

North Yorkshire County Council

Executive

Public Minutes of the meeting held at County Hall, Northallerton on Tuesday, 17 October 2017 commencing at 11.00 am.

County Councillor Carl Les in the Chair. County Councillors David Chance, Gareth Dadd, Caroline Dickinson, Michael Harrison, Andrew Lee, Don Mackenzie, Patrick Mulligan, Janet Sanderson and Greg White.

Also in attendance: County Councillors Andy Solloway and Mike Jordan.

Officers present: Richard Flinton, Simon Ashby, David Bowe, Stuart Carlton, Gary Fielding, Catriona Gatrell, Anton Hodge, Barry Khan, John Lee, Josie O'Dowd, Vicky Perkin, Rachel Pillar, Julia Temple and Richard Webb.

6 members of the public and one media representative – Radio York.

Rachel Duffy and Beth Latimer - observing.

Copies of all documents considered are in the Minute Book

64. Minutes

Resolved –

That the Minutes of the meeting held on 26 September 2017, having been printed and circulated, are taken as read and are confirmed and signed by the Chairman as a correct record.

65. Declarations of Interest

There were no declarations of interest to note.

66. Exclusion of the Public

Resolved –

That the public be excluded from the meeting during consideration of each of the items of business listed in column 1 of the following table on the grounds that each involves the likely disclosure of exempt information as defined in the paragraph(s) of Part 1 of Schedule 12A to the Local Government Act 1972 as amended by the Local government (Access to Information)(Variation) Order 2006 as defined in column 2.

Item on the Agenda

13

Paragraph No

3

67. Questions and Statements from members of the public

Five speakers had given notice to speak on Items 6 and 8 on the agenda, it was agreed that these contributions would be taken at the relevant point during the meeting.

68. Feedback from Area Committees

Considered –

A report of the Assistant Chief Executive (Legal and Democratic Services) relating to meetings of the:-

- ◆ Ryedale Area Committee - 13 September 2017
- ◆ Selby Area Committee - 18 September 2017
- ◆ Craven Area Committee - 21 September 2017

County Councillor David Chance advised that the report reflected routine feedback from Ryedale, Selby and Craven Area Committees with the exception of the recommendation from Craven Area Committee concerning the A59 Kex Gill Realignment.

County Councillor Patrick Mulligan, speaking as a Member of Craven Area Committee, confirmed that the Area Committee are strongly supportive of the proposals regarding the A59 Kex Gill Realignment which is crucial to the future of east west connectivity for the county. County Councillor Don Mackenzie acknowledged the recommendation and welcomed the support of Craven Area Committee.

Resolved –

- (a) That the report is noted.
- (b) That the recommendation from Craven Area Committee regarding the A59 Kex Gill Realignment is welcomed and noted.

69. Proposal to Cease to Maintain Skipton Ings Community Primary School and Nursery School

Considered –

A report of the Corporate Director - Children and Young People's Service detailing the outcome of the public consultation carried out by the Children and Young People's Service on a proposal to close Skipton Ings Community Primary and Nursery School and asking the Executive to consider the responses to the consultation, to authorise the publication of statutory proposals and to schedule taking a final decision on the proposal on 5 December 2017.

County Councillor Patrick Mulligan advised that following consideration of the feedback from the consultation authority is sought to publish statutory proposals and to schedule taking a final decision on 5 December 2017. He outlined the 17 responses received, ten of which had been against the proposal, one in support, and six of which were neutral. Regarding the six neutral responses he commented that they suggested an alternative use of the site as a Pupil Referral Unit and he advised that having considered this suggestion it was unlikely to proceed given existing provision for the locality. County Councillor Patrick Mulligan highlighted paragraph 3.5 of the report which describes the

ongoing investigation of possibilities for the future use of the site for education provision. He also explained, the timetable for the proposed closure, with statutory proposals published on 26 October 2017, a closing date for representations of 23 November 2017, and a final decision to be taken by the Executive on 5 December 2017, and a proposed closure date of 31 December 2017.

Mr Nasr Emam made representations on behalf of the local community. He advised of the public meeting held in Skipton on 14 October 2017 which had been attended by County Councillors Patrick Mulligan and Andy Solloway. The opportunity for the local community to share their feelings and to dispel myths and rumours was much appreciated. He stated that the consultation was challenged as it was felt to be lacking - the outcome being perceived to be a foregone conclusion. Reference was made to incorrect assumptions circulating via social media regarding the possible future use of the site as a Mosque or faith school. Regarding the movement of children to other schools, Mr Nasr Emam advised that this had resulted in bullying and exclusion. Whilst acknowledging that officers have done their job, he felt that some issues had been misrepresented to the Governing Body. He went on to question the Equality Impact Assessment which he felt did not give sufficient weight to the protected characteristics of faith and race. He queried the logic of proposing closure of the school when it is at the heart of the community and he mentioned concerns regarding the impact on community cohesion. He urged that the proposed closure be postponed to allow better consultation to enable the voice of the community to be heard. At this point he presented a petition of 402 signatures which seeks to keep Ings School open.

County Councillor Andy Solloway then spoke as the local representative for Skipton West. He stated that Skipton West Division has a large number of schools, four primaries, three secondaries, one college, one special school and one pupil referral unit. Until very recently Ings school has been an integral part of a network and family of schools in Skipton, and felt that its potential closure will have a big impact on education in Skipton, if it is not already doing so. He appealed to the Executive not only to support the community local to Ings School, but also from the point of view of the wider education provision in Skipton, which faces a huge set of challenges. In the light of the meeting on Saturday and the many people both County Councillor Mulligan and he spoke with, he asked that the following points to be seriously considered:

- Parents of children from that school have made some big sacrifices resulting in great disruption to the lives of their children, and themselves, in choosing to take their children out of Ings school and place them in other schools. Many of them are still experiencing having problems, particularly with transport and places. One parent who sends their child to Gargrave School cannot get funding for a place on the bus that runs daily to the school with empty seats from Skipton. Another parent has to send his two children to separate schools in Skipton. He related hearing stories of other children not getting either their first, second or even third choice of school. He urged those present to do all possible to support these parents so that they do not feel doubly let down, and that some provision and funding is made available to help them. He stated that some of these parents and children have had to make tough and virtually unavoidable choices and so assistance should be provided.
- Many of the Ings school children who moved to the two schools that had spare places, are now in large classes. This is the equivalent of moving from a small village school to a large urban one. Also there is concern from parents of those schools that the move of Ings school pupils to those schools has created additional pressure on the recipient schools. Parish Church School now has class sizes of 36. County Councillor Andy

Solloway asked that the Council support these schools, given that 14 children coming into a school like Parish or 7 into a school like St Stephens, has a significant impact. Whilst this situation also attracts additional income that the school should spend on staff to cope with this influx of children, if there is a shortfall in the budgets, he asked that the Council bridge this to enable the schools to recruit new staff quickly. He acknowledged the autonomy of individual head teachers, but he hoped the Council would encourage those schools to deal with the issues that such an influx brings, and plugging financial gaps if needed.

- Ings School was and still is a community resource. There are many community activities that take place there and which should continue even if the decision is taken to close the school. County Councillor Andy Solloway hoped that the Council will ensure that the building remains accessible to the community, particularly when some of the activities bring in income as well as serve a vital community purpose. He stated that the school is at the heart of the community, taking away schooling from there is bad enough, removing access as a community facility would be a final insult and he urged that this be avoided.

County Councillor Patrick Mulligan shared some of the concerns raised particularly those relating to individual cases. He suggested that those involved should initially approach County Councillor Andy Solloway as the local Member, with whom he would work to seek to address the issues.

John Lee, Strategic Planning Officer, described the consultation arrangements and the consultees - as detailed in Appendix 3 to the report. He advised of the meetings held with community members and with schools and parents to explore alternative plans.

County Councillor Gareth Dadd stated that he supports the proposals for a number of reasons. Firstly, because the issue is about children and their future - he acknowledged that two previous Ofsted inspections had indicated that improvements were required at the school. He accepted that this information on its own is not enough to close a school but he recognised there are other factors. Secondly, the finances of the school and the falling roll bring its future into question. Thirdly, regarding travelling distances he felt that around one mile's additional travel is not unreasonable, certainly in comparison to the experiences of many other pupils across North Yorkshire. County Councillor Gareth Dadd felt that overall in Skipton there is sufficient provision, but whilst supporting the proposals, he accepted that the educational provision for the area does need to be look at in the longer term.

County Councillor Janet Sanderson said that she recognises the value of the school to its community and advised that she had been involved with the Skipton schools via the schools debate – commenting that the local children had engaged thoroughly with the process. Commenting regarding protected characteristics, she advised that she had been involved with a debate on the issue only very recently, noting that this is a very complex issue. She stated that each minority group has its own issues and that the Council's approach is to celebrate difference. She stated that she would like to see displaced children supported in their new schools and she too felt all should do their best for children, noting that this is not possible when the roll falls too low as this damages the quality of education that can be provided. On this basis she supported the recommendations.

Resolved –

- (a) That statutory proposals and notices be published on 26 October 2017 proposing to cease to maintain Skipton Ings Community Primary and Nursery School with effect from 31 December 2017 and that a neighbouring school(s) will expand their catchment area to cover the area currently served by Skipton Ings Community Primary and Nursery School.
- (b) That the Executive schedule taking a final decision on these proposals on 5 December 2017.

70. Additional Primary Places - Malton

Considered –

A report of the Corporate Director - Children and Young People's Service seeking approval for the publication of statutory notices and proposals on the proposed expansion by 60 places of St Mary's Roman Catholic Primary School, Malton, as prescribed by the School Organisation Regulations, schedule taking a final decision on the proposals at the Executive meeting on 16 January 2018 or, in the event of no objections, by the Executive Member for Schools and seeking approval for work to continue in parallel to prepare a planning application for the proposed development.

County Councillor Patrick Mulligan introduced the report and advised of the extensive survey which had been undertaken in the area to identify a solution, the outcome being that only St Mary's represented a viable option. He explained that the cost of the expansion would be in the region of £2.6m and there would be significant developer contributions to this as outlined in paragraph 6.2.

County Councillor Janet Sanderson commented that she reluctantly supports the proposals, having worked in the area she is well aware of the constraints of the site which is already under pressure – with limited parking for example.

Resolved –

- (a) That the publication of statutory notices for the expansion of St Mary's Roman Catholic School, Malton, up to 210 places as prescribed by the School Organisation Regulations with a final determination to be made by Executive on 16 January 2018 or by the Executive Member for Schools in the event of no objections is approved.
- (b) The continuation of design work in parallel to prepare a planning application for the proposed development is approved.
- (c) That implementation of this proposal is conditional upon the grant of planning permission by 30 June 2018 is noted.

71. Minerals and Waste Joint Plan - Submission Stage

Considered –

A report of the Corporate Director - Business and Environmental Services informing on the outcomes of the consultation on the Schedule of Proposed Changes to the Publication

Draft of Minerals and Waste Joint Plan for North Yorkshire, York and the North York Moors National Park. A summary of the main representations received is provided as Appendix A together with a draft of the Authorities replies and seeking approval to recommend to full Council that approval be given to submit the Publication Draft (November 2016) of the Minerals and Waste Joint Plan for Examination in Public, and for it to be accompanied by the Addendum of Proposed Changes (July 2017).

Registered public speakers were invited to come forward in turn to make their address.

1. Mr Jim Tucker

“Good morning

I am speaking to you today with the objective of bringing to your attention what I believe is a significant omission from the MWJP regarding hydrocarbon extraction and the waste produced immediately following the hydraulic fracturing.

As you will be aware from the introduction to the hydrocarbon section in the plan, following the hydraulic fracturing the well is “flow tested” to determine if gas can be extracted commercially.

During this period of time, which can extend for a number of months, gas, together with produced water, returning Fracking fluid and other impurities arrive at the well head. They are separated but unless the gas can be piped away, as in the case at KM8 because of existing infrastructure, it becomes a problem for the developer and they can only regard this gas as waste because at that time and in that location it cannot be utilised and must be disposed of.

The only options available to the developer are venting to atmosphere, which would be unacceptable under any scenario or flaring the gas, in effect burning it to produce CO₂ and various particulates, both of which impact atmospheric quality and climate.

The process of flaring results in major visual impact from the flaring tower itself, the orange flame burning day and night for months, the noise which has been likened to a jet engine as well as the resulting emissions to atmosphere. These are planning matters and, I believe, places this issue under the remit of the MWJP which should define the policy on this and not be silent.

If this problem is to be avoided here in NY the developer must follow what is now common practice in the USA (not forgetting that the UK has gold standard regulations), and adopt a “green completion” regime, also known as a reduced emission completion. This involves separating the water, sand and other impurities and then transporting the gas to existing infrastructure where it can be safely utilised.

Failure to recognise the need to control this development in a way consistent with NY policy on climate change will inevitably lead to a proliferation of flares on every well pad thereby creating considerable nuisance to residents as well as making parts of NY so unattractive that tourists would simply not visit.

This was raised during the representation stage as you will note from Appendix A but was not commented on as you will note from Appendix B.

I hope you agree with me that not addressing this matter is a “flaring omission” but one that can be corrected.”

2. Dr Tim Thornton

Dr Thornton advised that he was previously a GP in Ryedale and so is very involved with the area. He commented that the Minerals and Waste Plan has come a long way and he recorded his thanks to officers for the degree of public engagement and participation in the process. He acknowledged progress regarding safe distances and the importance of comparative baseline data regarding human health and the broader environment. He explained that his question arises from a conversation with a previous Member on the Joint Overview and Scrutiny Committee, when he had been told neither the County Council, City of York Council or the Police can deal with breaches - any issues arising would need to be addressed via private individuals bringing a civil case. His question was "Can you explain who will deal with breaches of conditions laid out in the planning process and the Mineral and Waste Joint Plan in relation to Unconventional Gas Extraction? In other words, how will this be regulated locally?"

3. Councillor John Clark, Ryedale District Council

Councillor John Clark asked "Can you please tell me what do you consider are the greatest concerns of having a substantial hydraulic fracturing industry in North Yorkshire?"

County Councillor Andrew Lee advised that the most recent consultation had been undertaken on the Addendum to the Minerals and Waste Joint Plan, running from July to September 2017. He advised that responses had been received from the public and also from the oil and gas industry. He stated that the Joint Plan is now produced and ready for independent examination, the changes made in response to the consultation were welcomed and he felt that the right balance has been struck between objectors' views and industry desires. Responding to the question from Councillor John Clark, he stated that hydraulic fracturing is not a substantial activity at present - only one application has been agreed which relates to KM8 and this was granted after much scrutiny and many representations. County Councillor Andrew Lee acknowledged that this was one of the most significant applications heard by the County Council to date and he advised that any future applications will be considered on a case by case basis, assessed on their own merit. He acknowledged the highly skilled team of officers involved which he said ensures a high degree of scrutiny of all applications.

Councillor John Clark made a supplementary contribution commenting that he was not convinced with the answers he had received. He observed that the Minerals and Waste Plan is not drawn up focusing upon hydrocarbons and KM8, it is drafted to consider how the industry would be accommodated within North Yorkshire. His concern was therefore not so much KM8, but what may follow across the county. He hoped that the Plan is geared up to managing a larger number of wells, if the situation arises and he sought assurances about what could happen if multiple well sites were approved in future.

County Councillor Andrew Lee reiterated that there are not tens of thousands of sites at present and he stated that there are no other applications at present. He acknowledged that the Minerals and Waste Plan is in place to manage planning applications across the county. Each application is considered on its own merits against the Plan and against national planning policy.

Vicky Perkin, Head of Planning Services, reiterated the provisions in the Minerals and Waste Plan. She spoke particularly of cumulative impacts and how they are addressed noting that these would be used to assess any other applications.

County Councillor Andrew Lee addressed the comments made by Dr Thornton concerning breaches advising that all conditions have to be monitored by the County Council, any breaches will be addressed as they arise. He stressed that once an application is granted it is monitored continuously and if a particular breach falls outside the Council's remit the matter would be referred to the Environment Agency or another appropriate responsible body. Turning to the concerns articulated by Jim Tucker regarding flaring, he felt that this issue was covered sufficiently in the Minerals and Waste Plan. Vicky Perkin accepted that there are technical issues that the Plan cannot make explicit reference to, however she stated that the issue would be covered under the -consideration of environmental and residential safeguard - therefore the issue would be assessed. She advised that previously various methods have used for the disposal of gas from wells, sometimes using a sunken pit to house the flare. Alternatively a sheathed flare stack may be used so that there are no bare flames. She stated that venting to the atmosphere - the least sustainable method, is not likely to be used in this day and age. Regarding green completions she advised that these would be sought from any developer who does not have pre-existing infrastructure. In this scenario gas holding sites would be used and the gas would later be transported off-site for use in a more sustainable way.

County Councillor Don Mackenzie spoke in support of the proposals acknowledging the six consultations which had been undertaken since 2013. These have occurred in 2013, 2014, two in 2015, 2016 and 2017. He reiterated that after each round of consultation changes have been made, as noted by Dr Thornton, and he cited the example of the increase in distance from well sites to dwellings from 400 to 500 metres as an example of this. He stressed that this is better to have an up-to-date plan in place than not.

County Councillor Janet Sanderson commented that having a plan in place provides much needed safeguarding in the planning system. She advised that she had been involved for years in this issue prior to her election as a County Councillor, and she appreciates the dangers of having a plan which is out of date - noting the diminished safeguards afforded. She reiterated the cumulative impact provisions in the latest Plan which protect against the approval of tens of thousands of sites. She quoted an example regarding an application which sought to develop an additional gas pipeline in her own area - the argument regarding cumulative impact proved to be crucial and ensured that the further development was not approved. County Councillor Janet Sanderson felt that the time is now right to refer the Minerals and Waste Plan to the independent examiner for assessment.

County Councillor Michael Harrison welcomed the input from the public speakers on the important issues of flaring, cumulative impact and breaches. He felt that these were all valid concerns which the Executive need to consider and satisfy themselves that there is sufficient provision within the Plan to address these issues.

County Councillor Andrew Lee concurred with the points made and concluded saying that as the Plan has been well scrutinised it is now time to move forward.

Resolved –

- (a) The representations received during the consultation on the Addendum of Proposed Changes to Publication Draft of the Minerals and Waste Joint Plan for North Yorkshire, York and the North York Moors National Park (as set out in Appendix A to the report) and the draft response to those representations is noted.
- (b) The points made in paragraphs 4.5-4.8 of the report that no substantial changes are needed to be made to the Draft Minerals and Waste Joint Plan are endorsed.

- (c) It be a recommendation to full County Council that the published Minerals and Waste Joint Plan for North Yorkshire, York and the North York Moors National Park, together with the approved schedule of proposed changes, be approved for submission for Examination in Public.
- (d) That authority is delegated to the Corporate Director - Business and Environmental Services, in consultation with the Executive Member, to agree any further or revised responses and proposed changes during the Examination period.

72. Creation of a Shareholders Committee and Governance Arrangements

Considered –

A report of the Assistant Chief Executive (Legal and Democratic Services) seeking approval to create a Shareholders Committee to strengthen governance arrangements of the Council Companies and to appoint the Chief Executive as Chief Executive Of NYCC and Group (Shareholder Representative).

County Councillor David Chance advised of the desire to establish robust governance arrangement for the Companies owned wholly or in part by the County Council. It is important that the Council ensures that its companies act in the best interests of the Council overall and contribute to the Council's objectives. He stated that as the Council is creating more companies, this is an appropriate time to review the governance arrangements for these companies to ensure that the Council properly exercises its rights as the sole owner or majority shareholder. He advised that the review seeks to strengthen the governance arrangements via:

- the creation of a formal Shareholders Committee
- delegating powers to the Chief Executive to exercise certain ownership rights on behalf of the Leader
- providing senior officer support to exercise the Council's ownership rights and creating a Shareholder advisory body to assist the decision making of the Shareholders Committee
- providing a protocol to ensure that conflicts of interests are handled appropriately.

County Councillor David Chance confirmed the companies of which the Council currently has ownership rights for the following companies:

- (a) NYnet (100%)
- (b) Yorwaste (77.7% owned by NYCC)
- (c) First North Law (100%)
- (d) North Yorkshire Housing Development (100%)
- (e) NY Property Services (100%)
- (f) Veritau (37.5% owned by NYCC).

He noted that in addition the Council has historically sold a number of services to schools which now operates under the branding of "NY Education Solutions", which is not set up as a separate company. To ensure that there are appropriate governance arrangements in dealing with all of the Council companies and shareholdings, he advised that it is proposed to formally delegate decision making to:

- The Executive
- A Sub-Committee of the Executive
- The Chief Executive, as the Shareholder Representative.

The importance of managing conflicts was stressed - decisions should not be affected or tainted by conflicts of interests so that valid decisions are made, and are perceived to be made in the interests of the companies and the public.

County Councillor Gareth Dadd acknowledged that previously there had been little formal accountability other than via the Chief Executive and little involvement of Members. He supported the proposals to strengthen the governance arrangements which provide a flow of accountability back through Members.

Resolved –

- (a) The creation of a Shareholders Committee is approved.
- (b) The Chief Executive is delegated as the Chief Executive of NYCC and Group (Shareholder Representative).
- (c) The conflicts of interest paragraphs are noted and the Executive Members be reminded of their need to declare interests when on the board of a company which discusses transactions with the Council.
- (d) The Assistant Chief Executive (Legal and Democratic Services) is delegated all necessary powers to implement the above, including reviewing the terms of the Companies governance documents.

73. Joint Working with Health in Hambleton, Richmondshire and Whitby proposed partnership agreement under Section 75 National Health Service Act 2006

Considered -

A joint report of the Corporate Director - Health and Adult Services and the Assistant Chief Executive (Legal and Democratic Services) for entering into a partnership agreement between the County Council and NHS Hambleton, Richmondshire and Whitby Clinical Commissioning Group.

County Councillor Michael Harrison advised that the agreement before Members relates to joint working arrangement for Hambleton, Richmondshire and Whitby which very much mirror the arrangements brokered for Scarborough and Ryedale previously.

Richard Webb, Corporate Director - Health and Adult Services, advised that this is a low risk issue without the requirement to delegate responsibilities at this point.

Resolved -

That the entering into the Section 75 Partnership Agreement with Hambleton, Richmondshire and Whitby CCG is agreed and delegation is given to the Assistant Chief Executive (Legal and Democratic Services) all the necessary powers to give effect to this decision including amending and signing the final Partnership Agreement in consultation with the relevant Executive Member.

74. Appointments to Committees and Other Bodies

Considered –

A report of the Assistant Chief Executive (Legal and Democratic Services) to enable any appointments to outside bodies, which are to be made by the Executive under the County Council's Constitution to be considered and enabling any appointments to Committees to be recommended for approval by County Council on 8 November 2017.

Resolved –

- (a) That County Councillor John Weighell OBE is appointed as the Council's shareholder representative for the Border to Coast Pension Partnership Limited.
- (b) That it be a recommendation to the County Council to approve the appointments set out in paragraph 3.1 of the report.
- (c) That any proposals for the re-allocation of seats, if necessary to achieve political proportionality, or for changes to memberships or substitute memberships of committees, or other bodies to which the Council makes appointments put forward by the relevant political group, prior to or at the meeting of the Council, are agreed.

75. Forward Work Programme

The Forward Plan for period 1 September 2017 to 30 September 2018 was presented.

Resolved –

The forward work programme is noted.

**The following report was considered in private and the public have no right of access.
Minute 76 is a public summary of business conducted in private.**

At this point in the meeting the public, commissioner representatives Richard Flinton, Chief Executive, Gary Fielding, Corporate Director - Strategic Resources and Barry Khan, Assistant Chief Executive (Legal and Democratic Services), left the room to comply with the ethical walls requirement.

76. Submission of Joint Bid for Community Health Care in Scarborough and Ryedale - Business Case

Considered –

A report of the Corporate Director - Health and Adult Services providing the final detailed Business Case.

Resolved –

That the recommendations in the report were approved.

The meeting concluded at 12.06 pm.

JOD/JR