
SCRUTINY COMMITTEE

MINUTES of the Virtual Meeting held via Skype on Tuesday, 24 November 2020 from 7.00pm - 9.48 pm.

PRESENT: Councillors Lloyd Bowen (Chairman), Richard Darby, Steve Davey, Mike Dendor (Vice-Chairman), Tim Gibson, Alastair Gould, Carole Jackson, Elliott Jayes, Denise Knights, Pete Neal, Hannah Perkin and Ken Pugh.

OFFICERS PRESENT: Zoe Callaway, David Clifford, Janet Dart, Charlotte Hudson, Jo Millard, Bob Pullen, Roxanne Sheppard, Nick Vickers, Rebecca Walker and Emma Wiggins.

ALSO IN ATTENDANCE: Councillors Cameron Beart, Monique Bonney, Derek Carnell, Roger Clark, Ben J Martin, Simon Fowle, Angela Harrison, Alan Horton, James Hunt, Ken Ingleton, Ken Rowles, David Simmons, Roger Truelove, Tim Valentine, Ghlin Whelan, Tony Winckless and Corrie Woodford.

Steve Partridge and Simon Smith (Savills).

264 DECLARATIONS OF INTEREST

No interests were declared.

265 INTRODUCTION

The Chairman explained that the meeting would be conducted in accordance with the Local Authorities and Police and Crime Panel (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 No. 392.

The Chairman welcomed all Members, officers and members of the public to the meeting.

Members agreed to a change in the order of the Agenda, bringing forward Item 4 Call-in – Housing Allocations Policy, so that any discussion on the exempt paper could be considered at the end of the meeting, in closed session.

266 CALL-IN - HOUSING ALLOCATIONS POLICY

The Chairman explained that at the meeting held on 28 October 2020, Cabinet resolved to adopt the Housing Allocations Policy 2020. He said that, as Chairman of the Scrutiny Committee, he called the decision in for consideration by the Scrutiny Committee for the following reasons:

- The decision was outside the Policy and Budget Framework;
- there was inadequate consultation relating to the decision; and

- relevant information was not considered.

The Chairman advised that, in confirming that the call-in was valid, the Monitoring Officer said that the decision was not outside the Policy and Budget Framework. He welcomed the Cabinet Member for Housing, the Housing Options Manager and the Housing Options Policy and Performance Officer to the meeting.

The Cabinet Member for Housing said that the policy had been considered previously by the Policy Development and Review Committee (PDRC) and there had been a full public consultation. He said that the public were in favour of the policy with the exception of the proposal to reduce the four year residency requirement to two years, in line with Government guidance and with other Kent authorities. On this part of the policy, 44 respondents were in favour and 49 were against the change. The Cabinet Member for Housing explained that the current policy offered less housing options which led to homelessness and significantly higher costs.

In response to clarification on the information on paragraph 2.4 on page 2 of the report, the Cabinet Member for Housing explained that the choices of a resident, who previously had not qualified for residency requirement, would be expanded by reducing the requirement to 2 years.

In the debate that followed, Members made points, including:

- The original report lacked significant detail which was now explained in the supplementary report provided to the Scrutiny Committee;
- still had concerns about the impact on staff as the impact of the change in policy and possible increase in eligibility could not be known; and
- the Policy brought Swale in line with other authorities, could residents from neighbouring authorities be encouraged to move into Swale to take advantage?

The Cabinet Member for Housing explained that the clock would be reset for anyone moving into Swale from another authority. The Housing Options Policy and Performance Officer detailed the residency requirements of other Kent authorities which varied from 6 months to 3 out of 5 years.

In response to further questions about how the change in the residency policy might increase the current numbers on the list, the Housing Options Policy and Performance Officer explained that there was no detailed breakdown of those on the current list who did not qualify that would then qualify under the new policy. A Member expressed concern about the effect that the changes to the Employment in Swale criteria might have on the figures.

In response to the Chairman's question on whether there would be a review to assess the impact on costs and officer time in the future, the Cabinet Member for Housing said that the policy was frequently under review due to changes in Government legislation and case law. He said that changes to the Employment in Swale criteria meant that those that worked in Swale might wish to move here.

A Member said there was a lack of clarity on the impact of the changes to the policy and Members discussed reviewing the impact once it had been established. The Chairman proposed that an interim update report be considered by the Scrutiny Committee in 12 months. On being put to the vote, Members agreed.

The Cabinet Member for Housing thanked Members for their fair comments.

Resolved:

(1) That an update report including the impact of the changes be considered by the Scrutiny Committee in 12 months.

267 CALL-IN - LOCAL HOUSING COMPANY

The Chairman advised that at its meeting on 28 October 2020, Cabinet resolved to set up a Local Housing Company (LHC), Swale Rainbow Housing Ltd. He listed the recommendations agreed at Cabinet.

The Chairman explained that, in his position as Scrutiny Committee Chairman, he called the decision in for the following reasons:

- The decision was outside the Policy Budget Framework; and
- there was inadequate consultation relating to the decision.

In confirming the call-in was valid on 13 November 2020, the Monitoring Officer advised that the decision was not outside the Policy Budget Framework.

The Chairman welcomed the Cabinet Member for Housing, Head of Economy and Communities, the Affordable Housing Enablement Manager, the Chief Financial Officer and Head of Policy, Communications and Customer Services/Monitoring Officer, and external visitors Simon Smith and Steve Partridge from Savills to the meeting.

The Cabinet Member for Housing thanked the Scrutiny Committee for calling in the decision and said that as it was the second largest investment made by Swale Borough Council (SBC), it was correct to do so. He referred to the administration's key priorities which included the delivery of affordable homes in the Borough and said that there was not enough housing in some areas. The Cabinet Member for Housing said several methods for addressing the shortfall had been explored and whilst currently unsuitable, the Council would continue to work with registered providers. He concluded by saying that the setting up of the housing company would increase and accelerate housing whilst maintaining control and would be self-financing. Referring to comments made about loss of income and parking facilities on the call-in form, the Leader and Cabinet Member for Finance said this was negligible.

In the debate that followed Members raised points which included:

- Clarification on whether the decision to sell the company or its shareholding as outlined at paragraph 2.95 of the report would be by Cabinet or Full Council;

- questioned the reference to 199 social dwellings at paragraph 2.4 as the Council did not own any social housing; and
- questioned whether the partners were equal when officers had a day job to serve and there were two Cabinet Members.

In response, the Monitoring Officer said the agreement to sell the company would be dependent on the details of the decision at the time, but it was likely to be a Cabinet decision in consultation with others. The Leader said that the Business Plan included a 50 year plan with social housing being provided.

The Cabinet Member for Housing said that each officer and Cabinet Member brought different skills and were only looking at the interests of the company. He said that training had been provided and a Chairman would be appointed. The Head of Economy and Community Services added that board structures with a range of mixed directorships had been reviewed and officers felt comfortable as an equal as they had a personal responsibility. The Leader and Cabinet Member for Finance added that, on the advice from Savills, the board should not be too big, and the skills of the current Members suited but this might not always be the case. He reminded Members that the Directors would not remain in place if they were no longer Councillors or there was a change in administration. The Cabinet Member for Economy and Property said that Directors had a full legal responsibility, were a subsidiary of the Council and there were strict criteria of what could and could not be done. In response to a Member's comments on the details and responsibilities of Directors and shareholders of the company, the Cabinet Member for Housing referred to the details held within the Articles of Association.

A Member questioned whether there would be conflict between an officer and Member in the company as officers took their steer from Cabinet? The Cabinet Member for Housing said it would not be an issue as there were positive working relationships and he reminded Members that the new Chief Executive would carry out performance reviews with officers.

Referring to paragraph 2.9.4, a Member raised concern over the use of Section 21 as he said that it provided no security of tenancy. In response, the Cabinet Member for Housing said it was a requirement and was in the best interests of the company. The Leader and Cabinet Member for Finance said that Section 21 might be misused by private landlords, but concerns were exaggerated. The Cabinet Member for Economy and Property added that the company had to manage its assets and would act appropriately as a landlord for the benefit of SBC and the benefit of the wider community.

A Member sought clarity on benefits paid to tenants and the Cabinet Member for Housing said that the tenant paid their landlord but there were some situations where the landlord was paid directly, and there was a provision to allow for unpaid rents.

There was a discussion on the lack of information being shared with the public and a Member said that the proposal was being progressed too quickly and was lacking details. The Cabinet Member for Housing referred to commercially sensitive information on the project, and the Leader and Cabinet Member for Finance said it would be difficult to consult publically, but he had encouraged the decision to be

called into Scrutiny. He added that the administration had always indicated their intention and were now 18 months into their term, and the proposal had been through a vigorous process which needed to proceed quickly. The Head of Housing, Economy and Community Services reminded Members of the report that went to Cabinet in March 2020 with options put forward.

In response to a Member's question, the Chief Financial Officer clarified the funding for the long term project and said it was a complicated financial transaction, and there were many steps before the estimated costs of £23 million were given to the company. He said the company needed to show it could deliver.

Referring to paragraph 2.29 the Leader and Cabinet Member for Finance clarified that that £1.7 million was not just for the set up of the company but might be spent on investments for other sites. A Member sought reassurance that before any land and money were given, SBC were in State Aid rules.

The Cabinet Member for Housing confirmed that there were 3 sites identified to transfer to the LHC for housing and that an additional site had previously been considered but was now unlikely to be transferred.

There was a discussion of the valuation of the old bus depot at East Street, Sittingbourne and whether there was any social value in regenerating the area rather than using it for housing. In the debate that followed, the Cabinet Member for Housing said that other options were considered, but the land did not have planning permission and had minimal land value. The Head of Housing, Economy and Community Services said that Harrisons undertook a valuation based on residential uses and the true value of the land would be assessed at the point of transfer. The Leader and Cabinet Member for Finance reminded Members that the site was bought by the previous administration and left to do nothing, housing was the current administration's priority and the project was the best use of the land in relation to the administration's objectives. The Cabinet Member for Housing said it was important that people lived near high streets to sustain the area.

A Member questioned whether there was enough staff resource to operate the company and the impact it might have on their day job. In the discussion that followed, the Cabinet Member for Housing said this had been considered and after the initial set up, the office time required would lessen. The Head of Housing, Economy and Community Services said that any time would be charged back to the company, there would be a client side management of the operation which was factored into the process and would not necessarily be the Directors. She agreed to provide more of the confidential information on this outside of the meeting.

268 EXCLUSION OF PRESS AND PUBLIC

The Chairman proposed that the meeting be held in closed session in order to consider the exempt appendix. Members agreed.

Resolved:

That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the

grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the Act:

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

269 EXEMPT APPENDIX - LOCAL HOUSING COMPANY

Members asked questions on the exempt appendix.

A Member highlighted a typing error at paragraph 2.1 of the confidential business case paper which should say 'include' not 'exclude'.

There was a discussion around the LHC providing affordable housing as part of Section 106 Agreements.

Steve Partridge (Savills) drew Members' attention to paragraph 2.9 on page 6 and said that all companies needed to be EU State Aid compliant.

A Member referred to paragraph 6.3 on page 13 and encouraged the use of local architects and builders. The Cabinet Member for Housing said the LHC would seek to achieve best value which was not always the cheapest.

In response to a question from a Member on paragraph 6.5.2 on page 13, the Cabinet Member for Housing confirmed that there would be a sub-contract agreement and structure, managed in accordance with the company's ethos.

The Cabinet Member for Housing confirmed that there would be a Management Agreement, with a select panel of tradespeople, to include for planned maintenance to minimise reactivity by being proactive.

The Head of Housing, Economy and Community Services confirmed that the LHC would be liable to provide Section 106 contributions.

The Cabinet Member for Environment explained that a passive house was the gold standard of energy efficiency and air tightness on low carbon housing.

The Head of Housing, Economy and Community Services confirmed that 2020 in the chart on page 31 should be 2021.

Councillor Mike Dendor proposed that in future, Cabinet considered, identified, and promoted more transparency for the public. This was seconded by the Chairman and on being put the vote was agreed.

The Chairman thanked Savills, Members and officers for providing additional information that addressed the reasons for the call-in.

Recommendation:

(1) That in future, Cabinet considers, identifies, and promotes more transparency for the public.

270 ADJOURNMENT

The meeting was adjourned from 8.41pm to 8.45pm and from 9.14pm to 9.15pm.

Chairman

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All Minutes are draft until agreed at the next meeting of the Committee/Panel