

COUNCIL MEETING held at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN on 8 OCTOBER 2013 at 7.30pm

Present: Councillor E Hicks – Chairman.
Councillors K Artus, G Barker, S Barker, R Chambers, J Cheetham, J Davey, P Davies, A Dean, R Eastham, K Eden, M Foley, E Godwin, S Harris, S Howell, D Jones, A Ketteridge, J Ketteridge, R Lemon, J Loughlin, K Mackman, J Menell, D Morson, E Oliver, E Parr, J Parry, D Perry, V Ranger, J Redfern, J Rich, H Rolfe, J Rose, D Sadler, L Smith, A Walters, D Watson and L Wells

Officers in attendance: J Mitchell (Chief Executive), M Perry (Assistant Chief Executive – Legal), R Harborough (Director of Public Services), P Snow (Democratic and Electoral Services Manager) and A Webb (Director of Corporate Services).

C30 PUBLIC SPEAKING

Mr S Williams made a public statement set out in full as an appendix to these minutes.

The Leader responded to Mr Williams' comments and these remarks are also included in the appendix.

C31 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors H Asker, I Evans, M Felton, R Freeman, T Knight and J Salmon.

C32 MINUTES

The minutes of the meeting held on 1 July 2013 were received, approved and signed by the Chairman as a correct record.

C33 BUSINESS ARISING

(i) Minute C20 – Questions to the Leader and Members of the Executive

Councillor Dean referred to his question to the Leader and to the claim made by him that the Local Plan process was transparent. Reference had been made to inconsistencies in the number of houses to be built but the opportunity to discuss this at the Local Plan Working Group had been lost because the meeting scheduled for 4 October had been cancelled. A meeting would now take place on 17 October. In the meantime the Local Plan process had been allowed to drift. He asked the Leader to confirm what his strategy was for completing the Local Plan.

In response, the Leader said that Councillor Dean and any of his group would be most welcome to attend the LPWG meeting on 17 October and to contribute to the debate.

C34 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman said that he had attended a wide variety of events on behalf of Uttlesford including in parts of Essex rarely visited before. The Chairman's quiz, in support of his chosen charities, would be held on Tuesday, 22 October and he encouraged all members to participate.

C35 **REPORTS FROM THE LEADER AND MEMBERS OF THE EXECUTIVE**

The Leader recorded his satisfaction that the Performance and Audit Committee had, for the sixth successive year, approved the annual accounts for 2012/13 with an unqualified auditors' report. He congratulated Mr Joyce and his team for their outstanding performance and sound financial management.

He said that members would be aware of the Government's proposal to top slice new homes bonus in 2015/16 by up to one third to fund a pot of money for local enterprise partnerships. The Council had made an appropriate response to the DCLG's consultation disagreeing strongly with the pooling of new homes bonus funds in the way suggested.

The Leader also read part of a response sent to the Secretary of State by the Greater Cambridge and Greater Peterborough Partnership stating that the proposal would create unnecessary tensions between key partners, constrain the ability to deliver strategic objectives, and impact upon the ability to secure match funding.

The Leader referred to the recent visit from the Communities Minister Don Foster as part of the launch of a new Government initiative entitled "We've Got The Power".

Finally, he reported that the Uttlesford Local Plan Highway Assessment had been received earlier in the day and was now available on the Council's website.

Councillor Walters presented his portfolio holder's report on policing, licensing and emergency planning. He said that the district continued to be considered very safe in which to live in spite of the recent increase in house burglaries.

Councillor Barker presented her report as the portfolio holder for environmental services. This concerned the visit made by Uttlesford representatives to Bywaters materials recycling facility (MRF) in East London. She had been especially impressed by the amount of manual sorting involved in this operation. It was now intended to arrange visits to the MRF for environmental services staff to enable them to explain the service to residents.

Councillor Rolfe presented a report on his portfolio area of communities and partnerships. This covered economic development initiatives such as help to local businesses and access to superfast broadband, and in matters related to the new website and to activities at the Museum. He said there was no complacency about the condition of the local economy even though unemployment was down to 1.2%, the lowest rate for a number of years.

He reported that a meeting would take place next week with Job Centre Plus representatives to discuss the possible location of a training base somewhere at the London Road offices.

Councillor Cheetham reported on recent meetings with Sir Howard Davies about the deliberations of the Airports Commission. A meeting had been held at Stansted at which it was stated that the Council wished to keep Stansted Airport in a countryside setting; acknowledged that local people worked at the Airport and that it remained a significant economic driver in the area; and that further runways would continue to be strongly resisted. Much concern was expressed about the option canvassed by Boris Johnson, the Mayor of London, for a four runway airport at Stansted.

Sir Howard had given a briefing to the Local Government Association at which local government representatives had been vocal in their views. Sir Howard had said that more airport capacity was needed in the South East, although regions should play their part, and that a deal was needed on carbon emissions. He made clear that the United Kingdom urgently needed to reach a consensus on long term hub provision.

The Commission would issue an interim report by 15 December this year and the final report would follow in 2015 after a further period of consultation.

C36

MEMBERS' QUESTIONS TO THE LEADER, MEMBERS OF THE EXECUTIVE AND COMMITTEE CHAIRMEN

The Chairman invited Councillor Parr, on behalf of the Liberal Democrat group, to raise the concerns she had expressed about the process being followed in relation to the determination of the planning application submitted by Fairfield Homes for residential dwellings in Elsenham, Henham and Ugley.

He explained that Councillor Parr had asked him to allow this matter to be considered as an urgent item because of concerns about constitutional and legal issues of major significance which the Council needed to address before the next scheduled meeting of the Planning Committee. He had been advised by officers that there were no constitutional or legal implications and had consequently decided not to allow discussion as a matter of urgency.

He had decided that the best way to enable members to express their concerns was to allow this matter to be raised as part of the scheduled question session. He asked Councillor Parr to start the debate. Councillor Parr asked Councillor Morson to speak on behalf of the Liberal Democrat group.

In doing so, Councillor Morson said that he had been saddened that the concerns raised had been depicted as being party political as the issues raised by the Fairfield application affected all members. That application had been refused at the Planning Committee meeting on 2 October by six votes to five. He expressed his personal delight at the outcome having campaigned against development of this site for a number of years.

Councillor Morson then listed four wider issues arising from the outcome of this application as follows:

1. He questioned the timing of the meeting on 2 October to consider the application as neither the Essex transport study nor the study into the link road had been available to the Committee, and the consultation period would not close until 17 October. Two members of the Conservative group had agreed with his analysis but it had been decided to go ahead with the meeting anyway.
2. Residents of Henham had been told last week by a representative from Fairfield Homes that further Planning Committee meetings would be held on 23 and/or 28 October. Why had they been given this information?
3. The debate was confused because officers did not know the relevant dates in spite of the fact that further issues might be raised during the consultation period.
4. He had been told by Mr Taylor that, if the application came back for reconsideration on 23 October, members who made the original decision would be asked to reconsider it based on whether the decision was valid, sound and robust. He considered that it was unusual for a quorate committee to be asked to reconsider a decision they had made to reject a significant development. This was fundamental to the workings of the Council and was patronising and insulting. The implications were therefore wider than this application alone.

Councillor Cheetham asked the Chief Executive to reply to the matters raised by Councillor Morson.

Mr Mitchell said that he intended to make a position statement referring not to the merits of the application, or of the decision made, but to the process being followed. A planning application for the construction of 800 houses at Elsenham had been referred to the Planning Committee with a recommendation for approval, subject to a suitable legal obligation. Part of the recommendation related to the expiry of the site notice on 17 October. This said that the decision should be delegated to the Assistant Director Planning and Building Control, in consultation with the Chairman of the Planning Committee, unless anything significant came forward within the time frame of the site notice.

In the event, the Committee voted 6-5 to refuse the application on planning policy grounds. The delegation arrangements remained in place so that officers could take the application back to committee if anything significant came forward in the meantime. Therefore the decision notice could not have been issued until 18 October. If anything of significance was raised before that date officers were duty bound to report those matters to a future meeting of the Planning Committee, probably on 23 October.

The question being asked was why the application could not simply have been referred to a later meeting. He explained that reporting on applications as soon as practicable was not an uncommon process. Officers took the view that this application had been around a long time and should be determined. The process followed was not unconstitutional. There was always the option to come back with further information if representations were made.

Nevertheless, the Committee's resolution was not considered to be 100% clear. The head of planning was understandably reluctant to issue a notice about which he was unclear as he wanted the comfort of a clear decision. No impropriety was involved in this process. The intention was to ask members to endorse the reasons and not necessarily to change the decision. It was a basic tenet of planning law that no decision had been made until the notice had left the building. Officers did however need certainty of the reasons for refusal.

Members then commented on the application in response to the Chief Executive's remarks.

Councillor Loughlin said that the Planning Committee was regulatory and non-political in nature. The decision had been made on planning policy grounds. Material considerations carried little weight as long as correct procedure was followed. Members had stated that the reasons for refusal were valid. She understood that everyone concerned needed to be confident the reasons given were valid and she believed that was the case.

The Chief Executive clarified that he had not said the reasons given were invalid but unclear. The basis for planning decisions started with the district plan and with other material considerations. The position would have remained the same if the application had been approved. It would have been referred back to the Planning Committee in the same way if account needed to be taken of new factors.

Any refusal was likely to be taken to appeal. If material facts had not been considered, officers would not be thanked. The applicant's lawyer would make mincemeat of the Council's case on procedural grounds.

Councillor Loughlin reiterated her view that the application had been refused on policy grounds and that Planning Committee members knew what those reasons were.

Other members, including Councillors Perry and Mackman, supported her view. Councillor Perry said that it was a shame the Chief Executive had spoken as he had done. The application had been refused on sound policy grounds and an appeal was now the right course.

Councillor Dean said that he had seen a trail of emails and had been telephoned directly by Mr Taylor who had told him the reason the application was going back was that officers did not know enough detail about the policy reasons for refusal. He asked whether members of the Committee who were not present at the first meeting would be able to vote. He thought that any members doing so might be infringing the code of conduct.

Councillor Parr said that she had also spoken to Mr Taylor and they had discussed the same question. She had been left with the impression that all members present at the meeting could take part in any further vote as long as they had heard all of the same presentation. Local residents had been asking why they could not be told about what was happening.

In responding to these comments, Councillor Cheetham said that it was normal practice for members to vote in these circumstances as long as they been present for the whole discussion.

The Assistant Chief Executive – Legal was asked to comment on the position of members who had not attended the first meeting. He said that there may be an issue if a member had not been present for the whole meeting. Members who had not been there would be placed in a difficult position.

In summing up the discussion, Councillor Morson said that he was not worried about appeals. Factors such as financial detriment should not affect the decision.

The Chief Executive then clarified his advice to members to make clear that if an appeal was lodged and matters of material consideration had not been brought to the attention of the Planning Committee it would be unhelpful to the Council's case.

The Chairman then drew this section of the question session to a close and invited others questions to be put.

Councillor Redfern expressed concern that Sir Howard Davies' report on airport capacity would be received just before Christmas and might then sit on desks unread. She asked that steps be taken to ensure that the consultation period was used effectively.

Councillor Cheetham said that Parliament was due to rise shortly after the publication date and consultation should be programmed into the timetable. The view in Essex was that the recommendation of a second runway was perhaps inevitable but that the necessary infrastructure should be put in place first.

Councillor Mackman then asked the executive member for community safety about police response times from Braintree and questioned why the station at Great Dunmow had fallen out of use.

Councillor Walters said that he could not answer about response times but was able to confirm that emergency calls would continue to be given top priority. The Great Dunmow station was not a hub station but was still in use as a police station.

Councillor Eastham asked the executive member for environmental services whether the Council was now getting paid for recycled items in contrast to the position of a few years ago when the Council paid for the service.

In reply, Councillor S Barker said that it is being paid. The position varied over time as, for example, the paper market was up and down. The Council also received recycling credits from the County Council.

Councillor Watson reminded the Deputy Leader about the crash of a Korean airliner a few years ago and drew attention to the severe consequences that would have arisen if the crash had taken place over a residential area. He

agreed with the Mayor of London about the location of major airports away from centres of population.

Councillor Cheetham said that the Government did not agree with this analysis. The Council must continue to fight its corner even bearing in mind that air safety had improved greatly.

Councillor Rose praised the work undertaken by the Emergency Planning Officer in relation to new business initiatives. He then asked Councillor S Barker whether all councillors could be included on a further visit to the MRF. She replied that some further numbers could be accommodated.

He also asked about the provision of superfast broadband by 2016. Councillor Rolfe confirmed that 2016 was the target date for this to be extended across the whole of Essex. He then asked whether Stansted Airport would maintain its proposed carbon footprint reductions. Councillor Cheetham said that she did not know but would try to find out.

Councillor Rose then referred to recent planning decisions to grant residential development in Newport. He said that he was unimpressed with the quality of advice offered by representatives of Essex Highways. A number of valid concerns had been raised about flooding and the volume of traffic flow but highways officers had not in his view been properly informed.

The Leader said that he was unable to answer the question but the Chief Executive told Councillor Rose that it was not normal practice to comment on the advice offered by external statutory bodies and it was not appropriate for these matters to be discussed at Full Council.

Councillor Foley referred to the recent closure in Saffron Walden of a long established local business. He asked what could be done for local businesses in general.

Councillor Rolfe said the Government's intention was to focus income on economic regeneration. The Council would continue to consider various options for the benefit of local businesses and to encourage new businesses to come in to the district.

Councillor Foley then asked whether there had been any discussion about the growth in night flights. Councillor Cheetham responded that she would like to see a decrease but the number of freight journeys had gone up.

When Councillor Dean tried to ask a question Councillor Davey proposed that the meeting move to next business. This was carried by 18 votes to 9.

C37

MATTERS RECEIVED FROM THE EXECUTIVE

(a) Urgent decision taken by the Leader on garden waste promotion

Members noted an urgent decision taken by the Leader to vary fees and charges previously agreed to enable a promotion to be launched to boost participation in the garden waste subscription service.

(b) Urgent decision taken by the Cabinet on redevelopment of the Waitrose store and Fairycroft car park

Members noted urgent decisions taken by the Cabinet in connection with the proposed redevelopment of the Waitrose store and Fairycroft car park in Saffron Walden.

Councillor Dean sought to ask a question about the kerbside collection campaign but the Chairman ruled that he could not speak.

C38 MATTERS RECEIVED ABOUT JOINT ARRANGEMENTS AND EXTERNAL ORGANISATIONS

Councillor Chambers presented a report about the operation of the Essex Police and Crime Panel. He suggested that members send him any concerns they had and he would respond accordingly.

C39 CHANGE TO THE SCHEME OF DELEGATION

Councillor Howell proposed the recommendation in the report to designate the Performance and Audit Committee as “the Board” for the purposes of the UK Public Sector Internal Audit Standards (PSIAS) and delegate all functions of the Board under those standards to the Committee.

RESOLVED that the recommendation be approved

C40 APPOINTMENT OF MEMBER ON THE PERFORMANCE AND AUDIT COMMITTEE

The Leader proposed that Councillor Felton be appointed to fill the vacancy on this Committee.

RESOLVED that Councillor Felton be appointed accordingly

C41 EXCLUSION OF THE PUBLIC

Councillor Dean spoke against the exclusion of the public for the consideration of the following item of business. He said that it was in the public interest to know what charges were being made to clients and the Council was infringing European competition rules.

The Chairman said that he had been advised that the next item of business on the agenda contained exempt information and proposed that the public be excluded. The proposal was passed by 28 votes to three.

RESOLVED that the public be excluded from the meeting for the following item of business under Section 100I of the Local Government Act 1972 on the grounds that it involved the likely disclosure of exempt information within the meaning of paragraphs 3 and 5 of Schedule 12A of the Act

TRADE WASTE

Councillor Redfern declared a disclosable pecuniary interest in this matter as a customer of the Council's trade waste services, left the room and took no part in the discussion.

Members discussed at length the urgent decision taken by the Leader on trade waste charges. The decision had already been made and put into operation. It was being reported to this meeting only because, as an urgent decision, it had bypassed the scrutiny and call-in process.

It was noted that the Scrutiny Committee had been asked to consider a scoping report on the trade waste service. This would include pricing and contractual arrangements but not the particular matter under consideration.

The meeting ended at 9.45pm.

APPENDIX

STATEMENT BY MR S WILLIAMS

contact...accountability....communication.

As Councillors you are mandated to represent ratepayers, first and foremost, ably supported by managerial and secretarial staff all whom we should all appreciate and respect . But conversely ratepayers should have their approaches also dealt with due consideration and equal respect.

I present my comments as someone who spent 40 years running a successful business in the town, and subsequent to my retirement, it is obvious to those of you who know me that my heart is still focused on the well-being of the business and commerce of Saffron Walden.

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Meeting in the town the publisher of the Town Guide I was disappointed to learn that the placement of this highly informative journal, free to the public, was being refused placement in the foyer of the council offices.

Surely, incomers to the town setting up Council tax, villagers outside normal distribution areas, developers approaching the Authority...these would find such local and comprehensive information invaluable.....so I elected to email the Chief Executive as to enquire why the change and omission.

My email cannot possibly be construed as rude/sarcastic/or negative.

I am simply stunned that the approach to Uttlesford District Council to make these available at your front desks for visiting members of the public at your offices has been rejected. Does this illustrate the apathy the Council has in promoting business and trade within your community.

I would be grateful for some comment from your good offices as to what policy is being implemented here....especially at a time when, and I am sure you will agree that local businesses need as much support as possible.

Mr Mitchells response included

An explanation of the foyer changes and reduction of waiting areas limited space but my observations indicate that the mentioned revamp only involved replacing three desks with a long desk, leaving ample space for area information material!

he continued....

Contrary to your claim, we did in fact take a single copy of the Saffron Directory and we will provide a photocopy of requested material for them....

.(...ie. providing there is anyone who knows about it ...and they know it's location!)

Because..... enquiring two weeks later, whilst buying a railcard, not one of the three receptionists had knowledge of the whereabouts of the said directory,)

...he did go on to explain that few copies had ever been picked up but surely having them on view is more likely to be informative than the odd copy kept in a drawer.
the email continued:

You may not be aware of the business initiatives the Council is promoting but I can assure you that the council is actively engaged in promoting trade and business in Saffron Walden - and indeed the whole District - to a far greater extent than it ever has before, and I

personally resent the assertion in your email that the Council is apathetic in this respect..

.....(personally? Personally?....he is a representative and servant of the UDC)

and ended:.....

I look forward to more constructive correspondence from you in future.

My email was not intended nor can possibly be construed as rude orunconstructive!

.....and this from a public servant. Constructive!, constructive indeed!....

.....so here we have

A valuable local resource (something the Council has attempted in the past and failed!)

A pitiful methodology of one single issue for copying... which no-one could lay their hands on!

A large enough reception area that should be the ideal venue for such publications.

An arguably caustic response from a Chief Executive that can only be described as 'above his pay scale!'

.....and then

Approaching Mr Perry to express my concern that the Chief Executive's response was inappropriate I was surprised to learn that complaints regarding the Chief Executive can only be dealt with by the Leader of the Council which verges on the absurd!

Cllr Ketteridge kindly did afford me a meeting whence I explained it was my intention to seek to bring about a resolution of the attitude of Mr Mitchell and was subsequently taken aback by the following days email 'I have nothing further to add!'.....sorry that is a retort not a response!

The absence of any formalised complaints procedure for the Chief Executive is simply bewildering and totally ridiculous in view of the plain fact that he is a servant of the Council, albeit an important one.

Finally, lets turn to the lack enterprise topic I was chastised about... .

Might I suggest you canvass those you represent and you will find no knowledge of any initiatives by the UDC actively promoting trade, tourism and business generally.....

Perhaps your next communications officer will do what it says on the tin!...

and finally, suggest Members urgently review the effectiveness of their allocated funds, even of the enterprise officer's work, which by now must as a guesstimate have cost the Council over £70,000 ...as this Town is simply howling for light industrial and blue-collar employment to replace that which we have lost in the past 20 years. There are children growing up who need other employment opportunities besides the supermarket tills.

The Leader's response

Following his statement, the Leader said that the leaflet complained about by Mr Williams was available in the foyer. He commented that he had arranged to meet with Mr Williams to discuss his concerns and had subsequently replied to him. He read the letter to the meeting. The Leader said that the letter contained a fuller response to Mr Williams than was suggested in the statement and he confirmed that he did not consider that the Chief Executive had acted improperly.