



Committee and Date

Cabinet

6 December 2017

CABINET

**Minutes of the meeting held on 15 November 2017 in the Shrewsbury Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND
12.30 pm - 12.55 pm**

Responsible Officer: Jane Palmer
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Present

Councillor Peter Nutting (Leader)
Councillors Steve Charmley (Deputy Leader), Joyce Barrow, Lezley Picton, David Minnery, Robert Macey, Nic Laurens, Nicholas Bardsley, Lee Chapman and Steve Davenport

83 Apologies for Absence

There were no apologies for absence.

84 Disclosable Pecuniary Interests

None were declared.

85 Minutes

RESOLVED:

That the Minutes of the Cabinet meeting held on 18 October 2017 be approved as a correct record and signed by the Leader.

86 Public Question Time

a) The following question was submitted by Mr Malcolm Andrew, Vice Chair of Trefonen Rural Protection Group and the response was provided by the Portfolio Holder for Planning and Regulatory Services:

Question:

Do Members believe it is right and appropriate that the community are being denied the right of consultation on such a key document of proposed Policy affecting many settlements?

Response:

Whilst the methodology used within the approved Hierarchy of Settlements is not the subject of the current consultation, having been supported by 73% of respondents during an earlier consultation, the way in which the methodology has been applied in order to identify proposed Community Hubs is. Question 7 of the proposed Scale and Distribution

of Development Consultation specifically asks for respondents views on the suitability of the proposed Community Hubs.

If respondents have concerns about any of the proposed Community Hubs, including thoughts on the way in which the Hierarchy of Settlements assessment has been applied to identify thresholds or consider that there are factual inaccuracies about local services and facilities, then they should identify these concerns within their consultation response.

When responding to the consultation, respondents are of course entitled to make reference to relevant evidence base documents, including the Hierarchy of Settlements Assessment. Shropshire Council will ensure that all consultation responses received are given due consideration and will help to inform the ongoing Local Plan Review.

Mr Andrew asked a supplementary question in which he suggested that it was illogical and wrong for communities not to be consulted on the way in which the Hierarchy of Settlements assessment had been applied to identify thresholds and urged for reconsideration of decisions made at the previous Cabinet meeting. Responding, the Portfolio Holder stated that the supplementary question covered the same issue as the initial question and stated that he would have a discussion with Mr Andrew outside of the meeting.

b) The following questions were submitted by Mr Stephen Mulloy and the responses were provided by the Portfolio Holder for Planning and Regulatory Services:

Question:

There has always been the legal duty for the applicant to provide the information supporting a claim for 'demolition deduction' for lawful use, can he explain how the submission of photos (which from my experience were sought before) deals with the problem?

Response:

The requirement to provide photographic evidence alongside any claim for deductible floorspace ensures that officers within the CIL Team have documentary evidence in order to support its decision as to whether existing floorspace is 'in use'.

Photographic evidence was only previously requested in circumstances where there was inconsistent information provided about whether an existing building was in use, in accordance with the CIL process utilised at that time.

Question:

As the problem lies with officers not checking the submitted evidence correctly, I repeat the original question in a simpler manner:

In view of the Statutory Notice with a recommendation under S27(6) of The Local Audit & Accountability Act 2014 by the External Auditor, what has the council done to document its consideration of the available evidence as to whether or not the premises have been 'in lawful use', and what checks are now carried out that were not done before?

Response:

Shropshire Council does not consider that there was an issue with officers not checking the submitted evidence correctly, they complied with the agreed process. Specifically it was considered appropriate to use the information provided within CIL Form 0: Determination of CIL Liability, unless this information was contradicted by other submitted information. This is because CIL Form 0: Determination of CIL Liability includes a disclaimer which explains that "It is an offence for a person to knowingly or recklessly supply information which is false or misleading in a material respect to a collecting or charging authority in response to a requirement under the Community Infrastructure Levy Regulations (2010) as amended (regulation 110, SI 2010/948). A person guilty of an offence under this regulation may face unlimited fines, two years imprisonment, or both". Therefore it was considered that the information provided within CIL Form 0: Determination of CIL Liability should be accurate and in most circumstances relied upon.

As explained above, Shropshire Council now requires the submission of photographic evidence in support of any claim for deductible floorspace. This ensures that officers within the CIL Team have a greater amount of information in order to make a decision as to whether existing floorspace is 'in use'.

Question:

With regard to the Besford House false CIL declaration, in replying to the External Auditor, the Council wrote:

"In addition, the CIL Team officers have further assessed the Regulations and have concluded that even if it was thought appropriate (and in my opinion, it is not) to pursue the landowners for the CIL Liability, the provisions in Regulation 65 actually prevent the Council from taking such steps. This is on the basis that our interpretation of the

Regulations is that the Council is no longer able to revise the CIL Liability because the CIL Liability has been paid in full and the CIL Liability Notice has ceased to have effect. Consequently, whilst there may still remain some uncertainty around whether the existing building(s) were or were not 'in use', the CIL Liability for the development in question cannot now be revised in any event."

The Council's interpretation of CIL regulations is incorrect. Regulation 65(5) says: "A *collecting authority may at any time issue a revised liability notice in respect of a chargeable development.*"

There are no caveats with this regulation i.e. such as to say that 'up until such time as all outstanding amounts due have been paid', it simply says 'at any time'. Therefore there is no reason why a revised liability notice, to include the £39,200 should not be issued to SHG. In fact, the Regulations require that once I had notified the Council of the false declaration on 27th May 2015 they should have revised the CIL liability notice.

CIL Regulation 65(4) says: "*The collecting authority must issue a revised liability notice in respect of the chargeable development if the chargeable amount or any of the particulars mentioned in paragraph (2)(e) or (f) change.*"

In light of the above, will the Council be pursuing the £39,200 CIL money from Shropshire Housing Group, and if not, why not?

Response:

Consistent with the external auditors' conclusion, Shropshire Council will not be pursuing this matter further.

Mr Mulloy asked three supplementary questions relating to the responses received from the Portfolio Holder. The Portfolio Holder stated that a written response would be provided to the supplementary questions.

87 Member Questions

No questions had been submitted by any member of the Council.

88 Scrutiny Items

There were no scrutiny matters for consideration.

89 Financial Monitoring Report Quarter 2 2017/2018

The Portfolio Holder for Finance presented the report from the Head of Finance, Governance and Assurance [S151 Officer] setting out the projected revenue expenditure for the whole of 2017/18 as at Quarter 2 and, also an alternative position, based on management action, including imposing a spending freeze, details of which were included in Appendix 1 to the report. Recognising that the position was slightly worse than anticipated, the Leader commented that necessary action was being taken and a balanced budget would be presented in this financial year.

A Member commented on the low level of reserves and stressed the need for them to be built up to a more acceptable level. He added that reliance on one off grants was not advisable and he considered the Council to be on the edge of financial crisis. He commented that the impact of the spending freeze was already being felt in local

communities. He reiterated his plea for the introduction of LED street lighting and stated that this represented a step to make the necessary savings.

Referring to the £1.1M variance in the Adult Social Care budget, the Portfolio Holder for Health and Adult Social Care explained that this related to increased draw down from the Improved Better Care Fund [IBCF] that had been used to introduce innovation to delayed transfers of care from hospital. He stated that all staff working in this area needed to be congratulated as the authority was now in the top half of the country regarding delayed transfers of care. The Leader stated that he would arrange for the re-issue of this good news statement to the press.

RESOLVED:

- i) That it be noted that at the end of Quarter 1 (30 September 2017), the full year revenue forecast is a potential overspend of £5.061m;
- ii) That the instigation of management action be approved, including a spending freeze to bring the variance within what would be considered a “reasonable tolerance” to a potential overspend of £0.428m.
- iii) That the impact of this on the Council’s General Fund balance be considered.
- iv) That net budget variations of £8.812m to the 2017/18 capital programme be approved, detailed in Appendix 3/Table 6, and the re-profiled 2017/18 capital budget of £68.349m. Variations include new allocations of capital receipts of £0.500m for a grant allocation towards the Marches Centre of Manufacturing and Technology and £0.150m towards a Gypsy Transit Site project.
- v) That re-profiled capital budgets of £34.917m for 2018/19, £7.487m for 2019/20 and £0.667m for 2020/21, be approved as detailed in Appendix 3/Table 9.
- vi) That the capital expenditure to date of £23.861m be approved, representing 35% of the revised capital budget for 2017/18, with 50% of the year having elapsed.

90 Day Service Transformation - Maesbury Metals and Cornerpatch

The Portfolio Holder for Health and Adult Social Care presented a report from the Director of Adult Services on the outcome of the procurement process undertaken to seek a new provider for the Council’s day services known as Maesbury Metals and Cornerpatch in Oswestry. He stated that management of these services were to be transferred to a national charity, ‘Liveability’, on a five-year contract. The Portfolio Holder for Communities stated that she welcomed this development and it represented an excellent step forward.

Responding to a Member's query regarding the terms and conditions of transfer of the staff, the Portfolio Holder stated that he would provide a written response to these staffing questions.

The Leader commented that this report illustrated how the Council was working to transform itself; a great deal of work was going on behind the scenes and progress was being made.

RESOLVED:

- I) THAT THE TRANSFER OF THE MANAGEMENT OF THE DAY SERVICES AT MAESBURY METALS AND CORNERPATCH IN OSWESTRY TO LIVEABILITY BE APPROVED, TO TAKE EFFECT ON 1 DECEMBER 2017, OR SUCH OTHER DATE AS MAY BE REQUIRED TO CONCLUDE ALL CONTRACTUAL ISSUES, FOR AN INITIAL PERIOD OF 5 YEARS WITH THE OPTION TO EXTEND FOR A FURTHER 5 YEARS;**

- II) THAT AUTHORITY BE DELEGATED TO THE DIRECTOR OF ADULT SERVICES TO CONCLUDE FINAL CONTRACTUAL NEGOTIATIONS WITH LIVABILITY AND WHEN AN ACCEPTABLE POSITION IS ACHIEVED TO APPROVE, IN CONSULTATION WITH THE PORTFOLIO HOLDER FOR HEALTH AND ADULT SOCIAL CARE, THE AWARD OF THE CONTRACT AND THE COMPLETION OF ALL NECESSARY FORMALITIES TO TRANSFER THE SERVICES AND STAFF TO THE IDENTIFIED PROVIDER.**

Signed (Chairman)

Date: