

# Minority Report on the Call-in of the MSDC Cabinet Decision to Permanently Close Clair Hall

## Purpose of the Report

A decision to permanently close Clair Hall was made by Cabinet on 14<sup>th</sup> September 2020 and subsequently upheld by the Scrutiny Committee for Communities, Customer Service and Service Delivery (the Scrutiny Committee) held on 13<sup>th</sup> October 2020. It is the view of the members of the Scrutiny Committee who are submitting this report that the decision was not adequately scrutinised. We contend that constitutional questions about the way the decision was taken were not addressed by the Scrutiny Committee and that important information presented to the Scrutiny Committee, which had not been available to the Cabinet when it made its decision, was unreasonably dismissed by the Committee.

The purpose of this report is to put on record the matters raised by the Call-in request which, in our view, were not adequately addressed by the Scrutiny Committee.

## Grounds for the Call-in

The request by ten councillors to Call-in the Cabinet decision listed the grounds for the Call-in as follows:

1. The decision was not in accordance with the Council's Principles of Decision Making set out in Article 13 of the Council's Constitution. In particular, the following principles were not followed:
  - (c) Proper regard should be paid to internal and external consultation
  - (e) There should be a presumption in favour of openness
  - (g) There should be an explanation of the alternative options considered
2. It was against the Council's rules for the Cabinet to take the decision because it had not been published within the September Forward Plan.
3. Evidence to support some of the information on the usage and operation of the hall was not available to Cabinet when it made the decision, was pertinent to the Principles of Decision Making and should be open to scrutiny.
  - a. The evidence to support the claim on page 110 paragraph 10 of the Cabinet report for 14th September meeting (the Cabinet report) that 'Clair Hall's original main purpose was for the hosting of live performances
  - b. The data that underpins the footfall statistics on page 110, paragraph 11 including the two intervening years that were not included in the report

- c. An examination of the utilisation records in recent years (suggest the last five years)
- d. Details of the current EPC rating and evidence to show why it will decline to a rating of less than E by 2023 as set out on page 113 paragraph 33 of the Cabinet report
- e. Information in relation to conflict over availability of bookings

The way in which these issues were dealt with in the scrutiny process is discussed below.

## Scrutiny of the Decision

### Principles of Decision Making – Consultation

The importance of the Council understanding the impact of its decisions on the residents it serves is one of the cornerstones of good governance. In this case there is no evidence that the Council consulted with users of Clair Hall or with the wider public on the closure of the hall before the Cabinet decision was taken. Nor was the matter put to Full Council so that members could represent the views of their residents. Yet, at the time of the Cabinet decision, there were very strong feelings about the issue expressed by hall users and the wider community through social media, petitions, an opinion poll and letters.

Before the Scrutiny Committee meeting Councillor Alison Bennett asked Councillor Anne Boutrup, Chair of the Scrutiny Committee to invite one of the leaders of the Save Clair Hall campaign to give evidence to the Committee on the issue of consultation and the impact of the closure on users. The request was turned down.

During the Committee meeting Councillor John Belsey the Cabinet member with responsibility for Clair Hall announced that, “Engagement with community groups in Haywards Heath and the surrounding area is set to start over the autumn and winter to help inform the next steps for community facilities and the town’s wider regeneration.” He sought to demonstrate that the Council was consulting on this issue. However, we think that consulting after the decision has been taken is akin to shutting the stable door after the horse has bolted. This is not the process envisaged in the Principles of Decision Making.

During the Committee meeting Councillor Jonathan Ash-Edwards, the Leader of the Council was asked by Councillor Alison Bennett “Should the public consultation have taken place before the Cabinet took the decision?”. The Leader did not answer the question.

In conclusion this decision was taken without the level and type of consultation which it justified and the Scrutiny Committee did not sufficiently scrutinise the adequacy of any consultation.

### Principles of Decision Making – Openness

The Call-in request raised the question of openness because the Cabinet were asked to make their decision based upon statements about hall usage and the energy efficiency that were not supported by the relevant background documents. Those details were made available to the Scrutiny Committee and we have commented on them later in the report.

We did expect the presumption in favour of openness to apply also to the scrutiny process itself but were surprised that, early in the meeting, the Committee Chairman announced that “today we are merely discussing the failure of process of the key decision not being published within the Forward Plan.” It may not have been the Chairman’s intention to narrow the discussion to one issue but such a clear instruction may well have inhibited open debate.

### [Principles of Decision Making – Explanation of Alternative Options](#)

The Cabinet report contains a brief section entitled, ‘Other Options Considered’ which concludes that re-opening the hall is not considered a viable option. There is no explanation of the options investigated and no evidence that they were investigated in any depth. In part this conclusion seems to be based on the assumption, set out in paragraphs 20-22 of the Cabinet report that it would not be possible for Clair Hall to reopen under the current COVID-19 guidance. However, other venues in the area have reopened or have announced plans to reopen within government guidelines such as the Village Centre in Hurstpierpoint, Cyprus Hall in Burgess Hill, Adastra Hall in Hassocks and The Capitol in Horsham.

The Council’s Emergency Plan following the impact of Covid-19 states that the Head of Corporate Resources has a responsibility to maintain the Council’s assets in an emergency. The government’s Cultural Recovery Fund exists to help preserve such facilities and mitigate some of the negative impact of Covid-19 measures on our society. Horsham District Council have recently received £182,000 to support The Capitol Theatre and many other examples exist of successful applications supporting live entertainment venues and mixed-use facilities similar to Clair Hall. It is not yet clear whether Mid Sussex District Council applied for a grant to support Clair Hall. At the time of writing we are seeking clarification on this point.

At the time of the decision, the Cabinet was aware that a number of community groups were working together to create a viable business plan for continuing to operate Clair Hall, at no cost to the Council, until such time as a replacement facility was secured. We believe it was imprudent to ignore this potential option. The wise approach would have been to engage with that group, and properly assess the viability of this option. It would have cost little in time and money in the short run and could have saved taxpayers money and preserved an important community venue in the medium term.

### [Clair Hall Decision not Published in the September Forward Plan](#)

The Scrutiny Committee established that, according to the Council’s constitution, since the Clair Hall decision was not published in the September Forward Plan, the decision should not have been taken by the Cabinet on 14<sup>th</sup> September. It was also established that the ‘General Exception’ procedures were not followed.

### [Additional Supporting Evidence – Prime Purpose of the Hall](#)

The Scrutiny Committee report of 13<sup>th</sup> October 2020 (the Committee report) explains that the reasoning behind the statement in the Cabinet report that “Clair Hall’s original main purpose was for hosting live performances” is that the size of the main hall is larger than the

function suite, bar and studio combined and so it is clear that it was always intended primarily for live performances.

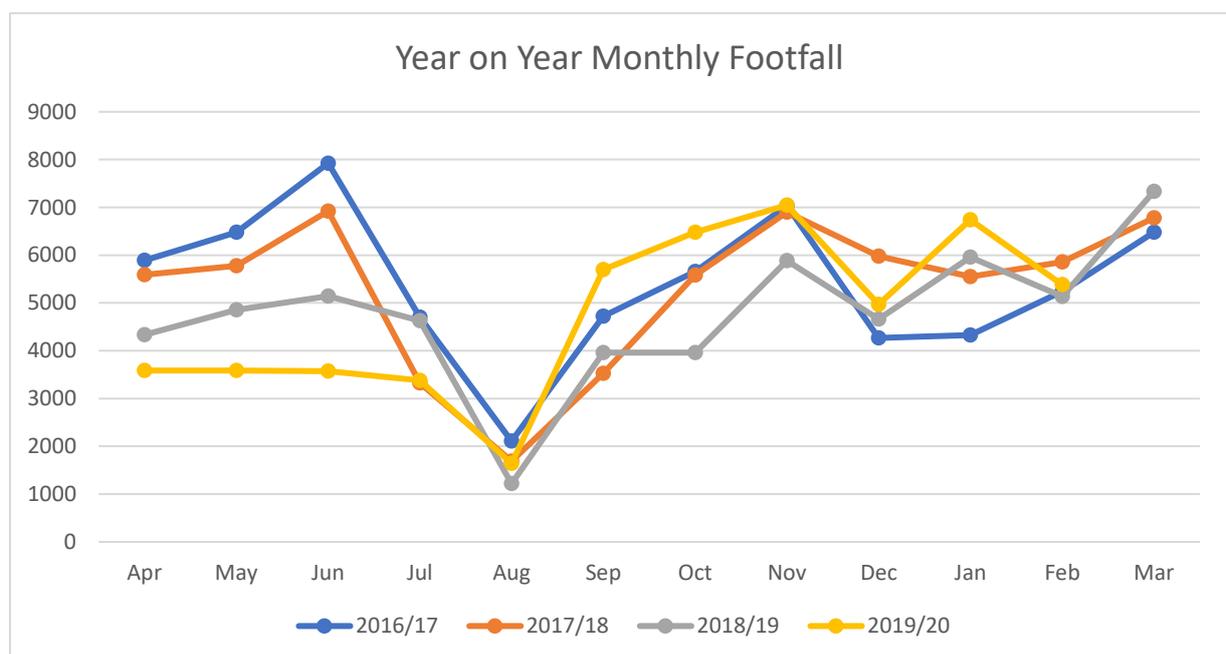
We are not convinced by this reasoning. The provision of a stage and green rooms is part of that multi-use purpose, it is not indicative of its prime use. There is no historical evidence to show that it was designed principally as a live performance venue. Clair Hall is very typical of flexible, multi-use community centres built in its era. Prior to the impact of Covid-19 it was used regularly for the following:

- Live performance – music, professional comedy performances, amateur dramatics, pantomime etc.
- Exhibitions and shows – rocks and minerals etc.
- Education – e.g. mental health workshop
- Religious services
- Meetings, large and small, from a wide variety of clubs and associations
- NHS services e.g. blood donation and training
- Large public meetings of the Council, including the final hearing into the submission version of the 2014-2031 District Plan

#### Additional Supporting Evidence – Footfall

The footfall figures in the Cabinet report compared totalled data for years 2016/17 with 2019/20. The detailed figures for the four years from 2016/17 to 2019/20 provided in the Committee report help to show a fuller picture.

In the 11 months prior to closure in March footfall had risen over 5% from the same period in the previous year (see graph below). We do not think this is consistent with the statement in the Cabinet report paragraph 11 that usage in terms of footfall “...has steadily declined over the last four years”.



### Additional Supporting Evidence – Utilisation

The utilisation statistics contained in the Cabinet report are for the year 2019/20 and have no comparisons with previous years. The detailed figures provided in the Committee report allow comparisons to be drawn.

#### Utilisation of Clair Hall by Year (April-March)

	<b>Main Hall</b>	<b>Studio</b>	<b>Function Suite</b>	<b>Dressing Rooms</b>
<b>2015/16</b>	55%	42%	35%	23%
<b>2016/17</b>	51%	40%	32%	21%
<b>2017/18</b>	50%	41%	31%	21%
<b>2018/19</b>	49%	51%	40%	19%
<b>2019/20</b>	53%	54%	42%	18%

Apart from the Dressing Rooms, the utilisation of all the facilities in Clair Hall has increased every year over the last three years. These figures are also inconsistent with the view that Clair Hall usage is steadily declining.

At the Scrutiny Committee, members tried to raise the question of what Key Performance Indicators were in place with respect to Clair Hall. The Chairman asserted that this was not relevant to the Cabinet decision and prevented the question from being examined. Cllr Alison Bennett pointed out that the utilisation and footfall figures must be relevant otherwise they would not have been in the Cabinet Report. It is still unknown what targets the staff at Clair Hall had been given to achieve. It is unclear what utilisation and footfall figures needed to be achieved for the Hall to be 'viable' in the eyes of the Council. Without this barometer, the Cabinet based their decision upon uncontextualized data lacking both performance measures and medium-term trend. We understand that neither MSDC nor PFP set Clair Hall any target utilisation figures.

### Additional Supporting Evidence – Energy Efficiency

The Cabinet report states that the MEES regulations, which require all commercial buildings which are to be rented out to have an EPC rating of at least E by April 2023, will definitely apply to Clair Hall. The report goes on to suggest that significant work on the hall would be needed in order to ensure it complies with the new regulations.

The Call-in request asked for evidence to be provided to the Committee to show why the current DEC energy rating did not signify that the hall would be likely to comply with the regulations in 2023. The additional comments on the issue in the Committee report did not clarify this point.

We suspect that, in reality, the MEES regulations would not apply to Clair Hall because it is not being let on a lease the term of which is less than 99 years and more than 6 months and we would recommend that the Council obtains an expert opinion on the issue.

Since Clair Hall is a public building in excess of 250 sq. metres in floor area a Display Energy Certificate has been required to be displayed and reassessed each year since 2009. This is based on actual energy consumption data rather than estimates. Results are summarised below

Type of assessment	Date	Rating
EPC	15/05/2009	<b>G</b>
DEC	03/06/2009	<b>G</b>
DEC	19/05/2010	<b>B</b>
DEC	31/06/2011	<b>C</b>
DEC	20/01/2012	<b>C</b>
DEC	25/01/2013	<b>C</b>
DEC	27/01/2014	<b>C</b>
DEC	03/02/2015	<b>D</b>
DEC	12/11/2015	<b>B</b>
DEC	16/11/2016	<b>C</b>
DEC	23/10/2017	<b>B</b>
DEC	30/09/2018	<b>C</b>
DEC	27/09/2019	<b>C</b>

The DEC assessments have shown that in practise the building is operating at a relatively energy efficient level.

## Conclusion

There is no doubt in our minds that the process by which the decision was taken to permanently close Clair Hall was flawed.

- The issue was not published in the Forward Plan and so the Cabinet broke the Council's rules in taking the decision at the September 14<sup>th</sup> meeting.
- There was no consultation prior to taking a key decision which clearly warranted consultation with hall users and the wider community.
- The decision was based in part on a narrative that hall usage was in long term decline when the facts show that the opposite was true.

In addition, a major reason for the decision, voiced by Cabinet members and discussed at length in the Cabinet and Committee reports, is the impact of Covid-19. Thus, a short-term issue is being used as the argument for a decision with long term damaging effects for the community.

The decision should be referred back to Cabinet for reconsideration. Cabinet must use this opportunity to fully consult the public by taking account of the views of hall users and the very large number of residents who feel strongly about this matter. In addition, Cabinet needs to base its decision upon the true picture about usage and footfall that has been revealed as a result of the call-in process so far.

## Recommendations

The decision of Cabinet to permanently close Clair Hall should be referred back to Cabinet for further consideration

The Cabinet are recommended to:

- Consult with Hall users and residents.
- Work with community groups to examine the viability of Clair Hall being operated by a community organisation under a meanwhile lease of the Hall.
- Begin work to assess options for the redevelopment of the Clair Hall site or alternative locations in order to secure the long-term future for arts, events and meeting venues within Haywards Heath.

Signed By:

Councillor Richard Bates

Councillor Alison Bennett

Councillor Peter Chapman

Councillor Robert Eggleston

Councillor Ian Gibson

Councillor Janice Henwood