

# COUNCIL

**12 APRIL 2022**

**PRESENT:**

Councillors Gwilt (Chair), Greatorex (Vice-Chair), Anketell, Baker, Ball, Barnett, Birch, Checkland, Cox, Cross, Eadie, Eagland, D Ennis, L Ennis, Grange, Ho, Humphreys, Lax, A Little, E Little, Marshall, Matthews, Norman, Parton-Hughes, Powell, Pullen, Ray, Robertson, Silvester-Hall, Mrs Tranter, Strachan, Tapper, Warburton, Warfield, Westwood, White, M Wilcox, S Wilcox, A Yeates and B Yeates

**78 APOLOGIES FOR ABSENCE (IF ANY)**

Apologies for absence were received from Councillors Banevicius, Evans, Leytham, Salter, Smith and Spruce.

**79 DECLARATIONS OF INTEREST**

Mark Hooper and Christine Lewis declared a pecuniary interest in item 10, Appointment of Monitoring Officer, as the item related to their posts.

**80 TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE PREVIOUS MEETING**

The Minutes of the Meeting held on 22 February 2022 were approved as a correct record.

**81 CHAIRMAN'S ANNOUNCEMENTS**

The Chair commended the charitable work Councillor Pullen had been doing in connection with the Ukraine crisis.

Councillor Pullen hoped that Councillors and Citizens would welcome the Ukrainian people arriving in Lichfield. Councillor Eagland asked if information could be shared to Councillors on how residents could help or donate.

**82 REPORT OF THE LEADER OF THE COUNCIL ON CABINET DECISIONS FROM THE MEETINGS HELD ON 8 MARCH AND 5 APRIL AND CABINET MEMBER DECISIONS**

Councillor Pullen submitted his report on Cabinet Decisions from the meetings held on 8 March and 5 April 2022 and Cabinet Member Decisions.

**83 MINUTES OF THE OVERVIEW AND SCRUTINY COMMITTEE**

Councillor Norman submitted the Minutes of the Overview and Scrutiny Committee held on 17 March 2022.

Councillor Roberts noted that a Task Group had yet to be set up to review the Council Community Fund and he hoped that this would be actioned before the next Council meeting.

Councillor Norman advised that there had been a delay but progress was now being made.

**84 MINUTES OF THE PLANNING COMMITTEE**

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

**RESOLVED:** That the Minutes of the Meetings of the Planning Committee held on 7 March 2022 be approved and adopted

**85 MINUTES OF THE REGULATORY AND LICENSING COMMITTEE**

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

**RESOLVED:** That the Minutes of the Meeting of the Regulatory and Licensing Committee held on 9 March 2022 be approved and adopted.

**86 MINUTES OF THE EMPLOYMENT COMMITTEE**

Councillor Robertson commented that he was happy to see the real Living Wage mentioned but would like to see a stronger commitment to it, as paying staff less than this wage was inconsistent to LDC's Wellbeing and Belonging Strategy.

It was proposed by Councillor Matthews, seconded by Councillor Warburton and

**RESOLVED:** That the Minutes of the meeting held on 30 March 2022 be approved and adopted.

**87 APPOINTMENT OF MONITORING OFFICER**

Members were advised that the Local Government and Housing Act (1989) obliged the Council to nominate one of its officers as a Monitoring Officer.

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

**RESOLVED: (1)** That the designation of Mark Hooper, Governance Manager as the Monitoring Officer be approved.

**(2)** That the designation of Christine Lewis, Principal Governance Officer as the Deputy Monitoring Officer be approved.

(MARK HOOPER AND CHRISTINE LEWIS DELCARED A PECUNIARY INTEREST AND LEFT THE ROOM DURING CONSIDERATION OF THIS ITEM)

**88 PAY POLICY STATEMENT**

Members noted the Council's duty under Section 38 of the Localism Act 2011 to prepare and publish an annual Pay Policy Statement and gave consideration to the updated Pay Policy Statement for 2022.

Councillor Robertson stated that nearly 10% of employees were earning less than the real Living Wage and asked that these salaries be re-examined.

Councillor White commented that LDC was compliant with the National Living Wage standards which are set by government.

It was moved by Councillor Pullen, seconded by Councillor Marshall and

**RESOLVED:** That the updated Pay Policy Statement as submitted be approved for publication.

## 89 UPDATE TO THE CONSTITUTION (SCHEME OF DELEGATION)

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

**RESOLVED:(1)** That the Head of Operational Service be delegated:

“Powers and functions of the Council in relation to Street Trading in Council owned parks and public open space”

**(2)** That the delegation to the Head of Regulatory Services, Housing & Wellbeing be amended to:

“The power to suspend or revoke private hire/taxi licences.”

## 90 QUESTIONS

### Questions under Procedure Rule 11.2 for Council

#### **Q1. Question from Councillor Anketell to the Cabinet Member for Climate Change & Recycling**

“In December 2019 Lichfield District Council declared a climate emergency and to become carbon neutral by 2050.

What communications has he had with the Cabinet Member for the Local Plan, council officers and others about finding ways under current powers to encourage or incentivise future planning applications for housing and other buildings in Lichfield District to include solar PVs on their roofs and/or walls in order to help reach that target?

This is particularly urgent in the light of the recent IPCC report that the current plans of the UK government mean that the UK will fail to meet even its own inadequate targets in our acknowledged climate emergency.”

#### **Response from the Cabinet Member for Climate Change & Recycling**

“Cllr Anketell may wish to familiarise himself with the Local Plan 2040 review and in particular Local policy SD2: Renewable and low carbon energy and Strategic policy 10 (SP10): Sustainable development.

These identify this council's support for solar, wind and other renewable energy sources in future developments to make a positive and marked contribution to moving towards a zero-carbon economy. The Local Plan 2040 states that new development should reduce energy consumption through sustainable approaches to building design and layout, such as through the use of low-impact materials and high energy efficiency; and incorporate renewable or low carbon energy technologies, where appropriate.

The Cabinet member for the Local Plan will be looking, after submission of our Local Plan 2040 for public examination, to work with officers to bring forward a review of our current Supplementary Planning Documents to look at what further measures we can introduce, to add to what is already set out in the Local Plan 2040 document.”

**Councillor Anketell asked the following Supplementary Question:**

Councillor Antetell referred to measures used elsewhere to encourage the installation of solar power in new buildings and asked “Does the Cabinet Member not wish to fulfil his brief on Climate Change?”

**Response from the Cabinet Member for Climate Change & Recycling**

“Thank you for the question. I can assure you that we are looking all the time at how we can make things better, make things greener. So, one of the things we’re looking at is solar power. We are looking to put solar panels in our green fields and on buildings. This is something that worries me but it’s something that we possibly need to do but it’s finding that fine line where we can do both.

I’d love to see the documentation and the information you’ve got from Bristol and anything else. There are already councillors here sending me information. I’m working with the officers all the time to make things a lot better for everybody. Thank you.”

**Q2. Question from Councillor Norman to the Cabinet Member for Regulatory, Housing & Health**

“At the last meeting of Council, in reply to my concern over the support he gave an application in Lichfield City that was recommended for refusal by our Planning Officers, the Chair of the Planning Committee said: “It became obvious to me that there was a very, very strong tide of opinion which was very much for the application” and that “If I had not expressed an opinion at that point the Planning Committee would not have been fulfilling its role to represent the views of the people of the District.”

Does the Cabinet Member for Regulatory, Housing & Health agree with him that the popularity of an application might legitimately override the planning considerations, both local and national, that I understood were the main considerations that members of a planning committee should consider?”

**Response from the Cabinet Member for Regulatory, Housing & Health**

“I would draw attention to the House of Commons Briefing Paper No 01030 issued 30 August 2019 titled: “Must planning committees follow officers’ advice in reaching decisions” and section 3 Probity in Planning.

“3.1 The Nolan Committee

The Nolan Committee, reporting on standards in public life in 1997, argued that councillors should be more willing to take decisions against the advice of officers:

“Paragraph 286: It should be firmly stated that there is nothing intrinsically wrong if planning committees do not invariably follow the advice of officers. Planning officers exist to advise planning committees, which are entitled to reach their own decisions by attaching different weight to the various planning criteria which are relevant to an application. If a

decision is thought to be perverse, a planning officer should so advise the committee, but respect the committee's conclusion.”

I note in the particular application giving rise to this question, neither the senior planning Officer or the planning solicitor thought it necessary to advise the Committee they thought their decision was perverse. The representatives of the main Heritage Assets, the Cathedral and Erasmus Darwin supported the application. They strongly disagreed with Historic England's opinion that the development would have an overriding harmful impact on a number of heritage aspects.

The Briefing Paper continues:

“Paragraph 289: Councillors themselves may be influenced by feelings which do not derive from dispassionate examination of the planning issues. They may see themselves as leaders of local opinion rather than as judges, and they may even have been elected on a specific platform of opposing or supporting a particular development or type of development. In our view, if planning decisions by local authorities were to be regarded as quasi-legal decisions, in which councillors played a role similar to that of inquiry inspectors or judges, there would be no point in involving councillors in such decisions. They might as well be taken by planning officers, or by inspectors.”

“This conclusion surprised many in the planning field, mainly because they felt that the analysis did not take account of the main issue – the policy framework. The Sweet & Maxwell Planning Encyclopedia commented:

The missing element in the Committee's analysis is the policy framework within [which] decisions must be taken, comprising both national policy (now principally represented by the PPGs) and local policy (now principally represented by the development plan). It is the policy framework which places the greatest constraints upon councillors' ability to reflect local community interests. The principal reason for Britain's national policy framework, indeed, is the need to pursue objectives, such as housing targets, that will often override local community wishes. Part of the impetus for planning gain is that the practice, as with its counterparts in other countries, minimises the cost to local communities of accommodating growth that is the product of national forces. (Sweet & Maxwell Encyclopaedia of Planning Law and Practice, Monthly Bulletin August 1997 page 19)”

The main planning matter the committee were required to consider was the question of balance between public benefit and heritage assets. The purpose of the planning system is to ensure sustainable developments happen in the right place at the right time for the benefit of the economy and the local community.

The Members of the committee come from wards across the District and must be apolitical in their decision making.

The Members took the view the public benefit outweighed the heritage considerations. This is a genuine planning consideration that neither overrides national or local policy. Based on sound planning grounds I fully agree with the comments made by the Chair of Planning who in that role should remind the members of the key issues.

Quite often in making a planning decision it is a matter of weighing up competing issues. In so doing the members reached a different outcome to the recommendation, which they are fully entitled to do. The question is suggesting Committee Members should always follow a recommendation which begs the question, what is the point of having a Planning Committee of elected Members if they always follow the Officers' recommendations?”

**Councillor Norman asked the following Supplementary Question:**

“I’m interested in the Blue Hoardings Site in Burntwood which is designated as a town centre both in the Local Plan and in the Neighbourhood Plan. The Chair of Planning at the time spoke in favour of the developer, which was a planning application for housing, against this. In other words the Chair spoke against the Local Plan and the Neighbourhood Plan and I’d like to know if the Cabinet Member is happy with this?”

### **Response from the Cabinet Member for Regulatory, Housing & Health**

“As reflected in my answer, I’m happy with the approach taken by the Chair on such matters. The question Councillor Norman put forward and his supplemental seem to suggest that at all times you follow all recommendations without due regard for all the planning policies and weighing up the pros and cons. My answer makes it clear that the role of each individual member of the Planning Committee is to weigh up the balance against competing interests and this is what is done throughout. So, I agree with the Chair and what he said at the meeting and I agree with him on what he said concerning Burntwood. Otherwise the members of the committee may as well not turn up and engage in the process of weighing up recommendations and balancing competing interests because that is what happens all the time in planning applications”

### **Q3. Question from Councillor Norman to the Chair of the Council**

“At the last meeting of Council, which he chaired, I started to speak on the Labour amendment for a one-year council tax freeze at 1 hour and 16 minutes into the meeting and at 1 hour,19 minutes and 42 seconds in he ruled, despite my protestations, that I had, had my 10 minutes allowed [under Procedure Rule 15.4].

Can he explain why he misled the Council meeting?”

### **Response from the Chair of The Council**

“Cllr Norman is of course correct; I apologise for cutting him short and at the next meeting of the Council I will be stepping down as Chairman”

## **91 EXCLUSION OF PUBLIC & PRESS**

**RESOLVED:** That as publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted, the public and press be excluded from the meeting for the following items of business, which would involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972

### **IN PRIVATE**

## **92 CONFIDENTIAL REPORT OF THE LEADER OF THE COUNCIL ON CABINET MEMBER DECISIONS**

Councillor Pullen submitted his report on confidential Cabinet Member Decisions and answered Members questions.

## **93 CONFIDENTIAL MINUTES OF THE OVERVIEW AND SCRUTINY COMMITTEE**

Councillor Leytham submitted the confidential Minutes of the Overview and Scrutiny Committee held on 17 March 2022 and answered Members questions

**94 CONFIDENTIAL MINUTES OF THE EMPLOYMENT COMMITTEE**

It was proposed by Councillor Matthews, seconded by Councillor Warburton and

**RESOLVED:** That the confidential Minutes of the meeting held on 30 March 2022 be approved and adopted.

(The Meeting closed at 6.42pm)

CHAIRMAN