

COUNCIL MEETING held at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN on 21 OCTOBER 2014 at 7.30pm

Present: Councillor K Artus – Chairman
Councillors H Asker, G Barker, S Barker, C Cant, R Chambers, J Davey, A Dean, R Eastham, K Eden, I Evans, M Felton, E Godwin, E Hicks, S Howell, D Jones, A Ketteridge, J Ketteridge, T Knight, J Loughlin, K Mackman, J Menell, D Morson, J Parry, D Perry, V Ranger, J Redfern, H Rolfe, J Rose, D Sadler, L Smith, A Walters, D Watson and L Wells

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

C39 PUBLIC SPEAKING

Matt North made a public statement on the subject of openness and accountability. A summary of his statement is appended to these minutes.

C40 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Cheetham, Foley, Lemon, Parr and Salmon.

The Chairman wished a speedy recovery to Councillors Foley and Salmon, both of whom had experienced recent ill health.

C41 MINUTES

The minutes of the meetings held on 15 July 2014, and of the extraordinary meetings on 5 and 19 August, were received and signed by the Chairman as a correct record.

C42

BUSINESS ARISING

(i) Minute C32 of the extraordinary meeting on 5 August 2014 – Apologies for Absence and Declarations of Interest

Councillor Dean expressed the view that the Chief Executive had gone too far in his criticism of the Planning Committee during his remarks at the first of the two extraordinary meetings. He considered it was not appropriate for officers to criticise decisions made by members. Members were entitled to use their judgement and officers must respect that judgement.

C43

CHAIRMAN'S ANNOUNCEMENTS

The Chairman reminded members there would be an extraordinary meeting on 11 November to consider the polling district review.

C44

PORTFOLIO HOLDER REPORTS

The Leader reported on his activities since taking over in that position on 15 July. He had attended meetings of the Health and Wellbeing Board and had met with Essex Chief Executives. The better care fund was intended to integrate social care and health more effectively and was crucial to both areas of funding. The Mid-Essex Clinical Commissioning Group was working closely with the voluntary sector.

The agenda for change in local services was based around more working together as had been mooted in building control and in evolving a common waste system. This agenda was being pursued through the Local Strategic Partnership.

Examination of the Local Plan would take place during the weeks commencing 16 November and 1 December. The Local Plan Working Group would be meeting to consider the provision of 26 pitches for gipsies and travellers for the period to 2033.

A proposal would be submitted to Cabinet next week to ensure payment of the living wage to all of the Council's employees. This would benefit nine members of staff at an annual cost of £9,000.

The Leader announced the appointment Councillor Eastham as the lead member for conservation and the environment.

He said it was important in looking to the future to invest in economic prosperity. This approach had been exemplified in initiatives to expand the number of car park spaces, improve broadband provision, and in providing for additional business rate relief. There was also a theme around short term housing provision for homeless people.

Further investment opportunities were being pursued in creating a link between social care and support for the needy, and in leisure activities. The provision of extra office space would help to provide the seed corn for future economic growth.

Councillor Redfern gave a brief report covering her housing responsibilities. Development of the Mead Court site at Stansted was well underway. The Planning Committee had approved a site for council housing at Catons Lane in Saffron Walden. The next meeting of the Housing Board would be held at Hatherley emphasising the importance of sheltered housing.

Finally, she reminded members about the housing conference taking place at London Road on 3 November and she urged all members to attend.

Councillor Ranger reported briefly on recent activities within his communities and partnerships portfolio.

Councillor Walters spoke about community safety and expanded on items in his written report. This covered emergency planning, community engagement, a police update, a summary of anti social behaviour incidents, and the local highways panel and highway rangers. The reported figure of a 7% reduction in crimes recorded in Uttlesford should read 2.6%. He expanded on response times for cases of domestic violence reported in the district. In conclusion, Councillor Walters reported the announcement of a performance summary for Essex police, the outcome of which was now available on the Council's website.

Councillor Chambers informed members that an unqualified auditors' report had been received. This reflected well on the finance team and he was also able to report that preparation of

the budget was proceeding well. He would like to hear about ideas for budget preparation and invited members to contact him with any ideas they would like to include.

C45

MEMBERS' QUESTIONS

Councillor Menell asked Councillor Walters whether more up to date figures for burglaries were available. She also expressed concern about reports of highway rangers undertaking hedging work.

Councillor Walters confirmed that highway rangers were engaged for a multitude of jobbing work. He was in discussion with Essex County Council about the purchase of more equipment to enable more hedge cutting work to be undertaken.

Councillor Redfern confirmed to Councillor Menell that parish councils had been invited to the housing conference.

Councillor Rose asked Councillor Walters to confirm that instances of domestic abuse were on the rise and whether he agreed that more training was needed to highlight the issue.

Councillor Walters agreed that the issue of domestic violence received a high profile in the press. The rate of such cases in Uttlesford was generally low but there was a need to monitor the trends carefully.

Councillor Rose raised concerns about the design of the proposed development of Reynolds Court in Newport. He asked that the period for the public inspection of proposals be extended into the evening. Councillor Redfern agreed to consider his request and said she would keep the parish council informed.

In response to a further question from Councillor Rose, the Leader confirmed he would sign up to the principles of the living wage.

Councillor Dean said that he had written twelve times to the Council about alleged infringements of a tree preservation order but had encountered only obfuscation and delay. In his opinion the events had the appearance of a cover up and he called on the Leader to arrange for an independent investigation into the incident.

The Leader replied that on the basis of the evidence he had seen he was not prepared to order an investigation. He was quite clear that the actions complained about did not concern the business of the office of a councillor and did not therefore come within the scope of the code of conduct.

The involvement of the former leader and the Chief Executive was de minimis. There had been two witnesses to the scene and this had prompted a process involving Essex County Council. He stood by the transparency of the process followed and had sent a full response to Councillor Dean. The questions raised had created another issue and this had been followed up and dealt with by the legal officer.

Councillor Loughlin enquired about a possible reference of the matter to the Local Government Ombudsman.

In responding to this comment, Mr Perry said that was confident any investigation by the Ombudsman could be properly defended.

Councillor Asker asked the Leader whether the provision of extra parking spaces at Swan Meadow to cover for the Waitrose development would be permanent, as this had involved digging up garden beds.

The Leader confirmed that an extra 43 spaces were planned to compensate for the loss of 300 spaces at Fairycroft. Work for this was underway and the extra spaces would be permanent. Some landscaping work had been programmed but some short term disruption was inevitable in providing for continuing economic prosperity.

C46

REPORTS FROM COMMITTEES AND WORKING GROUPS

(i) Constitution Working Group on the Effectiveness of the Cabinet System

The Chief Executive reported that the Constitution Working Group had been meeting to consider the effectiveness of the Cabinet system. The conclusion of the Working Group was that there was no need to change anything now and the newly elected council in May 2015 would wish to examine the system of governance in operation at that time.

He was aware that some members felt more disconnected from decision making than before and this aspect had been considered by the Working Group.

The chairmen of the Scrutiny and Performance and Audit Committees had both been invited to provide input into the examination of the cabinet system. This was from the perspective of seeking to enhance the overview and scrutiny functions and make them more effective. This was considered to be the key to achieving better member engagement with the executive system.

The Chief Executive drew members' attention to five conclusions of the Working Group set out in the report. The main one of these was item c) mentioning the need to accept and welcome the scrutiny function as a means of improving policy rather than thwarting ambitions of the administration. This could be arranged on the basis of more pre-scrutiny.

He also drew attention to the suggestion that all non-executive members should have the opportunity to exercise call-in, possibly in conjunction with an annual limit. The Working Group had recognised concerns about the existing restrictions on the use of call-in powers.

As Chairman of the Working Group, Councillor Menell confirmed the Chief Executive had covered everything in his summary.

Councillor Howell said that he had been late in making his submission to the Working Group. In his estimation, the cabinet system had a lot to recommend it. It was a more efficient way of taking decisions. The public had little interest in the method of decision making, they just wanted the Council to get on with it.

The committee system was inefficient and did not work very well. It was a matter of regret that some members felt a lack of engagement.

The role of scrutiny was to be a critical friend and to try to improve decisions without reversing them.

In contrast, the Performance and Audit Committee had two roles. First there was a pure auditing role and second there was a

responsibility for oversight and financial controls. The purpose was to engage in strong and robust scrutiny of performance and management to ensure value for money. The committee he chaired was not there to micro-manage.

Councillor Eastham welcomed the Working Group's proposals incorporating a more generous approach to call-in. The call-in provisions were diluted by the need for several members to agree.

Councillor Evans also welcomed the report and agreed with the conclusions reached. There was presently no input into a true scrutiny process which should be operating in the interests of residents. One example was the car park report which had disappeared into a black hole. She appreciated and supported the work carried out by the Working Group.

The Chairman commented that the drafting of earlier reports would assist the function of pre-scrutiny.

Councillor Dean welcomed the general direction of the report. He did have an issue with the presumption that administration policy should not be thwarted and said an annual limit on the number of call-ins allowed was misguided.

The Chairman suggested a member workshop on scrutiny would be a helpful way forward.

(i) Standards Committee – Appointment of Independent Members

Councillor Eden presented the recommendation of the Standards Committee to put in place arrangements for the replacement of independent members to replace one of the members who had resigned.

One of the remaining two members had indicated he would not continue beyond the election in May 2015.

The Leader said he had attended a pre-meeting with other group leaders. He wished to propose the appointment of a sub-committee to include three Conservative members, and one member each from the Liberal Democrat and Independent groups, together with one of the two existing independent persons. He

said he would propose Councillor Knight as one of the members from his group and would nominate two other members in due course.

Mr Perry said that Georgina Butcher-Dalton wished to act in that role and asked that members agree to appoint her.

Councillor Dean drew attention to the person specification and suggested it would be good practice to ensure that anyone appointed to one of the independent roles should be able to demonstrate some knowledge of the role of a district councillor.

RESOLVED to:

- a) Appoint a sub-committee to recruit and recommend the appointment of two independent persons, the sub-committee to consist of Councillor Knight and two additional Conservatives, together with one member each from the Liberal Democrat and Independent groups, all to be nominated, together with Georgina Butcher-Dalton representing the independent persons; and
- b) There be no amendment to the job description and person specification for Independent Persons

C47

MEMBERSHIP OF COMMITTEES AND WORKING GROUPS

In his capacity as Leader, Councillor Rolfe confirmed that, following the establishment of a new political group known as Residents4Uttlesford, Councillor Mackman could no longer represent the Conservative Group on the Planning Committee. He nominated Councillor Oliver to replace Councillor Mackman as a member of the committee. He further nominated himself to replace Councillor J Ketteridge on the Local Joint Committee.

He said that news had emerged during the day that Councillor Asker had joined the new group and she could therefore no longer represent the Conservative group on the Licensing and Environmental Health Committee. He would nominate a member in due course to replace Councillor Asker.

Councillor Watson expressed the view that a committee member should be replaced only on the grounds that they were not performing their function properly. The Planning Committee had

performed its functions well and its membership should not be changed.

Mr Perry informed members that the Council's duty was to appoint nominees of the groups that had places allocated to them.

Councillor Asker acknowledged that the change in group membership had been at short notice for consideration at this meeting.

The Leader confirmed that committee places allocated to the Conservative group would be filled by a member of that group.

Councillor Perry said that the new group would become entitled to fill committee seats. There were planning appeals outstanding and Councillor Mackman should remain for those reasons.

Mr Perry said that Councillor Mackman would remain entitled to represent the Council at the appeals concerned.

Other members commented on the right of individual members to retain committee seats allocated to them.

Councillor Rolfe again confirmed that he was following due process in filling places allocated to the Conservative group.

Councillor S Barker said that it was not possible to consider political balance at this meeting and a report would be brought to the extraordinary meeting on 11 November.

Councillor Mackman confirmed that he wished to nominate Councillor Asker as a member of the Licensing and Environmental Health Committee and nominate himself as a member of the Planning Committee.

The Leader confirmed the position was as established today by the changes of group membership. He called on the three members to have switched groups to resign and fight by-elections.

Councillor Watson's reaction to these remarks, which he called 'disgraceful', was to formally withdraw from the Conservative group.

Councillor Hicks asked Mr Perry to set out the position regarding political balance on the Planning Committee.

Mr Perry said the Council was obliged to operate the rules of political balance to reflect the make-up of the Council. Political balance was reviewed annually in May. The existence of a new group would trigger an automatic review. Each of the groups would be invited to fill the seats allocated to them. The Council must abide by the wishes of those groups. There was no other option.

Councillor Dean asked Councillor Rolfe to withdraw his proposal.

The Leader said he would not do so. If changes in allegiance took place it was legitimate to ask the electorate for a fresh endorsement.

Councillor Perry sought to raise a point of order. In response, Mr Perry again said that the Council had no choice but to abide by the wishes of the constituted political groups and could not defer the matter.

The outcome was therefore as follows:

- Councillor Mackman would be replaced as a member of the Planning Committee by Councillor Oliver.
- Councillor J Ketteridge would be replaced as a member of the Local Joint Committee by Councillor Rolfe.
- Councillor Asker would be replaced as a member of the Licensing and Environmental Health Committee by a member of the Conservative group to be nominated.

C48

EXCLUSION OF THE PUBLIC

RESOLVED that under Section 100I of the Local Government Act 1972 the public be excluded for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1, 2 and 7 of Part 1 of Schedule 12A

C49

REPORT OF MONITORING OFFICER

The Monitoring Officer presented a report on actions taken under section 5(2) of the Local Government and Housing Act 1989.

Members debated at length the actions taken by the Monitoring Officer in accordance with his statutory duty and commented upon those actions.

The Council noted the report.

The meeting ended at 9.30pm.

Appendix

PUBLIC STATEMENT

Matt North

I am concerned about the honesty and integrity of the actions of senior members and officers of the Council and call for an independent inquiry. There has been a breach of a tree preservation order by a serving member of the Council who has committed a criminal offence. There has been an attempt to conceal the nature of the incident.

The Chief Executive was asked to attend the scene of the incident by the then leader of the Council. It was stated as proper for the Chief Executive to attend and proper for the leader to ask him to do so. A subsequent letter from Essex County Council commented on the way the breach of the order had been handled and stated it was not in the public interest to bring a prosecution.

Historical records had subsequently gone missing. The offender was a serving councillor. He considered the former Leader's involvement in this case was a Standards Committee issue.

Mr North referred to the various reports considered by the Planning Committee resulting in the application being refused. The relevant history of the site was not referred to in the report. The legal officers had not provided details of the offence committed. Mr Perry had been asked to set out in writing the details of the offences disclosed in the course of duties being performed by an officer. As a result of his actions, the employee had been persecuted.

No response had been received to a Freedom of Information request.