

Policy & Resources Committee

held at Ryedale House, Malton
on Thursday 25 June 2009

Present

Councillors Wainwright (in the Chair), Acomb, Bailey, Mrs Burr, Mrs Hodgson, Knaggs, Legard,

Substitutes: Councillors Hemesley and Mrs Keal

Overview & Scrutiny Committee Observers: Councillors Clark and Mrs Shields

In attendance

T Anderson, Ms J Baldwin, P Cresswell, Mrs E Hayes, J Rudd, Miss L Sandall, Mrs C Slater, Miss J Waggott, A Winship

Minutes

5 Apologies for Absence

Apologies for absence were received from Councillors Arnold, H Keal and Maud

6. Minutes

Resolved:

That the minutes of the meetings of the Policy and Resources Committee held on 2 April 2009 and 1 June 2009 and the Resources Working Party held on 17 June 2009 be approved and signed by the Chairman as a correct record.

7 Urgent Business

The Chairman reported that there were no items to be considered at the meeting

8. Declarations of Interest

Declarations of interest were received as follows:

Councillor Knaggs, personal but not prejudicial interest in item 7 (Sustainable Communities Act) as the Council's representative on Ryedale Strategic Partnership, which discussed the proposals.

Councillor Wainwright, personal but not prejudicial interest in Item 9 (Discussion Paper on the Impact of Change in Flood and Coastal

Management on Rural Communities) as the Vice Chairman of the Rye Internal Drainage Board.

Councillors Mrs Burr and Mrs Keal personal but not prejudicial interest in item 9 as their houses had been flooded.

Councillor Acomb, personal interest but not prejudicial in item 9 as the Council's representative on the Thornton Internal Drainage Board.

PART A – Matters dealt with under delegated powers

9. Annual Audit and Inspection Letter.

Members considered the Annual Audit and Inspection Letter which had been produced by the Audit Commission . It provided an overall summary of the Audit Commission's assessment of the Council. It drew on the most recent Comprehensive Performance Assessment (CPA) and the findings and conclusions from the audit of the Council for 2007/08.

The CPA carried out in 2004 assessed the Council as good. The assessments were now being updated in Councils where there was evidence of change. In the Direction of Travel report, two issues were considered. These were what evidence was there of the Council improving outcomes, and how much progress was being made to implement improvement plans to sustain improvement.

The letter listed the evidence that the Council was improving outcomes in the areas of opportunity and choice of housing and employment, diverse and vibrant communities, safe and inclusive communities and clean and sustainable built and natural environment. The letter reported that it was difficult to judge progress against the commitment to have an effective and integrated communication and transport network as there was a lack of data on key local performance indicators in this area. It also stated that the Council reported that its priority actions in the area of having efficient and effective high quality services accessible to everyone in a way that suited them were on target or close to being so. It had not, however made consistent improvement on its key performance indicators in this area.

Regarding how much progress was being made to implement plans to sustain improvement, the report indicated that the council had adequate plans for delivering improvement. The letter indicated that the Council had significantly reviewed its capital programme and revised some of the plans as it had become evident that the original objective was not achievable. The previous year's report had indicated that the Council had made slower than expected progress in some areas including developing a business Continuity Plan and ensuring all staff received development reviews. The letter reported that there had been further slippage on both. Staff absence was another area where improvement had not been as expected,.

The letter indicated that the Chief Finance Officer had reported that reserves were in a healthy position and were sufficient to cover emergencies and unforeseen liabilities. It indicated that the Council had made faster than average progress in the promotion of race equality, having gone from worst to best quartile on this indicator in the last three years.

The letter indicated that there were no significant weaknesses in corporate governance that would prevent improvement levels being sustained.

The appointed auditor Deloitte LLP had reported separately to Overview and Scrutiny committee on the issues arising from the 2007/08 audit and had issued;

- An audit report providing an unqualified opinion on the accounts and a conclusion on the value for money arrangements to say the arrangements were adequate.
- An opinion to state the whole of government accounts submission was consistent with the audited accounts
- A report on the Best Value Performance Plan confirming that the Plan had been audited.

For the purposes of the CPA, the auditor had assessed the Council's arrangement for the use of resources. These were split into 5 areas, being financial reporting, financial management, financial standing, internal control and value for money. Overall the assessment of the audit commission was 3 out of 4, which represented an improvement on the prior year scores.

The balance of the general fund at 31 March 2008 was £1,339,000 after the Council contributed £191,000 in 2007/08. This was within the target range for reserves set by the Council. Deloitte did not identify any fundamental weaknesses in the financial and accounting systems.

Resolved:

That the Annual Audit and Inspection Letter be accepted.

10 Performance and Finance Report

Members considered a report that presented the first set of performance and finance reports for 2009/10, and informed them of progress made against the Council's agreed aims and strategic objectives.

The report included progress against aim 5, "To Transform the Council", which fell within the remit of this Committee. Aims 1-4 had been reported to the Community Services Committee in June 2009.

Members noted that Strategic Objective 10, "to develop the leadership, capacity and capability to deliver future improvements" had covered the recent European and County Elections, and Members congratulated all the staff involved for the excellent job that had been done.

Resolved:

That the performance and finance report be endorsed.

11. Sustainable Communities Act Proposals

Members considered a report which presented the local proposals developed in response to the Sustainable Communities Act by all eight of the Local Authorities in North Yorkshire. Members were asked to determine whether all or any of the six local proposals should be submitted to the Local Government Association (LGA) as the national selector by either Ryedale District Council or North Yorkshire County Council.

The report outlined the background to the Sustainable Communities Act and the process involved for selecting the proposals.

The remaining six proposals were outlined in the report. Members discussed the proposals, and felt, on balance that they could not support the proposal to change the law to make it a legal obligation for Local Government to provide public toilets.

Resolved:

That Ryedale District Council submit to the LGA the following local proposals:

- (i) Require all shops and supermarkets to clearly label where food has come from, to promote more buying of local produce.
- (ii) Extension of the broadband Nynet network to include a wider range of businesses and residents.
- (iii) That the Government introduce a range of measures to promote energy efficiency including a 5 year programme to insulate every school and hospital, fund insulation for one million homes with a subsidy for one million more, build 40,000 extra zero carbon social houses, install energy and money saving meters in every home within 5 years.
- (iv) To pass legislation that would require Ofgem, who regulate the electricity and gas markets in Great Britain, to regulate the price of bottled gas.
- (v) Give Councils the power to remove restrictive covenants put on buildings such as pubs which are closed by national chains to prevent them from re-opening as a public house.
- (vi) That North Yorkshire County Council be informed that Ryedale District Council could not support the proposal to change the law to make it a legal obligation for Local government to provide public toilets.

That the Council write to North Yorkshire County Council recommending the following:-

- (i) That training and briefing for all panel participants be given on the purpose of the SCA and what it should be used for.
- (ii) More information on the proposals to be made available in advance of any meetings relating to the SCA
- (iii) That the proposals be publicised more widely.

12. Value for Money Strategy.

Members considered a report that set out the Council's proposals for improving and demonstrating Value for Money (VFM) within the Authority and recommended a VFM strategy for approval.

The report outlined what Value for Money was, and, in the annex to the report, detailed the specific requirements in relation to VFM as part of the CAA process. In order to take the initiative forward an officer VFM group would be established, lead by the Corporate Director (S151). A number of key actions had been identified for the group to address, and these were outlined in the report. Annex A to the report outlined a proposed VFM strategy for the Authority. The adoption of such a strategy was an important part of the process and represented best practice. Embedding the culture was important for both officers and Members and training of VFM issues would be considered as part of the corporate training programme.

Members noted that the Council needed to take a more co-ordinated and structured review of its VFM and services. Initial discussions with the CAA inspectors had highlighted this as an improvement point for the Council. Approval of the proposals within the report with the appropriate monitoring and reporting to Members would improve the Council's efficiency.

Resolved:

That the Value for Money strategy as outlined in Annex A to the report be approved.

13 Discussion Paper on the Impacts of Changes in Flood and Coastal Risk Management on Rural Communities.

Members considered a discussion paper that had been forwarded to the Council by the Yorkshire Regional Flood Defence Committee. The paper was from the Environment Agency and it discussed issues causing concern for people living in rural areas in relation to flood defences as well as the economics and funding issues affecting the Agency.

The paper concluded:

That there was an obligation to work as effectively as possible within the existing funding and other constraints to provide rural communities with the

most effective protection available at public expense.

The responsibility for managing flood risk should only be passed to local people when all avenues had been exhausted for funding the work from the public purse.

The Agency should continue to work with Defra to increase the overall level of funding, with the aim that all schemes that were “robustly economic” were funded from the public purse.

That more active work be undertaken to fully understand the importance of protecting farmland, and if appropriate, modify scheme assessment criteria to take greater account of its value.

That the Agency should work closely with Local Authorities to better understand the impacts of the Agency’s work on rural communities.

That the Agency should look more broadly at the impacts on rural communities of its maintenance operations.

That the Agency should ensure that consideration of the issues associated with working with rural communities became a focus of attention for the Agency nationally.

Members discussed the letter at length. They felt that the Environment Agency concentrated too much of their resources into larger areas such as Hull to the detriment of rural areas. They expressed concern that the Agency were considering the withdrawal of maintenance, where the cost for continuing to maintain defences were exceeding the benefits from the necessary investment, as Members felt that this cost would be passed onto landowners. They stated that the Environment Agency should be encouraged to see the protection of property as an absolute priority. It was felt that, although farmland recovered quicker than property, the Agency should be lobbied for compensation for Farmers affected by flooding and drainage issues. Members requested that this Committee should have a standing item on the agenda forthwith on flooding and drainage matters.

Resolved:

- (i) That a standing item regarding flooding and drainage be on forthcoming agendas of the Policy and Resources Committee. This to be complimentary to any operational discussion which would be considered by the Community Services Committee.
- (ii) That current arrangements for lobbying the Environment Agency be strengthened and that public expectations as to what this Authority could do be managed.
- (iii) That all Members of this Committee receive a copy of the response to the Yorkshire Flood Defence Committee.

14. Statement of Accounts and Annual Governance Statement

Members considered a summary of the Council's Accounts for the year 2008/09, together with the Annual governance Statement as approved by the Overview and Scrutiny Committee.

The Statement of Accounts had been prepared in accordance with the relevant statutory regulations and the local authority accounting code of practice, and within the statutory deadline of 30th June 2009. In the view of the Corporate Director (S151) the council's financial standing was satisfactory.

Resolved:

- (i) That the Statement of Accounts for 2008/09 be approved
- (ii) That the Annual Governance Statement as reviewed by the Overview and Scrutiny Committee be agreed.
- (iii) That the levels of reserves be noted.

PART B – MATTERS REFERRED TO COUNCIL

15. Audio Visual Equipment for Council Meetings

Members considered a report that considered the provision of audio/visual equipment for Council meetings in response to a request from the Overview and Scrutiny Committee at its meeting on 5 May 2009.

Members of Council Management Team, and some Members had received a presentation from a company specialising in this field. Budgetary costings for a complete new system were included within the report. Members noted that the quotation provided was an indicative one.

It was proposed that funding be provided from the capital contingency fund. The revenue implications could be expected to be maintenance at about 15% of capital cost (£8250 for the full solution) and transcription costs on an ad hoc basis.

The report concluded that the existing equipment was over 10 years old and obsolete. As a refurbishment of the Chamber was planned, it was felt this was an appropriate time to carry out the work.

Resolved:

That Council be recommended to approve an addition to the Capital Programme for the procurement of an audio/visual system for the Council chamber at an estimate of £50,000 to be met from the capital contingency fund.

16 **Procurement Shared Service**

Members considered a report which asked them to consider being a part of a procurement shared service with Scarborough Borough Council and Selby District Council.

Local Authorities had direction from Central Government to transform local government services by looking at new ways of working both with other local authorities and other service providers. In particular, local authorities were encouraged to explore the possibilities for shared service provision where more efficient ways of working could be achieved.

Members noted that currently, Ryedale District Council did not have a dedicated Procurement Officer, but that Scarborough Borough Council had a Strategic Procurement Unit in place. The staffing at Scarborough would be supplemented with an additional experienced officer to be recruited and based at Selby, servicing both Selby and Ryedale. The work planned was identified in the report. The cost to Ryedale of involvement in the shared service would be £24,000 per annum, with Selby's cost at £35,000 and Scarborough at £73,000. Any surplus on the shared service would be allocated to the partners. Members noted that an application had been made to the RIEP for pump prime funding of £10,000 to assist with the project.

Resolved:

That Council be recommended to:-

- (i) enter into a procurement shared service with Scarborough Borough council and Selby District Council; and
- (ii) that the financing of the contributions be met from operational reserves.

17. **Wentworth Street Car Park Malton**

Members considered a report that asked Committee to recommend Council to invite expressions of interest for the purchase and redevelopment of either the whole or part of the Wentworth Street Car Park site at Malton as shown on a plan attached to the report for future use which would be subject to allocation in the LDF process and/or planning permission to include food retailing and a substantial parking facility for use by the public, and that following the receipt of such expressions the matter be referred back for consideration.

The Council Solicitor specifically asked Members of Committee to note that the report before them expressly stated that the decisions recommended in the report are without prejudice to the consideration of the future use of Wentworth Street Car park through the LDF /planning process.

The Council Solicitor advised Members of the Committee that in considering the report before them it was important to distinguish the following two separate and distinct statutory roles of Ryedale District Council:-

(i) The role of Ryedale District Council as the Local Planning Authority with the statutory responsibility to progress the Local Development Framework in accordance with the law. This process includes allocating planning uses to land and a statutory consultation process. The initial stages of this process was the subject of the report to the Policy and Resources Committee meeting on 2 April 2009 and the Council meeting on 21 May 2009 in relation to the report on the Malton Town Centre Strategy and Accompanying Development Briefs;

(ii) The role of Ryedale District Council as a land owner in relation to Wentworth Street Car Park, Malton. This is the subject of the report before Members this evening. Members were further advised that local authorities have a responsibility to ensure that assets held in public ownership benefit the Council taxpayers and local communities.

Accordingly in considering the report before it, the Committee was not discharging the Council's role as a Local Planning Authority but it was discharging the role of the Council as a land owner of Wentworth Street Car park. The Committee was not therefore making any Planning decisions.

Members were informed that a letter had been received from the Fitzwilliam (Malton) Estate's solicitors, requesting that consideration of the item be deferred pending consultation with the Estate. The letter, and an earlier one from the solicitors dated 21 May 2009 was circulated to Members. The Council Solicitor informed Members that he had sought Counsel's advice upon deferral, and had been informed that there was no legal reason to defer a decision upon the report.

Members of Committee were also advised that In its capacity as a landowner, a local authority cannot commit itself to accord with the views of another, in the discharge of its functions and that except where provided by statute, in its capacity as a landowner the Council has no statutory responsibility to consult with other landowners or anyone else on proposals to realise the value of Council assets. The rationality of a decision to sell or not to sell Council assets is not, in general, susceptible to judicial review in any event

The Council Solicitor referred Members of Committee to recent guidance published in May 2009 from the Local Government Association contained in Probity in Planning: the role of councillors and officers – revised guidance note on good planning practice for councillors and officers dealing with planning matters, which includes advice to Members on Planning Committees. This guidance highlights the importance of Members of a Planning Committee keeping an open mind before making a final decision on a planning application. Members need to be willing to listen to all the material considerations presented at the Planning Committee before deciding on how to exercise their vote.

The guidance indicated that there might be occasions when a Member of a Planning Committee will wish to press for a particular development which the Member regards as beneficial to the development of the area. A Member in such circumstances may well be so committed to a particular development as the result of their Committee or other responsibilities that they may not be able to demonstrate that they are able to take account of all material considerations before a final decision on a planning applications is reached. The Member may be seen as the chief advocate on behalf of the authority for the development in question. In such circumstances, the appropriate approach is likely to be that the Member is able to argue for the development but should not vote on the relevant application.

Members noted that by inviting expressions of interest in the redevelopment of the Site, the Council, as landowner could also understand the nature of redevelopment that the market could deliver on the site, and its value. This approach reduced the risk of there being no workable proposals for redevelopment of the site for food retail and parking to be considered through the LDF/planning process.

Councillor Knaggs moved and Councillor Hemesley seconded the Officer recommendation in the report. On being put to the vote , it was

Resolved:

That Council be recommended to invite expressions of interest for the purchase and redevelopment of either the whole or part of the Wentworth Street Car Park site (as shown on the plan at Annex A to the report) for future use to include food retailing and a substantial parking facility for use by the public, and that following the receipt of such expressions, the matter be referred back for consideration.

The meeting closed at 8.55pm

The foregoing minutes were signed at a meeting of the Policy and Resources Committee on 30 July 2009 in pursuance of a resolution for the purpose passed at such meeting.

.....Chairman.