following information:

- Contact details for relevant persons at Brio Homes to discuss the outstanding works directly;
- Costs for the production of an initial site report summarising works undertaken to date;
- Costs for full analysis and publication of the site.

Once Buckinghamshire Council has this information it will be possible to consider alternative funding and publication options and move this project forward. The archaeology team are working hard to resolve the issues, but we need Brio Homes and Network Archaeology to take responsibility for the excavated remains from this site and to work with us on this matter.”

Question from Councillor Alison Wheelhouse to Councillor Gareth Williams, Deputy Leader and Cabinet Member for Planning and Regeneration

“Given recent multiple Permitted Development “prior notification” applications for 15m high mobile phone masts across the county, and in view of the recently completed Government consultation on this topic, please will the Cabinet Member for Planning and the Leader ensure that: 1. a new Electronic Communications Supplementary Planning Document be implemented as soon as possible; and 2. that an Article 4 Direction be made without delay in relation to permitted development

rights for electronic communications masts and cabinets, so that these will require planning consent and can be called-in to planning committee. The SPD and Art.4 Directions are needed for the following reasons:

- To avoid piecemeal applications for masts and associated cabinets from multiple carriers and to implement a strategic overview.
- The need for a clear policy on mast sharing, site sharing and a requirement for submission of data on existing availability and sharing facilities in any given area.
- To maximise the use of existing sites and masts.
- Much distress is being caused to communities by carriers making unsuitable prior notification applications under the current permitted development rules, leaving communities with limited voice on the matter. This issue will be further aggravated if proposals are implemented as set out in the Government's recently completed technical consultation, which would allow masts up to 15m as permitted development without need for prior approval.

In summary, could the Cabinet Member please confirm what steps the Council intends to take to address the points raised above at 1. and 2.?"

Response

1) a new Electronic Communications Supplementary Planning Document be implemented as soon as possible.

"Thank you for your question regarding an SPD for electronic communications. I understand that these can have a blight on the landscape and localised visual amenity. This, as I understand it is why there are safeguards to protect the most sensitive landscapes and to ensure that there is local consultation on the siting of masts and equipment. The development management teams are in place to assess such applications and to refuse prior approval if the equipment does not meet the tests set out in the National Planning Policy Framework. Two such applications for prior approval have recently been refused. This rather indicates the system as set down by government is capable of working.

For example, the application to determine if prior approval is needed for a new mast and equipment at the Junction of Wooster Road and Owlsers Close failed to meet the frameworks tests of:

- 1) consultation;
- 2) siting and appearance; and
- 3) an effective statement that certifies that when operational International Commission guidelines will be met.

And was therefore refused. This as I consider it, is the correct process to assess such electronic communications.

But turning to the request for the creation of an SPD to provide guidelines, I refer again to the National Planning Policy Framework. Paragraph 114 could not be

clearer in that the framework makes it a policy requirement for Local Plans and decision making to support the expansion of electronic communications networks. To have an SPD that is capable of being taken account of in decision making would likely stray into specific policy areas that the framework disallows in paragraph 118. Such as seeking to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure.

I can refer to the Bracknell Forest SPD which as long ago as the first introduction of the framework in 2012, revoked their Supplementary Planning Guidance on Telecommunications Development, as it would not be compatible with the framework. In addition, there is not a policy hook across all the development plans currently operating in Buckinghamshire, to hang an SPD off. Turning to the future, Electronic Communications as they remain part the framework, will be a policy consideration for the Buckinghamshire Local Plan 2040.

For these reasons, I believe the Council is best to ensure that the existing mechanisms in place to assess applications for electronic communications is through the current development management approach.”

Notes:

Piecemeal prior notifications and a strategic approach.

The National Planning Policy Framework provides a national policy framework for ‘supporting high quality communications’. The framework makes it a policy requirement for Local Plans and decision making to support the expansion of electronic communications networks [para. 114]. Para. 115 states that sites ‘should be kept to a minimum’ but only if consideration is given to ensure ‘the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion’.

Para. 116 requires that local planning authorities ensure that:

- a) they have evidence to demonstrate that electronic communications infrastructure is not expected to cause significant and irremediable interference with other electrical equipment, air traffic services or instrumentation operated in the national interest; and
- b) they have considered the possibility of the construction of new buildings or other structures interfering with broadcast and electronic communications services.

This evidence can be provided as part of an application to seek the local planning authority’s opinion if a Prior Approval application is required for what otherwise would be permitted development.

Applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be

supported by the necessary evidence to justify the proposed development. This should include:

- a) the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college, or within a statutory safeguarding zone surrounding an aerodrome, technical site or military explosives storage area; and
- b) for an addition to an existing mast or base station, a statement that self-certifies that the cumulative exposure, when operational, will not exceed International Commission guidelines on non-ionising radiation protection; or
- c) for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met. [para. 117].

The application should therefore be supported by relevant evidence to enable a planning application / prior approval to be determined.

The framework provides that local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure. [para. 118].

This means that the planning authority should not set out policies that would be refused planning permission on the basis of not site sharing, mast sharing, need or its own health safeguards.

A Supplementary Planning Document would therefore need to be silent on these issues and would therefore would not be fit for purpose to achieve a strategic or non-piecemeal approach.

The development plans covering the south, east, [central and north*] planning areas do have polices related to electronic communication. The western area is not covered. Countywide coverage is therefore not possible, and given that a SPD is not the right approach, should guidance be provided?

*Subject to Council Adoption

| Plan | Policy |
|--------------------|--|
| Wycombe | None (alluded to in PR7 as being in CP7) |
| Chiltern CS | CS15, 19 and 26 |
| South Bucks CS | CP10 |
| VALP | CP7 |
| Minerals and Waste | None |

'Should we introduce an informal procedural/guidance note to guide Electronic Communications?'. This at first may seem to be an appropriate approach. But

these are not 'effective'. This is because a procedural/guidance note cannot be used in determining planning applications and could not be referred to in the reasons for approval or refusal of an application.

Such a note could:

- set out the different processes to be followed for different types of telecommunications development;
- point to the national and local policies that are relevant to the determination of telecommunications applications;
- contain a glossary of terms relating to telecommunication development; and
- not contain policy or additional detailed guidance for developers.

However, this would seem to have little real value as it should be noted that applications are submitted without reference to any local consideration; other than that required by the framework [at best]. Therefore, we need to consider if producing one would be an efficient and economic use of officers and members time. Officers consider, based on the weight of the current evidence in determining applications, that the current system in place is effective.

Councillor Wheelhouse is referring to a consultation that has ended but no response has been made by the government [here](#).

The role of the Local Plan and pre-applications is set out by government [here](#).

Article 4 Directions 'that an Article 4 Direction be made without delay in relation to permitted development rights for electronic communications masts and cabinets, so that these will require planning consent and can be called-in to planning committee.'

"Thank you for the second part of your question on Electronic Communications.

As I stated in the first part of this question, the development management process is the right process to determine electronic communications development. Applicants can apply for a decision on whether or not a prior approval application is required. They can also apply directly for prior approval to confirm if it is permitted development. The local planning authority can consider paragraph 117 of the framework to determine if the application is 'justified'. This justification requires the applicants evidence on consultation, radiation and that the applicants have explored the possibility of erecting antennas on an existing building, mast or other structure.

An Article 4 Direction in addition to the current development management tools and safeguards as set out in legislation is not likely to be effective for the whole of Buckinghamshire and may well be called in by the Secretary of State. Quite specifically the framework provides under paragraph 116 that:

Local planning authorities should not impose a ban on new electronic communications development in certain areas, impose blanket Article 4 directions

over a wide area or a wide range of electronic communications development, or insist on minimum distances between new electronic communications development and existing development.

For these reasons, again, I believe the Council is best to ensure that the existing mechanisms in place to assess applications for electronic communications is through the current development management approach.”

Notes:

There are two types of Article 4 direction – ‘immediate’ and ‘non-immediate’. An immediate Article 4 direction takes effect either immediately following its issue, or at a time within one year of being issued. A ‘non-immediate’ Article 4 direction takes effect at least one year after being issued, but no later than two years after issue. The main difference is that if the Article 4 takes effect less than one year from issue, compensation is payable to affected landowners. After one year, there is no compensation.

Para. 53 of the framework covers the removal of permitted development rights:

The use of Article 4 directions to remove national permitted development rights should:

- where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre) [not relevant]
- in other cases, be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities) [potentially relevant]
- **in all cases, be based on robust evidence, and apply to the smallest geographical area possible** [means that it will not be effective across the county]

The council already acts on the tools available.

The development management process is the right process to determine electronic communications development. Applicants can apply for a decision on whether or not a prior approval application is required. They can also apply directly for prior approval to confirm permitted development. Here the local planning authority can employ paragraph 117 of the framework. It can determine if the application is ‘justified’. This justification requires the applicants evidence on consultation, radiation and that the applicants have explored possibility or erecting antennas on an existing building, mast or other structure.

6 Forward Plan (28 Day Notice)

The Leader introduced the Forward Plan and commended it to all Members of the Council and the public, as a document that gave forewarning of exactly what Cabinet would be discussing at forthcoming meetings.

RESOLVED –

That the Cabinet Forward Plan be noted.

7 Adoption of the Vale of Aylesbury Local Plan

Councillor Williams, Deputy Leader and Cabinet Member for Planning and Regeneration introduced a report on the Vale of Aylesbury Local Plan (VALP). A supplementary report had also been issued to amend a minor error regarding a site area and to recommend that Council be asked to delegate authority to the Cabinet Member for Planning and Regeneration, in consultation with the Service Director for Planning and Environment, to make further minor amendments that would not alter the implementation of the plan.

Following its submission in 2018, the appointed Inspector had completed his Examination of the plan and prepared his binding report setting out how the VALP should be modified in order to be sound. To fully enact the plan, as modified to accord with the Inspector's report, it had to be adopted by the Council. If the plan was not adopted, it would need to be withdrawn leaving the North and Central areas of the council without an up to date Development Plan.

The Cabinet Member for Planning and Regeneration stressed that it was important for the Aylesbury Vale area of the Buckinghamshire Council to have an adopted Local Plan as it would support the delivery of 30,134 homes, including 16,000 in and around Aylesbury. Of these numbers, approximately 8,000 homes would be built to take the unmet housing needs from the southern part of the Council's area. An adopted local plan would allow local people and the Council to determine and decide where development took place rather than be subject to unwanted opportunistic and speculative developments from developers. Lastly, the VALP would also provide an incremental increase in the amount of green belt space in the Vale, which was highly unusual for a Local Plan to achieve.

The Cabinet Member responded to questions on the VALP as follows:

- that the Council would engage with the Whaddon Parish Council at the earliest opportunity with regards to a SPD on the Shenley Park development.
- that the Plan, and the Council, recognised the importance of providing infrastructure (including road infrastructure, looking at the A421), schools, and health facilities as part of development in the north of Buckinghamshire. In total, HIF infrastructure funding of £172m had been obtained to provide the necessary infrastructure that would accompany the housing and other growth.
- that the Council had a dedicated team who would continue to support Town

and Parish Councils with the formation of their Neighbourhood Plans and planning related issues.

- that the VALP (Section 6 detailed economic development) also recognised the importance of providing and ensuring that there was good access to employment sites and that local jobs were provided as well as housing. The Plan looked to ensure and provide protection to viable employment sites. There were 13 key employment sites in the VALP including at Haddenham Business Park, Westcott, Arla and Silverstone, as well as ancillary land and other business sites.
- on the various environmental and green initiatives that formed part of the plan, including 120 already designated Conservation Areas, the heritage points that had been discussed earlier in the meeting, the key new development at the Aylesbury Garden Town and the green way, a whole section on biodiversity and geo-diversity, and on protections offered to sites of specific scientific interest.

RESOLVED –

- (1) That the Planning Inspector’s report, Appendix 2 to the agenda, be accepted.**
- (2) That the Vale of Aylesbury Local Plan, as modified in accordance with the Inspector’s report (Appendix 1), and updated to amend a minor error regarding a site area referred to in paragraph 2.1 of the supplementary agenda report, be submitted to Council with a recommendation that it be adopted.**
- (3) That the final Sustainability Assessment report, detailed with the supplementary agenda, be noted.**
- (4) That Council be recommended to delegate authority to the Cabinet Member for Planning and Regeneration, in consultation with the Service Director for Planning and Environment, to make further minor amendments that will not alter the implementation of the plan.**

8 Extension to the role of the Virtual School Head - Allocation of Section 31 Grant Funding

Councillor Cranmer, Cabinet Member for Education and Children’s Services introduced a report on the increased responsibility of the Virtual School Head. On 16 June, 2021, the Department for Education had announced that from September 2021 Virtual School Heads would take a strategic leadership role in promoting the educational outcomes of the cohort of children with a social worker and for those who had previously had a social worker and were aged from 0 up to 18 years.

All local authorities were eligible to receive grant funding provided under Section 31 of the Local Government Act 2003 to deliver the extended Virtual School Head role. Funding provided Virtual School Heads with the additional resource required to take

on the strategic leadership role for children with a social worker and was sufficient to recruit additional team members to support them with these responsibilities. The amount allocated to Buckinghamshire was £127,496.

During discussions, Cabinet Members commented that they were fully supportive of the proposal.

RESOLVED –

- (1) That the increased responsibility of the Virtual School Head be noted.**
- (2) That it be agreed that grant funding provided to the Council under Section 31 of the Local Government Act 2003 to deliver the extended Virtual School Head role be used for that purpose.**

9 Community Board Annual Report and Update

Councillor Bowles, Cabinet Member for Communities, introduced a report on the achievements of Community Boards in their first year (2020-21) and plans for the year 2021-22. Community Boards had been launched as part of the unitary council in July 2020 and despite the challenges faced by the Covid pandemic they had made a great start at connecting with Buckinghamshire communities as the local face of the Council.

The 16 Community Boards were a brand new way of working as part of the new Council's commitment to Localism, driving forward council and community priorities in a way that was right for that local area. The Boards helped the Council to connect with community groups, partners and residents to understand what mattered to them and to then work together to problem solve.

As part of the review of the first year, an annual report has been produced to recognise and reflect on the achievements of the Community Boards in launching a new service, establishing themselves within their communities and supporting local initiatives. This review had also provided an opportunity to strengthen processes and ensure there was robust governance and transparency across processes and decision making. The report also provided an update on what was on the horizon for Community Boards in 2021-22.

The Cabinet Member for Communities had informed Members earlier in the meeting, during the 'Hot Topics' agenda item, on the variety of Community Board projects that had been approved to date, totally approximately £800K. A number of Cabinet Members highlighted the issues that were being addressed in their own Community Board areas through Working Groups. Members also asked that thanks be passed on to the Communities team for all the support that had been provided to Community Boards since April 2020.

RESOLVED –

That the achievements of the Community Boards in their first year (2020-21) and plans for the year 2021-22 be noted.

**11 Confidential Minutes of the Cabinet Meeting held on 20 July 2021
RESOLVED –**

That the confidential Minutes of the Cabinet meeting held on 20 July, 2021, be approved as a correct record.

**12 Date of next meeting
Tuesday 28 September 2021 at 10am**