

Executive

Minutes of the meeting held on Wednesday 11 June 2014 at the Town Hall, Royal Leamington Spa at 6.00 pm.

Present: Councillor Mobbs (Chairman); Councillors Caborn, Coker, Mrs Gallagher, Hammon, Shilton and Vincett.

Also present: Councillor Barrott (Chair of Finance & Audit Scrutiny Committee), Councillor Mrs Falp (Chair of Overview and Scrutiny Committee), Councillor Boad (Liberal Democrat Group Observer) and Councillor MacKay (Independent Group Observer).

An apology for absence was received from Councillor Cross.

The Chairman asked that the Executive's thanks be expressed to Councillor Mrs Blacklock for her services as Chair of the Overview and Scrutiny Committee over the past 12 months.

200. **Declarations of interest**

There were no declarations of interest.

201. **Minutes**

The minutes of the meeting held on 8 May 2014 were agreed and signed by the Chairman as a correct record.

Part 1

(Items on which a decision by Council is required)

203. **Final Accounts 2013/14**

The Executive considered a report from Finance which provided details of the Council's final account position for the year ended 31 March 2014.

The report provided details of the Council's final account position for the year ended 31st March 2014 and highlighted that: the Capital Programme was underspent by £2.24m, of which £2.07m was due to slippage to 2014/15; the General Fund revenue account had showed a surplus of £661,000 when reviewing the budgets in February 2014 and the final accounts showed an additional surplus of £476,800 after allowing for a further £0.43m of planned expenditure to be carried forward to 2014/15; in addition there was a further £393,300 in respect of Business Rates Retention which had been appropriated to the Business Rates Volatility Reserve as previously agreed by Council; the Housing Revenue Account (HRA) balance was as budgeted, with the HRA Capital Investment Reserve balance having increased by £4.8m, £0.4m more than the budgeted £4.4m; and the Council Tax collection rate was 98.5% and 98.7% for Business Rates, both of which were excellent.

In addition, the report requested agreement that the 2014/15 Capital Programme be amended by £2,066,800 to comprise a number of elements

detailed in 2.1 (b) of the report and to agree the request to carry £429,100 earmarked balances forward in respect of revenue slippage to 2014/15 and increase 2014/15 HRA budgets by £8,000 in respect of HRA revenue slippage.

The report explained that the recommendations would allow the accounts for the financial year 2013/14 to be closed on time and had been used as the basis for drafting the Statement of Accounts. The resultant decisions would be fed into the Financial Strategy. The Accounts and Audit Regulations 2011 required that the responsible financial officer must, no later than 30 June immediately following the end of a year, sign and date the Statement of Accounts.

The report was a statement of fact. However, the alternative options were that the outcomes of the report could be dealt with in a variety of ways. These alternatives were mainly not to allow any, or only some, of the earmarked reserve requests and to allow the General Fund balance to vary from the £1.5m level, along with how the 2013/14 surplus was allocated.

The Finance & Audit Scrutiny Committee supported the recommendations following a robust discussion and thanked the Head of Finance for attending and answering their questions. Members asked for clarity on the level of slippage each year and the Council's current deficit position.

Members enquired about the pension deficit, the impact of the Council Tax freeze and were satisfied that any potential increase in interest rates had been factored into the forecasting.

Finally, the Finance & Audit Committee highlighted the excellent Council Tax collection rate of 98.5%.

Councillor Barrott expanded upon the Finance & Audit Scrutiny Committee's comments and stated that the Committee was very happy with the answers provided by the Head of Finance. One Member had asked Councillor Barrott to ram home to the Executive the excellent Council Tax rate, although he did point out that this had not found unanimous favour amongst members of the Committee.

The Chairman thanked Councillor Barrott and the Finance & Audit Scrutiny Committee for their comments and responded that the Executive would look at the pension deficit. He drew attention to recommendation 2.1(e) which stated that the details of the use of the new Local Plan Delivery Reserve and the decision making arrangements would be detailed in the July Budget Review Executive report. The Chairman was pleased to note that this was the seventh year that Warwick District Council had achieved a surplus, for which he congratulated both officers and Councillors.

Having read the report and considered the comments made by the Scrutiny Committee, the Executive agreed the recommendations as written.

Recommend that:

(1) note the outturn positions summarised below:

- The Capital Programme was underspent by £2.24m, of which £2.07m is due to slippage to

- 2014/15;
- The General Fund revenue account shows a surplus of £476,800 which is after allowing for a further £429,100 of planned expenditure to be carried forward to 2014/15;
 - The Housing Revenue Account balance is as budgeted; the HRA Capital Investment reserve available for major developments has increased by £4.8m to £17.7m, £0.4m more than projected;
 - The Council Tax collection rate was 98.5% and 98.7% for Business Rates;
- (2) agree that the 2014/15 Capital Programme be amended by £2,066,800 comprising the following elements;
- +£1,226,700 for Housing Investment Programme slippage;
 - +£846,200 for Other Services Capital Programme slippage;
 - -£6,100 in respect of resources brought forward from the Other Services Capital Programme for 2014/15 to 2013/14 to cover expenditure on Broadband UK and street lighting;
- (3) agree the requests to carry £429,100 earmarked balances forward in respect of General Fund revenue slippage to 2014/15, and increase 2014/15 HRA budgets by £8,000 in respect of HRA revenue slippage;
- (4) note that the resulting change of the above decisions, amounting to a surplus of £476,800 above the latest Estimates for 2013/14;
- (5) that £250,000 of the £476,800 surplus be appropriated to a new Local Plan Delivery Reserve, with the details of the use of this reserve and the decision making arrangements to be detailed in the July Budget Review Executive report;
- (6) that the balance of the surplus, £226,800 be appropriated to the Service Transformation Reserve at this point. The position will be reviewed as part of the Budget Review report due to be presented to the Executive in late July;
- (7) agree that rent payments for the Newbold Comyn Golf Course be waived between June 2013 to May 2015 in order to support Mack Golf and retain the quality golf provision at Newbold Comyn;

- (8) note that a Deed of Variation has been signed in respect of the Aviary in Jephson Gardens; and
- (9) agree the increase in rent for market stalls from 1 July 2014 as follows:
 - Warwick General Market: from £31.00 to £32.00
 - Kenilworth General Market: from £27.50 to £28.50
 - Warwick Farmers Market: from £31.00 to £32.00
 - Leamington Farmers Market: from £31.00 to £32.00.

204. **HRA Rent Setting for Void Properties**

The Executive considered a report from Housing and Property Services which set out the options available to the Council in relation to the setting of HRA dwelling rents when a property becomes void.

For the Council meeting of 26 February 2014, Members were due to be presented with a report setting out the recommendations for the 2014/15 rent increase including the proposal that void properties were moved to capped formula ('target') social rent when re-let.

On 11 February 2014 the Finance and Audit Scrutiny Committee put forward an alternative to the recommendation so that if an existing Warwick District Council tenant transferred to a void property, the tenant should still be eligible for the current level of rent and not the capped formula (target) social rent. This was suggested so as not to discourage a WDC tenant from downsizing.

The Executive discussed the matter on 12 February 2014 and recommended that the original proposal should be put forward to Council.

Council debated the matter on 26 February 2014 and resolved that neither the original or amended proposal would be adopted but that further legal advice would first be obtained in relation to the recommendation.

The recommendation to move void properties to the capped formula (target) rent was in accordance with the Government's proposed rent policy. The current Rent Restructuring Policy enabled the gradual movement towards the capped formula (target) rent through annual rent increases. The Government was now proposing to abolish rent restructuring and strongly encouraged Local Authorities to reach convergence through the movement of rent to the capped formula (target) social rent at void stage, rather than through annual rent increases.

Although the recommendation that was being put forward to move void properties to the capped formula (target) social rent when re-let was in line with the proposed Government Policy due to take effect from April 2015, there was no legal reason why the Council could not adopt the policy in advance of this date.

If the policy were to be adopted but not apply equally to all void properties, as in the recommendation proposed by the Finance & Audit Committee, then the

Council would need to be satisfied that it was for a proper purpose and not thereby inadvertently breaching the Public Sector Equality Duty (PSED).

In order to establish whether such a policy might potentially be in breach of the Duty in respect of those with "protected characteristics" of gender, age or race, research had been carried out into the demographics of the Council's existing tenants and applicants on the waiting list. This research established that those who would be likely to benefit from the proposed amended policy were predominantly white and more elderly. The legal advice that had been received stated: "there is therefore a real risk that if the council adopted the policy and were challenged, it would be found to have breached the PSED, unless it can show that the policy was adopted for a proper purpose and the fact that this results in a breach of the Duty is proportionate as a means of achieving that purpose".

The purpose of the proposed amendment was in order to mitigate the potential consequence that this policy could have on existing Warwick District Council tenants. It was considered that some tenants who were under occupying may not be encouraged to downsize if the rent levels of the smaller property would be similar to, or indeed more than, the larger property that they were "under-occupying".

Analysis of a sample of transfers that were carried out in 2013/14 was conducted which showed that none of the tenants who transferred would have been disadvantaged under the proposed policy. Therefore, the legal advice was that there were not sufficient grounds to demonstrate that adopting the proposed amendment, which could potentially breach the PSED, was a proportionate act to achieve its purpose.

The report before the Executive detailed the policy framework, the budgetary framework and risks associated with the various options and the recommendations.

Three alternative options were considered. The first was not to attempt to reach convergence (do nothing). The Council could choose not to increase the rent when a property became void, and effectively keep rents below formula rent. This would mean rents always remained below the normal level of social rents. This would significantly reduce Business Plan resources, by approximately £180m over 50 years, decreasing the projected number of new homes that could be built by 620. In addition, this would also result in the Council acting against the Government Guidance for social rent setting which strongly encouraged Local Authorities to reach convergence through the movement of rent to the capped formula (target) rent at void stage.

The second alternative option was to attempt to reach convergence but exclude existing tenants from the policy. This option had been considered but, as set out in paragraphs 3.7 to 3.12 of the report, it was likely that such a policy may result in the Council inadvertently breaching the PSED.

The third alternative option would be to attempt to reach convergence through the application of higher rent increases in future. The Council currently had the legal power to set its rents at any level it may determine, subject to a requirement to act reasonably, and could therefore choose to apply rent increases higher than CPI + 1% in future years to move all rents towards

formula rent through annual rent increases. This could be achieved by using the previous rent restructuring formula (RPI + 0.5% + up to £2), or any other formula which the Council deemed reasonable. However setting rent increases higher than the proposed national policy was likely to be challenged by tenants and other interested parties. Additionally the Council may have to repay a proportion of rental income under Rent Rebate Subsidy Limitation, or be otherwise penalised by any mechanism Central Government may introduce in future to discourage non-compliance with central rent policy.

The Finance & Audit Scrutiny Committee supported the recommendations but had concerns that this could dis-incentivise people to downsize. Members noted the access to a Tenants Incentive Grant Scheme and welcomed the forthcoming review.

Members noted the impact of the previous decision on the Business Plan and appreciated the loss of revenue if these recommendations were not agreed. However, some Members felt that a more flexible, case by case approach was needed.

Councillor Barrott thanked officers for working on this. He was not personally happy with dis-incentivising people but had listened to reasoning and advice and recognised the need for a flexible approach.

Councillor Vincett thanked the Finance & Audit Scrutiny Committee for its comments, recognised Members concerns and accepted the comment about flexibility. He agreed to keep a watching brief and would identify any reticence to downsize if possible. Councillor Vincett also agreed to discuss with officers concerns which Councillor Boad had raised in respect of the second point under paragraph 3.11 of the report, part of which he felt was irrelevant.

Having read the report and considered the comments made by the Scrutiny Committee, the Executive agreed the recommendations as written.

Recommend that:

- (1) all void properties (including where a Warwick District Council (WDC) tenant transfers to such), are moved to capped formula ('target') social rent when re-let with immediate effect or as soon as practicably possible; and
- (2) Council notes that adoption of this policy will increase income to the Housing Business Plan by approximately £180m over 50 years, equivalent to approximately 620 new homes compared to making no attempt to reach convergence.

(The meeting ended at 18.55 pm)