



Recommendations from the SS9 Policy Task and Finish Group created to test the parameters of policy SS9 of the Local Plan

Report to:	Economic, Planning and Housing Committee
Meeting date:	10 June 2021
Ward(s):	All
Key Decision:	No
Appendix 1:	Confidential Future Work Proposals
Appendix 2:	Confidential Officer responses to panels questions
Appendix 3:	Timeline of the group
Appendix 4:	Confidential File notes of the group meetings
Papers relied on:	None

The Economic, Housing and Planning Committee is asked to:

- note the report;
- provide its views and endorse the proposed recommendations from the Policy SS9 Task and Finish Group shown at paragraph 3 of the report; and
- consider and support the further work suggested at paragraph 4.

1. Executive summary

Policy SS9 Basingstoke Leisure Park

New and improved leisure facilities will be permitted at Basingstoke Leisure Park where there is no significant adverse impact on existing town or district centres within Basingstoke. Retail development on the Leisure Park will only be supported where it remains ancillary to the new or existing leisure uses and is required to make the new provision economically viable, without detriment to the borough's defined retail centres.

In 2018 the Economic, Planning and Housing Committee created an SS9 Task and Finish Panel to test the parameters of SS9 of the Local Plan and to scope whether

planning policies in the Local Plan are fit for purpose in respect of protecting the Town Centre.

The Panel had several concerns regarding the scope of Policy SS9 and whether it offered sufficient protection and safeguards to ensure against future detrimental effect to the Town's existing retail centre.

2. Background

Initial meetings of the Task & Finish Panel examined the planning policy and identified the intent of members in examining and approving policy SS9 and also the policy context which needed further examination. These meetings scoped the way forward for the Panel and these are set out in the attached notes and papers from those same meetings.

The work of the panel was put on hold when a legal challenge was launched by Festival Place's owner AEW Europe LLP against Basingstoke and Deane Borough Council and NewRiver Leisure Ltd on 17 September 2018 "seeking amongst other things a declaration of ineffectiveness in respect of the March 2018 Contract".

Judgment ultimately found in favour of the Council on 26 July 2019 and an Appeal was rejected on 3 Sep 2019. The final settlement between the parties was executed in June 2020.

Whilst the court proceedings were ongoing the Task and Finish Panel was advised that it should not meet due to the matter remaining sub judice. There was a delay by officers in informing the Panel that the proceedings had been concluded at the end of June 2020, which led to a delay in concluding the Panel's work.

The first meeting of the Task & Finish Panel following the decision to reconvene took place on 28 January 2021 and sought to establish a way forward. It was agreed that the group would hold three meetings to discuss the following 3 key issues within the context of testing the parameters of Policy SS9 of the Local Plan with a view to learning from the past and present and inform an approach to future amendments, if any, to this Policy in the Local Plan Update:-

1. 11 February 2021. The background and history. To discuss and analyse the background papers from Cabinet 25 September 2012 and other papers associated with the decisions and processes.
2. 18 February 2021. Protecting Festival Place going forward. To meet representatives from Festival Place and the Malls to discuss the current situation and future of their retail space.
3. 2 March 2021. Ensure the provision of first-class leisure facilities at Basingstoke Leisure Park. Meet representatives from Basingstoke Leisure Park and the Council to discuss the way forward whilst ensuring strict adherence to Policy SS9.

3. Proposed Recommendations

The SS9 Policy Task and Finish Panel determined the following 3 recommendations:-

I. Local Plan Update

Policy SS9 should remain unchanged in the Local Plan Update. However we seek clarity and confirmation of whether there is an agreed legal definition of ancillary retail.

Supporting Note:

The group notes that Policy SS8 Basing View does not mention protecting the Town Centre. As this was not within the scope of this Task and Finish Group, it is requested that this be explored, subject to the provisions of the Development Agreement relating to Basing View.

The group recommends that the wording in Policy EP3 should be reviewed to ensure Festival Place and The Malls remain protected as the 'jewels in the crown' and the heart of Basingstoke's retail offering.

The SS9 Task & Finish Panel reiterate the need for policy SS9 to offer meaningful protection to the Town Centre, particularly in the new post Covid economic environment.

The Panel considered whether the policy should be site specific or not. It is essential that the Leisure Park in whatever form proposed does not compete with the Town Centre and careful consideration must be given to policy across the Council that adheres to the aim and intent of SS9.

II. Role of Cabinet.

The Group recommends that additional checks and balances need to be introduced to Cabinet decisions on large projects with values greater than £100m. A root and branch review of the procurement process for large projects is required linked to oversight and scrutiny.

Supporting Note:

The group propose that the Council should review the overview and scrutiny provisions of the Constitution as they relate to the Cabinet's decision making processes. Further scrutiny is required as Cabinet holds a fiduciary duty. Rolling on to 2021 and due to significant slippage in the timetable of this project the Council is already having to bear unaccounted for costs to maintain the Aquadrome.

III. Oversight of Large Projects

The Panel feel that evidence presented displays a significant planning risk with regards to conflict with the town centre trade, and potentially a commercial/financial risk on the town centre as well. There is a need for a

structured process of oversight before, during and in retrospect on all future large projects valued in excess of £100m, to support the Cabinet through the decision making process. Such would benefit openness, transparency and good decision- making best practice. Further, it is suggested that the Chief Executive take responsibility for all major projects reviewed annually in their appraisal.

Supporting Notes:

The group feel that the Scrutiny and Audit functions have not been as effective as they should have been on this project. There is a core Principle (Six) in the CIPFA/SOLACE Framework for Delivering Good Governance in Local Government (2016) which covers managing risk and performance through robust internal control and strong public financial management which in the group's view does not appear to have been fulfilled. Constructive challenge was ignored. There has been significant slippage in the delivery of this project and it would have benefitted from a more effective scrutiny and oversight process.

Exactly what type of leisure do we need and want to provide for our residents and what is the need? That should have been clear from the outset.

How this fits with LPA policies will be crucial for the Town Centre and the future Basingstoke Town Centre Strategy.

4. Further work required

The panel suggests that further work be undertaken in this matter and commends the Economic, Planning and Housing committee to commission work on the following matters:

1. It is suggested that the Retail Impact Study and Leisure Needs Assessment in support of the revised Local Plan must include and cover the changing nature of the retail sector and assess not just the retail opportunities but the impact caused by accessibility and parking fees, and to acknowledge the holistic nature of the modern day 'retail/leisure experience';
2. The group suggest that Policy SS8 Basing View needs to be reviewed as to whether it can include a requirement to protect the Town Centre subject to the provisions of the Development Agreement relating to Basing View;
3. The group suggest that the wording in Policy EP3 be reviewed to ensure Festival Place and The Malls remain protected as the 'jewels in the crown' and the heart of Basingstoke's retail offering;
4. Basingstoke Town strategy should recognise and take account of all other retail centres and retail parks throughout the Borough, which offer not only shops but also restaurants and cafes;
5. The Scrutiny process needs to be more robust, including how decisions on major projects are reviewed during and not simply after the event;
6. Papers and reports issued for scrutiny in the case of the Leisure Park were not as comprehensive as the bundle of papers reviewed by the Panel and so it is suggested that needs to be greater transparency in scrutiny;
7. A review of the procurement process for large projects must be undertaken;

8. The Constitution should be amended to require robust oversight of major projects through the formation of a specific Overview Committee for Major Projects; and
9. There was a need to appraise the leisure park proposals with a view to ensuring they do not compete with the Town Centre.