

MINUTES of the meeting of CABINET held at THE COUNCIL CHAMBER, BROCKINGTON, 35 HAFOD ROAD, HEREFORD on Thursday, 11 September 2008 at 2.00 p.m.

Present: Councillor RJ Phillips (Chairman)

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

In attendance: Councillors PA Andrews, PJ Edwards, TM James, SJ Robertson, J Stone, WLS Bowen, MAF Hubbard and JD Woodward

38. APOLOGIES FOR ABSENCE

Apologies were received from the following Group Leaders: Councillors ACR Chappell, GFM Dawe and RI Matthews.

39. DECLARATIONS OF INTEREST

The Leader, Councillor RJ Phillips declared a personal interest in the following items:

Item 4: as a member of the Youth and Justice Panel

Items 7 and 8: as a Director of ESG Board

The Cabinet Member Highways and Transportation, Councillor DB Wilcox, declared a personal interest in the following item

Item 4: as a member of the Youth and Justice Panel

The Chairman of Strategic Monitoring Committee, Councillor PJ Edwards, declared a personal interest in the following items:

Items 7 and 8: as the former Cabinet Member for Environment

The Cabinet Member Corporate and Customer Services and Human Resources, Councillor JP French, declared a personal interest in the following item:

Item 6: as a Governor of Minster College

40. MINUTES

RESOLVED: That the Minutes of the meeting held on 31 July 2008 be approved as a correct record and signed by the Chairman.

41. YOUTH JUSTICE PLAN 2008/09

The Cabinet considered the Youth Justice Plan, a document prepared on an annual basis on behalf of Herefordshire Council and Worcestershire County Council. Members were advised that the plan had been prepared by the Youth Offending Service in line with the deadlines and strict guidance from the Youth Justice Board

(YJB), which had this year, in partnership with the Youth Offending Services, developed a new outcome-focussed youth justice planning framework. The self-assessment framework would identify risks and associated mitigative actions and would be assessed and validated by the YJB which would rate the service (1 [poor] – 4 [excellent]). Members were informed that the score would inform inspection processes such as APA and Comprehensive Area Assessment.

The Leader acknowledged the multi agency approach taken to working with vulnerable people who required early intervention and support. In discussion it was proposed that a Members seminar be arranged on this topic in order that Members (as part of their community leadership and corporate parent roles) were fully aware of the topic and appreciated its impact on performance and priorities.

It was noted that a number of Community Panel Members had served the maximum period of two three year terms and assurance was sought that these vacancies would attract a sufficient number of high calibre applicants. Members were advised that the terms of office for Community Panel Members followed Home Office guidance and that no problems were anticipated in filling the vacancies with appropriate volunteers.

Clarification was sought as to the method by which budgets were allocated as the Youth Justice Plan covered the geographical area of both authorities. Members were informed that the budget for the Youth Offending Team was funded by local partner agencies and that the budget was allocated according to the number of looked after children cases.

A Member in attendance queried the reason as to why there was no measurement of re-offending noted for 2007/08 and emphasised the need to ensure timely performance data. Additionally the Member asked what action had been taken to get young offenders to put right the impact of their offending e.g graffiti. In response, Members were advised that targets set by the Youth Justice Board sought to achieve percentage reductions on 2005/06 baseline figures. Whilst there was an attempt to link youth offenders to recreational activities e.g cleaning graffiti, no information was to hand as to these figures across Herefordshire and Worcestershire.

RESOLVED that: the youth Justice Plan as prepared be endorsed and that it be recommended within the Policy Framework that the Plan be approved by Council at its meeting on 31 October.

It was further agreed that an all Member briefing be arranged on the work of the Youth Offending Team and the Youth Justice Plan, preferably prior to the 31 October 2008.

42. REVIEW OF SERVICE DELIVERY PARTNERSHIP (Pages 1 - 4)

Cabinet considered a report which outlined recommendations of the Service Delivery Review of the Council's Service Delivery Partnership with Amey, and their approval was sought to commence formal negotiations regarding a preferred model of future service delivery. The Director of Environment and Culture informed the Cabinet that a Herefordshire Model of service delivery was the preferred model, and subject to successful negotiations, Amey would incorporate the relevant Council staff responsible for the relevant service areas under TUPE arrangements. Members of the Council had been invited to comment on the draft report and their views were outlined in Appendix 2 of the report.

The Chairman of the Strategic Monitoring Committee advised Cabinet of the

outcomes of the discussion held at SMC on 10 September, which agreed the following; that

- (a) the SMC broadly supports the recommendations being made to Cabinet on the Service Delivery Review of the Council's Service Delivery Partnership with Amey;
- (b) the SMC noted that detailed negotiations will give rise to a further opportunity to scrutinise the methods being proposed to measure both quality and value for money of both individual projects as well as the contract as a whole;
- (c) further reassurance be sought on the employment matters and financial implications once firm proposals have been agreed by both parties;
- (d) the SMC be reconsulted once the asset management and property review is completed at the latest by March 2009;
- (e) regard be had by Cabinet to the Committee's other principal observations as set out above.

The Chairman of the SMC informed the Cabinet of the principal points which were made during the course of discussion, which are attached as Appendix 1 to these minutes.

The Leader stated that whilst the cost of renegotiating the contract was estimated to be £200,000 (which would include consultancy fees for external legal and contract renegotiation advice), this cost should be considered in the context of the whole life of the contract.

Members praised both Council employees and Amey contractors for their joint working for the benefit of the people of Herefordshire in dealing with the serious damage inflicted on the County during the recent flooding. The Cabinet Member Highways and Transportation informed Members that word of thanks had been sent to staff by him and the Head of Service recognising the work undertaken during the recent floods. The work of the rescue services was also acknowledged.

The Cabinet Member Corporate, Customer Services and Human Resources informed Cabinet that appropriate senior support would be provided by the Human Resources team and that the process would be closely monitored. It was recognised that any change in the service delivery model would impact on staff and that it was important that advice and guidance was available.

In discussion it was emphasised that an alternative model of service delivery would require a very strong client side responsible for ensuring agreed specification, value for money etc. Assurance would be sought on the effectiveness of the partnership (client/contractor) and the mechanisms by which non-compliance would be dealt with.

The Cabinet Member Highways and Transportation informed Members that he had visited Bedfordshire County Council, an authority which had developed a managing agent model in partnership with Amey, and that he had been impressed by the arrangements that had been put in place. The Cabinet Member emphasised that the contract needed to clearly define aspects of compliance and should there be a failure to deliver compliance on any part of the contract then action would need to be taken. With relation to the 'watchman scheme' the Cabinet Member hoped that certain aspects of devolution were written into the contract to ensure the ability to take account of future requirements. The Cabinet Member thanked the Director and staff for keeping him informed of developments during the review process.

A Member in attendance commended the resolutions from SMC to the Cabinet and emphasised that recommendation (b) was of vital importance as whilst there was

anecdotal evidence of improvements in work undertaken, value for money could not be demonstrated. Additionally it was commended that recommendation (d) was of equal, if not greater importance.

In responding to a question raised regarding how the authority, as a client, was managing progress and improvement, the Director of Environment and Culture stated that clear measurements were integral to negotiations. He advised Members that Bedfordshire maintained a client side of eight officers who had the ability to investigate and scrutinise any aspect of the contract. The Director emphasised the importance of having the ability to consider all aspects of the contract as well as keeping a watching brief on the quality and value for money delivered in other authorities.

RESOLVED that:

- (a) the final report of the Service Deliver Review by noted**
- (b) Officers be authorised to commence formal negotiations with Amey to secure changes to the partnership to reflect a preferred model of service delivery whilst also addressing, where possible, anomalies and weaknesses in the current contractual arrangements;**
- (c) The Herefordshire Model of service delivery, as outlined in the report, be pursued as the preferred model and used as the basis for negotiations. Under this model, subject to successful negotiations, Amey would taken n the relevant Council staff responsible for these areas under TUPE arrangements;**
- (d) Asset Management and Property Services be excluded from the negotiation whilst a wider review of the property estate and its management is carried out and that this is completed by the end of March 2009;**
- (e) A report be submitted to Cabinet on conclusion of the negotiations and the negotiations of the preferred model in (c) above does note restrict the recommendations of a different model if it is clear that this would be in the Council's best interests.**

The Cabinet additionally agreed to the recommendations as outlined by the Strategic Monitoring Committee:

- (i) the SMC broadly supports the recommendations being made to Cabinet on the Service Delivery Review of the Council's Service Delivery Partnership with Amey;
- (ii) the SMC noted that detailed negotiations will give rise to a further opportunity to scrutinise the methods being proposed to measure both quality and value for money of both individual projects as well as the contract as a whole;
- (iii) further reassurance be sought on the employment matters and financial implications once firm proposals have been agreed by both parties;
- (iv) the SMC be reconsulted once the asset management and property review is completed at the latest by March 2009;
- (v) regard be had by Cabinet to the Committee's other principal observations as set out above.

43. MINSTER COLLEGE BUILDING SCHOOLS FOR THE FUTURE ONE SCHOOL PATHFINDER – AWARD OF CONTRACT

The Cabinet Member for ICT, Education and Achievement advised Cabinet that the Cabinet Members for Children's Services and ICT, Education and Achievement had taken a key decision to appoint Stepnell Ltd as the preferred contractor. The item under consideration provided Cabinet with an update on the delivery of the project and sought Cabinet's ratification of the contract, which was not a key decision as outlined in the report.

The Schools Planning and Access Manager advised Members that through the Building Schools for the Future project, Herefordshire had been successful in bidding for £20,642,037 to deliver the Minster College Building Schools for the Future One School Pathfinder scheme, the funding of which was being met through the Department for Children Schools and Families. Members were informed that following a two stage tendering process, three tenders were submitted and evaluated, with Stepnell Ltd being appointed as the preferred contractor.

The Cabinet Member Corporate Customer Services and Human Resources stated that the project was good news for the county as a whole, and in particular those in the north of the county. The new school buildings would provide a community facility for the arts, which has long been a priority for the area. It was vital that the scheme was completed to deadline as the school was currently being accommodated in portacabins in advance of the availability of the new buildings.

In response to question from a Member in attendance, the Schools Planning and Access Manager stated that item 10 on the risk register relating to ICT integration and infrastructure (page 199), would remain with the contractor and would need to be delivered in line with the detailed contract outline.

Members complemented the clear manner in which the content of the risk register (appendix 3 to the report) had been presented.

The Chairman of the Children's Services Scrutiny Committee informed Cabinet that she had attended several public meetings in relation to Minster College and was pleased to confirm her support for the project. Cllr Robertson stated that it had been evidenced that children performed educationally better in a pleasant teaching environment, and with this in mind, it was therefore disappointing that the scheme would not be due for completion until December 2010.

RESOLVED **that: Cabinet endorse the recommendation of the report that the Building Schools for the Future (BSF) Project Board award the design and build contract, for the Minster College Building Schools for the Future One School Pathfinder scheme, to Stepnell Limited.**

44. LAND AT FARADAY ROAD, HEREFORD

The Cabinet Member Economic Development and Community Services presented a report which sought the approval for preparatory steps to be taken to acquire by agreement or make a potential compulsory purchase order for land at Faraday Road, Hereford. The Cabinet Member advised Cabinet that the land was allocated for employment use within the adopted Unitary Development Plan and if required could provide a site to which business from within the ESG area could be relocated. The total area of the plot was 4.3 acres and was currently the only sizable employment

development site north of the river Wye.

The Chairman of the SMC declared a personal interest, as he was the relevant Cabinet Member in post when the UDP was adopted.

In response to a question raised, the Director of Regeneration advised Cabinet that although a statutory challenge to the Inspector's decision to the refusal of planning permission was being sought by Bovale Limited and would be heard on 12 October, this hearing did not relate to the 'ownership' of the land, and therefore did not preclude Cabinet from forming a view on the issue.

RESOLVED to

- (a) Authorise negotiations with the owners of all interests in the land at Faraday Road in an attempt to acquire the land by agreement;**
- (b) Agree that the Council will in principle consider using its powers of compulsory purchase to promote an Order for the compulsory purchase of the land and authorise preparatory steps to be taken as required in tandem with negotiations to acquire by agreement; and**
- (c) Note that if the Land cannot be acquired by agreement, a further report confirming the financial implications and options available to the Council, and recommending a preferred course of action will be prepared for Cabinet.**

45. ESG MASTERPLAN

The Cabinet Member Environment and Strategic Housing introduced the report that sought the endorsement of Cabinet to the ESG Masterplan and its consideration in the determination of relevant planning applications. Councillor Jarvis stated that the Masterplan had been developed in line with the UDP policies and those of the adopted Supplementary Planning Document, and as such all three had been developed to act in a complementary manner.

The Chairman of SMC declared a personal interest as a former Cabinet Member for Environment. He wished to forward the view of his group leader (who was not present), who expressed concern about the potential impact to the traders in the city. In response the Leader emphasised that the ESG Masterplan sought to deliver maximum benefit for both the City of Hereford and for Herefordshire as a whole. The future of Hereford City as a vibrant retail centre was integral to the success of the ESG.

During discussion of this issue, general support was given the ESG Masterplan and ESG Ltd were thanked for making available workshops on differing topics. It was acknowledged that the Masterplan was a flexible document which had benefited from incorporating several areas of new thinking, which had come about as a result of wide consultation and dialogue.

The Cabinet Member Highways and Transportation stated that assurance had been given on the development of even closer working on issues, e.g the same consultants had been retained to develop solutions for both pedestrian and road traffic, thus providing a real opportunity to develop future synergies.

A ward member addressed the Cabinet and stated that the brief given to ESG was

flawed and was not brave. The Masterplan was constrained by site and was not seeing the city centre as a whole. Cabinet was requested to consider undertaking a Town Centre Impact Assessment which would assess the affect on the Town Centre and consider the mitigating affect on existing traders. The ward member urged Cabinet not to limit the ESG project, to be flexible in its approach and to incorporate other sites.

The Cabinet Member for Economic Development and Community Services stated that the ESG incorporated an extended and united City Centre and that the Hereford City Partnership would be considering this further. It was emphasised that to do nothing would be to the detriment of the Hereford and that both national companies and local businesses were working towards the ESG. The redevelopment of the Butter Market was given as an example of how the historical heart of the City would be incorporated in the future of the extended city centre project.

A Member in Attendance stated that the linkage between the ESG site and the city centre was crucial, as it needed to be seamless and include retail outlets. Whilst it was acknowledged that there was no easy solution to this issue, it was a crucial element to overcome. It was recognised that flexibility of approach would be required in the current economic climate. Members were reminded that a scrutiny review of the ESG Project would be held at the Courtyard Theatre on 30 September.

The Cabinet Member for Economic Development and Community Services reminded Members that Ben Hamilton-Baillie, one of the country's leading town planners, was an advisor on the project. As part of his role, Mr Hamilton –Baillie would assess the plans for downgrading the existing inner ring road dual carriageway, which was vital to create a link between the existing city centre and the redevelopment site. It was additionally stated that Mr Hamilton-Baillie would also give considerations to creating better links between the established Maylord shopping centre and the new retail quarter.

RESOLVED **that: The ESG Masterplan be endorsed as a basis for the ongoing development of the ESG area and as a material consideration in the determination of relevant planning applications both within and outside the ESG area where such applications are of relevant to the ESG proposals.**

The meeting ended at 3.35 p.m.

CHAIRMAN

Extract from the Minutes of the Strategic Monitoring Committee 10 September 2008

- Concern was expressed as to whether due weight was being given in the discussions to the importance of quality of service. It was suggested that it was hard to accept that savings of £1 million per annum could be generated in the context of the current level of the contract and improvements made to the quality of service at the same time. The Director said that he considered it was possible both to make savings and improve the quality of service. The detailed report it was proposed to provide to Cabinet in December would set out how improvements in quality would be secured.
- A number of questions were asked about the views of staff on the proposals and the effect the proposals would have on them. The Director noted that the report to Cabinet was seeking approval to enter into detailed negotiations. He believed staff were satisfied with the way the process had been conducted and communicated to date. There had been regular newsletters and briefings. However, staff had understandable concern about the implications of transferring to Amey. Advice would need to be offered to staff on their individual positions.

Members observed that the TUPE provisions protecting terms and conditions on transfer to Amey did have their limitations in that they ceased to apply if an employee changed their role or, for example, secured a promotion.

- That there had been considerable tension between the Council and the contractor. The managing agent model seemed to be the best way of resolving that difficulty. However, it was important that reassurance was provided on the employment issues.
- In response to a question the Director confirmed that the Trades Unions had been invited to all meetings of the Project Board, although they had only attended a few times, and would continue to be involved in the process and in discussions about staff transfers.
- It was asked how many posts would be cut under the proposals and at what levels. The Director said that the negotiations would determine how many staff would transfer and the number of posts the council would need to retain and contract management arrangements that would need to be put in place. He said that the Directorate had managed vacancies in the last year and that there are currently 20 vacancies within Highways some of which are being covered by temporary agency staff. This would help to minimise the need for any redundancies and the associated costs.
- Reference was made to a newspaper report in autumn 2007 that 60 posts were to be cut to make savings of £2 million. It was asked if this reduction had taken place or whether it was linked to the current proposals. The Director replied that this figure had been produced by the Trades Unions. The need for savings had been identified to address budgetary pressures. The Medium Term Financial Strategy specifically excluded provision for inflation on non-pay budgets. Budgetary pressures to be met from within existing budgets included a reduction in budgeted fee income from

planning services and inflation in contract costs, which had a particular impact because the directorate held some of the largest contracts. Investment in ICT also needed to be financed. There had been some redundancies in Environmental Health and Trading Standards and a reduction in the provision of specialised services. Further information could be provided if requested.

- The cost of renegotiating the contract was estimated to be £200,000 including consultancy fees for external legal and contract negotiation advice. Questions were asked about the need for this expenditure and the sum involved. The Director said that the expenditure needed to be considered in the context of the size and length of the contract and the level of expertise required given the complexity of the negotiations. The Council's advice would be secured through a consultancy firm owned by the Local Government Association that had a reputation for being extremely competent. He expected Amey would be spending considerably more than this on its advisors.
- An explanation was sought of the estimated savings of £308,000 per annum through the recovery of costs for damage to immobile property (eg highways, street lighting, and signage) by individuals and businesses, as referred to on page 74 of the agenda papers, and why this was not currently being achieved. The Director replied that the potential for securing this level of savings had been identified during the review.
- It was suggested that one of the key failings of the current arrangements was that the specification provided by the Council as client to the contractor often seemed to be flawed. In addition quality of service varied from area to area. This suggested that it was the teams on the ground and how they were managed that was also a key factor. It was asked how the proposed move to a managing agent model would lead to an improvement. The Director said that it was important to shift the emphasis to a focus on outcomes. The interim Head of Highways said that the onus would be on the contractor to design and develop a scheme to their own specification. The Council as client would need to manage the contract to ensure the outcome was then delivered to its satisfaction and, through auditing a sample of jobs, ensure that value for money was achieved.
- It was asked how Amey would be accountable and be seen to be accountable. The Director said that the agreement would be based on transparency and Amey's books being open to Council inspection.
- Further concern was expressed about how to ensure that quality of service was being delivered and the Council was getting what it was paying for. The Director said that a large amount of performance data was already available to the Council in addition to the national performance indicator data that could be used to measure quality. Part of an agreed performance framework would include a greater focus on material already in the council's possession. It would be important, however, that the steps taken to measure quality were proportionate.
- The Chairman remarked on the importance of the Council ensuring robust monitoring arrangements were in place and insisting on timely reporting, noting the slippage in

presenting the Council's own Integrated Performance and Finance Report to the Committee.

- The Director noted that despite the complaints about the current contract hardly any variations to it had been negotiated during its life. In future where there was evidence of difficulties these would need to be addressed and changes made to the contract
- Further concern was expressed about the level of supervision of the contractors. It was suggested that there should not be over reliance on the "Watchman" scheme referred to in the report as a substitute for regular supervision.
- In response to a question the Assistant Chief Executive - Legal and Democratic confirmed that the contract as a whole was not being renegotiated. That would require a new procurement process. The negotiations were confined to service delivery arrangements and were practical and pragmatic.
- Reference was made to the provision in Bedfordshire's contract with Amey for incentives to Amey to deliver on target. The interim Head of Highways confirmed that it was the intention to seek to negotiate financial and contractual incentives as part of the performance management regime.
- There remained some concern about how the Council could satisfy itself that value for money was being secured and whether the projected savings would materialise. The Director acknowledged that the public sector generally had not been good at making savings. He was more optimistic that the current proposals would achieve savings because of the disciplines that governed the way in which Amey as a private contractor operated. The Council could not afford to monitor every action of Amey and therefore had to ensure in the negotiations that any inefficiency on the part of the contractor would be to Amey's financial detriment not the Council's.
- It was noted that the financial implications would be the subject of further detailed negotiations.
- That the Audit Commission had highlighted that good contract management was key to delivering core benefits and that savings from these types of service delivery partnership contracts were not guaranteed. The Herefordshire model it was proposed to adopt was the most costly option to introduce. The Director of Resources reported that the Project Board had taken careful account of the Audit Commission publication, "For better or worse: Value for money in strategic service-delivery partnerships."
- It was asked whether the proposals had any implications for works at schools. The Director of Resources replied that schools were not obliged to take property services from the Council. The Council had service level agreements with schools for property matters. There was no proposal to change the current arrangements but consideration might be given to this issue as part of the wider review of property services that was being undertaken. It was noted that the elements of the contract with Amey in relation to property matters would not be part of the proposed negotiations because of the implications of imminent decisions on the Council's

accommodation strategy and would be subject to the recommended review of Asset Management and Property Service. It had been considered important not to await the outcome of that review which would have delayed making progress with negotiations on highways and related issues as a priority.

- The Director of Environment and Culture outlined the timetable for taking the proposal forward, subject to Cabinet approval. This envisaged a further report to Cabinet in December, with staff being consulted and notified of proposed changes and TUPE arrangements in accordance with Human Resources and legal requirements with a view to new arrangements coming into force in April 2009.