

## OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE

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### MINUTES OF THE OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE MEETING HELD ON 3 JANUARY 2017 AT KENNET COMMITTEE ROOM, COUNTY HALL.

#### **Present:**

Cllr Glenis Ansell, Cllr Chuck Berry, Cllr Christine Crisp, Cllr Stewart Dobson, Cllr Alan Hill (Vice Chairman), Cllr George Jeans, Cllr Gordon King, Cllr Jacqui Lay, Cllr Stephen Oldrieve, Cllr Tony Trotman, Cllr John Walsh, Cllr Anna Cuthbert (Substitute), Cllr Paul Oatway QPM (Substitute) and Cllr Ian Thorn (Substitute)

#### **Also Present:**

Cllr Chris Caswill, Cllr John Thomson and Cllr Philip Whitehead

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#### 1 **Apologies**

Apologies were received from Councillors Glenis Ansell, Simon Killane, Howard Greenman, Jon Hubbard and Bridget Wayman.

Councillor Wayman was substituted by Councillor Paul Oatway QPM. Councillor Hubbard was substituted by Councillor Ian Thorn. Councillor Greenman was substituted by Councillor Anna Cuthbert.

#### 2 **Minutes of the Previous Meeting**

The minutes for the meeting held on 1 November 2016 were presented for consideration and it was,

#### **Resolved:**

**To approve and sign as a true and correct record.**

#### 3 **Declarations of Interest**

As item 8 – Request for Scrutiny Review of an Officer Decision – related to public conveniences, Councillor Chuck Berry clarified for information that he no longer worked in the public convenience industry.

#### 4 **Chairman's Announcements**

Details were provided for the Overview and Scrutiny Legacy Workshop to be held for members on 17 January 2017 from 2-4pm in the Council Chamber,

County Hall. The workshop formed part of the approved learning and development programme, and would provide an opportunity for members to reflect on the Overview and Scrutiny approaches, successes and challenges during the 2013-2017 council period. Attendees would be asked to consider what messages and recommendations should be made to the succeeding 2017-2021 council as it established its priorities.

## 5 **Public Participation**

There were no questions or statements submitted.

## 6 **Forward Work Programme**

The Forward Work Programmes for the Select Committees and updates on previous work was received. Additional updates were received as follows:

### Health Select Committee

Particularly attention was drawn to the meeting on 15 November 2016 and monitoring of developing urgent integrated care. AN update had been received from the Clinical Commissioning Group and further updates would follow in March 2017, along with further information from Great Western Hospital responding to the recent disappointing Care Quality Commission report. It was also reported the Better Care Plan Task Group would be meeting to complete their final report on 3 January 2017.

### Children's Select Committee

The Committee was informed of recent activity, including a briefing on the Health Schools scheme which councillors were encouraged to raise with schools in their area, as well as an update from the Wiltshire Assembly of Youth representative, also a member of the Wiltshire Youth Parliament, who had attended the Houses of Parliament where discussion of mental health among young people had been raised as a priority.

### **Resolved:**

**To receive the updates from the Select Committees and approve the Forward Work Programme.**

## 7 **Management Committee Task Group Updates**

The written update from the Task Groups was received. Additional updates were received as follows:

### Military-Civilian Integration Partnership Task Group

The Task Group was awaiting updates from partners and would formulate a recommendation to the forthcoming Council once received.

### Swindon and Wiltshire Local Enterprise Partnership (SWLEP) Task Group

A meeting with the new Chairman of the SWLEP, Mr John Mortimer, would take place within the month.

### MyWiltshire System Task Group

At the request of the Task Group the committee considered proposed changes to the terms of reference as a result of an extension to the timescale for the implementation of the new system to accommodate the development of the council's digitisation strategy. It was,

### **Resolved:**

**That the Committee approve in principle to amend the terms of reference of the Task Group to include monitoring development of the council's digitisation strategy, and to received proposed wording to that effect at the next meeting.**

### 8 **Request For Scrutiny Review Of An Officer Delegated Decision: Demolition Of Former Public Conveniences On Bath Road, Chippenham**

Under Paragraph 1 of Part 3D(1) of the Constitution (Scheme of Delegation to Officers), it states *'any member of the Council may request that decisions taken under delegated powers are scrutinised by the appropriate overview and scrutiny committee'*.

On 3 December 2016 the council's Designated Scrutiny Officer received such a request from Councillor Chris Caswill, Chippenham Monkton Division, relating to officer delegated decisions to demolish a block of former public conveniences situated on Bath Road, Chippenham, which lies within his electoral division.

A report from Paul Kelly, Head of Corporate Support (Democracy and Performance) and Designated Scrutiny Officer was prepared for the Committee in response to the request. The report set out the constitutional authority for the request, details of the officer delegated decisions that had been taken and their context in relation to agreed council policy, and set out Councillor Caswill's argument as to why scrutiny should be taken in respect of the decisions and the initial officer response to that argument.

It was also noted that the request was the first of its kind that had been received by the council, and the process for consideration by the Committee had been developed by the Designated Scrutiny Officer and Monitoring Officer in consultation with the Chairman and Vice-Chairman of the Overview and Scrutiny Management Committee. Further, it was clarified in the report that a request for scrutiny of officer decisions did not halt progression of a decision as with formal 'call-in' of Executive decisions taken under Part 8 of the Constitution (Overview and Scrutiny Procedure Rules).

The background to the decisions in question had been the approval of the Financial Plan 2015/16 by Full Council on 24 February 2015, which included the transfer of the cleaning and securing of unmanned/attended public conveniences to town and parish councils. On 15 March 2016 Cabinet resolved, among other things as detailed in the report, to transfer public conveniences to towns and parishes that wished to manage them following undertaking of cost

benefit analyses, and to authorise specific Associate Directors in consultation with the relevant Cabinet Member to enter into formal arrangements as necessary to carry out the resolved actions.

Councillor Caswill was invited to detail to the Committee why he believed decisions taken by Barry Pirie, Associate Director, People and Business, required further scrutiny.

Councillor Caswill began by clarifying that while he believed the evidence showed some serious mistakes had been made in the process of the decisions, he had no concerns about his interactions with officers throughout the process, which had been courteous throughout. He also clarified that an element of the issues related to planning, and while the Committee could not and should not become involved in any aspect of determining planning applications relating to the officer decisions in question, decisions leading up to those planning applications required scrutiny.

It was stated that the Cabinet decision from March 2016 had been clear that the primary intention was that public conveniences should, where possible, be delegated to towns and parishes. It was not disputed that initially Chippenham Town Council indicated they did not have a wish to take on these particular conveniences. However, Councillor Caswill contended that there had been considerable contention locally about the decisions, and proper processes had not been followed, particularly in relation to a changing situation.

On 7 July 2016 a newsletter from the Cabinet Member for Highways and Transport, Cllr Philip Whitehead announced the conveniences in questions would be demolished, but as local member Councillor Caswill had not received any prior notification. Having been told the newsletter was in error, a planning application for the demolition emerged which had been dated 23 June 2016. Cllr Caswill's contention was that the decision to demolish had been taken prior to any cost benefit analysis being undertaken, and that in addition to this the failure to keep him informed was a failure to abide by Protocol 1 of the Constitution (Councillor-Officer Relations). The application was submitted again later in September 2016 but was not included on the weekly list of applications circulated to members. Councillor Caswill challenged the application with officers and it had to be withdrawn due to errors, which he felt showed that as a result of the haste and lack of consultation with members, a significant error had been made, and that the decision was not proportionate, one of the principles of decision making for the council.

Chippenham Town Council had objected to the proposed demolition and on 23 October set up a working party to advise Wiltshire Council they were reconsidering the matter. CllrCaswill argued that as the Cabinet decision was aimed, where possible, at transferring rather than demolishing public conveniences, the officer decision to demolish should have been withdrawn as a result. However, officers informed him that they were proceeding as the demolition was necessary for marketing of the site, which he contested. The Business Improvement District have also subsequently indicated they might

contribute to keeping the conveniences open. Nevertheless, despite this the officers indicated they would proceed.

Cllr Caswill stated he had also been informed that the process of determining what should be done in this matter had involved officers consulting Cabinet through a body termed Cabinet Liaison, which was not a public body. He considered private consultation was not open and accountable and the views of Cabinet Liaison should not be dominant over the only public decision, which was to prioritise keeping as many conveniences open as possible, and if it could not be that decision should be made publicly.

In summary, he felt the decisions undertaken in relation to Bath Road, Chippenham, required additional scrutiny because there had demonstrably been errors of process and failures of required consultation, which had already resulted in one application being withdrawn. Secondly, the decisions were being made following private consultations and therefore were not challengeable as all decisions should be. Thirdly, as a matter of common sense the application for demolition should be suspended while the issues were sorted out.

In response to a query on the report stating the Town Council confirming on 16 December 2016 they did not wish to take over the public conveniences, Cllr Caswill stated this had been true, but this had followed a letter from Dr Carlton Brand, Corporate Director, informing the Town Council it was unrealistic to prepare a new lease for them to take over the site, and he maintained the latter decision was contrary to Cabinet policy and they had only been responding on that point.

Dr Brand then commented upon the request from Cllr Caswill. He welcomed the democratic challenge as an indication of the strong member-led culture of the council, which had been upheld with guidance sought from members throughout the process.

He stated there had been in essence two decisions in relation to this matter. One was whether to continue operating such public conveniences, falling under the Cabinet Member for Highways, and the second relating to what to do with the buildings, which fell to the Associate Director. The site had been on the market for 10 years and was a principle site for the town, with feedback from the market being that without the toilet block the site would sell much more readily. He also stated his letter to the Town Council had simply laid out the situation for them, as they had gone back and forth on whether they wanted to take the site on or not.

Cllr Philip Whitehead was invited to comment, and he stated that two processes had been followed. A Cabinet decision taken in line with the Financial Plan had been to transfer conveniences where possible, but Chippenham had twice confirmed they did not wish to take on the site, stating they had a sufficient complement of public conveniences. In the absence of a budget to maintain the site, and the Town Council wishing to take them on, demolition had been the only option, particularly as the conveniences required significant investment to bring them up to standard.

The Committee then debated the request for scrutiny of the decisions that had been taken in relation to the Bath Road public conveniences.

Some members felt that the evidence that a series of consultations had taken place from officers following the appropriate decision and delegation from Cabinet. The Town Council had indicated several times they did not wish or could not take on management of the public conveniences, and officers had acted in good faith to progress matters in the only way possible following those indications. Authority to do so had been granted to the Associate Director, in consultation with the Cabinet Member, and it was therefore appropriate that the matter had been discussed at Cabinet Liaison, an informal gathering of cabinet members and corporate directors to discuss council business.

Other members felt that there was evidence there had been a confused situation in relation to the decisions being taken, as well as indications of errors of process and consultation and the extent of that should be looked at further to ensure the processes were sufficient and appropriate, noting that if the primary aim of a decision had been to encourage transfer of assets, if that was not possible and demolition was then decided upon, that decision perhaps could have been more public and therefore accountable. It was also raised that decisions being progressed and assessed only in an informal committee such as Cabinet Liaison required clarity on its functions and how much influence the informal body had.

There was also concern local members were often not kept as informed of matters within their divisions as the constitution required. Some also considered that scrutiny of an officer decision had not been undertaken within the span of Wiltshire Council, and there might be a benefit to testing out the process fully.

The Committee was in agreement that there was no reason given why demolition applications should not appear on the weekly list of applications to members, and recommended they be added.

At the conclusion of debate Cllr Caswill summarised by stating it was clear that he as local member had not been adequately consulted on several occasions, but the most critical issue was there had never been a public decision to demolish taken by members, and the only public decision was from Cabinet in March 2016 which did not state demolishing was council policy, and therefore an officer decision had, in his view, superseded that of the Cabinet.

**Resolved:**

**That the officer delegated decisions in respect of the Bath Road public conveniences not be scrutinised further.**

9 **Centre for Public Scrutiny (CfPS) Annual Conference 1 December 2016 Update**

The written update from the Chairman of the Committee on his attendance at the Centre for Public Scrutiny Conference (CfPS) Annual Conference on 1 December 2016 was received in the agenda supplement.

**Resolved:**

**To note the update.**

10 **Dates of Future Meetings**

The date of the next meeting was confirmed as 1 February 2017 to scrutinise the administration budget proposals. A meeting had also been arranged for 14 February 2017 to scrutinise any opposition budget proposals that were submitted.

11 **Urgent Items**

There were no urgent items.

(Duration of meeting: 10.30 - 11.55 am)

The Officer who has produced these minutes is Kieran Elliott (Senior Democratic Services Officer) of Democratic Services, direct line (01225) 718504, e-mail [kieran.elliott@wiltshire.gov.uk](mailto:kieran.elliott@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115

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