

Medway Council
Meeting of Regeneration, Culture and Environment
Overview And Scrutiny Committee

Monday, 12 March 2018

6.30pm to 8.20pm

Record of the meeting

Subject to approval as an accurate record at the next meeting of this committee

Present: Councillors: Clarke (Chairman), Bhutia (Vice-Chairman), Carr, Etheridge, Gilry, Griffin, Hicks, Mrs Josie Iles, Osborne, Saroy, Stamp and Tejan

Substitutes: Councillors:
Murray (Substitute for Khan)

In Attendance: Councillor Phil Filmer
Richard Hicks, Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive
Ruth Du-Lieu, Assistant Director, Front Line Services
Perry Holmes, Chief Legal Officer/Monitoring Officer
Tomasz Kozlowski, Assistant Director, Physical and Cultural Regeneration
Ellen Wright, Democratic Services Officer

814 Apologies for absence

An apology for absence was received from Councillor Khan.

815 Urgent matters by reason of special circumstances

There were none

816 Declarations of Disclosable Pecuniary Interests and Other Significant Interests

Disclosable pecuniary interests

There were none.

Other significant interests

There were none.

Other Interests

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There were none.

817 Call-in and Petition Referral: Closure of Deangate Ridge Golf Course

Discussion:

The Committee received a report advising that a notice of call-in had been received from six Members of the Council of the following Cabinet decisions:

- 23/2018 Close Deangate Ridge Golf Course and associated golf facilities on the basis of ongoing substantial loss, which is unsustainable on 31 March 2018.
- 24/2018 Instruct officers to begin detailed planning for consultation and development of a new sports centre for the Hoo Peninsula.

The Committee was also advised that petitions had been received concerning the closure of the Golf Course and that the petitioners had asked for the matter to be referred to this Committee under the Council's Petitions Scheme.

The basis of the paper petition was as follows:

'Medway Council propose to close the Deangate Ridge Golf Club in Hoo. They state that the club is running at a loss – average £200k per annum in the past 5 years. Whilst no one can suggest that the Council should be funding the Club at a loss, they have not demonstrated to local people that a fair attempt at trying to increase revenue has been undertaken. They have not opened up the club for other uses nor has there been any advertising campaigns to increase membership of numbers. They have not run well advertised golf days and competitions, not opened their doors for public events like fun days or considered other business models, such as doubling up as a wedding venue. A cynic would wonder whether the Council has almost let it run into the ground to make the site viable for sale and redevelopment. This petition asks the Medway Cabinet to consider new business models to increase income or to tender the management of the Club to a private provider prior to a decision of closing the club as part of a viability assessment.'

The Committee was further advised that in addition to the petitions, letters dated 4 and 12 February 2018, had been sent to Cabinet. Copies of both letters had been appended to this Committee's report at Appendix B.

A large number of Freedom of Information requests had also been received and officers' responses to these had been appended to the Supplementary Agenda at Appendix D.

At the commencement of the meeting, the Chairman outlined the order of the proceedings and reminded the Committee that it was being requested to consider the Cabinet decisions in the light of the request for the call-in and the

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petitions and to decide either to take no further action, to refer the decisions back to Cabinet for reconsideration, or refer the matter to full Council.

Paragraph 10.4 of the main agenda set out the grounds upon which the call-in could be referred to full Council.

The Chairman then outlined the order of the proceedings.

The Lead Member for the call-in explained the reasons for the call-in as outlined in paragraph 3.1 of the report.

The Chairman then invited the Director of Regeneration, Culture, Environment and Transformation and Deputy Chief Executive and the Assistant Director Physical and Cultural Regeneration to respond to the points raised.

The Director of Regeneration, Culture, Environment and Transformation and Deputy Chief Executive advised that officers understood the depth of feeling concerning the proposed closure of Deangate Ridge Golf Course and explained that this course of action had not been taken lightly. He explained that in reaching this decision, a number of factors had been taken into consideration including the national decline in golf, the financial instability of Deangate Ridge Golf Course and the measures put in place over several years at Deangate to generate usage and income, which had not proven successful. Unfortunately, it had therefore been necessary to review the position and recommend the closure of the golf course.

He drew attention to decision 24/2018 of Cabinet on 6 March 2018 instructing officers to begin detailed planning for consultation and development of a new sports centre for the Hoo Peninsula and confirmed that at the Budget Council meeting on 22 February 2018, £50,000 had been set aside for a feasibility study for the provision of new, modern leisure facilities for the Peninsula and for the East of Medway.

The Assistant Director Physical and Cultural Regeneration informed the Committee that provision of leisure services was an executive function and therefore was a matter for Cabinet. The provision of leisure services was a discretionary function of the Council. He confirmed that officers were satisfied that the decision to close Deangate Ridge Golf Course had been taken in full compliance with the Council's budget and policy framework.

He explained that a key requirement for the Council was to ensure that it provided value for money and the continued financial loss at Deangate Ridge Golf Course was not sustainable. The Council was now looking to provide an alternative sporting provision on the Peninsula and in the East of Medway that would be attractive to a wider section of the community.

The Assistant Director Physical and Cultural Regeneration also referred to the latest round of consultation on the Medway Local Plan due to take place between 16 March - 11 May 2018. Through the Local Plan process there would

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be an opportunity for the community to get involved in shaping the provision of leisure services on the Peninsula.

In response to concerns regarding access to the site for bereaved relatives, the Assistant Director Physical and Cultural Regeneration confirmed that public access to the site would be maintained.

The Assistant Director Physical and Cultural Regeneration also advised that staff affected by the proposed closure of Deangate Ridge Golf Course had been kept informed at each stage of the process and there were opportunities for them to be deployed elsewhere within sport, leisure, tourism and heritage services at the Council.

The following Petitioners were then invited to address the Committee and outline the reasons for requesting that their petition be referred to the Committee as summarised below:

- George Crozer
 - Joanne De La Porte
 - Stephanie Malone
 - Vikki Finneran
 - Tom Crozer
 - Ron Sands
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- Deangate Ridge Golf Course provides more for the community than just golf. With a footfall of 11,000 people per month, the facility provides a wide range of community uses including a place where elderly people can meet up for a drink or meal, a place for celebration events such as christenings, an accessible place for disabled people, and, in addition use of other facilities such as the driving range and footgolf.
 - The Cabinet report considered on 6 March 2018 lacked any options other than to retain the existing golf course and operate it at a substantial financial loss or to close the golf course. This is unacceptable and does not follow previous practice when the Cabinet considered the transfer of the Stirling Centre to the Kings School.
 - The Council failed to consult the local community on the potential closure of the Golf Course prior to deciding upon its closure.
 - Letters sent to Cabinet dated 4 and 12 February 2018 by the petitioners requesting that the Council postpone discussions and decision making concerning the proposed closure of Deangate Ridge Golf Course had not been acknowledged by the Leader or any Cabinet Members.
 - Over 6,000 individuals had now signed the on-line petition.
 - There was no expectation that the Council should continue to run Deangate Ridge Golf Course at a financial loss but the petitioners were requesting that the decision to close the facility be delayed so as to develop a compliant business case for the closure including an analysis of other possible options.
 - Consultation on the Medway Local Plan was due to commence on 16 March 2018 and through this process, individuals and local communities

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would be invited to make comments on the vision and framework for the future development of Medway. Concern was expressed that the decision to close the Golf Course had been taken in advance of the Local Plan process thereby removing the opportunity for Deangate Ridge Golf Course to be identified as an important community asset within the Local Plan.

- The letters to the Leader and Cabinet dated 4 and 12 February 2018 outlined a number of areas where it was demonstrated that Cabinet was in breach of governance and not compliant with the Council's Constitution in that it had failed to undertake any public consultation prior to deciding to close Deangate Ridge Golf Course.
- Information supplied to support the decision to close Deangate Ridge Golf Course was not compliant with CIPFA and HMRC guidance or the Council's Code of Corporate Governance.
- Despite being aware of public interest, Cabinet failed to provide 28 days' notice via its Forward Plan of the proposal to consider the future of Deangate Ridge Golf Course. No reasons had been provided as to why only 5 days notice had been given. This was a breach of the Council's Constitution.
- There has been a lack of effort by the Council to promote Deangate Ridge Golf Course and yet the Council has continued to invest in leisure provision at Medway Park and Strood Sports Centre.
- Alternative golf provision highlighted as being in the vicinity of Deangate Ridge Golf Course is not comparable as some are only open to Members.
- England Golf have not been consulted on the Cabinet's proposal to close Deangate Ridge Golf Course.
- The petitioners have asked Cabinet to defer its decision to close Deangate Ridge Golf Course for a period of 6 months so that it can receive a full options report including the possibility of outsourcing golf provision to an external provider. There are examples of where this has been undertaken successfully and this option would generate income for the Council and maintain the Council's aspiration for its Sporting Legacy.
- Whilst it had been stated that Deangate Ridge Golf Course had been run at a loss for the past 7 years, petitioners are aware that at times it has been difficult to contact the facility. Individuals have been deterred from making private bookings and direct debit payments have not been processed.
- The Localism Act provides communities with a right to challenge the disposal of land and community facilities and this will be an option that will be considered at a future date if necessary.
- There are a number of private providers currently operating golf courses in the South East who may be interested in taking on Deangate Ridge Golf Course and the bar and catering facilities.
- Should Deangate Ridge Golf Course close, consideration should be given to conversion of the land to open space, parkland or a country park with a café along the lines of Shorne Country Park so as to be of benefit for the health and wellbeing of the local community.

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- Elected representatives should be making decisions openly and transparently with the community. Failure to do so and, if left unchallenged, sets a precedent.
- Concern as to the recent ground works clearance at Deangate Ridge Golf Course which is considered to have been undertaken outside of the routine grounds maintenance works.

With the agreement of the Committee, Councillor Filmer addressed the Committee as Ward Councillor for Peninsula Ward.

Councillor Filmer advised the Committee that at the meeting of Cabinet on 6 February 2018, he had asked the Cabinet to defer a decision on the closure of Deangate Ridge Golf Course for the reasons outlined at this meeting. He expressed concern as to the process that had been followed and referred to the Medway Local Plan consultation that was due to commence on 16 March 2018, highlighting the requirement for the Council to work with the local community. He drew attention to the need to ensure that through the Local Plan process full consideration would be given to the provision of sustainable housing and infrastructure on the Peninsula and Deangate Ridge Golf Course should form part of that picture and not in isolation.

In response to the points raised by the petitioners, the Chief Legal Officer advised the Committee that the Leader and Cabinet had power to make an executive decision to close Deangate Ridge Golf Course. He referred in particular to the petitioners reference to HMRC and CIPFA Guidance and stressed that these documents were guidance which the local authority could have regard to but did not have to follow.

In response to concern that less than 28 days' notice had been given on the Forward Plan of the proposal to close Deangate Ridge Golf Course, he advised that there was provision within legislation for items to be considered by Cabinet at shorter notice, therefore this had not been a breach of the Council's Constitution.

Referring to the Corporate Code of Governance, the Chief Legal Officer advised that the Code was reviewed every year and was due to be reviewed again in June 2018. The Code set out the principles for decision making but it was clear that the Executive (Leader and Cabinet) had the power to make the decision to close Deangate Ridge Golf Course and to determine what information it wished to have before making such decision. He was satisfied that Cabinet had followed the rules set out within the Council's Constitution.

A Member stated that the Committee was concerned as to the amount of funding reportedly spent on the provision of golf facilities at Deangate Ridge over the past 7 years and thanked the petitioners for clearly articulating their concerns over the process that has been followed. He advised that the Committee welcomed the opportunity to review and scrutinise the further more detailed information provided within the reports placed before the Committee and the comments made at this meeting. He therefore proposed that in the light

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of the additional information seen by the Committee, decision 23/2018 be referred back to Cabinet for further consideration. This proposal was seconded.

The Committee debated the proposal and the following additional issues were raised:

- It is not appropriate to cut off a revenue stream whilst investigating other options.
- No consideration has been given to running this facility as a joint venture or as a community-run facility.
- Concern that to refer the decision back to Cabinet will not permit consideration of representative views from across the Council and there is no opportunity for the public to address Cabinet.
- There has been no assurance that, if approved by this Committee, the report back to Cabinet will include an options appraisal for the Golf Course.
- No clear reason has been given as to why there was not 28 days' notice of this report on the Cabinet's Forward Plan.
- The proposed closure of Deangate Ridge Golf Course is a breach of the Council's Policy Framework concerning Healthy and Active Communities as there will be a time lag between the period of closure of the Golf Course and the provision of new sports facilities. Therefore, the matter should be referred to Council for a decision as opposed to Cabinet as a decision that was taken outside the policy framework.
- The decision to close Deangate Ridge Golf Course has predetermined the outcome of the Local Plan process.

In response to concerns that the proposed closure of Deangate Ridge Golf Course had predetermined the outcome of the Local Plan process, the Chief Legal Officer confirmed that the next round of consultation was about to commence on 16 March 2018 and therefore it would be some time before the Local Plan would be finalised. All Councillors would be involved in the Local Plan process and he was satisfied that no Councillor, including Cabinet Members had predetermined their position.

Concerning the Forward Plan, the Chief Legal Officer reiterated that there was provision in legislation for issues to be considered by Cabinet with less than 28 days' notice and he understood that this decision was required to be taken more quickly as a result of the Budget setting process.

A Member expressed the view that the Committee needed clarification as to the reason why 28 days' notice had not been provided. If this was unclear then it was not correct to say that the Cabinet decision had not been outside of the policy framework.

Concerning the issue of the decision being outside of the policy framework on the grounds of health provision, the Chief Legal Officer reminded the Committee that the Council had set aside funding for a feasibility study into the provision of a new Sports Centre.

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The Chief Legal Officer confirmed that both he and the Chief Finance Officer were satisfied that the Cabinet decision was not outside the budget or policy framework.

The Chief Legal Officer advised Members that it was for the Committee to take a view whether, in the light of the information provided and his advice and that of the Chief Finance Officer, the Cabinet decision fell outside the policy framework or was contrary to or not wholly in accordance with the Council's budget and should be referred to Full Council. The Council's Constitution was clear that referral of a called in Cabinet decision to Full Council would normally only happen in those circumstances.

A Member expressed a view that following the advice given by the Chief Legal Officer, he was still not satisfied that there was sufficient evidence that there had not been a breach of the 28 days' notice of the item on the Forward Plan or that sufficient explanation had been given for dealing with this as a matter of urgency. In addition, he still considered that the Cabinet had breached the Policy Framework insofar as the Council's Healthy and Active Communities Policy was concerned. For this reason, he proposed that the decision to close Deangate Ridge Golf Course be referred to Full Council for the following reasons:

1. The total lack of consultation prior to making the decision. Over 3,000 people have so far signed the petition to prevent the closure of Deangate Ridge Golf Course and the strength of feeling within the community cannot be ignored.
2. The financial justification for making the decision has serious consequences for all of Medway Council's remaining leisure facilities and creates uncertainty for staff and service users. Further details and reassurances about the longer term safeguarding of our vital leisure facilities is required.

This proposal was seconded.

On being put to the vote, the above proposal was lost.

In accordance with rule 12.6 of the Council's Constitution, the following Members requested that their votes for the proposal be recorded:

Councillors: Gilry, Murray, Osborne and Stamp

The Committee then took a vote upon the previous proposal to refer decision 23/2018 back to Cabinet for further consideration, as follows:

- In the light of the additional information seen by the Committee, decision 23/2018 be referred back to Cabinet for further consideration.

In response to a question from a Member as to whether a full options appraisal would be included in the report back to Cabinet, Members were advised that a

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new report would be submitted to Cabinet reflecting the wide range of issues and key points considered by this Committee.

On being put to the vote, this proposal was agreed.

In accordance with rule 12.6 of the Council's Constitution, the following Members requested that their abstentions be recorded:

Councillors: Gilry, Murray, Osborne and Stamp

The Committee then gave consideration to Cabinet decision 24/2018 and it was proposed that this decision also be referred back to Cabinet on the basis that implementation of this decision would then be delayed pending the Cabinet's reconsideration of decision 23/2018.

On being put to the vote, this proposal was approved.

In accordance with rule 12.6 of the Council's Constitution, the following Members requested that their votes for the proposal be recorded:

Councillors: Gilry, Murray, Osborne and Stamp

The Committee further agreed that the matters raised by the petitioners would also be included in the Cabinet report.

Decision:

The Committee:

- a) agreed that in the light of the additional information seen by the Committee, decision 23/2018 be referred back to Cabinet for further consideration.
- b) agreed that decision 24/2018 also be referred back to Cabinet on the basis that implementation of this decision should be delayed pending the Cabinet's reconsideration of decision 23/2018.
- c) noted that the Cabinet report on decision 23/2018 will include the concerns raised by the Petitioners.

Chairman

Date:

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Ellen Wright, Democratic Services Officer

Telephone: 01634 332012

Email: democratic.services@medway.gov.uk