

OVERVIEW AND SCRUTINY BOARD (SPECIAL MEETING)

A special meeting of the Overview and Scrutiny Board was held on 5 January 2005.

PRESENT: Councillor Carr (Chair); Councillors Booth, Ferrier, Mawston, Robson, Rooney and T Ward.

OFFICIALS: J Bennington, C Burnham, E Chicken, P Clark, C Davies, A Johnstone, J Ord, P Rabbitts, J Richardson and A White.

**** PRESENT BY INVITATION:** Councillor Coppinger (Executive Member Community Safety and Leisure) and Councillor McTigue (originator of the request to Call-In the decision).

**** PRESENT AS OBSERVERS:** Councillors Davison, J Jones, McPartland and K Walker.

Representatives of Beechwood Community Council: T Higgins and B Robinson.

Beechwood resident: O Johnson.

**** APOLOGIES FOR ABSENCE** were submitted on behalf of Councillors Cole, Dryden, Rogers and Wilson, plus Councillors Clark and Elder.

**** DECLARATIONS OF INTEREST**

No declarations of interest were made at this point of the meeting.

CALL IN - BMX TRACK – BEECHWOOD

A report of the Senior Scrutiny Officer had been circulated regarding the review by the Overview and Scrutiny Board of a decision made at an Individual Executive Decision - Making meeting held on 17 December 2004, in accordance with the Council's Constitution and Call-In procedure.

The main components of the report were as follows: -

- a) report of the Executive Director of Environment and Neighbourhood Services;
- b) minutes of the meeting of the Individual Executive Decision-Making meeting held on 17 December 2004;
- c) details of the Call-In procedure;
- d) summary of the reasons for initiating the Call-In procedure.

A report of the Director of Legal Democratic Services had subsequently been circulated regarding the status of the request to Call-In the decision in the light of a change of circumstances involving the formal notification of two Members that they had withdrawn their support for the Call-In. The report outlined the legislative background relating to Overview and Scrutiny Committees as contained in the Local Government Act 2000 and the Overview and Scrutiny Procedure Rules in the Council's Constitution in terms of its Call-In procedure and concluded that the withdrawal of support by the two Members did not invalidate the process.

As part of his introduction, the Chair referred to the Call-In process and in particular reiterated that the purpose of the review was to determine whether not to refer the decision back to the decision-making body for re-consideration in the light of the evidence submitted.

The Chair outlined the proposed order of proceedings for the meeting.

The Executive Director of Environment and Neighbourhood Services in his opening remarks stated that the Board needed to be aware of the complex background and the context in which a decision had had to be made as to whether or not to support a bid for a BMX track facility.

The main points of the submission were as follows:-

- a) in 2002 Groundwork Middlesbrough, now Groundwork South Tees had successfully assembled resources (£145,000) to carry out improvements to an area of Beechwood during implementation of which an opportunity had been taken independently to create three large mounds of earth for local youths to utilise as a BMX track;
- b) in response to complaints from residents in July 2003 and following a site visit Officers had confirmed that there was a safety hazard in relation to debris within and around the soil and action was taken to remove such hazards pending consideration of funding to remove the earth mounds;
- c) in August 2003 the Chair of the Beechwood Community Council informed the Executive Director of Environment that the Community Council had determined that the BMX track was a well used facility and had asked that discussions take place prior to the facility being dismantled;
- d) the Community Council had subsequently established a Focus Group comprising representatives of Middlesbrough Council, four Councillors from Beechwood and Easterside, Chair and Manager of Beechwood Youth and Community Centre and a representative from Groundwork to consider possible solutions regarding the current facility;
- e) at a meeting of the Focus Group held on 29 August 2003 it had been agreed by those present that the BMX track should remain and comply with Health and Safety regulations and that funding be sought for CCTV, lighting and possible perimeter fencing;
- f) in view of emerging differences of opinion a letter to residents of the Beechwood Ward (over 2,000) had been agreed by the Community Council setting out the issues and incorporating a return slip to put forward their views along with an invitation to attend the public meeting of the Community Council to be held on 13 November 2003;
- g) at such a meeting attended by representatives of the local Police, wardens, and a spokesperson on behalf of a number of youngsters it had been agreed that
 - the earth mounds were too close to local residents;
 - differing perspectives had been given on the wider issues of anti –social behaviour;
 - a consensus of opinion had emerged in that all agreed that a local facility was wanted and needed and that the current facility needed to be moved;
- h) two strands of further work had been agreed for Middlesbrough Council to consider the costs and funding opportunities to move the mounds nearer to the Community Centre including ongoing maintenance and liabilities, and a formal bid to be developed for a BMX track facility taking into account the views expressed in particular the comments from the youth element;
- i) a bid had been developed and submitted for the Government's Liveability Fund in January 2004 for which the ODPM Office had indicated initial support;
- j) concerns expressed by residents regarding the location of the BMX track as planned had been channelled through a Ward Councillor and brought to the attention of the ODPM Office who had subsequently requested the Council to clarify its position.

In his presentation the Executive Member for Community Safety and Leisure confirmed the following:-

- i) the decision to be taken at the Individual Executive Decision-Making Meeting held on 17 December 2004 had been whether to support or not support a bid to the Government's Liveability Fund;

- ii) the reasons for the request to remove the original earth mounds following complaints from the residents had been acknowledged;
- iii) the reasons for locating the BMX nearer to the Community Centre and that such a facility would be used as a measure to tackle the wider issues of anti-social behaviour had been acknowledged;
- iv) the establishment of a Focus Group by the Community Council had been seen as a positive step and the subsequent consultation on the removal of the earth mound;
- v) it was believed that the subsequent Community Council meeting to which people had been encouraged to attend had been constructive, in particular from the youth element and a compromise had been reached expressing strong support for a BMX track facility but that the original earth mounds be removed;
- vi) he confirmed that at the Individual Executive Decision-Making meeting held on 17 December 2004 the Executive Director of Environment and Neighbourhood Services had presented the report in full, other representatives in attendance as previously indicated had been provided the opportunity to comment prior to a decision being made;
- vii) in taking such a decision he had been aware that the anticipated access to the facility would be via Marton Road and had noted the intention to extend the hours of warden patrol;
- viii) the need for the facility to be effectively managed was an important factor in supporting the bid.

Councillor McTigue was afforded the opportunity of asking questions of the Executive Member for Community Safety and Leisure and the Executive Director of Environment and Neighbourhood Services. The following points had been raised during the subsequent exchange of comments:-

- the Executive Director of Environment and Neighbourhood Services confirmed that he had not been directly consulted at the time that the sub-soil had originally been provided for the three mounds of earth;
- although some discussion had taken place with Ward Councillors and Groundwork the provision of the earth mounds had been an opportunistic decision.

Councillor McTigue outlined the reasons for invoking the call-in procedure emphasising the following points:-

- a) the decision taken at the Individual Executive Decision - Making meeting had been made without all the appropriate information;
- b) the Chair and Vice-Chair of Beechwood Community Council supported a BMX track facility but not all residents;
- c) other representatives should have been made aware of the meeting referred to at (a) above;
- d) residents had not been informed when the original earth mounds had been created and not advised of the BMX track facility;
- e) examples were given of anti-social behaviour which included drug and alcohol abuse, bonfires and littering;
- f) reference was made to a lack of resident involvement in the Focus Group;
- g) letters had been received from residents who had attended various meetings who had been unaware as to the proposed siting of a BMX track facility;

- h) whilst there was support for such a facility clarification was sought as to who had made the decision regarding the proposed location;
- i) copies of plans relating to the proposed siting of the BMX track had only been made available at the Beechwood Youth and Community Centre two days prior to the Individual Executive Decision-Making meeting;
- j) direct consultation had not been undertaken with residents but with the Community Council for which there was an average attendance of 15 residents per meeting;
- k) the view had been expressed for the BMX track to be more central and accessible to residents and assist with the management of such a facility;
- l) the need for extensive consultation with residents in considering proposals such as the BMX track facility was emphasised;
- m) from the responses received to the letter circulated to residents there was no evidence that the BMX track facility was wanted;
- n) reference was made to other similar facilities which were easily accessible;
- o) reference was made to current problems of vandalism and an increase in recent months of the number of incidents reported to wardens;
- p) in commenting on the report of the Executive Director of Environment and Neighbourhood Services reference was made to the low attendance by residents in particular at the Focus Group meeting and subsequent Community Council open meeting and a suggestion made that further information should have been included regarding problems associated with vandalism and anti-social behaviour;
- q) it was stated that the letters with the reply slip had not been circulated to all residents in the Beechwood Ward.

The Executive Member for Community Safety and Leisure and the Executive Director of Environment and Neighbourhood Services were afforded the opportunity of asking questions of Councillor McTigue. During the subsequent exchange of comments the following points had been made:-

- 2,100 letters had been circulated in the Beechwood Ward;
- the main purpose of the Focus Group had been to consider the health and safety issues of a BMX track facility.

Members of the Overview and Scrutiny Board posed questions which focussed on the following:-

- i) clarification on what had initiated the original provision of earth mounds;
- ii) clarification on the facilities to be provided at Prissick Base which would include a specialised skate park/BMX track which would hopefully become a regional facility;
- iii) Members questioned the methods of consultation with residents and if other measures had been used apart from the Community Council and elected Members;
- iv) confirmation was given that action had been taken at the earliest opportunity to remove the debris in respect of the original mud hills;
- v) the responses received from residents (7.8%) had shown (46%) support for the removal and (37%) for the retention of the original earth mounds and 17% had indicated no particular view;

- vi) in response to clarification concerning the Community Council meeting held in November 2003 it was confirmed that this had been regarded as a special open meeting to which residents had been encouraged to attend (approximately 20 had attended) and a compromise had been reached to retain the earth mounds and for them to be improved and that further detailed discussion would take place following the submission of a bid but that no consultation had taken place since this time in respect of the scheme ;
- vii) the need for effective management arrangements was acknowledged;
- viii) in response to a question regarding the extent of consultation the Executive Member for Community Safety and Leisure referred to the consensus of opinion which had been reached at the special Community Council meeting and a petition containing over 100 signatories which had subsequently been received supporting a BMX facility;
- ix) whilst it was acknowledged that there had been correspondence circulated regarding the original earth mounds it was suggested that there had been no direct consultation with residents regarding the proposed siting of a BMX track;
- x) it was confirmed that no specific market research had been undertaken regarding the need and location for a BMX track facility;
- xi) whilst no specific budget had been identified regarding the management of a BMX facility it was confirmed that it was intended that the hours of warden patrol would be extended; bids had been submitted relating to aspects of security (CCTV, lighting, fencing); should the track be sited adjacent to the Community Centre it would enhance the opportunity of managing the facility and the remaining arrangements still had to be examined in detail and developed if the overall bid was supported by the ODPM.

Following closing submissions of the Executive Member for Community Safety and Leisure and Councillor McTigue the meeting adjourned for a short period of time.

The meeting reconvened and the Chair confirmed that a written report, detailing the Board's decision and reasons for it would be compiled and forwarded to Members with formal approval by the Overview and Scrutiny Board at its meeting to be held on 11 January 2005.

ORDERED as follows:-

1. That the decision made at the Individual Executive Decision-Making meeting held on 17 December 2004 be not referred back for the matter to be re-considered but that the following observations be taken into account with regard to future similar consultation exercises:
 - a) whilst the consultation in respect of the earth mounds was acknowledged it was considered that more effective subsequent consultation could have been undertaken regarding the BMX track proposals;
 - b) in terms of the consultation process regarding the BMX track proposals a more independent role could have been pursued in addition to that undertaken with the Beechwood Community Council;
 - c) it was acknowledged that should the bid to the ODPM be approved the next stage of the process would involve detailed consultation on the design proposals.
2. That the decision made at the Individual Executive Decision-Making meeting for the bid to be subject to the provision of management arrangements, CCTV coverage and lighting facilities be supported and the importance of such elements be emphasised by the need to identify a specific budget for such provision.