



Scrutiny Committee

Minutes of the Meeting Held on 23 June 2021
at 10 am at the Norfolk Showground

Present:

Cllr Steve Morphew (Chair)
Cllr Lana Hemsall (Vice-Chair)

Cllr Carl Annison
Cllr Lesley Bambridge
Cllr Graham Carpenter
Cllr Nick Daubney
Cllr Barry Duffin
Cllr Mark Kiddle-Morris

Cllr Keith Kiddie
Cllr Ed Maxfield
Cllr Jamie Osborn
Cllr Richard Price
Cllr Brian Watkins

Also present (who took a part in the meeting):

Cllr Martin Wilby	Cabinet Member for Highways, Infrastructure and Transport
Cllr Andrew Proctor	Leader and Cabinet Member for Strategy & Governance
Cllr Andrew Jamieson	Cabinet Member for Finance
Cllr Emma Corlett	Call-in Cllr for Item 8
Cllr Ben Price	Call-in Cllr for Item 8
Cllr Terry Jermy	Call-in Cllr for Item 8
Tom McCabe	Head of Paid Service and Executive Director Community and Environmental Services
Simon George	Executive Director of Finance and Commercial Services
David Alfrey	Infrastructure and Delivery Manager
Kat Hulatt	Head of Legal Services
Caroline Clarke	Assistant Director of Governance-Democratic and Regulatory
Peter Randall	Democratic Support and Scrutiny Manager

1. Apologies for Absence

- 1.1 Apologies were received from Mrs Julie O' Connor (Church Representative), Mr Paul Dunning (Church Representative) and Mr Giles Hankinson (Parent Governor representative)

2 Minutes

- 2.1 The minutes of the meetings held on 17 February 2021 were confirmed as an accurate record and signed by the Chair.

3. Declarations of Interest

- 3.1 There were no declarations of interest.

4 Urgent Business

- 4.1 No urgent business was discussed.

5. Public Question Time

- 5.1 There were three public questions. The questions together with the answers given in the meeting can be found at Appendix A to these minutes.

6. Local Member Issues/Questions

- 6.1 There was one Member question which can also be found at Appendix A to these minutes.

7 Call In

- 7.1 The Committee noted that there was one call in item (at item 8).

8 Call-In Norwich Western Link

- 8.1 The annexed reports (8) was received.

- 8.2 This report related to the call-in of item 8 of the Cabinet papers of 7 June 2021 entitled "Norwich Western Link".

- 8.3 The Chair explained the way in which he would handle this item to best ensure a fair and balanced scrutiny process and to decide what (if any) issues the Committee referred to the Cabinet.

- 8.4 The Chair said that at the end of the process he would ask the Committee if they wished to make any proposals regarding the call in. However, only a limited number of proposals would be considered in order at this time. The options available to the Committee were as follows:

A. The Committee referred the decision back to be reconsidered by the decision maker (in this case, Cabinet).

B. The Committee referred the decision to Full Council (the Committee should only use this power if the decision was deemed to be either i) contrary to NCC's policy framework; or ii) contrary to or not wholly in accordance with the budget).

C. The Committee took no further action.

- 8.5 Because one of the reasons behind the call-in was the legality of the Cabinet decision, the Chair asked the Head of Legal Services to explain the legal position.

- 8.6 The Head of Legal Services said that the Cabinet decision complied with the

legislative framework for the awarding of highway contracts and the County Council's constitutional requirements. The Constitution required only that the matter was "referred" to Full Council; the decision was and remained an executive decision; the Cabinet was the final decision maker.

8.7 Cllrs who had called in the item explained their detailed reasons (that were included within the call-in request form) for doing so and gave additional information in support of the action that they wished the Committee to take on this matter. They said that the Council had received insufficient detail about the business case to be able to reach an informed decision and that should the project proceed further then it would damage the Council's environmental credentials and reputation. They said that there were many detailed issues that needed to be addressed before this matter was taken further. These issues included:

- When the Council EGM considered the Norwich Western Link the financial and legal risks of the project were not fully explained to Cllrs.
- Legal advice on the risk of planning failure should be provided to all Cllrs particularly on the issues of barbastelle bat presence and the environmental impact of the scheme on the River Wensum.
- The evidence base behind the business case was not fully explained to Councillors and had yet to be made publicly available.
- The information concerning green bridges at para 1.2,4 of the Council report required a more robust approach around the evidence base for the scheme.
- Proper account should be taken of the independent ecologist bat survey.
- Research showed that green bridges and underpasses had no mitigating effect on barbastelle bat presence.
- The financial calculations around the carbon emission costs and particularly the carbon cost of the construction phase of the project and traffic modelling considerations were not sufficiently detailed in the business case.
- The traffic modelling for the project should work from the current situation with A47 dualling in place.
- There needed to be an Equalities Impact Assessment for the scheme.
- The business case did not comply with international, national and local policy requirements on climate change.
- Much environmental damage would occur during the first decade of the scheme.

8.8 The Cabinet Member for Highways, Infrastructure and Transport said that the project would:

- Bring large scale investment into Norfolk.
- Reduce travel times.
- Reduce accidents.
- Meet the requirements of local businesses and support the local economy
- Improve air quality in residential areas.
- Provide for a reduction in through traffic.

8.9 In answer to questions from Cllrs who had called in the item the following answers were given:

- The Cabinet Member for Highways, Infrastructure and Transport said that Cabinet was asked to approve the submission of an outline business case and not the planning application process.
- On the question of whether the Council had sought legal advice on the risks

of planning application failure, officers said that the project team had appointed legal advisers and further appropriate legal advice would be taken as the Council moved towards the planning application phase.

- The Cabinet Member for Highways, Infrastructure and Transport said that he was aware of barbastelle bat presence in the area and would put in place appropriate mitigation measures.
- In reply to questions the Leader said that the decision taken by Cabinet must be placed in context; it was not about starting to build the road but it was about submitting an outline business case and appointing the contractor who would provide the Council with the necessary expertise for further detailed work to be done. Answers to detailed questions raised in this meeting would be worked out as the project progressed.
- The Cabinet Member for Finance said that the Council was planning to underwrite some £30m of the total capital cost of the project. An additional £160m would come from the DFT. The total cost to the Council was not known at this stage because financial contributions would need to be sought from other sources including the New Anglia LEP and the Greater Norwich Infrastructure and Investment Fund.
- The loan that the Council took out to fund its share of the project would be based on a roughly equal repayment schedule over 40-50 years. Such a loan from the Public Works Board would be at a fixed repayment rate regardless of inflation.
- The delegation of powers to officers would allow for contract costs to be managed on a day to day basis in a similar way to what was put in place for the 3rd river crossing at Great Yarmouth.
- Council would be informed of any substantial changes in contract prices and risks that arose from the project.
- Research on mitigation measures was ongoing and surveys were being prepared this summer to support the planning application documents to be put together early in the new year.

8.10 In answer to questions from Members of the Committee:

- The Cabinet Member for Highways, Infrastructure and Transport said that on page 34 of the agenda there was a list of the organisations that supported the scheme. These organisations included all the Blue Light Services.
- The Cabinet Member gave examples of other bypasses that had been successfully built in Norfolk.
- Some Councillors said that research evidence showed that there was a direct correlation between the building of new roads and the volume of traffic on the roads.
- In reply to questions officers said that the Council was closely following the DFT model on planning considerations for the building of new roads. While the Council had to develop its business case for the DFT based on current DEFRA guidance, the Council was anticipating the possibility of a change in legislation that might arise from the Environment Bill currently before Parliament. The implications of this Bill were being closely monitored.
- Other Councillors said that the risk register for the project should not be based on the possibility of failure but should look at a range of potential issues that required mitigation.
- Officers said that further public consultation would be undertaken in the Autumn. The air quality in the area of the proposed new link road would continue to be monitored. Additional woodlands and wetlands were being

planned to increase biodiversity to the west of Norwich.

- The planning application process was expected to be long and detailed. While the Council was not at the planning stage it was acknowledged that there was every likelihood that this matter would go before a public enquiry at some future time.
- The business case would fully comply with Government criteria for the building of new roads, allow for improvements in public transport, cycling and walking initiatives and provide income taxpayers with good value for money.
- Officers said that the cost benefit calculations had been revisited since 2019 and were based on current DFT guidance.
- The outline business case would be published on the Council website when the bid was submitted to the DFT. This would provide further answers to detailed questions on the environmental impact of the link road.
- The traffic modelling was not intended to look at congestion issues beyond Norwich and outlying areas.
- The planning for the Western Link Road included a contingency figure of 28% for any cost overruns. This adequately reflected the risks of the project.
- The expertise within the Council at dealing with cost overruns had improved significantly since the building of the NDR and the work that had gone into the 3rd river crossing project in Great Yarmouth which was coming in underbudget.

8.11 The Chair said that while the Scrutiny Committee should expect to see further detailed reports on this large complicated project in which there was a considerable amount of public interest, the volume of work required to scrutinise the project required an appropriate mechanism to do this in cooperation with the Select Committees otherwise the project would have a negative effect on the consideration of other important Council business. The Scrutiny Committee would need to ensure that the quality and effectiveness of Council decision making were properly protected as this project progressed.

8.12 Cllr Osborne moved, seconded by Cllr Watkins

That the Cabinet be asked to review its decision on this matter because the information supplied to Cabinet and used for the referral to Full Council did not allow Councillors and other stakeholders to have an appropriate involvement in the pre-planning consultation. The project involved a significant risk of planning failure and was based on unpublished legal advice and research evidence on issues such as biodiversity, the impact of carbon emissions and on travel modelling which opened the Council to unacceptable financial and legal risks.

On being put to the vote there were 4 votes in favour and 8 votes against.

8.13 The Vice Chair moved seconded by Cllr Lesley Bambridge

That the Scrutiny Committee thank those Councillors who have called in this item and note the call-in request but decide no action is required on this issue.

On being put to the vote this was agreed with 8 votes in favour and 4 votes against.

It was then Resolved-accordingly.

- 9 **Update from the Chair of the Norfolk Countywide Community Safety Partnership (NCCSP) Scrutiny Sub Panel**
- 9.1 The Committee received a report from Cllr Mark Kiddle-Morris that updated on the work of the Panel and then discussed the detailed workings of the Panel and the reporting arrangements to this Committee.
- 9.2 Cllr Mark Kiddle-Morris, as Chair of the Panel, agreed to take up with the partnership a suggestion that spaces should be provided in the City for the safe use of drugs that allowed greater protection for city residents, particularly children. This idea had been discussed by the City Council.
- 9.3 **RESOLVED**
That the Committee note the progress being made by the Scrutiny Sub Panel.
- 10 **Appointment to the Norfolk Countywide Community Safety Partnership Scrutiny Sub Panel**
- 10.1 The Committee was asked to consider appointing three Members (politically balanced: 2 Conservative and 1 Labour) onto the Countywide Community Safety Partnership Scrutiny Sub Panel.
- 10,2 **RESOLVED**
The Committee appointed the following Councillors:
Cllr Emma Corlett
Cllr Graham Carpenter
Cllr Mark Kiddle-Morris (with Cllr Kirk as sub)
- 11 **Scrutiny Committee Forward Work Programme**
- 11.1 The Committee received a report that set out a draft forward work programme.
- 11.2. The Committee agreed that an informal meeting should be held to consider the future shape of the forward work programme which was brought back to the Scrutiny Committee at the earliest possible time.

The meeting concluded at 12. 10 pm

Chair

Appendix A

MEMBER/PUBLIC QUESTIONS TO CABINET SCRUTINY 23 June 2021

5. PUBLIC QUESTIONS

5.1	Question from Sandra Bogelein	Answer Provided by
	Members of the public, including myself, are extremely sceptical about the claim that the NWL will reduce carbon emissions. Related to call-in items 1.2.1 and 1.2.2, will the Chair of Scrutiny obtain and make the relevant traffic models, and all related assumptions, data and emissions calculations, available to the committee and public, and arrange for a second opinion or verification by independent consultants in the field for the scrutiny committee?	
	Response	
	The traffic model reports, including validation of the model used, will be included with the Outline Business Case (OBC) submission to the Department for Transport (DfT). The reports will be subject to detailed independent review along with the OBC by specialists at DfT. The forecast traffic flows from the model have been used to complete the Greenhouse Gases Workbook, which is a standard DfT tool to value the impact arising from the change in carbon emissions from vehicles as a result of the scheme.	NWL Team
5.2	Question from Martin Schmierer	
	Can the chair of scrutiny committee confirm that he has, and will make available to the committee for the meeting, sight of the legal advice produced to the Council on the planning issues relating to the construction and operation of the road through and over the Wensum SAC? If not, please can he confirm that he will make every reasonable effort to seek sight of the said advice for himself and the committee	
	Response	
	As a matter of standard practice, a project team promoting an infrastructure scheme on the scale of the NWL will necessarily seek legal advice. That legal advice is then used to inform the project team's approach to progressing the project, and as such will be reflected in the information presented by officers, to inform key decisions on the project. In terms of the decisions which Cabinet was asked to make on 7 June 2021, Cabinet members were provided with all of the information (by way of the Cabinet Report and accompanying background papers) relevant to the decisions Cabinet was being asked to take at that time.	NWL Team & NPLaw

	<p>The matters which were the subject of the Cabinet meeting on 7 June 2021 and which were referred to Full Council on that date, and which are now before the Scrutiny Committee, by virtue of their nature necessarily precede the work involved in preparing a planning application. Legal advice on planning issues relating to the construction and operation of the NWL through and over the Wensum SAC will be sought in due course, as part of the process involved in preparing a planning application for the NWL. The Council has appointed external legal advisors in relation to the NWL planning application, the preparation of which will involve consideration of issues arising in connection with the Wensum SAC. The Council does not routinely share its legal advice with the public or interested parties given that such advice is subject to legal advice privilege.</p>	
5.3	Question from Catherine Rowett	
	<p>Can the chair of scrutiny committee confirm that he has, and will make available to the committee at the meeting, sight of the Council's 'Plan B' proposal for relieving traffic congestion in the Norwich Western Quadrant (which it is known is the subject of ongoing discussions), to cover the event the NWL project does not go ahead? If not, please can he confirm that he will make every reasonable effort to seek details of the 'Plan B' proposal for himself and the committee?</p>	NWL Team
	Response	
	<p>The Council has undertaken a comprehensive options assessment which has concluded that the chosen route is the optimum solution.</p>	

6. LOCAL MEMBER QUESTIONS

6.1	Question from Cllr Paul Neale	
	<p>A letter was recently sent to the head of paid service by Andrew Boswell and David Pett about the potential unlawfulness of recommendation 1 of the agenda at the June 7th Extraordinary Council Meeting. Will the chair of Scrutiny ensure that the issues raised in the letter are discussed by the committee and resolved at call-in item 2 on the agenda?</p>	
	Response	
	<p>A response has been provided to Dr Boswell.</p>	