

MINUTES of the meeting of CABINET held at THE COUNCIL CHAMBER, BROCKINGTON, 35 HAFOD ROAD, HEREFORD on Thursday 2 April 2009 at 3.00 pm

Present: Councillor RJ Phillips (Chairman)

Councillors: AJM Blackshaw, H Bramer, JP French, JA Hyde, JG Jarvis, PD Price and DB Wilcox

In attendance: Councillors ACR Chappell, PJ Edwards, TM James, RI Matthews, SJ Robertson, WU Atfield, MAF Hubbard, AM Toon, JD Woodward and AT Oliver

102. APOLOGIES FOR ABSENCE

Apologies were received from Councillor LO Barnett, Cabinet Member Social Care Adults.

Apologies were also received from Councillor WLS Bowen, Vice-Chairman of Strategic Monitoring Committee

103. DECLARATIONS OF INTEREST

Councillors DB Wilcox and PJ Edwards declared a personal interest in item 6 : Hereford Open Retail Market during discussion of the item, as Hereford City Councillors.

104. MINUTES

RESOLVED: That the Minutes (both open and confidential) of the meeting held on 19 March 2009 be approved as a correct record and signed by the Chairman.

105. SWIMMING PROVISION FOR PRIMARY SCHOOLS IN HEREFORD CITY

The Leader reminded Cabinet that Swimming Provision for Primary Schools in Hereford City had been considered by Cabinet in the Autumn of 2008, and as had been agreed was being referred back for consideration by Cabinet prior to Easter 2009.

An additional report by John Argent (Chief Executive, HALO) was tabled entitled 'Short Term Impact on not Re-Opening the LEA Pool', together with its appendix which outlined pool programmes.

The Cabinet Member for Economic Development and Community Services introduced the item and drew Members' particular attention to the findings of the Amateur Swimming Association (ASA) Officer on the condition of the LEA Pool. The ASA Officer was of the view that the costs of refurbishments were such that it would not be economically viable to invest in repairs or refurbishment of the Pool. The tabled report outlined the impact of the LEA Pool closure and the response, both immediate and on-going, by HALO to support the provision of both school and public

swimming.

The Chairman of SMC, having presented the Leader with a letter, was invited to address Cabinet and, in outlining the strategic importance of the LEA pool to the county raised a number of points which included; concerns regarding the limited information provided within the report for a decision to be reached (including lack of recent financial costings); the definition of the decision as non key; the evidence to support the achievement of curriculum targets and swimming attainment; the need for assurance that availability of public swimming will not be adversely affected whilst ensuring the well being and safeguarding of children.

Responding to issues raised, the Interim Head of Culture and Leisure underlined the current poor condition of the pool, which had been verified by the ASA Officer who had visited the LEA Pool accommodation at the invitation of local residents, clubs and local members. It was stated that the LEA Pool was losing 30m³ of water per day due to a crack in the middle of the pool, the repair of which (in the form of a pool liner) would cost £200k. The insertion of a pool liner would not guarantee increased longevity for the pool, therefore posed a financial risk. Additional works to the superstructure of the building would require additional funding. The view of the ASA Officer was that the Council should not be investing further monies into the fabric of the LEA Pool.

The Cabinet Member Economic Development and Community Services advised Cabinet that the finite resources available needed to be used effectively to deliver the best possible service for the county's residents. He commended the work of HALO who had been recognised by other local authorities for their partnership working. It was acknowledged that there was work to be progressed between HALO and the authority in the short term, and in the longer term, consideration would be given to the development of the county's cultural strategy to determine the detailed requirements for the next 15-20 years and to consider how the objectives would be met; this work was currently active and under consultation. The preference of the Cabinet Member would be to invest monies into the development of new assets. Members' attention was particularly drawn to para 10 (page 3) of the report, which stated that no business case had been received regarding community management of the LEA pool. Additionally, para 18 (page 3) outlined the considerations of the Schools Forum which recommended the use of revenue funding, previously used to contribute to the running of the LEA Pool, to be delegated to schools.

John Argent (HALO) assured Cabinet that HALO had the ability to satisfy the needs of the schools in the provision of swimming. He acknowledged that the beach pool had not been designed with the teaching of swimming in mind and provided a guarantee that, through the amended pool programme, the beach pool would not be used as an area for lessons. Mr Argent additionally stated that the diving pool would continue to be used for lessons as its relative smaller size provided an environment within which children's confidence and competence would be developed to allow them in time to move into the larger pool. The use of the waterspace available to support schools and the public had been considered and solutions produced to accommodate the needs of both sets of users.

In discussion the following points were raised and responded to:

The Labour Group Leader stated that local Members and the community had done everything that was asked of them by the Cabinet Member in seeking to retain the LEA Pool. He referred to an additional point raised by the ASA Officer that opportunities were available to submit a bid for monies to support the building of a new learner pool which would need to be associated with a school. The Labour Group Leader questioned whether HALO fully understood the challenges of dealing

with the different requirements of schools and referred to a recent incident which occurred during a school swimming lesson at in the HALO pool. It was asserted that fewer swimming badges were currently being attained. He called either for monies to be invested in the LEA pool or for a new learner pool to be built elsewhere.

The Leader informed the meeting of the need to consider, at an appropriate time, possible future options of developing wet and dry facilities alongside each other. It was emphasised that in considering any options, it was essential to factor ongoing revenue costs in addition to the capital costs of the scheme.

The Chairman of the Children's Services Scrutiny Committee emphasised that that much effort had been given to this issue by the local community and that whilst an initial business case had been developed, it was no longer viable due to the larger than anticipated repair figures which had been received. The Councillor expressed concerns about safeguarding, attainment of badges and the impact to the public on the swimming provision in HALO facilities.

There was a consensus by Members of the view that to consider losing a pool was a difficult decision, however the financial realities of the situation needed to be emphasised, with the authority's finances tight it was essential to use the authority's resources wisely.

The consultation regarding future culture and leisure provision would be considered in a holistic manner by the relevant Cabinet Members to ensure the delivery of services.

The Cabinet confirmed that the report provided sufficient information to reach a decision on the recommendations

Members considered HALO to be doing a good job and were successfully delivering a valued service for a large amount of users within the available facilities and recognised that HALO received the highest accreditation from the ASA's quality scheme for swimming for all their pools within the county.

To support the development of effective partnerships with schools, it was suggested that an appropriate forum be established between headteachers and HALO to discuss swimming arrangements. Mr Argent confirmed that such a forum was being considered, based on school clusters around pools.

The Cabinet and the Chief Executive emphasised that the expectations of the Authority in relation to meeting safeguarding standards was of the highest order, both in and out of school time and it was confirmed that both the Director of Children's Services and Mr Argent from HALO were members of the Safeguarding Board.

The Liberal Democrat Group Leader stated that provision of swimming lessons for school children was a service expected of the authority by its residents, in his view closing the LEA Pool would deliver less of a service.

The Independent Group Leader stated that parents were reconsidering the value for money of the current swimming provision. He additionally expressed regret for the lack of maintenance received by LEA Pool in recent years and stated that current arrangements should be considered as merely a stopgap whilst alternative options for a dedicated teaching pool were considered. In his view, the risk associated with a pool liner failing was minimal.

Cabinet confirmed that works required of the HALO pool to address its new

requirements would be undertaken.

Mr Argent, HALO, in referring to the incident emphasised the positive intervention of staff and stated that was necessary to acknowledge that whilst not all risks could be removed, they needed to be managed effectively and appropriately. Mr Argent additionally referred to the independent external assessment by ASA of HALO and confirmed that all swimming pools in the County under HALO's management passed this assessment, the first time, at the highest level. This would be further built upon through the development of an aquatic strategy with the authority's Sports Development Team. It was confirmed that Halo was considering establishing meetings with schools based on clusters around pools and that consideration was being given to introduce individual development plans for pupils at key stage two which would assess ability, progress and provide reports about each child.

The Leader in his closing remarks stated that he was aware that the issue was emotive, it was important to develop a longer term robust strategy whilst recognising that future Comprehensive Spending Reviews would be challenging and would require difficult decisions to be made about future budget allocation and spend.

The Labour Group Leader presented a letter to the Cabinet Member from a parent regarding the LEA Pool issue.

RESOLVED that:

- (a) The LEA pool remain permanently closed and disposal of the site be considered as part of the Council's property strategy;**
- (b) HALO continue to work closely with schools to deliver safe, cost effective, quality assured swimming provision that will enable support achievements of curriculum targets; and**
- (c) The Council, in partnership with HALO, develop a long term strategy to support the development of swimming provision across the county.**

106. WORKFORCE STRATEGY

The Cabinet Member Corporate and Customer Services and Human Resources introduced the report which outlined the joint workforce strategy for Herefordshire Council and NHS Herefordshire for 2009-12.

The Assistant Chief Executive HR and OD outlined key points of emphasis from within the report including the five objectives of the Workforce Strategy for 2009-12; (i) Recruitment; (ii) Talent Management; (iii) Retention; (iv) Training and Development and (v) Workforce Planning, all of which were underpinned by a series of deliverables and indicators of achievement. Members were advised that the NHS Herefordshire Board had considered the Strategy at their meeting of 25 March and had, subject to the inclusion of reference to older people, endorsed the Strategy.

Members welcomed the Workforce Strategy for 2009-12 and emphasised its importance to underline the success of both organisation's future.

During discussion the following issues were raised and responded to:

- Assurance was sought and provided with relation to the provision of support from the local authority for looked after children in providing assistance in areas such as filling in application forms, accompanying letters etc. Members

were additionally informed that support was provided to school pupils.

- Whilst it was stated that retention levels would be expected to improve due in large part to the current economic climate, it was recognised that the authority faced a challenge (as with other local authorities) in recruiting to Children's Services posts due to the negativity surrounding recent events. This situation was an organisational risk which would need to be addressed through a number of activities.
- Good communication and decent opportunities would be important to encourage young people to return to the County.
- Members were advised that, in general terms, most employees of organisations would leave due to career development or job change. Further work would be undertaken on the current exit questionnaires to assist in providing a greater level of detail as to reasons for leaving.

RESOLVED:

That the Workforce Strategy for 2009-12 be endorsed

107. HEREFORD OPEN RETAIL MARKET

The Chairman of the Community Services Scrutiny Committee presented the report which outlined the outcome of the Call-In by his Committee of Cabinet's decision of 19 February 2009, which endorsed the recommendations of Cabinet. He thanked the Cabinet Member Economic Development and Community Services for taking on board the comments of the Community Services Scrutiny Committee.

The Cabinet Member Economic Development and Community Services advised Cabinet of five specific areas of specific changes which would be further considered in relation to the relocation of the Hereford Open Retail Market:

- (i) the relocation would be for an initial one year trial
- (ii) the strategy for new stalls including their location, would be revisited and adjusted where necessary (in consultation with Hereford City Partnership).
- (iii) A software package, Experion (measuring footfall), would be procured to assess the potential impact of the relocation of the Open Retail Market to the Butter Market. This would also assess the impact to the Butter Market of other markets held within High Town.
- (iv) A review in detail of stall allocation would be carried out in conjunction with Hereford City Partnership.
- (v) A retail impact study would be conducted as soon as would be practicable.

The Legal Practice Manager advised Cabinet that the provisions of Section 5 of the Hereford Markets Act 2003 provided for a consultation exercise to be undertaken prior to any proposed relocation of a Charter Market. The General Market, being under consideration in the Cabinet report was such a Charter Market. The Legal Practice Manager indicated that officers from the markets and fairs section of the Council had undertaken such a statutory consultation process. A point had however been subsequently developed in correspondence received from Hereford City Council to the Chief Executive, to the effect that Section 4 of the same Act required *consent* to be obtained from any person whose "rights, privileges or powers" might be affected by any proposed relocation. It was contended by the City Council that such persons included those who traded in or near High Town. Counsel's opinion had been sought by the Assistant Chief Executive (Legal & Democratic). The opinion had been considered. The view of the Assistant Chief Executive (Legal &

Democratic) was that the commercial activities of those retailers referred to by the City Council did not amount to them having either "rights, privileges or powers" of the sort referred to in the Markets Act and as such obtaining their consent was not a legal requirement.

A local ward member in attendance apologised that the legal issue raised by Hereford City Council had not been raised as part of the Community Services Scrutiny Committee deliberations.

The Chief Executive stated the need for the authority to rely on senior legal advice provided by its officers.

The Leader emphasised that during debate held in a previous meeting of Cabinet on this issue, consideration had been given to risks associated with the Hereford Open Retail Market, including both the option of the relocation of the Open Market to High Town, or the alternative option which was to retain the Open Market at its current site, with the likelihood it would fail. The Leader stated that Hereford City Council had a right to an alternative view on the matter, however it was imperative to secure increase footfall to the city centre and that it would be disappointing if the agreed way forward did not progress as it may contribute to the collapse of the current open market.

The Cabinet Member Economic Development and Culture was commended on his contribution to the BBC1 Countryfile programme which portrayed the county in a positive light.

RESOLVED:

That the resolutions of the Community Services Scrutiny Committee be considered

RESOLVED:

That the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Schedule 12(A) of the Act as indicated below.

108. WASTE COLLECTION CONTRACT

Cabinet received a confidential report concerning the selection of a new waste collection contractor for Herefordshire Council.

RESOLVED:

That Focsa Services (UK) Ltd be approved as the preferred supplier of Herefordshire's Waste Collection contract.

The meeting ended at 4.55 pm

CHAIRMAN