

POLICY & RESOURCES COMMITTEE

Date: 7 November 2011

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 7.30 pm

Present: Councillors:-

Richard Lewis (Chairman)
Glenvil Greenwood-Smith (Vice-Chairman)
Steven North (Leader of the Council)
Philip Hardcastle (Deputy Leader of the Council)

David Brackenbury
Wendy Brackenbury
Roger Glithero
John Farrar
Richard Gell
Jeremy Taylor

Glenn Harwood
Sue Homer
Dudley Hughes
Andy Mercer
Rupert Reichhold

231. PUBLIC SPEAKER

The following people spoke at the meeting:-

- Mr Jeremy Robinson on item 1 (Minutes of meeting on 29 September 2011).
Mr Robinson expressed concerns about the accuracy of the briefing papers submitted to the Policy & Resources Committee on public conveniences, the minutes of the meeting not reflecting a complete picture and the absence of any reference to the comments he had made as a public speaker.
- Councillor Brian Northall on item 8 (Urgency Procedure)
Councillor Northall spoke about the s151 Officer and the Finance Manager leaving the council, and the legal advice received, and posed a number of questions
- Councillor Tony Boto on item 14 (Priority Planning Applications).
Councillor Boto expressed strong misgivings about the proposed priority planning applications scheme as he thought it would introduce a fast track, two tier approach, and he felt that the item should have been submitted to the Planning Policy Committee.

232. MINUTES

The minutes of the meeting held on 29 September 2011 were approved and signed by the chairman, subject to the deletion of the year "2001" in the first line of minute 194 (Resourcing the Production of the Four Towns Plan) and the substitution of the year "2011".

233. DECLARATIONS OF INTEREST

Councillor John Farrar, as chairman of a housing association, declared a personal interest in item 7 (Homelessness Grant 2011/12). He also declared a personal and prejudicial interest in item 14 (Priority Planning Applications) as the company submitted planning applications. He had left the meeting before the item was reached.

Councillor Philip Hardcastle declared a personal interest in item 7 (Homelessness Grant 2011/12) as a former chairman of the Rockingham Forest Housing Association.

Councillors David Brackenbury, Wendy Brackenbury, John Farrar, Roger Glithero, Glenvil Greenwood-Smith, Glenn Harwood, Richard Lewis, Andy Mercer and Jeremy Taylor declared personal interests in item 5 (Waste and Recycling Working Party) as members of the Green Waste Club.

234. QUESTIONS BY MEMBERS UNDER COUNCIL PROCEDURE RULE 10.3

Councillor Dudley Hughes asked the chairman the following questions:-

- 1 Why was information about the recent dismissals of staff not made available within 24 hours of the events?
- 2 Was it a wise decision to remove the Audit and Risk Committee in the light that there are possible reputational and financial risks to ENC from recent events?
- 3 Is there a threat to the budget indicated by recent staff dismissals?
- 4 Are there implications for the wisdom and supposed savings of the re-organisation/re-structure at ENC if a full-time CFO is appointed less than a year after Mark Lovell's departure?
- 5 Is there a common denominator between the recent departure of several senior officers in the finance department?

In accordance with paragraph 10.5 (c) of the Procedure Rules a written answer was given and was circulated at the meeting. The Chief Executive reported that the answers would be e-mailed to other members of the council.

The issues raised by the above questions were covered at a later point in the meeting, during the discussion on item 8 (Urgency Procedure).

235. HOMELESSNESS GRANT 2011/12

The committee considered an application from Rockingham Forest Housing Association (RFHA) for a grant of £5000 to extend the current Private Sector Leasing scheme known as KeySolutions to provide a further 4 homes. The application fully met the agreed Grant Criteria.

RESOLVED:

That £5000 be released from the Homelessness Grant 2011/12 allocation for the RFHA project.

(Reason: to enable officers to respond to the application for funding and administer the Homelessness Grant 2011/12.)

236. WITHDRAWN ITEMS

The following items were withdrawn from the agenda for the reasons given:-

- Item 6 – Energy Efficiency Project – the Government had brought forward the cut off point for lower tariffs under the Feed in Tariff Scheme and there would now be no advantage in the council investing in solar panels.
- Item 17 – Housing Contract – a report would now be submitted to the next meeting of the committee as it was no longer desired to delegate authority to the working group in the light of the tenders received.

237. MINUTES OF WASTE & RECYCLING WORKING PARTY

Members received the minutes of the meeting of the Waste and Recycling Working Party on 12 October (see pages 390 to 392) and considered the recommendation in minute 6.3. (Green Waste Club). The cost to the council of the subsidy would be £11,890 or £13,050 based on a 10% growth in membership.

RESOLVED:

That the recommendation in minute 6.3, as set out below, be approved:-

That the provision of a subsidy of up to 5% of the subscription costs for membership of the Green Waste Club be agreed.

238. URGENCY PROCEDURE

Members noted the use of the Urgency Procedure to appoint, on an interim basis, David Oliver, Chief Executive, as section 151 officer. The council was required to have such an officer in post for the proper administration of its financial affairs and comply with the requirements of the Local Government Act 1972 and the Local Government Finance Act 1988.

Members made a number of comments, asked questions and expressed concerns on this item which reflected the questions asked under minute 234 ante. There was a call for precise legal advice to be supplied to members on the current situation. The Chief Executive and the Monitoring Officer answered members' questions and it was reported that

- The Monitoring Officer would be submitting a report to the next meeting of the committee seeking changes to various parts of the constitution to address the concerns expressed by members about the appointment of the section 151 officer and Finance Manager
- A meeting of the Personnel Sub-Committee would be held in the next week or so to consider options for the appointment of the s151 officer on a longer term basis and the Finance Manager.

- A summary on the current situation would be prepared by a legal officer and circulated to members.

239. ANTI-SOCIAL BEHAVIOUR POLICY & PROCEDURES

The Community Partnerships Manager submitted a draft Anti-Social Behaviour (ASB) Policy and Procedures which had been prepared to comply with a statutory requirement and set out the council's approach for dealing with complaints and enquiries about ASB. The documents recognised the need to work in partnership with other agencies so that incidents and complaints were dealt with promptly and the most effective interventions were carried out.

Members asked that the following changes be made to the policy –

- Paragraph 5.1 - 1: deletion of the words “aim to” in the first line
- Paragraph 6.1 third bullet point: addition of the word “disablist” after the word “racist”.

RESOLVED:

That the ASB Policy and Procedures, as submitted and amended as above, be approved.

(Reason: To provide a standardised and effective approach for dealing with ASB complaints and incidents, in-line with the legal framework).

240. CHILDREN ACT 2004 - SECTION 10: AGREEMENT FOR NORTHAMPTONSHIRE CHILDREN & YOUNG PEOPLE'S PARTNERSHIP

Further to minute 227 – 9 November 2009 - Members were reminded that the Children and Young People's Partnership (CYPP) had the responsibility to oversee and manage an agreement under s10 of the Children Act 2004 and the associated budget on behalf of partners to the agreement, including district and borough councils.

The council's financial contribution for 2011/12 would be £6,920, a reduction of 20% over 2010/11. The current s10 agreement covered a 3 year period terminating on 31 March 2012 but the CYPP board had yet to consider how the agreement would continue after that date. A discussion paper would probably be considered in late November/early December.

Any decision to withdraw funding support could impact negatively on children and young people and members were asked to carefully consider an initial screen Equalities Impact Assessment.

RESOLVED:

- (1) That, having carefully considered the Equalities Impact Assessment (initial screen), it be endorsed.
- (2) That a contribution of £6,920 under the section 10 agreement for 2011/12 be agreed.
- (3) That a further report be presented to a future meeting of the Committee, setting out proposals for how the CYPP Board and the section 10 agreement

will function in the future, to enable a decision to be taken on whether or not to continue with funding beyond 31 March 2012.

(Reason: To decide on current and future funding support for the services provided under the section 10 agreement).

241. ENVIRONMENTAL CRIME STRATEGY – A ZERO TOLERANCE APPROACH

The committee received and considered a draft Environmental Crime Strategy for East Northamptonshire. The strategy's objective was to have a cleaner District where everyone worked together to tackle environmental crime.

It covered waste and local environmental quality issues experienced across the District on both public and private land, and focussed on clean streets, litter, graffiti, waste and dog control, fly posting, abandoned and nuisance vehicles and drug paraphernalia and the powers available under the Clean Neighbourhoods and Environment Act 2005.

It was noted that an Equalities Impact Assessment (a revised version of which was laid on the table) had identified that there was a neutral impact to any group covered under the assessment.

The committee welcomed the draft strategy but asked for the following changes or checks to be made:-

- Paragraph 4.1 - Litter: last paragraph should reflect the council's intention to take action whenever there has been a complaint or there is likely to be harm.
- Paragraph 4.3 and Appendix 1 – Head of Environmental Services to check for consistency between these two parts of the document (eg two dog control areas in Irthlingborough are not listed in Appendix 1).
- Paragraph 4.4 - Graffiti – Head of Environmental Services to check and ensure that any other references to hate related graffiti include the term "disablist".

RESOLVED:

That, subject to the changes and checks identified at the meeting, the Environmental Crime Strategy, as submitted, be approved.

(Reasons –

- (1) To ensure consistency of approach to all potential offenders.*
- (2) To provide clear direction in the approach to be taken when dealing with offences of this nature.*
- (3) To improve customer confidence in the Council).*

242. SEX ESTABLISHMENTS POLICY

Members considered a draft policy for Sex Establishments following the adoption of the Policing and Crime Act 2009 by the council which had amended the Local Government (Miscellaneous Provisions) Act 1982 (minute 213 – 11 October 2010 refers).

It was noted:-

- that an Equalities Impact Assessment (which was submitted) had identified that there was a neutral impact to any group covered under the assessment.
- that no responses had been received to the consultation on the policy.

The Commercial Health Manager asked for authority to make changes to the draft document to –

- Delete references to the Licensing Committee and substitute references to the Licensing (Taxi and Miscellaneous) Panel (paragraphs 3.1.1, 3.1.3, 3.2.2, 4.1.3., 5.1.1, 5.13.)
- Delete references to determination of applications or renewals transfers or variations within the council's scheme of delegation (as all applications will be determined by a Panel)
- Delete the Definitions section.

RESOLVED:

- (1) That the Sex Establishments policy, as submitted and amended at the meeting be approved and that the Licensing Officer be authorised to make the final changes.
- (2) That the following fees be set for applications:-
 Initial - £1,082
 Annual Renewal - £288.

(Reason – To comply with legislation and provide for some income for applications)

243. CUSTOMER SERVICE STRATEGY

The committee had before it a draft Customer Service Strategy which set out the council's approach to providing excellent customer service while being cost-effective at a time of significant financial constraint.

During the discussion on this item, clarification was sought on the customer service standards in Appendix 1 and in particular the use of the word "respond" . It was confirmed that an acknowledgement would be given before the expiry of the target date (10 working days for letters and faxes and 5 working days for e-mails), and that "response" effectively meant "resolution" of the enquiry.

RESOLVED:

That, subject to clarification of the terms used in Appendix 1, the Customer Service Strategy, as submitted, be approved

(Reason – To recognise and meet differing customer needs while providing good value for money).

(Note: Councillor John Farrar left the meeting at 8.55pm during the consideration of the above item).

244. PRIORITY PLANNING APPLICATIONS

Following the approval of a charging regime for pre-application advice (minute 192 - 29 September 2011 refers), the committee considered a report from the Head of Planning Services on the determination of the types of application considered to be a priority in supporting the council's corporate objectives. A suggested approach was set out in section 2.0 of the report.

It was suggested that the following definition should be applied to priority applications:-

Applications for development which propose the creation of at least 20 new permanent jobs (not just for the construction of the development) and which also meet at least one corporate plan objective.

In response to a point made by Councillor Tony Boto under minute 231 the Executive Director outlined the Terms of Reference of the Planning Policy Committee and confirmed that the Policy and Resources Committee was the appropriate body for the consideration of this issue.

Members expressed concern that the proposals submitted would introduce a "twin track" system which would prioritize some developments. A recorded vote was requested on the following motion:-

"That the proposed priority planning applications approach be rejected".

The result of the recorded vote was as follows:-

For the motion:

Councillors David Brackenbury, Wendy Brackenbury, Roger Glithero, Glenvil Greenwood-Smith, Philip Hardcastle, Glenn Harwood, Sue Homer, Dudley Hughes, Richard Lewis, Andy Mercer, Steven North, Rupert Reichhold and Jeremy Taylor.

Against the motion:

Councillor Richard Gell.

Abstentions:

None.

The motion was thereupon declared **CARRIED** and it was

RESOLVED:

That the priority planning application approach be not adopted.

(Reason: The system would introduce, in the committee's view, a two tier system which would appear to give greater priority to some planning applications).

245. REVIEW OF DEVELOPMENT CONTROL DOCUMENTATION

Further to minute 228 of the Development Control Committee (19 October 2011), members considered the following documents:-

- Revised Development Control Charter
- New Pre-Application Protocol
- Revised Protocol for involving members in pre-application discussions
- Revised Protocol for dealing with major planning applications or applications of significant interest.

It was noted that the Revised Protocol for involving members in pre-application discussions would require changes to Part 5.4 of the constitution (Code of Practice for Planning Procedures) and therefore these documents would need to be considered by the full council.

The documents incorporated changes made by the Development Control Committee.

During the discussion, members called for the following changes:-

- **Development Control Charter:** paragraph 6.32 – Last sentence requires rewording
- **Protocol for Involving Members in pre-application discussions:** paragraph 2.1 (line 3) – delete “any”, insert “all”
- **Part 5.4 of the Constitution:** paragraph 16 – reword 2nd bullet point
- **Protocol for dealing with major planning applications or applications of significant interest:**
 - paragraph 3.5 - extend “Ward councillors”
 - paragraph 5.4 - delete the word “recommended” in the last line and substitute “considered”
 - appendix 4 – make it clear that the timescales are targets.

RESOLVED:

That, subject to the amendments highlighted at the meeting, the following documents be approved for publication:-

- Revised Development Control Charter
- New Pre-application Protocol
- Revised Protocol for dealing with major planning applications or applications of significant interest.

It was further

R14. RESOLVED TO RECOMMEND:

That the Protocol for involving members in pre-application advice, and the changes to Part 5.4 of the constitution, as set out in appendix 1 and 2 to these minutes at pages 376 to 381 (and incorporating the changes identified at the meeting) be approved.

(Reason: The new Protocol is required to reflect a new process. Revisions to the existing documents are required to ensure that they align with this new Protocol and also reflect current practice and priorities. However as changes to the constitution are also required that decision needs to be made by full council.)

246. CONTINUATION OF MEETING

At 9.25pm, the meeting having lasted for nearly 2 hours and there being several remaining items to consider, it was

RESOLVED:

That, pursuant to Procedure Rule 8, the meeting continue until the remaining business has been completed.

247. REVIEW OF POLLING DISTRICTS, PLACES & STATIONS

With reference to Council minute 222 (10 October 2011), members considered a report from the Democratic Services Manager on the proposed changes to polling districts, places and stations following the statutory review.

Details were given of the consultations undertaken with the Returning Officers for the two Parliamentary constituencies, District councillors, Town and Parish Councils, political parties, special interest groups, headmasters of schools used as polling stations, electors of Deene and appropriate council officers. All the representations received can be viewed on a webpage on the council's website at www.east-northamptonshire.gov.uk/pollingdistrictreview), along with the relevant Equality Impact Assessments for proposed changes.

It was noted that the suggested cessation of the polling station for Deene and the use of the one at Deenethorpe instead was the only proposal likely to have a negative effect for older people and have rural isolation implications. No representations had been made on the proposal. Members gave careful consideration however, to the Equalities Impact Assessment for this proposal. Councillor Glithero asked that the publication of the change be accompanied by information emphasising the availability of postal voting.

RESOLVED:

- (1) That, having carefully considered the Equalities Impact Assessment submitted, it be endorsed.
- (2) That the changes relating to polling districts, places and stations as outlined in bold in the first column of Appendix 3 and in Appendix 4 (Oundle) on pages 382 to 389 be introduced with effect from 1 December 2011.
- (3) That, subject to recommendation (4) below, no change be made to all other arrangements.
- (4) That the Returning Officer, Executive Director and the Head of Resources and Organisational Development be authorised to agree to introduce alternative polling stations for any premises which become unavailable for any reason between now and the next review, after consultation with ward members and the relevant parish/town council and, if relevant, special interest groups, and after inspection by a Building Control surveyor as regards suitability and DDA compliance.

(Reason – to comply with the requirements of legislation, which requires a review to be conducted every 4 years and to take into account the needs of disabled people and other groups where it is considered there could be a negative effect)

248. CHANGE OF HACKNEY CARRIAGE TARIFF

The committee was told that three members of the hackney carriage trade had asked the council to consider increasing the current tariff charged from £2.30 for the first half mile then 10 pence for each subsequent 1/13.5 of a mile to £2.50 and 10 pence for each subsequent 1/14.5 of a mile.

All 22 hackney carriage proprietors had been consulted and 12 replies received. Six favoured the proposal, three were against and three offered alternative suggestions.

An Equality Impact Assessment had been undertaken but an increase in tariff would have a neutral effect on all except those considered to be in the lower socio-economic groups.

The requested increase was considered to be reasonable in the light of increased fuel costs.

The Licensing Officer explained that any proposal to increase tariffs would need to be advertised over a 14 day period and representations considered.

RESOLVED:

- (1) That the request for an increase in the tariff for hackney carriages to £2.50 for the first half mile and then 10p for each subsequent 1/14.5 of a mile be approved and that the proposal be advertised.
- (2) That authority be given to the Licensing Officer, in consultation with Councillor Glenn Harwood, to consider any representations received and if satisfied, implement the proposal.

(Reason – to comply with the council's policy to review tariffs on a periodical basis and to reflect the rising cost of fuel).

249. OUNDLE CUSTOMER SERVICE CENTRE – REVIEW OF OPENING HOURS

The Head of Customer and Community Services reported that the Oundle Festival Office (OFI) had changed their opening hours to 10am to 1pm only from Monday to Saturday although the situation would be reviewed again in January 2012. This had implications for the delivery of tourism and council services if the council continued to provide a service in the afternoons from 1pm, as, due to lone working issues, two members of staff would have to be provided during this period. This would negate some of the salary savings that had been achieved.

The current opening times for customer services was 10am to 4pm on Tuesdays, Thursdays Fridays and Saturdays. It was therefore proposed that this be changed to 10am to 1pm on Mondays to Saturdays and therefore the service would be available on two extra days a week throughout the year.

RESOLVED:

- (1) That, with effect from Monday 5 December 2011, Oundle Customer Service Centre opening hours be changed to 10am to 1pm on Mondays to Saturdays.
- (2) That, should any further changes be required to opening hours, the Head of Customer and Community Services be authorised to implement them provided they do not have additional financial implications.

250. EXCLUSION OF PUBLIC AND PRESS

RESOLVED:

That the public and press be excluded from the meeting during consideration of the following items of business because exempt information, as defined under paragraphs 1 and 3 of part 1 of schedule 12A of the Local Government Act 1972, may be disclosed.

251. RELEASE OF RESTRICTIVE COVENANT – 7 MALLARD CLOSE, HIGHAM FERRERS

Members considered a report from the Solicitor to the council asking it to approve the release of a restrictive covenant on the above property which prevented more than one dwelling from being constructed at the property. Further information and preliminary valuation advice was submitted in relation to the compensation that would be payable. The council had the benefit of the restrictive covenant as the land had been sold in 1965 by Higham Ferrers Borough Council.

The committee received legal advice on the effect of the council refusing the request, even though planning permission had been granted on appeal for a second dwelling on the site and that densities were now higher than in 1965, when the covenant had been imposed. Members considered the reasons for the covenant. It was believed that there had been a wish to prevent overdevelopment of this area and that the larger dwellings provided a balance of development in Higham Ferrers.

RESOLVED:

That the request for the release of the restrictive covenant on 7 Mallard Close, Higham Ferrers be refused.

(Reason: To reflect the original intention that the dwellings in Mallard Close should be of a larger size; to prevent overdevelopment of the individual plots, and provide a balance of housing sizes in Higham Ferrers)

Chairman

Response to questions raised by Cllr Dudley Hughes on 4 November 2011

To the Leader

1. *Why was information about the recent dismissals of staff not made available within 24 hours of the events?*

It is conjecture to refer to the recent departures of staff as dismissals. As the Chief Executive made clear in his Member Briefing of 3 November, "we have received very firm advice from Northampton BC's specialist employment lawyer that to do so [provide further information about the Finance Manager's departure] would put the Council at risk of legal action". The same legal considerations apply to the departure of the Committee & Reprographics Manager's post.

As regards the timing of the original Member Briefing on 25 October, the purpose of the briefing was to inform members of the change in S151 Officer arrangements. Reference to the posts of Finance Manager and Committee & Reprographics Manager was to make Members aware of the departures of officers who many of them will have known and had contact with. It is not normal practice to advise Members of the departures of staff, particularly where those staff are below senior management level.

2. *Was it a wise decision to remove the Audit and Risk Committee in the light that there are possible reputational and financial risks to ENC from recent events?*

The activities of the Audit and Risk Management Committee are still being carried out, either by the Scrutiny Committee or by the Policy & Resources Committee, and the Audit and Risk Management Committee would have had no role to play in this instance.

The Chief Executive and I do not share the view that recent events have in any way increased the possible reputational and financial risks to the council. However, any failure to follow legal advice will always increase the risk to the council.

To the Chief Executive and Leader

3. *Is there a threat to the budget indicated by recent staff dismissals?*

No. It is not clear what 'a threat to the budget' means, but the forthcoming report to the Finance Working Party on 16 November will show that, were it not for the significant legal and other costs of the appeal against the Development Control Committee's decision to refuse the Northdale End Raunds planning application, the Council would be expected to report an underspend of over £100k against this year's budget.

4. *Are there implications for the wisdom and supposed savings of the re-organisation/re-structure at ENC if a full-time CFO is appointed less than a year after Mark Lovell's departure?*

The Council is saving around £75k a year from buying in part-time CFO support and reallocating the other activities formerly carried out by Mark Lovell as Executive Director. It will be for the Personnel Sub-Committee (PSC) to decide whether to maintain that arrangement. The Chief Executive will be taking a report to the next PSC meeting setting out the options for filling the CFO role. That report will no doubt contain a very similar set of options to those contained in the report to PSC on 30 November 2010 at the time of Mr Lovell's departure.

It is important to distinguish between the statutory roles within the Council (Head of Paid Service, S151 Officer/CFO, and Monitoring Officer) and the people who hold them. None of the three statutory roles requires a full-time post in its own right. Each of those roles is generally carried out by a senior employee with other duties, as the job descriptions of the Chief Executive (Head of Paid Service) and Executive Director (Monitoring Officer) make clear. The Personnel Sub-Committee will not be considering whether to appoint a full-time CFO, because there is no need for such a post. They will be considering whether that role should be held by a Council employee, and in that case which post (existing or new, full-time or part-time) should hold the role, or whether CFO support should again be bought in.

5. *Is there a common denominator between the recent departure of several senior officers in the finance department?*

The Council does not have a finance department. Since 1 April 2009, the Council has operated a shared finance service with Corby BC, hosted by Corby. As regards 'several senior officers', again, it is not entirely clear who the question is referring to, but presumably it relates to the following three former employees:

- Rob Austin, formerly Head of Resources (which covered areas such as elections, democratic services, legal services and amenities as well as finance) . Mr Austin left on 6 August 2010, having decided not to apply for the role of Head of Resources & Organisational Development, which was created as part of the management restructure that reduced the number of Heads of Service from 8 to 5, saving about £200k a year.
- Mark Lovell, formerly Executive Director and Chief Finance Officer. As the Chief Executive set out in his Member Briefing of 3 November, Mr Lovell tendered his resignation in late 2010 and left on 8 April 2011.
- Rosanne Fleming, formerly Finance Manager (which is a middle manager post within the Council's organisation structure, not a senior management position). All that can and will be said about Ms Fleming's departure has already been set out in the Member Briefings of 25 October and 3 November.

In summary, no, there is not a 'common denominator'.

Steven North, Leader of the Council
David Oliver, Chief Executive

7 November 2011