

COUNCIL

12 OCTOBER 2021

PRESENT:

Councillors Gwilt (Chair), Greatorex (Vice-Chair), Anketell, Ball, Banevicius, Barnett, Checkland, Cox, Cross, Eadie, Eagland, Evans, Ho, Humphreys, Lax, Leytham, Marshall, Matthews, Norman, Parton-Hughes, Powell, Pullen, Robertson, Salter, Silvester-Hall, Spruce, Mrs Tranter, Strachan, Tapper, Warburton, Warfield, Westwood, White, M Wilcox, S Wilcox, A Yeates and B Yeates

26 APOLOGIES FOR ABSENCE (IF ANY)

Apologies for absence were received from Councillors Baker, Birch, D Ennis, L Ennis, Grange, A Little, E Little, Ray, Smith and Spruce.

27 DECLARATIONS OF INTEREST

Councillor Norman declared an interest in item 7 (Minutes of the Planning Committee 6 September) as one of the planning applications involved his neighbour.

Councillor White declared an interest in item 14 (Introduction of Dual Stream Recycling in 2022 and Associated Financial Matters) as leader of Staffordshire County Council.

The Monitoring Officer advised that she was aware that all Staffordshire County Council Members would potentially have an interest in items 5, 6 and 14.

28 MINUTES OF THE PREVIOUS MEETING

The Minutes of the Meeting held on 18 May 2021 were approved subject to the amendment of a typographical error in Minute 8.

Councillor Robertson noted that Councillor D Ennis had made a statement in support of the Modern Slavery Statement.

29 CHAIR'S ANNOUNCEMENTS

The Chair informed Members that former Councillor Peter Barrett had sadly passed away and led the Council in a Minutes' silence.

The Chair reported that he had attended a number of events including the 20th Anniversary of the National Arboretum and reminded Members of the Civic Service taking place on 7 November.

30 REPORT OF THE LEADER OF THE COUNCIL ON CABINET DECISIONS FROM THE MEETINGS HELD ON 8 JUNE, 6 JULY, 7 SEPTEMBER AND 5 OCTOBER AND CABINET MEMBER DECISIONS

Councillor Pullen submitted his report on Cabinet Decisions from the meetings held on 8 June, 6 July, 7 September and 5 October and Cabinet Member Decisions and answered Members questions.

Councillor Robertson asked whether the Cabinet needed to review the Medium Term Financial Strategy given the potential for collection fund underperformance due to rising energy bills, higher national insurance contributions and cuts to universal credit and the impact these would have on the living standards of the least well off residents.

Councillor Pullen advised that the Medium Term Financial Strategy was robust but if any trends were observed following the removal of universal credit there would be an immediate response.

(Councillor White declared an interest in the decision on the Disposal of Public Open Space, Lichfield due to his position as Chair of Staffordshire County Council Property Sub-Committee).

31 MINUTES OF THE OVERVIEW AND SCRUTINY COMMITTEE

Councillor Leytham submitted the Minutes of the Overview and Scrutiny Committee held on 29 April and 15 July.

Councillor White called on the Council to condemn the activities of anti-vaccine protesters outside of Friary School stating that the premise of their protest was wrong, and it was unacceptable that they were targeting children. While supportive of the right to protest peacefully, he stated that targeting and intimidating children was unacceptable. Councillor White supported the statement given by the Leader of the Council on Lichfield Live and implored the protestors never to repeat such an act in the district or anywhere else.

32 MINUTES OF THE PLANNING COMMITTEE

It was proposed by Councillor Marshall, seconded by Councillor Checkland and

RESOLVED: That the Minutes of the Meetings of the Planning Committee held on 5 July, 22 September and 4 October be approved and adopted.

33 MINUTES OF THE AUDIT AND MEMBER STANDARDS COMMITTEE

Councillor Strachan updated Members on the statement of accounts and asked the Chair that the following details be included in the Minutes:

On 22 September the Audit and Member Standards Committee was advised by its external auditors Grant Thornton that it anticipated issuing an unqualified Audit Opinion subject to final confirmation from the auditors of the Staffordshire Pension Fund, Ernst & Young. This was in line with the usual high standards that the Authority sets itself. On 27 September the Council was notified that Ernst and Young were unable to complete their audit of the Staffordshire Pension Fund due to operational issues within their firm. The result being that no constituent authority of the fund was able to sign its accounts by the statutory deadline of 30 September. No update was anticipated before 26 October 2021.

Councillor Strachan stated that this was deeply frustrating. He advised that the required notice had been published on the Council's website and a letter had been sent to the Chair of the Public Sector Audit Appointments with copies to the Leader of the County Council and to the Secretary of the State. All other affected authorities had done likewise. He further advised that should the required assurance not be received by the end of October the tone of the next letter would be less conciliatory. He assured Members that he would update both the Council and the Audit and Member Standards Committee as soon as he reasonably could.

Councillor Norman advised that he shared Councillor Strachan's disappointment surrounding the delay. He also advised that the draft version of the audit findings report had indicated that no instances of non-compliance with laws and regulations had been identified, however, the final version would be amended to include the Netherstowe and Leyfields issue.

It was proposed by Councillor Ho, seconded by Councillor Wilcox and

RESOLVED: That the Minutes of the Meetings of the Audit and Member Standards Committee held on 22 July and 22 September be approved and adopted.

34 MINUTES OF THE REGULATORY AND LICENSING COMMITTEE

It was proposed by Councillor B Yeates, seconded by Councillor Checkland and

RESOLVED: That the Minutes of the Meetings of the Regulatory and Licensing Committee held on 29 July and 27 September be approved and adopted.

35 COMMUNITY INFRASTRUCTURE LEVY - GOVERNANCE ARRANGEMENTS

Councillor Eadie submitted a report on revised governance arrangements for allocating the discretionary element of the Community Infrastructure Levy (CIL) funding for strategic projects.

Councillor Robertson referred to unallocated money being held in reserve from previous years together with £1.3 million unallocated Section 106 money. He said the Council needed to start investing this money into the district. He believed the recommendations would enable this and supported greater member scrutiny of the process.

Councillor Strachan agreed that the pace has been unacceptably slow and advised that the initial bidding process had closed on the 4 October with the allocation process being currently underway. As a consequence, the pace of delivery would increase.

It was proposed by Councillor Eadie, seconded by Councillor Leytham and

RESOLVED: (1) That the following revisions be made to the CIL governance process as recommended by Cabinet:

- That the CIL Annual Financial Monitoring report (April) and mid-year update (October) are agreed by the Cabinet member for Economic Development, Leisure & Local Plan in consultation with the Head of Economic Growth and Development and reported as a briefing paper to the Council's Overview & Scrutiny Committee.
- That approval for the transfer of CIL monies related to the Cannock Chase and River Mease Special Areas of Conservation (SACs) and Neighbourhood CIL is delegated to the Cabinet member for Economic Development, Leisure & Local Plan in consultation with the Head of Economic Growth and Development.
- That the current Joint Member and Officer Group (JMOG) is disbanded and consideration of the future preparation and revision of CIL policies, procedures and proposals including approval of spending discretionary CIL allocations for strategic infrastructure projects is made the responsibility of the Strategic Infrastructure Group (SIG) in conjunction with the Cabinet member for Economic Development,

Leisure and Local Plan. The SIG will advise/make recommendations to then be considered by the Cabinet member/Cabinet in respect of the allocation of CIL monies.

- That the operation of the SIG is scrutinised by the new Overview & Scrutiny committee and/or any such Task Group established for this purpose.
- That the revised governance arrangements as recommend by Cabinet be approved.

(2) That authority be delegated to the Cabinet Member for Economic Development, Leisure and Local Plan in consultation with the Head of Economic Growth and Development to agree and publish the Infrastructure Funding Statement.

36 UPDATE TO THE MEDIUM TERM FINANCIAL STRATEGY - EARMARKED RESERVES

Councillor Strachan submitted a report on the repurposing of earmarked reserves to reflect strategic priorities.

It was then proposed by Councillor Strachan, seconded by Councillor Eadie and

RESOLVED: That an update on the Medium Term Financial Strategy to repurpose the earmarked reserves identified totalling £775,923 to new earmarked reserves identified in the background section of the report be approved.

37 ANNUAL TREASURY MANAGEMENT REPORT

Councillor Strachan submitted a report confirming that the Council was compliant with all Treasury Limits and Prudential Indicators for 2020/21.

It was proposed by Councillor Strachan, seconded by Councillor Powell and

RESOLVED: That the actual 2020/21 Prudential Indicators contained within the report be approved.

38 DEVELOPMENT MANAGEMENT SERVICES STRUCTURE

Councillor Lax submitted a report in respect of the review of the Development Management (planning) team and the recommendations made by Cabinet on 7 September 2021.

Councillor Evans supported the recommendations and made reference to the desirability of full-time staff. In response Councillor Lax advised on the current staffing arrangements.

Councillor Marshall thanked Councillor Lax and the Planning Development Manager for their work. He noted that recruitment problems were being experienced country wide.

It was proposed by Councillor Lax, seconded by Councillor Salter and

RESOLVED: That an increase in the Revenue Base Budget (totalling £1.13m for the period 2021/22 to 2025/26) for the development management team, as detailed in the financial implications section of the report be approved.

39 DUAL STREAM RECYCLING

Councillor A Yeates introduced a report on dual stream recycling.

Members noted that dual stream recycling was the most cost-effective approach given the increase in gate fees for commingled waste and offered the best means of achieving the required increase in recycled material overtime.

The Cabinets of Lichfield District Council and Tamworth Borough Council had agreed that the optimal solution was to transition to a dual stream collection service based principally on a bag and bin option.

Councillor Norman commented that communications could be improved and believed that the Task Group set up by the Overview and Scrutiny Committee would be able to assist the Cabinet Member. Councillor A Yeates said he looked forward to working with the Task Group to deliver the project.

It was proposed by Councillor A Yeates, seconded by Councillor Strachan and

RESOLVED: Council updated the Medium Term Financial Strategy based on the additional financial implications of Dual Stream Recycling, specifically:

- To increase the revenue budget by an annual net cost of £73,000 (Full Cost £252,000 offset by SCC of £126,000 and Tamworth BC of £53,000) in 2022/23 increasing to £82,000 (Full Cost £267,000 offset by SCC of £126,000 and Tamworth BC of £59,000) in 2025/26 as detailed in the financial implications section.
- To increase the revenue budget for a one-off cost for transition of £68,000. The full cost offset by SCC of £34,000 (capped at £94,000) and Tamworth BC of £34,000 in 2022/23.
- To include a project in the Capital Programme for Bins/Bags acquisition in 2021/22 of £229,000. This project will be funded by a contribution of £95,000 from Tamworth BC and the Council's share of £134,000 from the waste property growth earmarked reserve.

40 REVISED FINANCIAL PROCEDURE RULES

Consideration was given to revised financial procedure rules which provided a framework for managing the Council's financial affairs and were based on the model Financial Procedure Rules issued by the Chartered Institute of Public Finance and Accountancy.

The officers involved were thanked for their work and the inclusion of track changes, highlighting the revisions was welcomed.

It was proposed by Councillor Strachan, seconded by Councillor Wilcox and

RESOLVED: That the revised Financial Procedure Rules be approved.

41 CONTRACT PROCEDURE RULES

Consideration was given to revised Contract Procedure Rules setting out the contract and procurement governance arrangements for the Council.

Councillor Ball referred to the Motion passed by Council identifying local procurement as an urgent matter. He noted that local procurement would help reduce climate change and improve support for local business.

Councillor Pullen advised that social value was being measured in new contracts and this included increasing local employment. The fact that it was being measured and there was a specific KPI about increasing local employment demonstrated that the Motion was being taken seriously and implemented.

Councillor Lax endorsed Councillor Pullen's comments and encouraged Members to play their part when meeting businesses or contractors by encouraging them to tender for work.

Councillor Strachan advised that procuring local services was high on his agenda and was a thread that ran through emerging strategies, given its relevance to building social value and the climate change emergency.

It was proposed by Councillor Strachan, seconded by Councillor Lax and

RESOLVED: That the revised Contract Procedure Rules be approved.

42 MEMBERSHIP OF COMMITTEES

Councillor Pullen thanked Councillor E Little for the work she had undertaken during her time as a Member of Cabinet.

It was proposed by Councillor Pullen, seconded by Councillor Eadie and

RESOLVED: (1) Councillor Matthews to be appointed to Planning Committee to replace Councillor Warfield.

(2) Councillor E Little to be appointed to Regulatory and Licensing Committee.

43 QUESTIONS

Q1. Question from Councillor Evans to the Cabinet Member for Regulatory, Housing & Health

"At the O&S meeting on the 15th July, there is an item referring to DFG's where concern was expressed regarding the performance of the service provider. As a result, we were informed that a briefing paper would be provided before a decision is made as to whether a Member Task Group should be established. We have not yet received a briefing paper, so please can Councillor Lax explain why this has not happened and how much longer we will have to wait for the promised information? Is she still considering that a Task Group may be necessary?"

Response from the Cabinet Member for Regulatory, Housing & Health

“The O&S meeting on 15 July was its first one which considered matters for its work programme. Following the approval of the former Community Housing and Health (O&S) Committee in March this year of a revised Housing Assistance Policy with additional forms of Discretionary Assistance, it was agreed its operation would be reviewed. An informed review of any new or revised policy requires a sensible timeframe to obtain meaningful figures to analyse performance.

LDC only last week received from SILIS (Supporting Independent Living in Staffordshire) the headline figures for the last six months. Therefore, as planned, a briefing paper will be submitted to the members of O&S in advance of their committee meeting on 18 November 2021.

Further I would add that myself and the relevant officers invite members of O&S, on receipt of the briefing paper, to raise any issues with us in advance of the committee meeting on 18 November as this will better assist in giving consideration for all involved as to whether a Task Group is necessary.”

Councillor Evans asked the following supplementary question:

“I hope the provision is improving and will be much more positive and I hope that we’ve got some good news in the future?”

The Cabinet Member for Regulatory, Housing & Health responded:

“As my answer sets out, we’ve only just had the headline data through, but I’ve already been advised by officers that we can see improvements from the discretionary allocations that were passed back in March. I can’t promise anymore because it’s an awful lot of data which we have to drill down into, but it will be put through as a briefing paper as I’ve set out here.”

Q2. Question from Councillor Norman to the Cabinet Member for Climate Change & Recycling

“At the meeting of the Overview and Scrutiny Committee on the 15th of July, the Council’s Climate Change Champion for the Climate Emergency this Council has declared was asked to produce a Briefing Paper to inform members of progress so far, but this had not materialised by the next meeting of the Committee nine weeks later. The reason the Climate Change Champion gave was that an officer had been on annual leave.

Whilst I cannot accept that as an excuse could I give him a chance to explain by telling me how many weeks the officer he was clearly relying on to write the paper was on annual leave during that nine-week period?”

Response from the Cabinet Member for Climate Change & Recycling

“11 days.”

Councillor Norman asked the following supplementary question:

“The officer in question, whom I do not hold responsible was on leave from the 13th to the 18th of September. Although the answer says 11 days but it’s 11 days out of 9 weeks and the briefing paper came 3 days prior to Overview and Scrutiny. So, can I ask does he take his role seriously as Climate Change Champion?”

The Cabinet Member for for Climate Change & Recycling responded:

“Yes.”

Q3. Question from Councillor Norman to the Leader of the Council

“I understand that the £100,000 plus costs to the Council of the failed sale of land at Netherstowe and Leyfields was mainly due to the fact the Cabinet member then responsible, and officers directly involved, were unaware of the duty of the Council to follow the public consultation duty required for the disposal of public open space as set out in the Local Government Act 1972?”

Response from the Leader of the Council

"Cllr Norman will be pleased to know that I made myself aware of this duty and brought it to the attention of officers; that started a chain of events which eventually led to the successful retaining of this piece of public open space.

The [Investigation report in relation to the disposal of public Open Space land at Leyfields and Netherstowe, Lichfield](#), undertaken by Legal Director, Stuart Evans of Anthony Collins LLP confirms at point 14.1:

‘When Cabinet made the decision to sell the land on 4 September 2018 they did not have before them all of the relevant information to make a proper decision in that the public consultation required for the disposal of the public open space land under the provisions of the Local Government Act 1972 had not taken place.’

Point 11 of the report states:

The Cabinet report outlined Bromford’s plans for the land and that a pre application process had been undertaken by Bromford that acknowledged a potential issue to be the loss of Public Open Space. The Council regarded that this would be dealt with through the planning application process, whereupon objections would be considered, and highlighted the risk for Bromford of this being rejected. In paragraph 3.3 of the report to Cabinet it states the following:

“The sale is dependent upon planning consent being forthcoming for the development. The implications of the loss of public open space will be dealt with as part of the planning application process”.

It is evident from the officer’s report to Committee of 4 September 2018 that the requirement to publicly consult on the disposal of open space land pursuant to the Local Government Act 1972 was not set out and this process was not set out as a requirement in the recommendations to Cabinet. The report simply indicated “the implications of the loss of public open space will be dealt with as part of the planning application process”. It would seem it is envisaged that the only public consultation for the disposal of public open space land would be supported through the planning application consultation process."

Councillor Norman asked the following supplementary question:

“I do not know if he is aware that Bromford told the Lichfield District Council representatives of the need of the public consultation as per the 1972 Local Government Act on more than one occasion. So, can I ask if the investigation into what went wrong included asking questions of the officers and the Cabinet Member involved at that time?”

The Leader of the Council responded:

“The Cabinet Member at that time was not part of that investigation. It was an officer led investigation which I quite rightly kept arm’s length from. As I say in my answer here, I made myself aware of that duty, brought that to the attention of the officers which did kickstart the chain of events which meant that the green open space is now no longer being built on.”

(The Meeting closed at 7.05pm)

CHAIR