

Hannah Gosling

From: Valley Gardens Forum
Sent: 01 July 2019 12:08
To: Anthony Middleton
Cc: Johnathan Sharrack; Cali Gasson; Tim Wates; Hannah Gosling; Mike La Rooy
Subject: Fwd: Valley Gardens Forum update 1st July 2019
Attachments: The Argus 27 June 2019.pdf

Dear Tony

Hope you're well. I promised to update you after meetings with the new council administration and before the scheduled ADR mediation this week.

I thought it would be helpful to let you know that BHCC initially responded to the request for ADR with following on May 22nd: *"We welcome your suggestion of ADR and would be grateful for an indication ahead of that meeting of your proposed agenda for the meeting,..."* We subsequently heard from the same officer who then wrote on June 14th: *"The Council is not under an obligation to participate in ADR or to agree to any particular type of ADR. In this instance, mediation is not appropriate and it would not be a good use of public resources for the Council to spend more money on lawyers."* It is important you are aware that the Forum has now offered to cover the cost of the mediator in good faith, in order to facilitate the process - and the meeting is back on.

I've also taken the opportunity to forward today's pre-mediation Valley Gardens Forum update ahead of ADR - below. I regret to say that the evidence gathered by us suggests that BHCC is entering the process not in the spirit of achieving a collaborative solution, but rather (as they see it) as a final box that needs to be ticked before confirming LEP funding. However, over the course of six month's investigation, the Forum is satisfied that the current business case presented to the LEP on the 22nd of January fails to conform with EU EIA Directives, DfT provisions, HM Treasury standards, MHCLG requirements or LGF eligibility.

As Directors of the Valley Gardens Forum CIC, we understand that the Local Enterprise Partnership is ultimately a 'partnership' between the public and private sector. Business involvement is at the heart of the LEP and these partnerships must involve both parties - not just led by the public or private sector. LEPS exist to help determine local economic priorities and lead economic growth and job creation within the local area. The Local Growth Fund has money for schemes to support that. However, with Valley Gardens, we have an pre-existing Green Spaces scheme - rebranded into a business/economic growth case to get LEP funding - which is then being delivered exclusively by BHCC as a transport scheme *"to promote modal travel"*. It's a train-wreck of three entirely different principles. This is being driven by BHCC, in defiance of the private sector who overwhelmingly agree that this is not an economic priority. It will lead to economic damage and negatively impact employment within the local area. Funding this scheme confounds the guiding principles of Local Enterprise Partnerships and more specifically the Local Growth Fund itself.

Last week's meeting of the ETSC 25th June laid bare the fact that Officers have withheld information from elected officials. The answers given by Officers indicate that they believe they have no statutory obligation to either consult on the scheme or conduct an EU Directive compliant EIA. This stance is surely reckless as in the current climate - and following ClientEarth's successful legal action in London, such due diligence would be seen as their best argument for protecting the administration against potential future legal action. Following your letter of conditions to BHCC dated 1st of February, outstanding Valley Gardens Forum requests for data about the scheme remain unanswered by BHCC contravening the Council's statutory duties. It is difficult to see how BHCC can claim their current proposal achieves an appropriate balance between impact upon traffic congestion, air quality, sustainable transport and public realm

benefits. Indeed, it is apparent or as yet is undisclosed, that detailed traffic and air quality modelling have still not taken place.

Finally, the Forum is concerned that genuine and open public consultation running concurrently with a Valley Gardens scheme wide environmental impact assessment should be resolved with sufficient time for the LEP Board and Investment Committee to properly consider whether the conditions on funding laid down in your letter to BHCC 1st February 2019 have been met. In order to focus minds through the ADR process, It would be helpful to understand if the LEP has hard deadlines set for; a. the draw down of grant funding; b. if ultimately awarded, when must the money be spent; and c. if awarded, is there a deadline by which the project must be completed and 'the ribbon cut'. Are you able to provide this crucial information ahead of our meeting?

I look forward to hearing from you.

Best

Daniel

Valley Gardens Forum

[w. valleygardensforum.org.uk](http://w.valleygardensforum.org.uk)

a. 11 Old Steine - Brighton - BN1 1EJ

----- Forwarded message -----

From: Valley Gardens Forum

Date: Mon, Jul 1, 2019 at 12:03 PM

Subject: Valley Gardens Forum update 1st July 2019

To: Valley Gardens Forum

Good morning all

An important week ahead for all of us who would like to see a successful resolution to the standoff between the city council and Valley Gardens Forum over the right way to proceed with the concluding third phase of the Valley Gardens scheme. This update is therefore a little longer than usual - but do take the time to read carefully and feel free to respond with comments and suggestions.

Very best

Daniel

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First up, a initial mediation meeting takes place between the Forum and the Council tomorrow morning. Our objectives are straightforward:

Valley Gardens Forum - key objectives from mediation with Brighton & Hove City Council

- For Brighton & Hove City Council to pause the scheme and commit to a full open consultation over a range of options for VG3 with all interested parties in the city without precondition.
- For Brighton & Hove City Council to commit to proper consideration of environmental impacts across the whole Valley Gardens scheme and other areas directly affected - notably, around the Duke's Mound junction with Marine Parade.
- For Brighton & Hove City Council to address and fully respond to the Forum's outstanding requests for Valley Gardens phase 3 technical data.

Valley Gardens Forum - core proposals for the Valley Gardens scheme - subject to public consultation

- The creation of city-wide routes to the centre for cyclists and pedestrians complete with better access to attractive new green spaces increasing biodiversity.
- The creation of a dedicated two way bus and taxi lane to link North Street to a contiguous public transport corridor at Marlborough Place and retaining the city centre's natural transport hub complete with the three iconic "deco" bus shelters.
- The creation of a 'mixed use' pedestrianised seafront gateway through Manchester Street & Charles Street seafront gateway to encourage visitors to explore the east of the city Instead of separating Kemptown from the centre with the current proposed scheme.
- The creation of a dedicated active travel crossing to the seafront at Pool Valley, safely clear of all public transport and general traffic.
- The creation of a remodelled roundabout to ensure the safest and most environmentally friendly free movement of general traffic - and removing the need to redevelop the junction at Duke's Mound.

In one sentence - ***retention of a redesigned roundabout / west side bus lanes unlock VGF objections*** and everything is then possible in the granular detailed plan that follows.

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Now on to the Media Coverage of and details from a frustrating but revealing meeting of the Environment Transport & Sustainability Committee held last week.

Brighton & Hove News

Controversial Brighton road scheme to go to mediation

<https://www.brightonandhovenews.org/2019/06/25/controversial-brighton-road-scheme-to-go-to-mediation/>

Brighton & Hove Independent

Mediation over controversial Brighton road revamp at Valley Gardens:

<https://www.brightonandhoveindependent.co.uk/news/politics/mediation-over-controversial-brighton-road-revamp-at-valley-gardens-1-8976214>

The Argus

New talks over controversial valley gardens scheme

<https://www.theargus.co.uk/news/17730589.controversial-valley-gardens-scheme-discussed/>

The feature and comments were removed from The Argus website on Thursday - replaced with a short story about Jimmy Carr! A scan of the 'unredacted' paper copy is attached instead...

Brighton Journal

Do you know about the £18 Million investment project in the heart of Brighton?

<https://bjournal.co/do-you-know-about-the-18-million-investment-project-in-the-heart-of-brighton/>

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Next, onto some of the detailed exchanges in public questions and exchange with Councillors and Officers from that meeting.

Valley Gardens Forum member, Paul Crawford enquired why *"The Local Enterprise Partnership, the primary funding body for the Valley Gardens scheme, wrote to Councillors on February 1st setting out its funding conditions, including its requirement for full and effective public consultation. The ETSC meeting on the 7th of February was not given sight of this letter before it took the vital decision to delegate oversight of the project to officers. Would it be accurate to say that elected members were intentionally deprived of relevant information by senior officers prior to the decision to delegate?"*

Executive Officer Economy, Environment & Culture, Nick Hibberd at first obfuscated by replying: *"As officers we wouldn't say that that was the case. Members were given all the information they needed to be able to make a correct decision at that time and if I remember rightly, at 7th February committee there was some adjournment to ensure that members were full advised before they reconvened to make that decision."*

Cllr Wares then interjected: *"If I might suggest a correction to what might have been implied, there was a letter to the LEP to the council that came in before the 7th February committee that was not shared with members prior to. There was a response to a question in committee from members of the public to the existence of that letter and what it meant but the content and the detail of that letter was certainly not shared with members at the committee or prior."*

Officer Hibberd then effectively acknowledged that despite the February 7th meeting being convened specifically to discuss Valley Gardens Phase 3, that a letter received a full week before hand laying down funding conditions - that if not met, could prejudice the project **was not disclosed** to elected members of the committee. Nick Hibberd again: *"Councillor Wares is correct in saying that, the point I was trying to make was that the information that was given to members was sufficient for members to be able to make a sound decision."*

Conclusion: Executive Officer Nick Hibberd failed to provide elected councillors and committee members with crucial information about funding conditions ahead of an ETSC meeting convened to discuss the project. It remains unclear if they would subsequently have received the letter had it not been provided by the Valley Gardens Forum

This wasn't the only sticky moment for Officers on Tuesday evening...

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In response to reassurances from the committee chair that air pollution levels were under control, Cllr Lee wares asked the following question

"Are you saying then that we don't have an air pollution issue in North Street that we don't need to address or that level that we do have are manageable and that we just carry on as we are?"

The answer from the relevant council officer: Assistant Director - Transport, Mark Prior was as follows:

"We do acknowledge that there are air quality issues in North street and have an active air quality monitor. Over the last five to ten years we've actually seen a dramatic improvement in air quality there."

This answer is puzzling. The local 'active monitor' (BH10 by STA Travel Ship Street / North Street) showed that air quality deteriorated in the most recent measured period. NO2 Annual Mean Concentration ($\mu\text{g}/\text{m}^3$) in 2016 were at 47.1 and a year later rose to 50.3 in 2017. Also, the Quarterly Twelve Month Rolling Mean $\mu\text{g}/\text{m}^3$ along North Street increased over the same period. Applying the same research to the eastern side of Valley Gardens Equivalent, similar illegal levels of pollution are also shown by a different type of monitor at Brighton University on Grand Parade - **giving the lie to BHCC's 'Environmental Screening' that states that the 'open' area of the Old Steine will be immune from the worst effects of toxic pollutants.** All that before the proposed removal of three metres of paving to incorporate five traffic lanes on the east side of the Old Steine.

The legal position is straightforward: In the air quality directive (2008/EC/50) the EU has set two **limit** values for **nitrogen dioxide (NO2)** for the protection of human health: the **NO2** hourly **mean** value may not exceed 200 micrograms per cubic metre ($\mu\text{g}/\text{m}^3$) more than 18 times in a year and the NO2 annual mean value may not exceed 40 micrograms per cubic metre.

Conclusion: As the question about pollution in North Street was flagged on the agenda for ETSC over a week before the meeting, the answer given was surprising to say the least...

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Cllr Wares asked the Committee Chair Cllr Pissaridou

"...whether contrary to all previous reports and statements, that the Council does in fact not yet have the funding in place to deliver Valley Gardens Phase 3?"

Cllr Pissaridou responded by standing by the official position that the funding was agreed in principle but acknowledged that *"The outcome of that process has not been completed and as you say, the LEP's next decision about making funding available to the council is now awaiting the outcome of the officers' meeting - the next meeting - with the Valley Gardens Forum."*

Cllr Wares then suggested

"...if we asked for it, to the Chief Executive, of an audit being undertaken that reviews everything that's gone on, what was said, and when, and how things were presented in previous committees, and include all copies of correspondence between the council and the LEP that somehow is rarely or occasionally not shared with committee members so that no confusion can possibly exist?"

The Chair asked Executive Officer Economy, Environment & Culture, Nick Hibberd to respond to this which he did as follows: *...any of the correspondence that has gone between the LEP and council officers is available to this committee for these committee members to see so I wouldn't want the committee to think that we would be hiding anything from you, if you'd like us to share that correspondence with you, very happy to do so, if you would like us to meet with you to take you through that correspondence and the chains of events that have led to various statements being made at this committee at different points in the process we'd be very happy to do so and perhaps that would avoid the need for a full audit of this issue."*

Conclusion: Senior Officers *"wouldn't want the committee to think that we would be hiding anything..."* and hope *"to avoid the need for a full audit of the issue"* The Officer couldn't have articulated the Forum's concerns any clearer. In the circumstances, of course there needs to be a full audit as suggested.

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After a succession of unintended reveals by council officers, perhaps the most significant exchange of the evening was the one that follows:

Cllr Wares asked: *"when full, and this time proper, public consultation will take place in respect to the major junction proposals at Duke's Mound?"*

Chair Cllr Pissaridou responded: *"The proposed changes to the junction at Duke's Mound, on Madeira Drive and the A259 Marine Parade are expected to take place within the highway boundary. As such, there will be no statutory requirement for consultation upon the design of the changes."*

Conclusion: There we have it! Despite the LEP's insistence that the drawdown of the grant *"should not be used as a reason not to follow proper consultation processes"*, when push come to shove, BHCC believe they have absolutely no obligation to consult with stakeholders or the wider community. The £6m question is whether the LEP wholeheartedly agree with this position.

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