

Extract from Scrutiny Meeting minutes of 20 March 2008

SC.51/07 CASTLE COVE, DARTMOUTH

In accordance with Procedure Rule 18, Scrutiny considered the process by which the Executive had come to its decision on the 'Castle Cove, Dartmouth' (minute E.105/07 refers).

The Chairman advised Members that the 'call-in' procedure had been invoked because of a concern that the decision had not been made in accordance with Article 13.02 (b) (Principles of Decision Making – Council's Constitution), which required decisions to be based on 'proportionality, for example, the ongoing cost implications.' In this respect, concern had been expressed that the Executive had not considered that the Council may have a greater liability in relation to the cliffs stability above the new path.

The Chairman informed the Group that the decision to 'call-in' this item had not been taken lightly. The Chairman expressed her thanks to officers, who had worked extremely hard to gather relevant information prior to this meeting.

The Executive Member for Prosperity informed the Group that South Hams District Council inherited the pathway in 1974 as part of arrangements for Local Government reorganisation at that time. Prior to the Executive meeting on 6 March 2008, officer advice had been sought. Whilst receiving this advice, he was assured that the unpredictably regarding the cost implications would be resolved and liability for the pathway would be transferred to a local trust.

Since the meeting and the subsequent call-in, the Executive Member had been further informed that the construction of such a pathway would invalidate the Council's insurance policy due to it drawing people closer to the cliff face. In light of the new information becoming apparent (for example the insurance difficulties), the Member stated that he would welcome the opportunity for the Executive to reconsider the proposal.

In invoking this call-in, the Chairman wished to make it clear that the Group was not singling out Dartmouth and thanked those residents who had written to her regarding this issue and hoped they understood the reasoning for the call-in, with the Group wishing to ensure that all relevant issues had been considered. The call-in had led to the clarification of some issues and it was felt that the Executive should have the opportunity to re-evaluate their decision.

During discussion, reference was made to:-

- a) the view that the Executive did not give due concern to the Senior Engineer's comments in the Executive report. On this point, Officers informed the Group that the report tried to present a balanced view of the local communities support for such a pathway whilst weighing up the Health and Safety implications of such a project;
- b) the financial concerns. A non-group Member expressed the opinion that no matter how desirable a project was, the Council's current financial situation needed to be taken into account. The Senior Engineer made reference in the Executive report to the Council being possibly exposed to further costs for cliff stabilisation works. It was the Member's belief that the Council should undertake works that was essential and be careful when attributing costs to desirable projects such as this one;
- c) the local support for the re-instatement of the pathway. A non-group Member conveyed the level of support and length of time that the local community had been campaigning to have such a path installed to Castle Cove;
- d) the cliff maintenance. A Group Member expressed the view that the cliff would be maintained with or without a pathway and felt that such a project would comply with the Council Priorities 2 and 4 and sincerely hoped that the Council would find a way forward to complete the work;
- e) the Devon County Council pathway. A non-group Member informed the Group that a pathway maintained by Devon County Council already led down to the beach and suggested that enquiries be made into Devon County Councils insurance liability;
- f) an Executive Member highlighted to the Group that questions had been asked during the Executive meeting regarding whether a satisfactory solution could be found to avoid the pathway being vulnerable to debris. In response to this question at the meeting, officers had highlighted the issue of insurance;
- g) the raised expectations of the local community. A Member expressed concern at the local communities expectations having been raised through this Executive report. The Member also emphasised and that the community should be involved in any future plans surrounding the pathway.

Members were informed that if it was their desire for the Executive to reconsider their decision on this item, a Special Executive would have to be convened within 10 working days if this meeting (in accordance with the Council's constitution), as any decision outside of this period could be open to a judicial review. The general feeling amongst Members was that referral to the next Council meeting would not provide enough time for information to be available.

The following recommendation was then **PROPOSED** and **SECONDED** and upon being put to the vote declared **CARRIED**:

RESOLVED

That in light of the concerns highlighted in the minutes of the Scrutiny meeting (detailed above) of 20 March 2008, this matter be referred back to a Special meeting of the Executive.