

Overview and Scrutiny Committee

Minutes of the meeting held on Tuesday 6 December 2022 in the Town Hall, Royal Leamington Spa at 6.00pm.

Present: Councillor Milton (Chair); Councillors Cullinan, J Dearing, Jacques, King, Kohler, Leigh-Hunt, Noone, Syson and Tangri.

Also Present: Councillor Day – Leader and Portfolio Holder for Strategic Leadership, Councillor Hales – Deputy Leader and Portfolio Holder for Resources, Councillor Matecki – Portfolio Holder for Housing & Assets, and Councillor Rhead – Portfolio Holder for Climate Change.

The Chair explained that subsequent to Finance & Audit Scrutiny Committee being dissolved responsibilities to scrutinise financial issues had passed to Overview & Scrutiny Committee. This meant a much-increased workload for the Committee.

Resolved that the Chair raise the issue of the increased workload faced by the Overview & Scrutiny Committee subsequent to the imposition of the additional responsibilities for scrutinising financial matters and seek approval for officers to review the situation and bring forward more effective processes for the next Council.

43. **Apologies and Substitutes**

- (a) An apology for absence was received from Councillor Redford.
- (b) Councillor Tangri substituted for Councillor A Dearing.

44. **Declarations of Interest**

There were no declarations of interest made.

45. **Minutes**

The minutes of the Overview and Scrutiny Committee meeting held on 1 November 2022 were taken as read and signed by the Chair as a correct record.

46. **Report on the reasons for cost increases in the Castle Farm Leisure Centre and Abbey Fields Swimming Pool projects**

The Committee considered a report from the Programme Manager from the Sports Programme Department which presented the reasons for the increase in costs for the two projects between the two stages of the procurement process. The body of the report gave some of the reasons for this increase. Confidential appendices attached to the report provided more detail on the amounts involved in each element of these increases. These appendices were confidential because they revealed in some detail the financial negotiations between the Council and Kier; information which

was commercially sensitive because it would give other building contractors substantial information about the costs ascribed to particular elements, and also about the negotiating processes involved in the two contracts.

Phase 2 of the Leisure Development Programme consisted of the demolition and reconstruction of the Castle Farm Leisure Centre and the Abbey Fields Swimming Pool, both in Kenilworth. The contracts for the construction of these two facilities were let separately, as part of the same two-stage procurement exercise. Kier Construction was identified as the preferred contractor of the works. In the period between Stage One and Stage Two of the two-stage procurement process, the costs of the work rose considerably. The report identified the reasons for the cost increases.

Mr Jones, a Kenilworth resident speaking on behalf of the "Restore Kenilworth Lido Group" addressed the Committee. As a resident and Council taxpayer, he also wished to raise his concerns about value for money and the process and due diligence that was conducted as part of the process for commissioning the chosen contractor.

The Deputy Chief Executive & Monitoring Officer explained that he was the project/programme sponsor and had been involved with the Leisure Development programme going back to Newbold Comyn and St Nicholas work. He would give a more detailed response to Mr Jones but would provide headline responses at the meeting.

In response to points raised by Mr Jones, the Deputy Chief Executive and Monitoring Officer explained that:

- Although due diligence was part of officers' day to day responsibility in the delivery of the new centres, Councillors had been integrally involved throughout. A Member Working Group was established from the formation of the projects. When it was time to decide whether to proceed with the bids, an established project board, made up of officers and Councillors was already in place. Prior to formal signing of the contracts, a presentation was given to the Council's Leadership Co-ordinating Group (a group chaired by the Leader of the Council and has all political group leaders in its membership).
- There was a choice on whether to use a one or two stage process in procurement. It was a Board decision to choose the two-stage approach to procurement because it was clear that the bidders would not have accepted a one-stage process. They required the closer consultation with the Council that the two-stage process offered.
- Kier was chosen because other factors than cost were relevant, despite the bid being £200k cheaper. Considerations such as quality and cost were important.
- Advice was taken from the Council's contractor about percentage ranking or ranking in order. Consultation with the Chair, Overview & Scrutiny Committee also took place, and it was agreed that ranking in order was acceptable. The Chair, O&S was keen for the percentages to be displayed but did accept the ranking in order.
- Clear advice from the Procurement Team was for two separate contracts, one for Abbey Fields and one for Castle Farm to ensure a

clear delineation between them for contract management. Kier also gave the same advice.

- The Council now had a fixed price for the contracts. The only deviation would be if the Council wanted some alterations in the finer details to the specification, if additional design work was commissioned and that altered the final appearance of the buildings, then there could be cost increases. If amendments meant some reduction in what was specified, then costs could be lowered.
- Costs had increased not just because of building cost inflation, but also because of economic, commercial betterment, correct quantification by Kier, fully understanding the scope of the sub-contractor work and design changes requested by the Council and the Council bought some risk for the project.
- He would listen to the recording of the meeting and if Mr Jones' points required more detailed answers, he would provide these.

In response to questions from Members, the Deputy Chief Executive and Monitoring Officer explained that:

- Kier considered that ranking by percentages could be commercially detrimental, rather than ranking by order. He would review this again with the Programme Manager.
- When it was realised that Kier had missed something out of their specification, the project was already in preferred contractor status with Kier. The procurement process could have been abandoned but advice from Mace was that if re-tendering took place, because of inflationary pressures at that time on building materials and labour cost, the result would not be significantly different to the situation that was currently faced with the additional cost Kier had quoted. The Project Board accepted the reasoning and the advice to proceed with Kier.
- The specification for what was to be built were clear but if there was question over what constituted a change that could alter the fixed price, then Kier had the opportunity to discuss this with officers and Mace.
- The Council had been in partnership with Mace for six to seven years because they were the preferred advisor on Newbold Comyn and St Nicholas. The relationship has at times been up and down. Not all issues faced had been connected with Mace. The Deputy Chief Executive was not of the opinion that Mace could have spotted that Kier had missed certain elements out of their specification. He would liaise with the Programme Manager to see if he felt Mace could have offered better advice and that would be made available.
- An explanation had been given for the increases in costs and why they occurred. Given the economic climate at the time and that Kier had admitted that it got some elements of the specification wrong, the Deputy Chief Executive did not feel that anything could have been done differently.
- There were lessons to be learned around the depth and effort made to ensure that the Council's climate change objectives were met, how thorough the consultation process was, even if some residents did not agree, they were not left without detail of what was being proposed, and also how political groups were kept involved.
- The administration was clear that having delivered in Warwick, Leamington and Whitnash, Kenilworth required enhanced facilities.

- There would be a “lessons learned” carried out at the end of the programme and this would be brought to O&S accordingly in the future.

47. **Climate Change Action Programme Update**

The Committee considered a report from the Programme Director for Climate Change which provided an update on the council’s progress towards its climate change ambitions and specifically in relation to the delivery of the Climate Change Action Programme.

In response to questions from Members, the Programme Director for Climate Change, the Climate Change Programme Officer and the Portfolio Holder for Climate Change explained that:

- In Appendix 2, it would be possible to break the figures down further to show progress being made against specific elements. It would be difficult to provide this same detail for Ambitions 2 and 3. The Council used historic national data on carbon emissions, District specific figures were not available. Any figures that were provided would have to be estimates and it would involve a lot of work.
- The next report would show better how far along in achieving the objectives the Council was for Ambition 1.
- The Risk Register had been designed to show what could impede reaching all Ambitions. Risk Rating by Ambition and elements within these could be considered by the Climate Emergency Programme Advisory Board (PAB).
- The Climate Change Adaptation Officer would be consulted to see if a further risk should be added about whether the Council’s ambitions were matching the speed at which climate change was happening. This would go to the PAB to consider how the risk was phrased and what the Council could do to mitigate the risk.
- Risk 3 in Appendix 4 was currently a red risk – a lot of work was ongoing to see how the Council’s services could adapt to climate change.
- Risk 2 was also in red with six triggers listed. The Council had been quite successful in getting grant funding and other resources to deliver climate change ambitions. Every department in the Council had to address climate change.
- Appendix 1A, 1.2 – it had been hoped that by making carbon savings, financial savings would follow. However, the increased energy prices the country had faced had more than outweighed the savings made in cost. Implementing heat pumps at Temperate Glasshouse would not currently result in cost savings because the electricity required to run the heat pumps was more expensive than gas prices.

(Councillor Rhead left the meeting.)

48. **Waste Enforcement Update**

The Committee considered a report from Neighbourhood and Assets which provided an update in respect of its Waste Enforcement service subsequent to the previous update given in March.

During the months since the last update, the proposed merger with Stratford on Avon District Council (SDC) had ended. The plan had been for the Contract Services Team at Warwick District Council (WDC) to work closely with the experienced officers at SDC on waste enforcement activities. The result of the merger ending and the work the Contract Services faced during spring and summer months meant that waste enforcement could not be prioritised.

Subsequently, the Team had re-engaged with Rugby Borough Council to re-establish the previous Service Level Agreement with them providing support to waste management enforcement activities, including issuing fines. It was hoped that there would be a dedicated enforcement team back in place by January 2023.

A report on the Waste Enforcement Service had been scheduled for the meeting, but the upheaval to the service meant that following a request, the Chair had agreed that the full update could be presented in early 2023, but a brief update on a main concern on fly-tipping would be discussed at this meeting.

In response to questions from Members, the Deputy Chief Executive and Monitoring Officer explained that:

- The green columns on the graph on page 3 of the update were representing 22/23, not 21/22.
- If the green columns were 22/23, then there did appear to be a correlation between the implementation of the new 123 service and an increase in fly-tipping events, but more work was required on this. The Deputy Chief Executive would circulate a table he had on this which broke down the elements in the graph and which showed that the spike was predominantly about more black bags being found.
- Analysis was required on whether there were parts of the District that were worse affected or if it was across the District. North Warwickshire had a real-time "heat map" where fly tipping was found. The Council would use the same tool in the 2023 to target the Council's efforts to reduce the issue.
- The next update would show what had happened and what options there were to tackle it. The current update showed options to tackle the fly-tipping, one of which was the reintroduction of a service level agreement with Rugby Borough Council for enforcement action.
- It was hoped to produce information of fly-tipping in real time.
- Before deciding a plan of action, it was necessary to understand what the problem was. CCTV had not been ruled out, but this required further understanding of the regulations governing data protection. There was a resource issue and whether it was the best use of officer time which was why the Council was promoting awareness of fly-tipping. This had not been that successful which was why enforcement was now being examined. Tackling fly tipping before it occurred would form part of the next report as would identifying the perpetrators when fly tipping was discovered.

49. **Cabinet Agenda (Non-Confidential items and reports) –
Wednesday 7 December 2022**

The Committee considered the following item which would be discussed at the meeting of the Cabinet on Wednesday 7 December 2022.

Item 8 – Draft Local Transport Plan – Consultation Response

The Labour Group had called this report in for scrutiny but the Overview & Scrutiny Committee Chair decided that because it did not concern a Warwick District Council policy, but instead was for a response from this Council to a County Council consultation exercise, a better approach would be for Councillor Cullinan to consult with officers and bring forward to Overview & Scrutiny Committee proposals for comments to be made to Cabinet.

The Overview & Scrutiny Committee:

1. Requested that the report should clarify that the reference to road planning in planning applications related to safety assessments and not the planning of routes.
2. The Council should make clear in its response that it is supportive of the proposals on pedestrian active travel rather than giving no comment.

50. **Joint Cabinet Agenda (Non-Confidential items and reports) –
Wednesday 7 December 2022**

The Committee considered the following item which would be discussed at the meeting of the Joint Cabinet on Wednesday 7 December 2022.

Item 5 - South Warwickshire Local Plan Part 1 – Issues and Options
Consultation

1. The way that the reports were published (as one block, rather than as separate documents) created practical problems for Members in reviewing and scrutinising the content. Whilst recognising that the report was a technical topic, it was requested that the report should be better divided and structured to make it easier to manage.
2. Concerns were raised about the robustness of the process of the Sustainability Assessment and therefore the conclusions drawn from this. The Committee looked forward to feedback from the consultants in this regard.
3. The Committee recommended that wording, process, and navigation for the consultation was tested using a broad range of people to ensure that the type of responses were what would be expected.

(The meeting was adjourned at 8.03 pm for a comfort break. It resumed at 8.14pm.)

51. **Cabinet Agenda (Non-Confidential items and reports) –
Wednesday 7 December 2022, continued**

Item 9 – HEART Shared Service Partnership

The Committee thanked officers for their work. Members noted that it was a complicated service to get right and recognised that it was heading in the right direction.

Corrections were required to reflect the reasons for the underperformance at that time at 1.3.1 in the report.

The Committee welcomed the commitment to some form of a continued Break Clause in the contract going forward.

(The Committee welcomed Mr Philip Richardson – Director, Planning & Regulation, Nuneaton, and Bedworth Borough Council, who was joined by the Head of Housing and the Portfolio Holder for Housing & Assets to answer Members’ questions on the report.)

Item 13 – Asylum Seekers Dispersal Scheme

Discussions on this report started in public session but moved into confidential session when questions could not be answered without revealing confidential information in the report – see Minute 55.

52. **Public and Press**

Resolved that under Section 100A of the Local Government Act 1972 that the public and press be excluded from the meeting for the following items by reason of the likely disclosure of exempt information within the paragraphs of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006, as set out below:

Minute Numbers	Paragraph Numbers	Reason
53	3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
54	5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings

53. **Cabinet Agenda (Confidential items and reports) – Wednesday 7 December 2022**

The Committee considered the following confidential item which would be discussed at the meeting of the Cabinet on Wednesday 7 December 2022.

Items 13 & 17 – Asylum Seekers Dispersal Scheme and the confidential appendices

The Committee thanked officers for their work and noted the report.

54. **Minutes**

The confidential minutes of the Overview and Scrutiny Committee meeting held on 1 November 2022 were taken as read and signed by the Chair as a correct record.

(The meeting resumed public session.)
(Councillor Matecki left the meeting.)

55. **Cabinet Agenda (Non-Confidential items and reports) – Wednesday 7 December 2022, continued**

Item 5 – Quarter 2 Budget Report

The Committee thanked officers for their work and noted the report. Concerns were raised about the continuing issues relating to staff recruitment. Whilst these issues meant that the Council's budget position had improved, recruitment had not.

56. **Work Programme, Forward Plan and comments from the Cabinet**

The Committee considered its work programme for 2023 as detailed at Appendix 1 to the report. Appendix 2 to the report gave responses from the Cabinet to the comments and recommendations the Committee had made to Cabinet reports it had scrutinised.

An update from the Task & Finish Group, Equality & Diversity had been given via email to Committee Members (see Appendix 1 to these minutes). The Committee asked for its appreciation of the work done by the Task & Finish Group to be recorded in the minutes of the meeting.

It was requested that the Work Programme showed when Cabinet would be considering the Quarterly Budget reports so that these would be "called in" for scrutiny as a matter of routine without a specific Councillor needing to call them in.

The Deputy Chief Executive responded to concerns raised about the arrangements for scrutinising financial matters subsequent to the dissolution of the Finance & Audit Scrutiny Committee. The Democratic Services Manager & Deputy Monitoring Officer would be reviewing the process of scrutiny on these matters and the relationship between O&S and the Audit & Standards Committee.

A request was made that the Annual Governance Statement should be added to the Work Programme. The Deputy Chief Executive explained that Audit & Standards Committee considered this report. He would liaise with Committee Services over this report.

The Chair explained that an additional meeting was scheduled in February over the draft budget. He had not as yet liaised with the Chair of Audit & Standards Committee. He asked that a similar approach was adopted to

scrutinise this to the approach made for Fees and Charges. The Committee agreed to the approach and the additional meeting for this. It was agreed that Councillors King, Jacques and Kohler would be the selected Councillors to attend the working group and that Councillor Davison would be asked for a volunteer from the Green Party.

The Deputy Chief Executive and the Chair, O&S would consult with Group Leaders on how this would operate to ensure the political dimension of the budget process was not missed.

Resolved that

- (1) appendices 1 and 2 to the Work Programme report be noted;
- (2) the Work Programme be updated to show when the Quarterly Budget Report goes to Cabinet and this report be called-in as a matter of routine;
- (3) the Deputy Chief Executive to liaise with Committee Services and the S151 Officer and the Audit & Risk Manager over the scrutiny of the Annual Governance Statement and to report back;
- (4) in respect of the scrutiny of the draft budget report:
 - a. an additional meeting be held to review the draft budget along the same lines as occurred for the Fees and Charges review;
 - b. the Chair liaise with the Chair of Audit & Standards over the additional meeting for the draft budget;
 - c. Councillors King, Jacques and Kohler represent O&S at the draft budget working group and Councillor Davison be approached for a representative from the Green Group; and
 - d. the Deputy Chief Executive and the Chair liaise with the Group Leaders to discuss how the working group will operate to ensure the political dimension of the budget process is not missed; and
- (5) an update from HEART be added to the Work programme for 12 months' time.

(The meeting ended at 9.13pm)

CHAIR
7 February 2023

Appendix 1 – Report to Overview & Scrutiny Committee from the Task & Finish Group, Equality and Diversity

“As promised at the last meeting, below is a proposed plan for concluding the work of the Race Equality Task & Finish Group in good time before the District Council elections in May 2023.

The Group recognised that while the work has not progressed as anticipated this was, in no small part due to the impact of other significant projects being delivered by the Council which officers were involved in both expected (Commonwealth Games) and unexpected (the death of Her Majesty the Queen). We know how urgent business can sometimes result in the of delay important business.

The Task & Finish Group are realistic that with the need to report to Scrutiny in February 2023 (to enable reporting to Cabinet) so it is completed before the preelection period, there is only a limited amount of work that can be completed on the external review. That said some of this limited work will provide significant value for the Council.

The Group were pleased to be joined by the Council’s Equality Diversity and Inclusion (EDI) Business Partner at their meeting on 2nd December. This appointment is a small but significant step in helping Equality Diversity & Inclusion become a more prominent area of work within this Council. This post was a key recommendation from phase 1 of the race equality review and is one of the small but significant steps that have occurred so far.

The Census 2021 data on ethnicity has now been published and can be compared against both the 2011 census records for the District and also the recent resident's surveys in 2021 and 2022. This will provide a broad district view on how well engagement is being achieved with all sectors of the community.

The Census data for 2022 can also be broken down into ward level and will enable any future work to consider appropriate engagement in ethnically diverse areas through detailed use of equality impact assessments.

The Task & Finish Group had previously received a proposal to review engagement with seldom heard / ethnically diverse communities in the district for their view on accessing District Council services. With the data from the Census this can now be more focussed and officers are preparing a brief, based on the view of the Group, for approval before Christmas 2022. This is with a view to seeking three external quotes for the work early in the new year and commissioning the work by no later than March 2023. While the Group is confident in its scoping, it will also be seeking the views of the Chair of Overview & Scrutiny Committee on this before it is finally posted. This report will not be concluded until after the election, however, the Group see this as a positive step as this will enable an early focus on equality for the new Council after the elections.

The Race Equality Task & Finish Group also helped to scope the briefing on Equality, Diversity & Inclusion for all Councillors, which will take place on Thursday 26 January 2023 and will be delivered by the new EDI Business Partner. It will be essential training for members and the opportunity to meet with the EDI Business Partner, as well as to help us all to think about how our actions and behaviours can contribute towards a more inclusive society.

The Group also believe their final report can draw together the positive action already taken within the Council and bring forward, with a solid evidence base, recommendations and learning to ensure that racial equality and indeed equality, diversity and inclusion in general remains a priority for the Council for the next administration."