

The following minutes were confirmed as a true record at the Corporate Services and Economic Growth OSC meeting on 24 September 2018

NORTHUMBERLAND COUNTY COUNCIL

CORPORATE SERVICES AND ECONOMIC GROWTH OVERVIEW AND SCRUTINY COMMITTEE

At a meeting of the **Corporate Services and Economic Growth Overview and Scrutiny Committee** held in Committee Room 1, County Hall, Morpeth on Monday, 3 September 2018 at 10.00 a.m.

PRESENT

Councillor D. Bawn
(in the Chair)

COUNCILLORS

Beynon, J.	Robinson, M.
Castle, G.	Roughead, G.
Grimshaw, L.	Swinburn, M.
Parry, K.	Wilson, T.

PORTFOLIO HOLDERS

Homer, C.	Culture, Arts, Leisure and Tourism
P Jackson	Leader of the Council
Oliver, N.	Corporate Services and Cabinet Secretary
Wearmouth, R.	Economic Development

OFFICERS

B. Scarr	Executive Director of Finance and Deputy Chief Executive
S. Nicholson	Scrutiny Co-ordinator
L. Henry	Legal Services Manager
R. Strettle	Principal Policy Officer
P. Johnston	Executive Director of Place
K. Norris	Democratic Services Officer

ALSO PRESENT

M. Tweedie	Chief Executive, Active Northumberland
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Press: 1

15. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor E. Simpson.

16. MINUTES

RESOLVED that the minutes of the meeting of the Corporate Services and Economic Growth OSC held on 4 July 2018, as circulated, be confirmed as a true record and signed by the Chair.

17. DECLARATIONS OF INTEREST

Councillor Homer declared an interest in item 7 as she was a Trustee and Board Member of Active Northumberland.

18. FORWARD PLAN

The Scrutiny Co-ordinator presented the latest Forward Plan of key decisions (September to December 2018). (Schedule enclosed with the signed minutes as Appendix A.)

Members were asked to note the additional meeting scheduled for 24 September.

RESOLVED that the report be noted.

19. CABINET REPORTS PREVIOUSLY CONSIDERED BY THE COMMITTEE

The Scrutiny Co-ordinator advised members of Cabinet decisions regarding issues previously commented on which had been subject of report by this Committee. (Circulated for information only and enclosed with the signed minutes as Appendix B.)

RESOLVED that the report be noted.

The Chair informed members that the agenda had been re-ordered as follows.

20. SCRUTINY OF CABINET REPORTS

20.1 Replacement of Berwick Leisure Centre

The purpose of this report was to seek Cabinet approval for the development of improved leisure facilities in Berwick. (Report enclosed with the signed minutes as Appendix D.)

Councillors Peter Jackson, Leader of the Council and Cath Homer, Cabinet Member for Culture, Arts, Leisure and Tourism, presented the report. Mark Tweedie, Chief Executive of Active Northumberland was in attendance to respond to comments and queries from members.

The Leader provided background information and supported the recommendations which included the option of moving a scheme forward with Northumbria Healthcare Foundation Trust to bring together the development of leisure facilities with the development of the new Berwick Infirmary Hospital. The Cabinet Member for Culture, Arts, Leisure and Tourism also welcomed the report stating that the sustainability of the current facility was in question and the integration of health and wellbeing with sport and fitness should be embraced.

The Chair invited comments and questions from members of the committee and responses were provided.

- Councillors had received emails from the public and it was acknowledged that some people were in favour of the scheme and some were not. Overall it was felt that people welcomed investment in Berwick but not all were convinced about a joint venture.
- This committee could only look at the provision of leisure services. The site for the hospital was a decision for the Health Trust and scrutiny of that was under the remit of the Health and Wellbeing Overview and Scrutiny Committee. The report was being presented as a joint venture and members were ensured that nothing would be missed as Cabinet would consider feedback from both committees.
- The scheme could be delivered quickly as the land was in Council ownership.
- Parking remained an issue in the town and a detailed parking strategy, including plans for a long stay coach park, had yet to be finalised. Members agreed that parking charges should not be introduced in Berwick.
- Reassurance was given that leisure centre customers would not be at threat from any outbreaks of disease in the hospital, as the leisure centre and the hospital were two separate buildings.
- This was similar to an outline planning application, more details would follow at the next stage.
- Savings and costings would need to be closely monitored.
- Details of the leisure centre had not been specified. Members sought an assurance that the proposals would not lead to a loss in leisure services in Berwick and were advised that the new design and layout would enhance the leisure offer in the town. Members welcomed news that discussions were being conducted with Berwick Academy regarding play space and

resurfacing pitches, particularly the provision of a new artificial all weather playing pitch, which would be available for community use.

- There was an ageing population in Berwick and meetings had taken place with physiotherapists to discuss how leisure provision could support hospital patients to manage their conditions.
- Members suggested that the consultation on the proposals should be extended to include users in the “wider” catchment area, including businesses linked with tourism.
- It was noted that the centre would have a huge appeal to tourists and demand from the tourist market should therefore be optimised. Packages for tourists would be considered by the Active Northumberland Board.
- With regard to funding, £12 million had already been allocated and an extra £6 million would be resourced from the capital plan.
- Reference was made to the drop in membership numbers at the Swan Centre, essential works required and the risk of putting more money into a failing centre. Members therefore considered this to be a prime opportunity for significant investment which would benefit the people of Berwick.
- The new centre would be built in stages and the current centre would be kept open to encourage current members to remain.

RESOLVED that the Committee support the recommendations to Cabinet, as set out in the report, subject to the comments from members.

20.2 Proposed Transfer of 5 Palace Street East, Berwick upon Tweed

The purpose of this report was to seek Cabinet approval to the Council acting in its capacity as a trustee to transfer 5 Palace Street East (including the Mansion House and Hall) to Berwick Youth Project and to appoint an additional trustee, in an administrative position, to enable the Property to be transferred. (Report enclosed with the signed minutes as Appendix E.)

Councillor Peter Jackson, Leader of the Council, summarised the report and provided background information.

A member welcomed the recommendations in the report and the prospect of the derelict listed building being brought back into use. He asked if there was a safety net in place should redevelopment plans not succeed. In response the Legal Services Manager said the building did not belong to the Council and it would be up to the Berwick Youth Project (BYP) what would happen if the charity came to an end, however, covenants specified that the building should be given to another charity.

RESOLVED that the Committee support the recommendations to Cabinet as set out in the report.

(Councillor Jackson left the meeting.)

21. CALL-IN: PROVISION OF INDEMNITIES IN RESPECT OF LEGAL COSTS

The Chair stated that a 'call in' had been received from Councillor Grant Davey following the Cabinet's determination of the report of the Head of Legal Services - 'Provision of Indemnities in Respect of Legal Costs' on 24 July 2018. The Cabinet decision and an explanation of the reasons for the 'call in' were set out in the report. (Report enclosed with the signed minutes as Appendix C.)

Members were reminded that the purpose of the call in was not to re-open discussions regarding the original report but to consider it against the call in criteria relating to the five principles of decision making, as set out in Councillor Davey's submission.

Councillor Davey was invited to explain why he thought those principles had not been followed by the Cabinet.

Councillor Davey referred to page 4 of the call in form and said the call in was not about whether the individuals should have indemnity, he was not being critical of the decision made, it was about how that decision was made, the lack of information given out and the lack of clarity from Cabinet about the process. He said the item had not been risk appraised and there had been no cross party risk appraisal undertaken. Moving on, he believed that writs had been issued by an organisation against individuals and questioned if the whole Council was liable and if members were subpoenaed to court, would the Council protect them?

In response the Legal Services Manager stated that in terms of vicarious liability, no individual had been named other than those stated in the report. Otherwise the claim was against the Council as a corporate entity and not against the wider Council membership. Should, of course, the position change, and there was no reason to think it would, there would be the need to bring a further report to Cabinet.

The Cabinet Member for Corporate Services and Cabinet Secretary said he had understood the call in was about the decision made so he was somewhat confused to hear that was not the case and it was actually about the decision process. He said he would go through the issues raised as follows:

Proportionality

The matter was not pre-scrutinised due to the need for urgency given the circumstances and the company making threats. The individuals concerned had to be defended.

There had been risk assessments as set out in the report to Cabinet. As a result conditions, such as capping, interim restricted sums and provision for repayment, where necessary, were attached to the Cabinet decision. The decision to indemnify was not taken outwith the budget and would be funded from the Council's contingency budget which formed part of the Council's annual budget.

The Cabinet meeting was an open meeting, the reports had been published on the website so the only matter on which there was disagreement was the matter of urgency.

Due and appropriate consultation and the taking of professional advice from officers

All relevant information required by members of the Cabinet was included within the officer's report.

While Court proceedings may not have been issued it would be unreasonable for any indemnity given to be confined wholly to a point beyond such issue especially as, in the event of such action, the Court would place a degree of emphasis on how the parties had conducted themselves in any pre-action correspondence. It would otherwise place those individuals involved at a distinct legal disadvantage if the securing of advice was to be delayed for such an event.

With regard to insurance cover, that did not apply where any allegations made related to deliberate acts made in bad faith or which were essentially unlawful or an abuse of power. In the absence of any insurance cover it was considered important that the individuals concerned should have the support of the Council through an express decision by Cabinet to indemnify them in respect of their legal costs in the absence of the evidence of any wrongdoing.

In terms of the no end date, there could not be one as the Council was not in control of the process. The decision taken by Cabinet provided the indemnity to be given to be capped. There would need to be a further report or reports taken to Cabinet if the matter became protracted for further consideration to be given.

No recovery process - the decision clearly stated that the indemnity would be liable to be repaid in the event of proven wrongdoing. In that event, recovery would follow the normal processes available to the Council in law.

Respect for human rights

Reference within the call in was simply a recitation, and an incomplete one, of the Nolan Principles which did not, as far as the Cabinet member was aware, have a particularly direct relationship with Human Rights but were concerned with the ethical behaviour of those holding public office. In any event the statement provided did not highlight how the Nolan Principles may not have been followed and he did not see any relevance.

Presumption in favour of openness

The reasoning given in the call in was not easily followed. The decision to indemnify was made in a public forum, the known risks having been considered and accommodated in the conditions attached to the decision. It was important to note that the Council had no evidence of wrongdoing on the part of any member and officer which would expose it to the liabilities claimed in the call in. In an event, the reasons stated in the call in perhaps confused the alleged substance of the potential claim with the likely cost to the Council as a result of the proposed indemnity.

Clarity of aims and outcomes

The Cabinet Member for Corporate Services and Cabinet Secretary said he did not understand the point being made as the decision taken by Cabinet was not being discussed.

The Chair invited questions from members and comments/responses were as follows:

- Surprise was expressed that Councillor Davey had called in the decision when he had agreed with the decision made. Members and officers had not done anything wrong and it was the Council's duty to make sure they were protected.
- Reference was made to a 600 name petition which had been sent to Democratic Services about the Cabinet decision. The Business Manager replied that he was not aware of that petition.
- Clarification about item c. of the resolution was requested regarding the £10,000 figure quoted. In response the Legal Services Manager stated it was clear in the report that the indemnity was restricted to £10,000 in the first instance with any further advance being in tranches of no more than up to £15,000 on each occasion for each individual.
- Costs had been incurred since 24 July, records of which were held in Legal Services but were not appropriate to divulge in a public meeting.
- No accusations had been made about other members of the Council, only those indemnified.
- With regard to Tribunal Services, clarification was sought regarding the difference between this case and others. The Chair stated that in this case officers of the Council were being threatened and the Council had agreed to pay their costs.
- Tax payers money was being used to pay for legal costs regarding action by Lugano Developments Limited. The Scrutiny Committee had been denied access to any information so how could the process be open and transparent? There had been no risk assessment or scrutiny of the Cabinet decision. In response the Cabinet Member for Corporate Services and Cabinet Secretary stated that some anonymous allegations had been received by the Council against some individuals after which an internal investigation had concluded there was no case to answer. It would not be normal process for details of allegations to be published when no wrongdoing had been found. The offshore development company concerned had the same access to the planning process as any other company. The Chair added that any member of staff who was cleared of allegations would not expect those allegations to be rehashed in public and to do so would be a breach of their human rights.
- Clarification was sought regarding costs. The Chair explained that normally if a case was won 70 to 90% of costs were awarded but that still meant there were irrecoverable costs, even if there were no adverse findings and the case was successfully defended.
- Clarification was sought about the call in process. The Chair advised that the committee needed to make a decision about the validity of the call in. If the committee agreed the call in was valid, concerns would be reported back to Cabinet but if the committee did not feel it was valid that would be the end of the call in process.

- Clarification was sought regarding legal advice given to the Council and why it had not been shared with members. In response it was noted that the Council's Legal Services Manager had provided advice to Cabinet as the decision maker but that it was not appropriate to share it with all members as this would only tend to undermine legal privilege protection .
- In response to a further question it was stated that the Standards process was a separate process and it would be void if no wrongdoing was found.

Councillor Davey said that some members did not seem to wish to operate within Council procedures or to follow the Nolan principles. The Risk Appraisal Panel should have looked at risk assessments but it had not done so. He reiterated that the call in was about the way the decision had been made and not about the decision itself. He felt that standards may have been breached.

The Legal Services Manager said his overall assessment was not in accordance with that of Councillor Davey.

Councillor Grimshaw proposed that the decision was flawed and should be referred back to Cabinet. Councillor Wilson seconded the motion.

Upon being put to the vote 3 members were in favour and 6 against with no abstentions, it was therefore **RESOLVED** that the motion was defeated and no further action was required.

22. SCRUTINY OF CABINET REPORTS

22.1 Hexham Business Improvement District (BID) Termination

The purpose of this report was to advise Cabinet of the legislative process required to terminate the Hexham Business Improvement District (BID). (Part 1 of the report is enclosed with the signed minutes as Appendix F. Part 2 was provided as a supplementary report, a copy of which is also enclosed with the signed minutes.)

Councillor Richard Wearmouth, Cabinet Member for Economic Development, presented the report and Rob Strettle, Principal Policy Officer, was in attendance to respond to comments and queries from members.

In response to queries regarding potential refunds to businesses, the Principal Policy Officer said they would be subject to a reconciliation process in line with legislative guidelines, the arrangements for which would be determined by Cabinet. Advice was being taken to ensure a clear and consistent approach.

Members conveyed their thanks to Mr Strettle and his team for the work they had carried out.

A member referred to Morpeth also terminating BID arrangements and queried if Blyth would do the same. It was stated that it was up to local businesses to choose the way forward but the Council wished Blyth every success.

RESOLVED that that the Committee support the recommendations to Cabinet as set out in Parts 1 and 2 of the report.

22.2 Medium Term Financial Plan 2019-22 and Budget 2019-20

The purpose of this report was to provide Cabinet with an update on the development of the 2019-20 budget and the Medium Term Financial Plan covering the period 2019 to 2022. (Report attached to the signed Minutes as Appendix G.)

Councillor Nick Oliver, Cabinet Member for Corporate Services and Cabinet Secretary, presented the report and Barry Scarr, Executive Director of Finance and Deputy Chief Executive was in attendance to respond to comments and queries from members.

In response to a question, clarification was provided regarding non-recurrent pressures and examples were given.

In terms of item 2.4, Business Rates Pilot, this was recommended by officers. The plan was part of the devolution process and could potentially be an opportunity for the three North of Tyne Authorities to receive additional funding by submitting a bid to Government. It was not yet known if some Councils would be better off than others but it was confirmed that deprivation was a factor to be considered.

RESOLVED that the Committee support the recommendations to Cabinet as set out in the report.

22.3 Council Tax Support

The purpose of the report was to seek Cabinet's approval to carry out statutory consultation with council tax payers, claimants and other stakeholders to reduce the level of council tax support to claimants from 1 April 2019. (Report attached to the signed Minutes as Appendix H.)

Councillor Nick Oliver, Cabinet Member for Corporate Services and Cabinet Secretary, presented the report and advised members that approval was being sought to carry out statutory consultation on a proposal to reduce the level of Council Tax support for working age claimants from 100% to 92%. The Council was reluctant to do this but was facing increased financial pressure and needed to find a balanced budget. Only 10% of Councils nationwide offered 100% relief with only Northumberland and Durham in the North East region currently providing support up to a maximum of 100%. There would be a very detailed and wide consultation process to go through before any decision was made.

Discussion ensued and, although it was noted that if the proposal was adopted there would only be an increase of around £8 per month on a Band A household, it was argued that would still have a severe detrimental impact on the most vulnerable people in society and in areas of deprivation. Reduction in support would already be seen through universal credit and food banks were on the rise.

Councillor Oliver said that savings had to be made and the proposed reduction was significantly less than the plans being formulated by the previous administration.

The Chair advised members that the recommendation was only to give approval for a consultation to take place and any decision thereafter would be taken by full Council.

Upon being put to the vote 6 members were in favour and 3 against with no abstentions. It was therefore:

RESOLVED that the Committee support the recommendations to Cabinet as set out in the report subject to members' comments.

22.4 Update on Shared Services Due Diligence

The purpose of the report was to provide Cabinet with an update on Shared Services Due Diligence. (Report enclosed with the signed Minutes as Appendix I.)

Councillor Nick Oliver, Cabinet Member for Corporate Services and Cabinet Secretary, presented the report and Barry Scarr, Executive Director of Finance and Deputy Chief Executive was in attendance to respond to comments and queries from members.

A member said she was pleased to note that the Revenues and Benefits office would remain in Ashington during the implementation of Universal Credit and welcomed that part of the report as it would reduce pressure on claimants and staff.

RESOLVED that the Committee support the recommendations to Cabinet as set out in the report.

22.5 Current Status of Active Northumberland Terms and Conditions/Job Evaluation Negotiations

The purpose of the report was to provide Cabinet with information about:

- Progress to date regarding negotiations with the Trade Unions in relation to the proposed new Payline, Terms and Conditions and Job Evaluation process;
- The proposed 'next steps' to the process;
- The short term financial commitment required;
- The potential risk of claims for breach of TUPE rights which may arise from the process and may require formal support to be given to Active Northumberland by Northumberland County Council.

(Report enclosed with the signed Minutes as Appendix J.)

Councillor Nick Oliver, Cabinet Member for Corporate Services and Cabinet Secretary, presented the report and Barry Scarr, Executive Director of Finance and Deputy Chief Executive was in attendance to respond to comments and queries from members.

The Chair advised members that a consultation had been carried out with the unions who had recommended that the proposals be accepted by their members.

RESOLVED that the Committee support the recommendations to Cabinet as set out in the report

23. REPORT OF THE SCRUTINY CO-ORDINATOR

Corporate Services and Economic Growth Overview and Scrutiny Committee Work Programme

The Scrutiny Co-ordinator presented the Committee's Work Programme for 2018/19.

Members were asked to note the additional meeting on 24 September and that 1 October be kept in their diary.

RESOLVED that the report be noted.

24. INFORMATION REPORT - POLICY DIGEST

The Policy Digest provided details of the latest policy briefings, government announcements and ministerial speeches which may be of interest to members. The report could be accessed through the service finder element of County Council's website at www.northumberland.gov.uk.

RESOLVED that the information be noted.

Chair _____

Date _____