

Minutes of the Meeting of the Cabinet

Thursday 26th October, 2017 at 6.00 pm
In Committee Room 2 at The Council House, Dudley

Present:

Cabinet Members:

Councillor P Harley (Leader – Chair)
Councillor D Vickers (Deputy Leader – Vice-Chair)
Councillors N Barlow, S Clark, I Kettle, P Miller, A Millward, K Shakespeare,
D Stanley and L Taylor

Opposition Group Members Nominated to attend the Cabinet:

Councillors H Bills, I Cooper, R Harris, P Lowe and D Sparks (Labour Group);
Councillors P Brothwood and D Perks (UKIP Group)

Officers:

S Norman – Chief Executive, T Oakman – Deputy Chief Executive (Strategic Director People), A Lunt – Strategic Director Place, I Newman – Chief Officer Finance and Legal Services, H Martin – Chief Officer Regeneration and Enterprise, M Rodgers – Chief Officer Housing, D Fishbourne – Interim Senior Manager, P Mountford - Head of Planning and Regeneration, R Cooper - Head of Financial Services and S Griffiths - Democratic Services Manager

Also in Attendance:

K Gowreesunker (Clerk to West Midlands Fire and Rescue Authority)

31 **Cabinet Member for Housing**

Further to Minute No. 32 of the Council meeting held on 9th October, 2017, the Leader reported that he had appointed Councillor L Taylor to the post of Cabinet Member for Housing with immediate effect.

32 **Apologies for Absence**

Apologies for absence from the meeting were received on behalf of Councillors J Foster and J Martin.

33 **Declarations of Interest**

No Member made a declaration of interest in accordance with the Members' Code of Conduct in respect of any matter to be considered at this meeting.

A non-pecuniary interest was recorded on behalf of the Chief Executive, the Lead for Law and Governance and the Chief Officer Finance and Legal Services in Agenda item No. 13 (Annual Review of the Constitution - reference to the Officer Employment Procedure Rules) in view of the statutory protection afforded to the Head of Paid Service, the Monitoring Officer and the Section 151 Officer in respect of disciplinary action.

34 **Minutes**

Resolved

- (1) That Minute No. 23 be amended by the insertion of the word 'not' between the words 'were' and 'a' on the tenth line of the second paragraph of that Minute.
 - (2) That, subject to the correction referred to in (1) above, the Minutes of the meeting of the Cabinet held on 13th September, 2017, be approved as a correct record and signed.
-

35 **Medium Term Financial Strategy**

A joint report of the Chief Executive and Chief Officer Finance and Legal Services was submitted on the latest General Fund revenue position for 2017/18 and provisional Medium Term Financial Strategy (MTFS) to 2020/21.

The proposals in the report would be the subject of public consultation and considered by Scrutiny Committees. The Cabinet and full Council would consider the Revenue Budget Strategy and setting of the Council Tax in February 2018. Proposals concerning the Council Tax Reduction Scheme had already been subject to public consultation and scrutiny and final decisions would be made by the Council in December 2017.

Resolved

- (1) That the actions of the External Auditors, as set out in paragraph 8 of the report, be noted.
- (2) That the forecast variances to the budget in 2017/18, as set out in paragraphs 9 to 11 of the report, be noted.
- (3) That the various issues and risks which will need to be taken into account in finalising the budget proposals for 2018/19, and the Medium Term Financial Strategy, be noted.
- (4) That the process to identify services to be funded from Public Health Grant (PHG), as set in paragraph 33 of the report, be noted.

- (5) That the preliminary financial strategy outlined in the report be approved as a basis for scrutiny and consultation.

That the Council be recommended:-

- (1) That in respect of the Council Tax Relief (CTR) scheme, after considering the outcomes of the consultation, member scrutiny, the equality impact assessment and the Council's financial position, approval be given to:-
- the minimum payment of Council Tax to be increased from 22% to 23%;
 - a new vulnerable category of "care leaver" be created and where a CTR claim is made by a care leaver and their CTR award is calculated to be 100%, they would receive 100% and would not have to pay Council Tax.
- (2) That approval be given to the proposal to document the CTR scheme in such a manner that any personal allowances, premiums, disregards and non-dependent deductions are automatically linked to equivalent annually up-rated values published by central government in either Housing Benefit Legislation or the prescribed Council Tax Reduction Scheme for pensioners (including any other miscellaneous amendments to the aforementioned legislation that are relevant to the local scheme), thus allowing any approved scheme locally to be automatically carried forward to future years, without the need for annual public consultation and re-approval, until such time that further scheme changes are considered.
- (3) That the Chief Officer Finance and Legal Services, in consultation with the Cabinet Member for Finance and Legal Services, be authorised to:-
- pay over to the Combined Authority (CA) funding received from Department for Communities and Local Government (DCLG) in respect of growth in the central share of business rates for 2016/17, as set out in paragraph 24 of the report;
 - agree final details and make payment to the CA of Dudley's contribution from business rates for 2017/18, subject to all authorities agreeing to contribute on the same basis, as set out in paragraph 25 of the report.
- (4) That the delegation for approval of voluntary and compulsory redundancies to the Cabinet Member for Corporate Transformation and Performance and the Chief Officer for Corporate Transformation and Performance, be agreed up to the maximum provided for in the budget forecasts for direct redundancy costs and the capitalised cost of pension strain in respect of redundancies required to achieve the proposed savings set out in the report.
- (5) That progress with the review of procurement, as set out in paragraph 29 of the report, be noted.

36 **Capital Programme Monitoring**

A joint report of the Chief Executive and Chief Officer Finance and Legal Services was submitted on progress with the implementation of the Capital Programme and a number of urgent amendments.

In response to a query concerning the Lister Road development, the Cabinet Member for Environmental Services reported that amended plans would be submitted later in the year and the relevant Ward Councillors would be given appropriate feedback.

Resolved

That the Council be recommended:-

- (1) That current progress with the most significant capital schemes, as set out in Appendix A to the report, be noted.
- (2) That the urgent amendments to the Capital Programme, as set out in paragraphs 6 and 7 of the report, be noted.

37 **Review of Housing Finance**

A joint report of the Strategic Director Place and the Chief Officer Finance and Legal Services was submitted on proposed revisions to the Housing Revenue Account (HRA) budgets for 2017/18 to reflect latest financial forecasts.

The Cabinet noted that proposals in respect of the following would be considered by the Place Scrutiny Committee prior to consideration by the Cabinet and, where necessary, the Council in February 2018:-

- rents for Council homes with effect from 2nd April, 2018.
- charges for sundry services with effect from April, 2018.
- a draft HRA budget for 2018/19 in the light of the latest government announcements on housing finance and the latest spending and resource assumptions.
- a revised Public Sector Housing capital programme for 2018/19 to 2020/21
- the HRA's 30 Year Business Plan.

Members commented on the need to monitor the ongoing consequences of Government policy concerning Universal Credit and potentially make representations on a cross-party basis.

Resolved

That the Council be recommended to:-

- (1) Approve the revised Housing Revenue Account (HRA) budget for 2017/18, as set out in paragraphs 6 and 7 and Appendix 1 to the report.
- (2) Approve the revised Public Sector Housing Capital Programme for 2017/18, as set out in Appendix 2 to the report.
- (3) Note the proposals, as set out in paragraph 2 of the report, for consideration by the Place Scrutiny Committee prior to approval by Cabinet and, where relevant, full Council in February 2018.

38 **Black Country Sustainability Transformation Plan Memorandum of Understanding**

A report of the Strategic Director People was submitted seeking approval for the Council to become a signatory to the Black Country Sustainability Transformation Plan (STP) Memorandum of Understanding document.

During the past 18 months the Black Country health system had been developing a local plan which sought to establish a new way of working, focussing on delivering health and care services within a 'place' based model.

Proposals had been set out in a report entitled "Better Health and Care in the Black Country and West Birmingham".

The Council was requested to contribute to the design and delivery of the local plan by becoming a signatory to a Memorandum of Understanding (MoU) which defined the local approach.

Members noted that the Cabinet was being recommended to approve the document in principle. Concerns were raised regarding maintaining effective democratic accountability, openness and transparency and the need to protect the interests of the local authority. Reference was made to the process for nominating a Chair and the future overview and scrutiny arrangements for the STP.

Queries were raised on specific issues in the report as follows:

- Clarification of the term 'suboptimal' under the section on the Partnership Working Agreement.
- The need for clarity on the operation of the proposed partnership behaviours.
- The need to include trade union representation under the Section on Membership in Schedule 4 (Black Country Partnership Board Terms of Reference).

- The need to clarify and exercise caution in relation to the first paragraph of Schedule 5 (Resourcing) relating to the commitment of in-kind resources to deliver the STP objectives; recognition was required of the importance of the Council maintaining effective budgetary control given the existing financial climate.
- The potential attendance of Cabinet Members and opposition spokespersons to observe STP meetings to increase democratic accountability.
- The lack of reference in the document to the West Midlands Combined Authority.

The Leader welcomed the constructive feedback on the report. The Strategic Director People reported that the proposals had been agreed by the Black Country Chief Executives and Leaders Group and feedback would be given on the specific points and concerns raised. Consideration was also being given to the relationship with the Dudley Health and Wellbeing Board. The issue relating to the WMCA would be raised with lead officer for the Black Country STP.

The Council would maintain an oversight of key strategic decision making. The Cabinet again stressed the importance of maintaining effective democratic accountability in the future arrangements for the STP.

Resolved

- (1) That the proposals contained within the Black Country Sustainability and Transformation Partnership (STP) Memorandum of Understanding document, be noted.
- (2) That subject to the various comments and concerns raised at the meeting, the development of a Memorandum of Understanding and the Black Country Sustainability and Transformation Partnership, be approved in principle.
- (3) That the Strategic Director People be authorised to undertake further discussions and negotiations with Black Country local authorities in order to explore how the Council could work collaboratively and in partnership with key stakeholders to ensure the effective delivery of health and care services within a 'placed' based model within the borough.

39 **Plans for the Former Coseley School Site**

A report of the Strategic Director People was submitted on the anticipated plans for the former Coseley School site and seeking approval to lease land to the Collegiate Academy Trust for the establishment of a purpose-built primary free school.

Subject to Cabinet approval, it was expected that this would increase educational choice in the authority and allow the Council to minimise its liabilities on the former Coseley site, whilst maximising the educational outcomes for pupils and families in the community.

The Cabinet Member for Children's Services reported that the Collegiate Academy Trust (Shirelands) had decided to open only to Reception pupils in September, 2018. The reference to Year 1 classes in the report would therefore be deleted. The Strategic Director People confirmed that this amendment would have no contractual or procurement implications.

Arising from paragraph 32 of the report (agreement of the heads of terms for the lease), comments were made regarding the need for the Council to maintain an active involvement and to fully recognise the importance of the site and the facilities as a community asset. This would be considered further as part of the ongoing work.

Members welcomed the proposals together with the timelines referred to in the report. Further details would be provided in due course concerning the specific costs to the Council. The Strategic Director People confirmed that the sum of £20,000 referred to in paragraph 39 was considered to be adequate to fund the existing operating deficit of the leisure centre.

The Cabinet Member for Children's Services paid tribute to the achievements of the staff and pupils that had remained at the former Coseley School. She recognised the importance of the facility to the community and indicated that a report would be submitted to a future meeting of the Cabinet to address specific issues raised by Members if necessary.

Resolved

- (1) That the information contained in the report, together with the amendment to paragraph 23, to delete the words "and Year 1 classes", be noted.
- (2) That the granting of licences, leases and other agreements as required to the Collegiate Academy Trust, to enable the Coseley Technology Primary Free School to occupy part of the former Coseley School site, be approved.
- (3) That approval be given to continuing negotiations in regard to the provision of a secondary phase free school on the same site.

40 **Blackbrook Valley Local Development Order (LDO) Consultation on Draft Document**

A report of the Strategic Director Place was submitted seeking approval for the draft Blackbrook Valley Local Development Order to be used as a basis for public consultation for a 6 week period from 3rd November to 15th December, 2017.

Resolved

That approval be given to the draft Blackbrook Valley Local Development Order as a basis for public consultation from 3rd November to 15th December, 2017.

41 **Adoption of the Household Local Development Order (LDO)**

A report of the Strategic Director Place was submitted on the amendments to the Householder Local Development Order following adoption at the previous meeting of the Cabinet.

Resolved

That the changes to the design code, application form and website, be noted.

42 **West Midlands Fire Service Governance**

A report of the Chief Executive was submitted on consultation with constituent authorities on the Governance Review and Scheme for the proposed governance model of the West Midlands Fire Service under the Mayoral West Midlands Combined Authority prior to formal public consultation.

Members commented on the governance and functions of the proposed Mayoral Fire Advisory Committee as follows:

- The Leader reported on the proposal for the Chair to be appointed by the West Midlands Combined Authority Mayor in consultation with the Leaders of the seven constituent West Midlands Councils.
- Concerns were raised about the practical implications of the requirement for two-thirds of Members to be present to achieve a quorum for meetings.
- A query was raised concerning the provision for a Members' Allowances Scheme when such allowances were not paid for Members serving on certain other Committees of West Midlands Combined Authority.

The Clerk to West Midlands Fire and Rescue Authority noted the above points and undertook to provide feedback to the Authority.

Resolved

That the Council be recommended to:-

- (1) Approve the prepared Governance Review and Scheme.

- (2) Agree to move forward to public consultation for the Scheme and proposed Governance Model.
 - (3) Delegate authority to the Chief Executive to make any necessary minor amendments to the Governance Review and Scheme prior to public consultation.
 - (4) Support and lead on the public consultation in the Dudley Metropolitan Borough area on behalf of the West Midlands Combined Authority (WMCA).
 - (5) Note the timeline of this governance route to the Mayoral Combined Authority.
-

43 **Annual Review of the Constitution**

A report of the Lead for Law and Governance (Monitoring Officer) was submitted on the annual review of the Constitution

Resolved

That the Council be recommended to approve:-

- (1) The re-titled post of Cabinet Member for Regeneration and Enterprise.
- (2) The revised Officer Employment Procedure Rules as set out in Appendix 1 to the report, subject to clarification on Members acting as referees for officers or candidates for appointment as officers of the Council.
- (3) The revised Access to Information Procedure Rules, as set out in Appendix 2 to the report, including the updated definition of a 'Key Decision'.
- (4) The consistent application of the requirement contained in Article 4.02, so that only the full Council will approve the making, amending, revoking, re-enacting or adopting of byelaws.
- (5) The amendment of Article 6.05 to clarify that Members of Scrutiny Committees may participate in the scrutiny of specific decisions or items of business provided that they have not been directly affected by the decision(s) being scrutinised and they are not otherwise prevented from participating by virtue of having an interest in the matter under the Members' Code of Conduct.
- (6) The amendment of Article 11.01 to reflect the general power of competence set out in Section 1 of the Localism Act 2011.
- (7) The introduction of a new Article 11.06 relating to the powers to establish companies under the Local Government Act 2003 and the Localism Act 2011.

- (8) The specific amendments to Part 3 of the Constitution (Scheme of Delegation) as set out in paragraphs 23 to 30 of the report.
-

44 **Recommendation from the Corporate Scrutiny Committee – 26th September, 2017 – Redundancy and Re-engagement**

A report was submitted on the recommendations of the Corporate Scrutiny Committee concerning the re-engagement of employees who had left the employment of the Council for reasons of redundancy.

The Cabinet was requested to consider amending the Managing Employees at Risk of Redundancy Policy to reflect the recommendations of the Corporate Scrutiny Committee.

Concerns were expressed regarding the practical implications of the proposed policy on the grounds that it may lead to inflexibility and did not represent good employment practice since it was the post rather than the person that was made redundant. Other Members expressed the view that it was important for the Council to establish a clear policy, however, this could include provision to make exceptions in appropriate circumstances.

Following a discussion, the Cabinet accepted the recommendation of the Corporate Scrutiny Committee including the provision for the Chief Executive and Strategic Directors to disapply the protocol in very exceptional cases. Exceptions would be considered on a case-by-case basis alongside the development of criteria to ensure consistency and fairness.

Resolved

- (1) That Option 1, as set out in the report, be approved for adoption by the Council with the exception that casual workers be classed as exempt.
- (2) That the Chief Executive and Strategic Directors be authorised to disapply this protocol in very exceptional cases.
- (3) That the Council's Managing Employees at Risk of Redundancy Policy be amended to reflect this decision.

The meeting ended at 7.20 p.m.

LEADER OF THE COUNCIL