

Cabinet

Minutes of the meeting held on Wednesday 20 April 2022 in the Town Hall, Royal Leamington Spa at 6.00 pm.

Present: Councillors Day (Leader), Bartlett, Cooke, Falp, Hales, and Matecki.

Also Present: Councillors: Boad (Liberal Democrat Group Observer), Mangat (Labour Group Observer), Milton (Chair of Overview & Scrutiny Committee) and Dickson (Chair of Finance & Audit Scrutiny Committee)

119. **Declarations of Interest**

There were no declarations of interest made in respect of the Part 1 Items.

120. **Proposed Merger with Stratford-on-Avon District Council**

Before the consideration of the Part 1 items, the Leader made a statement regarding the proposed merger with Stratford-on-Avon District Council:

"Following a meeting between Council Leaders and Chief Executive's on 14 April, Cllr Jefferson, Leader of Stratford on Avon District Council wrote seeking a delay in the Government's decision on the proposed merger with Warwick District Council to allow for due diligence to be completed. The letter was sent without the agreement of Cllr Day Leader of Warwick District Council, who had been invited to be a co-signatory. It was understood by Cllr Jefferson that in writing to the Government unilaterally seeking to extend the current period of uncertainty would end the Council merger process.

On 13 December 2021, both Councils formally agreed merger plans and submitted a proposal to Government requesting permission to form a new joint Council by May 2024. In advance of this key political step, Councillors received detailed advice including an independent Financial Impact assessment. This Local Government Association report recommended that a supplementary review was commissioned by Stratford on Avon District Council in relation to a company wholly owned by Warwick District Council.

Given that a response from Government was anticipated by the end of May in respect of the merger decision, Cllr Jefferson considered there to be a material risk that the further due diligence work would not be completed in time and if the Minister was minded to support the merger, there would be limited opportunity for Stratford on Avon District Council to withdraw at that point.

Cllr Day considered that the decision to merge had been made last December and that ongoing due diligence did not prevent the service integration progressing as planned. To ask Government to delay matters would create further uncertainty for all staff, especially those facing redundancy, and residents seeking assurances about local services. In Cllr Day's opinion, making a request for further delay would result in trust

being undermined, making it untenable for the two authorities to further integrate services or merge.

The Leaders jointly concluded that the proposed merger cannot go ahead as anticipated. There is a significant difference between the approaches and ambitions of the two councils that have proved to be irreconcilable, and this means that a joint request, subject to Council approval, will now be made to the Government to stop the merger process.

Recommendations will be made to an extraordinary meeting of Stratford on Avon District Council, and the AGM at Warwick District Council on 11 May 2022.

This is a disappointing outcome, but it should not mean the end for the positives that this process has generated; we have learned a lot and wish to carry on as good partners. It is anticipated that some of the joint working arrangements already put in place will continue, such as legal services and business rates collection. However, others including the Joint Management Team and the service integration programme will end. Each council will continue to keep residents, councillors, and staff engaged in the process of updating our working arrangements.

Thank you for the many contributions and the positive commitment made to supporting the future of both councils.”

(Councillor Bartlett arrived at the meeting during this statement.)

Councillor Day then provided an opportunity for Members to make comments and ask questions.

Councillor Milton stated that the focus of the Overview & Scrutiny Committee had been the benefits of the merger particularly regarding the Climate Emergency and the ability to devolve to Town and Parish Councils, and enquired what the future of those would be. He also highlighted that part of the rationale for the merger was savings, and what would be the future of service provision now.

Councillor Day stated that early indications showed that the Council had had financial benefits from shared working and the merger process in excess of £1m over the past year, and specific details would go to Scrutiny further down the line. He stressed that money had not been squandered in pursuit of this merger, and some of the gains being sought could still be achieved (i.e., the joint waste management contract and the savings made by the work done for the South Warwickshire Local Plan). Much of the joint work could in theory continue, but advice would need to be sought. He expressed disappointment that we had not been able progress as hoped, but that the two Councils had got to know each other better along the way and that might still present further positive opportunities.

Councillor Boad noted that the repercussions of this decision could be quite severe, with the possibility of a Unitary Authority now seeming likely, something that could potentially “move power away from local people”. He also highlighted the importance of providing certainty to staff, a sentiment that Councillor Day agreed with.

Councillor Rhead had worked closely with his Portfolio Holder counterpart in Stratford-on-Avon District Council as well as with the Director for Climate Change, and he hoped that this relationship would continue in the future. Councillor Day said that the Council would be seeking to take advantage of every opportunity possible to work together.

Councillor Mangat asked if things would simply revert to where we were before or whether there would be changes. She was also interested in viewing a detailed timeline of what happened and whether it had cost the taxpayer. Councillor Day assured Members that there would be thorough scrutiny and accountability taking place. He stated that senior officers had worked over Easter with the aim of getting arrangements in place to minimise disruption to the delivery of our services.

Councillor Matecki placed emphasis on the need to protect staff and residents of the district from any uncertainty. He required clarification on the LGA report advising that further due diligence was needed, as he thought that this had all happened before both Councils voted on the merger in December 2021. In response, Councillor Day explained that in November 2021, the LGA report was received as part of a scrutiny/due diligence package prior to the decision taken on 13 December 2021. One of the items in the LGA report stated that because Milverton Homes Ltd were a relatively new company, Stratford-on-Avon District Council might require a more detailed scrutiny to be undertaken. This would be a matter for SDC to progress themselves. Like WDC, SDC then voted in favour of the merger. Subsequently, WDC shared audited accounts, hosted Joint Informal Cabinet meetings, briefed SDC on projects, risks and opportunities, and also worked through the Joint Local Plan. Councillor Day admitted that it had been "something of a surprise" when Councillor Jefferson (Leader of SDC) decided to bring forward the due diligence question on Milverton Homes Ltd- a matter which this Council could do nothing other than endeavour to cooperate on. Members and officers worked to provide information to SDC and non-disclosure agreements would have been necessary to have protections in place. However, the challenge was around timing - Councillor Jefferson felt that even though WDC had given assurances that the programme of due diligence would be completed by the end of May 2022, there was still a risk that the Secretary of State would approve the merger in that time, removing the opportunity for SDC to "bail out" if they were not content with where the due diligence took them.

Councillor Bartlett requested that thanks to officers for their hard work be included in the minutes.

Councillor Falp stated that the staff were the most important asset and had had a lot of extra work as a result of the potential merger but had been willing to go the extra mile to get it done. In her role as Portfolio Holder, she had worked with SDC for many years and was sure that would continue, as the partnership had worked well. She was pleased that the staff at least had some assurance as a result, even if they had concerns/questions moving forward.

Councillor Hales stated that we now needed to look at our priorities and reset them, if necessary, in order to ensure delivery. Thorough communication was needed as there was bound to be many questions

from staff. In response to a question from Councillor Day, he advised that a fresh budget would not be needed and that we would continue with the current budget as planned. There would be work with officers in the coming weeks to ensure that the forecasts within the Medium-Term Financial Strategy were still accurate. This would then be fed back to Scrutiny and Programme Advisory Boards.

121. Joint Governance – Stratford-on-Avon and Warwick District Councils

The report presented further joint governance proposals in light of the merger request that Stratford-on-Avon District Council (SDC) and Warwick District Council (WDC) submitted in December 2021 and in anticipation of a decision by the Secretary of State to grant the request.

The Leader of the Council had withdrawn this report on 19 April 2022 as a result of the information set out in Minute 120.

The Overview & Scrutiny Committee noted that the report had been withdrawn, that this may impact on the planned integration of services with potentially a delay to this. There were concerns around this and the Leader agreed to provide clarification on the impact of this to Cabinet next week for all Councillors.

The Finance & Audit Scrutiny Committee noted that these items had been withdrawn from the Cabinet agenda and thanked Councillor Hales for attending. They welcomed the fact that all Councillors and staff, who are our most important asset, would be informed why these items had been withdrawn.

122. Inter-Authority Agreement between Stratford-on-Avon and Warwick District Councils

This report set out the reciprocal legal rights and responsibilities of Stratford-on-Avon (SDC) and Warwick District Council (WDC) arising directly from the status of their current working relationship and future ambitions.

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123. **Amendments to the Constitution**

The Cabinet considered a report from Democratic Services, which brought forward proposals to increase the value set for Key Decisions and to create an Audit & Standards Committee.

Warwick District Council currently defined a key decision as a decision which had a significant impact or effect on two or more Wards and/or a budgetary effect of £50,000 or more.

The Warwick District Council defined value of £50,000 was in place since the introduction of the original Forward Plan requirement under the Local Government Act 2000. If the figure was indexed to inflation, 22 years later, it would now be greater than £78,000. Therefore, it was considered appropriate to review it at this time.

The proposed value of £150,000 was treble the current value set by Warwick. The wording also provided an improved clarification on a key decision, overall compared to the definition used by Warwick at present.

While this might be considered a significant change, operationally, at this time, little would change for Warwick District Council. This was because Warwick District Council would still list any report coming to Cabinet on its Forward Plan with publication 28 days in advance of the meeting.

The second part of the proposal brought forward was the creation of an Audit & Standards Committee ("the Committee"). This would align, more closely, with the SDC Committee structure.

The Committee would take in the responsibilities of the current Standards Committee, the Audit responsibilities from the Finance & Audit Scrutiny Committee and some responsibilities from the Licensing & Regulatory Committee.

In respect of the audit aspect the Committee would take all the responsibilities of the Audit Committee as currently defined within the Constitution, Part 3, Responsibility for Functions, sub heading G, Finance & Audit Scrutiny Committee.

In respect of the Licensing & Regulatory Committee, the Committee would take the responsibilities in respect of electoral matters and ward boundaries.

In addition, a new responsibility is added to the remit of the Committee "*Power to make determinations at Code of Conduct Hearings: Arrangements for Dealing with complaints of Councillor misconduct*" to provide clarification of its role in determining Members' Code of Conduct matters.

It was proposed that the new Committee would have the remit as defined at Appendix 2 to the report. This was broadly the same as SDC with a few exceptions. These were:

- Review the Council's involvement on Outside Bodies;
- Monitor the content, quality and delivery of training for Councillors in connection with the planning and licensing processes and the attendance of Councillors at such training;
- Oversee compliance with Freedom of Information legislation;
- Grant and supervise exemptions from political restrictions;
- Monitor complaints handling and Ombudsman investigations including consideration of issues raised by the Ombudsman; and
- Overview the Council's Whistleblowing Policy and Procedure;

In respect of these variances to the remit of the Audit & Standards Committee at SDC, these were considered reasonable at this time for the following reasons:

- *Review the Council's involvement on Outside Bodies* – This was currently undertaken by Overview & Scrutiny Committee, in partnership with the Monitoring Officer as part of the annual feedback/scrutiny of the work undertaken by Outside appointments each year.
- *Monitor the content, quality and delivery of training for Councillors in connection with the planning and licensing processes and the attendance of Councillors at such training* – At present this work was undertaken by the Leadership Co-ordination Group and as officers were asked to consider alignment of member development at this stage it was considered appropriate not to change this at Warwick, as there might be a need for further changes later in the year.
- *To oversee compliance with Freedom of Information legislation* – This was undertaken through quarterly performance data being made available to all Councillors for review and to raise with scrutiny if there were concerns.
- *To grant and supervise exemptions from political restrictions* – This matter was delegated to the Chief Executive at Warwick as it was considered to be a staffing matter and appropriate for the Chief Executive to determine after taking the view of the Monitoring Officer.
- Monitor complaints handling and Local Government & Social Care Ombudsman ("LGSCO") investigations including consideration of issues raised by the LGSCO; the LGSCO recommended that their annual report was presented to Overview & Scrutiny Committee for consideration. Quarterly data was presented to all Councillors through the performance management information. From April 2022, the Joint Management Team would also receive reports detailing enhanced monitoring information detailing outcomes and learning points from complaints. At present the Council's complaint process was in the early stages of a review to produce an aligned policy (including monitoring) across both SDC and Warwick. Therefore, it was considered appropriate not to move this at present.
- Overview the Council's Whistleblowing Policy and Procedure – This was going to be reviewed further by Officers to understand the role in detail as the approval of the policy would be a Cabinet decision.

The proposal would see a reduction in number of formal decision-making

Committees for the Council as well as a reduction in the number of Scrutiny Committees. Therefore, Council needed to be content that any revisions allow for appropriate decision making and robust scrutiny of the Cabinet.

It was recognised that the workload of the current Standards Committee at Warwick District was not significant. This proposed revision to its remit to include the additional responsibilities, would enable greater focus on this area work by Councillors.

At present the scrutiny workload was shared fairly evenly between Overview & Scrutiny Committee and Finance & Audit Scrutiny Committee, with them both focusing on specific core areas. This was developed by the two Committees through the use of a criteria on which Cabinet matters they would consider. This led to a greater focus on the strategic aspects rather than details which could lead to meetings becoming bogged down and not focussing on the community as a whole.

It was important that this good work was not undone and by overloading the Overview & Scrutiny Committee with the valuable pre-Cabinet work and its own scrutiny work of other matters such as performance of service delivery and monitoring the merger with SDC and how this impacted on service delivery/performance.

A key area where this might impact was the aspect of financial and project management scrutiny. Specifically, the setting of fees and charges and the budget. In these instances, it was proposed that Cabinet would remain on the Thursday to allow for either an additional (reserve) night for Overview & Scrutiny or a dedicated Member Group to publicly scrutinise the detail of the fees and charges and the budget. The proposals for these specific instances, to ensure good governance and public visibility, were to be developed by the Chairs of the Overview & Scrutiny Committee and the Audit & Standards Committees in the summer of 2022.

Some Pre-Scrutiny, to develop and advise on specific areas of work, was undertaken through the Programme Advisory Boards (PABs). This also helped to develop Councillor engagement and ownership of specific work streams. Officers were aware that not all matters considered by the Cabinet were passing through PABs, even as an outline and that some PABs were more active than others. The Leader would be discussing this with the individual PAB chairs within the next month.

To further enhance PABs the Leader would be making it clear to their Portfolio Holders that any significant changes in fees and charges and/or bids for growth must be considered by the relevant PAB before they came forward to Cabinet and Council. In addition, the views of the PAB should also be included within the report to the Cabinet.

The improved use of pre-scrutiny questions, over recent months, including the publication of these on-line for all parties to see, helped further enhance scrutiny across the Council and focus on core issues. Further development of this approach would continue over the coming months, including the potential for Scrutiny to comments on reports based on these questions without the need for specific officer representation of the report at their meeting. Overall, the measures above should leave the Overview & Scrutiny Committee with some additional work but not a significant increase.

It was noted that the Standards Committee, was at present, only scheduled to meet four times in the next Municipal year. The change in remit would require some changes to the adopted Calendar of meetings. These might need to be revised and would be considered in partnership with the Audit & Risk Manager for Warwick District Council to work out the most appropriate dates.

Overall though the proposal should see a reduction in the number of formal Committee meetings that took place, solely for Warwick District Council, which should help to offset any increase from any expansion in the number of Joint Committee meetings that may occur.

It should be noted that the Audit & Standards Committee at SDC included two co-opted Parish/Town Council representatives who provided the Committee with a view in respect of Code of Conduct matters relating to Town/Parish Councils. This was considered appropriate for Warwick District Council as well and proposals for this were being developed for consideration by the current Standards Committee in April.

The proposal would also mean the WDC Independent Persons were present when Audit matters were considered. At SDC the two Independent Persons were invited to all meetings of its Audit and Standards Committee and, subject to the Chairman's consent, were able to contribute to discussion of agenda items relating to standards.

Once the Committee was established and membership known there would be a programme of training identified for them. Equally, discussion would be held with the Chairman of the Overview & Scrutiny Committee as to specific support for the Committee and membership with their wider remit.

It should be noted that the removal of the Finance & Audit Scrutiny Committee enabled the Cabinet to meet on a Wednesday evening instead, thus reducing the number of consecutive nights Councillors would have for meetings.

It was proposed that the Committee had a membership of 11 Councillors which would be politically proportionate to the Size of the Council. It would also be expected that the Leader, or their nominated deputy, attend each meeting.

There were a number of alternative options that could be considered, many of which focused around leaving the current arrangements in place, while the Council awaited the decision from the Department of Levelling Up Housing and Communities on the bid to merge with SDC.

The planned merger presented a number of opportunities for the Council to work more closely with SDC, a way of achieving this could be through joint scrutiny work of key strategic matters, rather than individual scrutiny. Therefore, either to replace this proposal and/or enhance it further Cabinet could include proposals for Joint Scrutiny arrangements with SDC. This was being considered as part of wider proposals but at present it was considered, even with the Joint Cabinet Committee, accountability to the respective District was the more appropriate form to provide assurance to the respective local communities.

The Overview & Scrutiny Committee noted the recommendations and provided the following observations:

1. The Committee felt the clarification on the reasons why a report is confidential should be explained within the report itself to show how the information related back to the legal reason for it being exempt. It would also be useful if the report could provide a timescale/event for when it may be possible for the information to become public;
2. the PABs need to improve the consistency in their minute format to facilitate Councillors' understanding;
3. consideration should be given if the PAB minutes could be public minutes; and
4. noted that the better description of items expected to go to PAB would be those items that propose significant change to a service.

The Finance & Audit Scrutiny Committee asked for all Councillors to be informed of how many Cabinet decisions, in the last 12 months, would have moved from being key decisions to no longer key decisions based on the change in the definition in the report.

The Finance & Audit Scrutiny Committee was content with the report with the exception of the following points:

That the wording of the remit of the new Audit and Standards Committee should be revised to highlight its role in reviewing risk for the Council.

That officers investigate the potential for the PAB agendas and minutes to be made public. That there should be a more consistent approach to the work of the PABs, and the format of their minutes.

The Committee welcomed the acknowledgment that the first year of the Audit and Standards Committee would be a learning process.

Councillors felt that current reports created a perception that Warwick District Council is changing its structures and procedures to align with Stratford District Council and hoped that future reports will indicate where the reverse situation occurs.

The Green Group welcomed the change in the Constitution and welcomed the intention to make Programme Advisory Boards take a more active role in decision-making. They noted that, in order to improve the consistency of the way PABs are treated, Portfolio Holders should be provided with any documents prior to the Scrutiny Committees.

Councillor Matecki felt uncertain about the prospect of PAB meetings becoming public, as he felt that they would start to stray from their intended purpose and instead become "political statements". This sentiment was echoed by Councillor Falp who also expressed reluctance for PABs to become public and said that all necessary and important information eventually became public when it was shared at Cabinet meetings.

In response to a comment from Councillor Rhead about the numerous references to SDC in the report in lieu of the statement made by the Leader at the beginning of the meeting, Councillor Day advised that the

recommendations still had validity and should be dealt with now to enable matters to be dealt with for the new municipal year. Regarding the PAB meetings, he acknowledged that it was difficult as we needed to be as transparent as possible but recognised that sometimes private informal discussions did need to take place in order to shape policy which would then be brought into the public domain. He stated that there would be meaningful work to do following these comments which would be brought back for Members consideration.

Councillor Day proposed the following amendment to recommendation 1 to the report:

- (1) it approves the definition of a key decision ~~aligns with proposals for the Joint Cabinet Committee and the value set by Stratford-on-Avon District Council,~~ as set out at Appendix 1 to the report.

Councillor Day also accepted the recommendation from the Finance & Audit Scrutiny Committee regarding the role of the new Audit and Standards Committee. The Deputy Chief Executive clarified that the wording of the Committee as defined at Appendix 2 to the report would be revised to highlight the Committee's role in reviewing risk for the Council, so that officers could make sure the recommendation from the Finance & Audit Scrutiny Committee was then included.

Councillor Day then proposed the report as laid out, and subject to the recommendation from the Finance & Audit Scrutiny Committee, and the amendment to recommendation 1 in the report.

Recommended to Council that

- (1) the definition of a key decision as set out at Appendix 1 to the report, be approved;
- (2) for the new Municipal year, Council approves the creation of an Audit & Standards Committee, composed of 11 members, with the responsibilities as set out at Appendix 2 to the report;
- (3) for the new Municipal year, the Finance & Audit Scrutiny Committee ceases to exist and its scrutiny responsibility be passed to the Overview & Scrutiny Committee;
- (4) the Audit & Standards Committee meets at least quarterly, on the dates currently scheduled for Standards Committee, and the Cabinet meetings move to the day after Overview & Scrutiny Committee;
- (5) the Monitoring Officer is asked to consult with the Independent Remuneration Panel on the proposals and any adjustments they may recommend to the Special Responsibilities Allowances for the Committees; and

- (6) authority be delegated to the Monitoring Officer to update the Constitution to reflect the approved changes.

(The Portfolio Holder for this item was Councillor Day)
Forward Plan Reference 1,283

131. Urgent Item – Election of Chairman of the Council 2022/23

The Leader of the Council decided to bring forward this urgent item in respect of the nomination for the appointment of Chairman of the Council for 2022/23.

This item was brought forward because the next scheduled meeting of the Cabinet was not until 11 May 2022, which was the same day as Annual Council.

In February, the Council nominated Councillor Jonathan Nicholls to be the Chairman of the Council for 2022/23. Sadly, Councillor Nicholls had passed away in March. After reflection and discussions with colleagues, the Leader nominated Councillor Mangat to become the next Chairman of the District Council. This was seconded by Councillor Hales.

The Cabinet, therefore

Recommended to Council on 11 May 2022
that Councillor Mangat be elected as the
Chairman of the Council for 2022/23.

(The Portfolio Holder for this item was Councillor Day)

(The meeting ended at 7.20pm)