

**SCRUTINY COMMITTEE held at COUNCIL OFFICES LONDON ROAD
SAFFRON WALDEN at 7.30pm on 9 FEBRUARY 2016**

Present: Councillor A Dean (Chairman), H Asker, G Barker, P Davies,
M Felton, S Harris, B Light, E Oliver and G Sell.

Also present: Councillors Barker, Howell and Redfern.

Officers in attendance: R Auty (Assistant Director Corporate Services), R
Dobson (Principal Democratic and Electoral Services Officer), A Knight
(Assistant Director - Finance), K Vinton (Partnerships Officer) and A Webb
(Director of Finance and Corporate Services).

CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed those present and explained the meeting was being
broadcast live and would be recorded.

PUBLIC SPEAKING

The Chairman said the agenda items about which statements were to be made
by members of the public would be considered immediately after the minutes of
the previous meeting had been received.

SC20 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillor Goddard.

SC21 MINUTES

The minutes of the meeting held on 17 November 2015 were received and
signed by the Chairman as a correct record.

SC22 ENFORCEMENT REVIEW

The Chairman invited the public speakers Mr Drinkwater and Mr Ellis to make
their statements. (A summary of their joint statement is appended to these
minutes.)

The Committee considered a verbal update by Councillor Sell on the work of
the Task Group which had been set up at the last meeting to examine
enforcement issues.

Councillor Sell said the scope of the enforcement review was set out in the
terms of reference and that currently only a preliminary meeting had taken
place, but that members wished to undertake a worthwhile piece of work.

In response to a question from the Chairman as to whether the task group would invite the trade to attend and make representations, Councillor Sell said he would raise with the other members of the group this suggestion.

SC23

PLANNING APPEALS

Councillor Asker declared a non-pecuniary interest in the item as a member of Saffron Walden Town Council.

Councillor G Barker and Councillor Oliver declared their respective non-pecuniary interests in that they had been members of the council during the time when certain planning appeal decisions had been taken.

The Committee considered a report regarding a request which had been received to consider the “policy, processes and decision-making” by which the council decided whether or not to defend planning appeals. The report recommended the Committee should decide whether it wished to review this area of work, and if so, whether it would require a scoping report, a report from a relevant officer, or to establish a Task and Finish Group.

The Chairman invited Alan Storah to make his statement as a member of the public. (A summary of the statement is appended to these minutes.)

Councillor Light said she supported the requests made on behalf of Saffron Walden Town Council which had been set out in Mr Storah’s statement. She supported the principles of transparency.

The Chairman referred to the recommendations in the report. He suggested terms of reference and membership for a Task Group to be set up.

Councillor G Barker proposed discussion of whether or not to set up a Task Group should take place first. There were difficulties with the remit of the review, as the Committee could not look at past decisions of Full Council.

The Chairman said whilst decisions could not be challenged, it was possible to consider whether it was right to have made those decisions.

Councillor Asker said a review of past questions would inform future decision-making, and was a question of principle.

The Chairman invited members to vote on the proposal to set up a Planning Appeals Task Group.

The proposal was lost by four votes in favour, five votes against.

SC24

CABINET FORWARD PLAN

Members considered the Cabinet Forward Plan and commented on the progress of various decisions to be taken at forthcoming meetings of the Cabinet.

In response to a question about a decision to be taken on the council's Pay Policy, members were informed an annual report on the pay policy was required.

In relation to the Building Control partnership item, members noted this would be heard in private, as it would involve consideration of commercially sensitive information.

SC25

SCRUTINY WORK PROGRAMME

In reply to a question from the Chairman, the Assistant Director Corporate Services said a programme for 2016/17 would be available at the next meeting. In reply to a further member question, he said he was preparing the scoping report on the council's relationship with Essex County Council together with the Director of Finance and Corporate Services and other officers. It would be for the committee to decide how to proceed once it had considered the scoping report.

Regarding the proposed review of the Cabinet system, the Chairman said he had written to the chairman of the Constitution Working Group, and the response would be considered by the committee.

SC26

2016-17 BUDGET

Members considered a series of reports on the budget for 2016/17.

The Director of Finance and Corporate Services gave a verbal update on figures provisionally debated by the Government the previous night.

There had been extra money allocated to the rural services development grant scheme, an extra £278,000. It had been confirmed this would continue for the next three years. The council would lose the revenue support grant, but the Government was now providing a provisional support grant of £61,000 in 2017/18. The council had expected to need to pay back the Rural Support Grant, but according to this announcement, such repayment would no longer be required. This left the council with a small amount of extra money, to the amount of £10,000.

The impact on the council's budget was therefore small. It was not possible to change the budget at this late stage to reflect this change, but the quarterly reports would treat these amounts as extra money received next year. Officers would confirm the position after the House of Commons debate, but no further changes were anticipated.

The Director of Finance and Corporate Services suggested members comment on each of the recommendations in the reports and officers would collate the responses in conjunction with listening to the recording, in order for the Committee's comments to be brought to Cabinet.

The Chairman agreed, and said the Committee was here to give guidance and not to vote.

Regarding the draft Corporate Plan, the Chairman said the document lacked any means of measuring outcomes and needed more clarity.

Councillor Sell said the document lacked "SMART" goals ("specific, measurable, attainable, realistic and timely").

The Director of Finance and Corporate Services replied there was a separate Cabinet report dealing with this item, and the document before the committee was intended as a high-level document intended to provide context, however the service and directorate plans set out the means of delivering these aims. He would ensure the comments were passed to the Leader.

Further comments on the draft Corporate Plan were made, to the effect that it was very common for a strategic paper of this kind to be brief, as it was supported by other documents.

SC27

ROBUSTNESS OF ESTIMATES AND ADEQUACY OF RESERVES

The Chairman referred to the Reserves Strategy document, which set out three new reserves to be established in 2016/17, one of which was for a Special Purpose Vehicle, to enable the formation of this company. He said the risk area of the report did not refer to any risks relating to the company, but it would probably be one of the more significant risks. He had many questions about the Special Purpose Vehicle – what compelling reason was there for Uttlesford to pursue this initiative, how would the council ensure it was handled in a commercially viable way, in view of the likelihood of a recession which meant such a venture could lose money. The project needed to be set out and members needed to know more.

The Director of Finance and Corporate Services said the report only referenced the proposal to set up the special purpose vehicle, as the item had been included on the basis that it had been agreed in principle. A report on this item would be brought to the Scrutiny Committee and to Cabinet during the next couple of months.

In reply to a question from the Chairman regarding future possible underspends, the Director of Finance and Corporate Services agreed that whilst the report addressed underspends, there was scope to identify in more specific terms the reasons for such underspends.

In reply to a question regarding the rationale for estimating risk impact, in relation to car parks income, the Director of Finance and Corporate Services

said impact was dependent on monetary value. For car parks income the income was below £100,000, representing a low impact.

In reply to a question regarding the risk of costs of defending planning appeals and meeting of costs awarded against the planning authority, the Director of Finance and Corporate Services said items classified as low impact would be for values up to £100,000. The Chairman asked for further information regarding the issue of costs of defending appeals.

Regarding the risk of additional consultancy spend or resources required in order to take forward the Local Plan process, the Chairman commented on the additional resources now in place, and asked about the maximum variance for the risk. The Director of Finance and Corporate Services said the sums stated represented values identified at the present, that is, the salaries for the Assistant Director and for the Planning Policy Team Leader. There was scope to cover not only those costs, but the Planning Reserve would meet additional costs.

In reply to a question regarding potential opportunities for additional fees and charges income, similar to income derived from the inspection of green beans imports, the Director of Finance and Corporate Services said such opportunities were being explored.

Regarding the Special Purchase Vehicle, Councillor G Barker said there was currently limited knowledge about how it would work, but it was crucial that the company was operated correctly. Regarding total usable reserves in 2018/19, whilst taxpayers might hold the view that £10,052 million should not sit as a reserve, it was important to be aware this was being invested in the Council's infrastructure. The challenge for the council was to ensure it was used as wisely as possible.

Councillor Howell said he was keen to respond to all comments, at the appropriate point, when invited to do so by the Chairman.

Members asked for clarity regarding the transformation reserve, including the implication there could be redundancies, and the possibility of redeployment, and the implications for cessation of some services.

The Director of Finance and Corporate Services said this document formed part of the reserve strategy and wording could be revised as it was kept under review. The Assistant Director Corporate Services said the council had redeployment procedures.

Questions were put regarding a reference to the new waste depot site in Great Dunmow. Officers confirmed the aim was to move the depot from its current location in New Street to outside the centre of Great Dunmow, and negotiations were taking place for certain options. It was hoped significant progress would soon be made, and the reserve figure was a best estimate from an initial view of the market.

Regarding economic development, the Chairman said this area lacked visibility. The Director of Finance and Corporate Services said updates from Councillor Ryles as the Lead Member for Economic Development regarding all actions on risks would be reported annually to Cabinet.

In response to questions from Councillor Light regarding Homelessness risks and what measures were in place to deal with homelessness, officers explained there was a budget for homelessness which was sufficient and therefore had not been used this year. If not used during the coming year, it would be classed as a not fit for purpose reserve.

Councillor Oliver suggested any member wishing to find out more about homelessness could refer to the regular homelessness report submitted to the Performance and Audit Committee.

Councillor Redfern spoke with the consent of the Chairman, to explain that the reserve under consideration was in the General Fund budget, but that there was a homelessness budget in the Housing Revenue Account. The General Fund reserve was a safety net, and members could be assured there were many strategies in place to deal with homelessness.

SC28 **MEDIUM TERM FINANCIAL STRATEGY**

The Chairman referred to the Strategic Solutions Workstreams, saying many services seemed to have been transferred to Saffron Walden Town Council. The Director of Finance and Corporate Services tabled a shared services work programme.

Councillor G Barker asked that the tables of figures in financial reports should have line numbers for ease of reference, and clear indications of which figures were positive or negative.

SC29 **TREASURY MANAGEMENT STRATEGY**

The Director of Finance and Corporate Services said there would be a revised Treasury Management strategy submitted to Cabinet.

Members asked whether significant events potentially affecting for the global economy would result in revised advice from the council's advisors, Arlingclose.

The Director of Finance and Corporate Services said officers worked very closely with Arlingclose to ensure any changed advice was brought back to Cabinet.

He highlighted changes being recommended to the treasury management strategy as set out in the report. In reply to members' questions, the Assistant Director Finance said there was a bailing risk which local authorities took, so if a bank failed there was some risk. She would supply information about the risk to members. Regarding the credit rating of banks listed in the report, these were different from banks such as Landsbanki, as they were investment companies

and the council could get its money back within a day. Regarding ethical investment, the council never invested without assurances of its advisors that the investments were ethical, and also had regard to what type of investments other local authorities were selecting.

SC30 CAPITAL PROGRAMME

Members considered the Capital Programme and associated financing of the programme set out in the report.

The Chairman said as a local member he was pleased that the report included a proposed extension to the car park in Lower Street in Stansted Mountfitchet.

Councillor Sell said he was glad there was a grant of £30,000 for Stansted public conveniences at the new library.

SC31 HOUSING REVENUE ACCOUNT 2016/17 BUDGET AND FIVE YEAR BUSINESS PLAN STRATEGY

The Committee considered the report on the proposed Housing Revenue Account (HRA) budget and reserves position for 2016/17 and a proposed five year financial forecast, together with a number of recommendations. The Chairman asked about the criteria for borrowing against housing stock.

The Director of Finance and Corporate Services said officers were working with Arlingclose to monitor the loans market. The Council had to start repaying its debt next year, and there could be opportunities in view of the current low interest rates to renegotiate the repayment period, and to continue the excellent work done so far.

SC32 GENERAL FUND AND COUNCIL TAX

The Committee considered a report on the 2016/17 General Fund budget and Council Tax requirement.

The Chairman said the report recommended a 1% increase in Council Tax, but there had been a projection of 2% by officers in light of risks to the level of the Council's income. He wished to gain an understanding of the uncertainties and how these were perceived by the administration.

Councillor Howell said he would address these questions at the end of the committee's comments on the budget reports, as had been agreed.

Councillor Sell asked why the projected figure for Council Tax had changed between the members' workshop and the budget recommendation, from no increase to 1%.

The Chairman referred to the list of non-statutory services of which the first priority was stated to be the Lifeline service. He said the withdrawal of funding by Essex County Council was short-sighted, although they faced huge financial

pressures. He also queried the reduction in funding for Saffron Walden Museum.

The Director of Finance and Corporate Services said in the view of officers involved in the Museum Management Working Group the Museum's budget was now at the minimum viable level. There were plans for the School Room, and for an extension to the Museum.

The Chairman said he was alarmed at the reference in the report to NHS trusts attempting to exempt themselves from business rates. Officers confirmed any developments would be monitored, as this news had only come out in the last two weeks and could have a significant impact. The council was part of the Essex pool, so although only some areas had large hospitals there would be a shared impact.

In response to a question regarding the green waste service, the Director of Finance and Corporate Services confirmed the green waste service would pay for itself. The council had invested in a second crew, which had had an impact on the figures, but the service did make a profit.

The Chairman asked about a 12-month enforcement post. The Director of Finance and Corporate Services said this was not an enforcement officer post, but an officer who would support the enforcement's back office IT in becoming more efficient and productive.

Regarding the removal of the Access to Services budget, officers explained that because the communities and partnerships service within the council no longer existed, that budget had transferred to Health and Wellbeing, under the remit of the Assistant Director Housing and Environmental Services.

Regarding a reference to Planning fees, officers confirmed there was no anticipated reduction in planning fees.

Regarding withdrawal of funding for Highways Rangers, the Chairman asked whether the council could in those circumstances continue to provide this service.

Officers explained that the probability of the council providing such funding was low. Councillor S Barker spoke with the consent of the Chairman to inform members that ECC funding for the Highways Rangers had been reduced by 50%, and therefore it would be a question for this Council to try to find the shortfall. The Chairman said it would be disappointing for this service to be downgraded.

The Chairman asked for more details to be supplied about the PFI unitary charge referred to in the report.

The Assistant Director Finance said this item was the Private Finance Initiative which the council had entered into with the Lord Butler Leisure Centre for a period of 25 years. This year the council had received income from the

arrangement which it had not been expecting, and therefore it was necessary to review the model to ascertain reasons for variances.

The Chairman asked a question about a reference to “EIR” in the Local Land Charges income description of key assumptions. Officers explained this referred to the Environment Information Regulations which permitted requests for information to be made, similar to those under the Freedom of Information provisions, but specific to environmental matters.

The Chairman thanked officers and invited Councillor Howell as Portfolio Holder for Finance and Administration to respond to the Committee’s comments on the budget reports.

Councillor Howell thanked the Chairman for inviting him to the meeting and said he had listened carefully to the views expressed. He said the reports had been prepared in the context of unprecedented challenges for local authorities. It was important to keep all members informed as the budget had emerged, and he welcomed feedback and the comments of all members not just the Scrutiny Committee.

This budget aimed to put in place building blocks to provide a long-term budget. Councillor Howell wished to thank officers for their excellent preparation in the face of a high degree of uncertainty. The budget was in some respects interim in view of the NHB consultation due to take place in the summer, but it aimed to set out how to make the council’s services more effective, how to increase income and how to share the burden. The challenge was how to serve residents at the same time as doing things differently. He echoed concerns about the new Special Purchase Vehicle, but it was early days and it was not possible to provide detailed information yet, however members would be kept informed. It was clear the council needed to generate income from assets, and this represented a change in how the Council treated its reserves. There was much commercial experience to draw on, and given what the council faced, it would be wrong to rely on reserves. The Council had a very good financial culture and sometimes found it had surpluses. This was preferable to having overspends.

Councillor Howell said he would take away members’ comments on the Highways Rangers funding, and on costs of defending planning appeals and officers would come back on those points.

Regarding the transformation agenda, Councillor Howell said he felt sure this programme would take longer than four years, but the strategy was an important toolkit to manage the process. Regarding possible redundancies, this was a concept he did not like, and the council always preferred to redeploy where it could.

Regarding the Treasury Management Strategy, the committee made an important point. Landsbanki was a traumatic experience, and subsequently the council had adopted a treasury management approach which was very cautious. It was recognised that the proposals in the proposed Treasury Management strategy were a change from the past four years, but they did not

represent a fundamental change. Advice from Arlingclose was clear, this council was more cautious than other local authorities, and its income was at the lower end of the scale so there was scope to improve.

Councillor Howell said he did not believe there to be a material risk. Members had a responsibility to residents to maximise the income from money collected; he was very aware of the risks and he took advice from Arlingclose.

Regarding the Capital Programme, Councillor Howell said he took great pride in the fact that the Council continued to make significant improvements in council houses and in assets which the community wanted.

Regarding Council Tax, at the presentation in January, no increase had been suggested, but now a 1% increase was recommended. Thereafter there had been the suggestion of an increase of 2%. There was no mystery, this was a paper prepared for the workshop and at that time a zero rate of increase had been assumed, prior to the discussion taking place to apply a 1% increase. At the stage of the presentation a £4.7million surplus was expected, but the release of business rates reserves over two years not over one year was a factor in deciding that some of the share needed to be borne by residents. This recommendation would not be binding on the council with regard to future increases, but the indications for preparing a budget would be an increase in Council Tax of 2% going forward.

Councillor Howell said he would take on board comments about the Museum and Lifeline funding.

The Chairman thanked Councillor Howell for his comments.

SC33 **PLANNING APPEALS**

The Chairman said this item had already been considered, but he wished to comment that it was regrettable that the Committee had divided on party political lines.

SC34 **CAR PARK REVIEW**

The Committee considered a report updating members on how recommendations made following a Task Group review of car parking in the district had been assimilated into the recently –concluded review into car parking by consultants commissioned by the council.

The Assistant Director Corporate Services highlighted the recommendations of the Task Group which had been met, or which were partially met, and those which were ongoing. He said questions could be directed to the Portfolio Holder for Environmental Services, Councillor S Barker, who was present at the meeting.

The Chairman said the report was satisfactory although there was more work to do.

Councillor G Barker asked whether questions could be asked during the meeting. The Chairman replied that they could not.

SC35

ITEMS OF URGENT BUSINESS

The Chairman said a report would be brought to the Committee on the Building Control Partnership, about which Cabinet would be asked to make a decision in March. If the Scrutiny Committee were to consider the matter, there would not be much time to influence the report, and there were some staff concerns. It would be necessary to consider the report properly.

The Director of Finance and Corporate Services said one of the other authorities could not take the matter to their Cabinet until April, so this authority would also consider the report at its April meeting of Cabinet, therefore the Committee could pre-scrutinise the item at its meeting on 15 March.

The Chairman invited any members who would be interested in carrying out some preliminary work on this matter to form a task and finish group.

AGREED that Councillors Harris and Dean would undertake preliminary investigation of the Building Control Partnership proposals and would report to the Committee.

The meeting ended at 9.50pm.

PUBLIC STATEMENTS

Mr Drinkwater/Mr Ellis explained the role of the Uttlesford Licensed Operators and Drivers Association, and described their involvement in various stages of the development of the council's licensing policy. There was a long history of co-operation between the trade and the licensing authority in such matters. Mr Drinkwater referred to the setting up at the last meeting of a task group for looking at enforcement matters. He said he hoped the terms of reference for the Task Group would include the resourcing of the service. The authority and the trade were working towards principles set out in the Licensing code, and it was hoped sanctions would always be proportionate. The trade was committed to a constructive and open dialogue with the Licensing Committee.

Mr Storah said his comments reflected the view of Saffron Walden Town Council in respect of the District Council's handling of appeals generally, and in respect of the Kier appeal in particular. He said the council was obliged to follow legal process, primarily the development plan and any emerging local plan, and not to allow other council strategies to influence its decision-making

with regard to planning. Mr Storah referred to a meeting of the council on 17 December 2015, at which comments were made from which it appeared the Council had been influenced by considerations which were outside the planning process.

Further, the council had an ongoing obligation to take into account changing circumstances. Mr Storah said the council had not done so in relation to the 5-year housing land supply. At the time the application was considered in April 2014 there was not a 5-year housing land supply, which officers had indicated should strongly influence the decision. However in June 2014 a report had indicated that in fact there was a 5-year housing land supply, which would have strengthened the Council's ability to defend planning appeals. This change was a material factor which could have been relied upon.

A further change in circumstances was the rejection of the draft Local Plan by the Inspector.

In light of any material change such as those mentioned, the council should reconsider its position on defending appeals. The Committee was asked to investigate whether or not this was so. With regard to the Kier appeal, there was no indication that any changes in circumstances were considered or that the the initial decision was revisited.

Mr Storah urged the Committee to look at the following: the process for obtaining legal advice in relation to appeals, and whether political considerations had had any influence on which legal advice was sought; the process for approving statements made in connection with appeals; the grounds on which applications were rejected, and whether those hampered the Council in its subsequent conduct of appeals, and also whether the grounds given in refusal notices reflected those given by the Planning Committee and the extent to which political considerations rather than planning considerations affected planning decisions and what safeguards against such influence were in place.