

## North Yorkshire County Council

### Executive

Public Minutes of the meeting held at County Hall, Northallerton on Tuesday, 14 November 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 Jim Clark, Keane Duncan and Karin Sedgwick.

Officers present: Richard Flinton, Stuart Carlton, David Bowe, Steve Evans, Gary Fielding, Daniel Harry, Richard Johnson, Barry Khan, Josie O'Dowd and Richard Webb.

Also present two members of the public and one media representative.

---

#### Copies of all documents considered are in the Minute Book

---

#### 77. Minutes

##### Resolved –

That the Public Minutes of the meeting held on 17 October 2017, having been printed and circulated, are taken as read and are confirmed and signed by the Chairman as a correct record.

#### 78. Declarations of Interest

There were no declarations of interest to note.

#### 79. 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 number on the agenda	Paragraph Number
9 - Appendix 2	3
10	3

## **80. Questions and Statements from members of the public**

There was one public question relating to the report on Land at Green Hammerton. In view of this County Councillor Carl Les suggested that consideration of the item be brought forward on the agenda, when Mr Nick Kay, the Deputy Chair of KGHG, would speak.

## **81. Land at Green Hammerton**

Considered –

A report of the Corporate Director - Strategic Resources setting out proposals for the variation of restrictive covenants on land at New Farm, Green Hammerton. This matter is of interest to the County Council as a result of its financial interest in the property and does not extend to town planning which is within the remit of Harrogate Borough Council.

County Councillor Gareth Dadd introduced the report stating that he felt it clearly sets out the purpose and reasoning regarding the proposals. He explained that as part of any sale there is a clawback arrangement. The Council has been approached by the present landowner's agent regarding some of the terms of that arrangement as explained in the public and private sections of the report.

At this point County Councillor Carl Les invited Mr Nick Kay, the Deputy Chair of KGHG to address the Executive:

“How does NYCC justify considering a variation of the legally agreed covenant on New Farm, Green Hammerton, when doing so is expected to see a reduced amount of the sale value going to public funds, more of that money going to the current owner, and support given to a major development that is hugely damaging to the social cohesion and historic setting of several village communities?”

County Councillor Gareth Dadd recorded his thanks for advance notice of the question and he advised that Gary Fielding, the Corporate Director of Strategic Resources and Section 151 Officer, had assisted in the drafting of the response as author of the report. County Councillor Gareth Dadd acknowledged that the question concerns two areas:

1. How can the Council justify a variation in the terms, as a landowner, to ensure best value for the land.
2. How can the Council agree a variation that could allow the land to be developed for housing when you consider the local geographical issues.

Firstly as the landowner:

The Council has a duty to ensure best consideration for its land - a fiduciary duty to the tax payer to realise the highest amount of money for our land. In this case, the Council have a covenant on the land, which if kept in place, would mean in all likelihood that the Council would not receive any further money as the terms would act as a barrier to development. County Councillor Gareth Dadd suggested that the basis of the question is to ask the Council to retain the terms which would act as a barrier to the development. However through the variation that the Executive are asked to agree, it is considered that the Council will then be in the best position to obtain additional funding in the long term for any future development. Professional property and financial advice has been sought which indicates that the variation would be in the best financial interests of the Council.

County Councillor Gareth Dadd assured Members that he was only be recommending a variation to ensure that optimum funds are retained in the public purse.

Secondly, with regard to other aspects he confirmed that this would be an issue for the Planning Authority in choosing its local allocations and in granting individual planning applications - a District Council function which needs to be considered separately to the County Council's role as the owner of a covenant on the land. County Councillor Gareth Dadd acknowledged that there is need for debate about any future development in the area and the appropriate avenue for that will be the District Council. He reiterated the imperative to ensure that the best possible financial deal is achieved for the County Council through its ownership of land and covenants over that land, in pursuing this approach he felt that the issues raised by Mr Kay were addressed.

Mr Kay acknowledged that there was a reason for establishing the clawback when the arrangements were originally proposed and he said that he respected the response that had been given.

County Councillor Carl Les invited Barry Khan, Assistant Chief Executive (Legal and Democratic Services) to give legal advice regarding the need for discussion in private regarding Appendix 2. Barry Khan advised that paragraph 3.2 of the report advises of the proposed variations set out in (i) to (vi). The confidential Appendix relates to the terms of the clawback which is still subject to negotiation, hence it cannot be discussed in public session. He advised that once the deal is finalised, this matter can be reviewed and it will then be decided if this information can be disclosed.

County Councillor Carl Les asked Executive Members if debate of the private Appendix was required and there was consensus that in order to have a full discussion of the matter this would need to include reference to the contents of Appendix 2.

---

**That Appendix 2 was considered in private and the public have no right of access to this section of Minute 81.**

---

Concluding the debate County Councillor Gareth Dadd reiterated the County Council's duty to seek to achieve the best for the whole county area and so maximise the funds achieved. He explained that the proposed way forward set out in the confidential Appendix affords the Council the flexibility to achieve this. He advised that it is hoped to agree a sale which is worth in excess of £21m and these funds would help offset major expenditure required as set out elsewhere in the Executive papers. On this basis he felt that the strategy of seeking to optimise the value of the asset is justified – demonstrating a prudent approach to the management of public funds. Regarding the question of planning he acknowledged that this is purely a matter for Harrogate Borough Council and he stressed that he has no view on any future development, this would not be appropriate. The role for the Executive is to seek best value. County Councillor Gareth Dadd also alluded to popular assumptions regarding foregoing the previous legal covenant, and whilst this may be true, he stated that it is not necessarily the case that this will reduce the clawback. The arrangements set out in Appendix 2 provide flexibility to optimise the County Council's position.

**Resolved –**

- (a) That the variation of the restrictive covenants on the land at New Farm, Green Hammerton as set out in Appendix 2, Section A, sub-section 1.0 of the report, and on other terms to be agreed by the Corporate Director - Strategic Resources is approved.
- (b) That the approval is given on the grounds of asset and resource management, and it gives no support or objection to any future town planning considerations.

## **82. Feedback from Area Committees**

Considered –

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

- Hambleton Area Committee - 25 September 2017
- Yorkshire Coast and Moors County Area Committee - 27 September 2007

**Resolved –**

That the report is noted.

## **83. Quarterly Performance and Budget Monitoring Report**

Considered –

A joint report of the Chief Executive and Corporate Director - Strategic Resources bringing together key aspects of the County Council's performance on a Quarterly basis.

### Performance Report

County Councillor Carl Les acknowledged the new style of the Quarterly Report and commented that the Executive Summary is particularly helpful.

County Councillor David Chance was pleased to introduce a new look and more focussed Quarterly performance report presenting both performance indicators and the narrative description which sits around them. The new style is focussed enough to be easily digested, but flexible enough to ensure that actions and progress against priorities remains firmly in sight. It ensures the breadth of services is adequately reflected, and that that Executive continue to receive assurance that performance meets the ambitions set out in the Council Plan. He invited feedback on the new style to help contribute to further enhancements over the coming quarters.

County Councillor David Chance advised that the focus for Quarter 2 is on the Council's ambition "Every adult has a longer, healthier and independent life". Performance highlights include:

- Delayed Transfers of Care showed very good improvement in the latest published monthly figures, recording the lowest rate in over 12 months.
- Living Well achieved a significant step change in its share of social care referrals following the restructure up from 4.9% in March to 6.7% in September, and has achieved good levels of customer satisfaction.

Every child and young person has the best possible start in life:

- The 2017 GCSE results were the best ever placing us top in the Yorkshire and Humber region and in the top 15% in the country.
- The number of children in care in Q2 remains low at 409 (385 plus 24 unaccompanied asylum seekers).

North Yorkshire is a place with a strong economy and a commitment to sustainable growth that enables our citizens to fulfil their ambitions and aspirations:

- Strong business growth.
- Strong employment levels.
- House-building above national rates.

Reflecting that the Council puts customers at the heart of its work, he noted that:

- 102 nominations were received for the 2017 North Yorkshire Community Awards.

Steve Evans, Head of Strategy and Performance, explained that the key challenge had been to produce a performance report which is more digestible - the first section of the report is narrative in style whilst the remaining two thirds are the detailed appendices which include primary indicators for each Service. The traffic light coding of the primary indicators highlights areas of concern which are then addressed in the narrative sections of the report. He advised that behind the indicators lie the detailed records held by each Department for the services for which they are responsible.

County Councillor Janet Sanderson commented that the report looks well it, and it suits her iPad. She noted the switching between portrait and landscape formats could be a little annoying, whilst the links to departmental information were particularly helpful. She was pleased to see that external monitoring is also reflected, and she commented that some of the tables in the report presently use shades which are very similar, and perhaps the use of additional colours may be helpful to achieve better differentiation.

County Councillor Greg White commended the new look but suggested that headers should be used on every page of the primary indicators to clarify to which Service they relate. He also observed that the use of the traffic light regime can be misleading when a performance which is deemed to be operating within normal tolerances may tip into amber or red, which may be misleading.

#### In depth: Every adult has a longer, healthier and independent life

County Councillor Michael Harrison introduced the in-depth report regarding 'Healthy and Independent Living'. He acknowledged that it reflects the recurring theme of cost pressures, highlight page 28 which translates service pressures into the financial bottom line. He was pleased to see that referrals for formal care are reducing, reflecting the success of initiatives such as Living Well - with referrals decreasing from 9% last year to 4.2% this year. Such successes clearly assist with the improvement of the financial position. He also highlighted page 29 regarding the importance of allocating resources to those who most need them. The ongoing pressures in the care market, issues with the availability of care services, and delays in transfers were also acknowledged. Concluding, County Councillor Michael Harrison stated that notwithstanding the underlying pressures facing the service, the bottom line is being protected as much as possible.

County Councillor Jim Clark advised that the Scrutiny Board had met on the previous Friday to discuss the performance report and there was consensus that this is a better format - it is easier to scrutinise demonstrating progress and challenges transparently. He

noted apologies for the Scrutiny Chairs who were unable to attend the Executive. Delayed transfers remains a concern but it was acknowledged that performance is improving. County Councillor Jim Clark queried whether this could be maintained over the winter - when there will be increased care demands. He also noted the trend for delivering more care further afield, making it harder for relatives to keep in touch with their family member.

Richard Webb, Corporate Director - Health and Adult Services, advised that tackling the delays in transfers to care is a major priority for the service. He provided an update on the present performance which was positive, but he accepted that there will be challenges ahead for all services during the winter months. He commented that the national target of 2.6% was heavily caveated, as this was not felt to be realistically achievable. He stated that challenges are inevitable as the care market is stretched nationally. The efforts being made to improve recruitment were noted but he urged caution as the issue is becoming harder to overcome as the economy approaches full employment. Regarding delays to accessing mental health services, Richard Webb observed that the data available is somewhat crude, however a better understanding is being gained and he quoted the recent meeting with TEW which helped identify what can be done by both the NHS and the County Council. Regarding care homes work is ongoing to improve their stability and the Secretary of State grant issued in March is being used to help try and stabilise prices in the locality.

County Councillor Janet Sanderson commented upon the persistent problems of limited availability in the care sector and also the price differentials which are evident. She wondered if the right rates are being charged. Richard Webb advised of the Mazars review which had been undertaken previously regarding the fair cost of care, and as a result of that a four year deal had been established. He advised that occupancy levels are generally high, and where vacancies occur he cautioned that this may reflect issues with the required standards of care not being met. He assured Members that patients will not be placed in poor care homes. It was noted that 38.1% of people in residential or nursing homes are in placements which cost more than the Council's approved rate - noting that this is particularly so in Harrogate. It was acknowledged that half of the population who need care are self-funders and the dilemma this brings, in that they may be paying more for their own care, than they should.

Update: North Yorkshire is a place with a strong economy and a commitment to sustainable growth that enables our citizens to fulfil their ambitions and aspirations

County Councillor Jim Clark also welcomed the 'Best Start to Life' report and advised that Scrutiny Board Members had discussed the importance of ensuring that children are school ready, and the feeling that more needs to be done in this regard. The increasing trend, both nationally and locally, in the number of young people in receipt of SEN statements was highlighted. Stuart Carlton, Corporate Director - Children and Young People's Service, spoke of the national indicator regarding the foundation stage profile - advising that North Yorkshire compares quite well in that performance is just above the average. He advised that this hides some poor performance in certain communities and his department is looking at this, particularly how to better engage with those communities and so support them. He spoke of the Education Health and Care Plans which replace the former SEN statements, advising that the Council is proceeding well with the transition to the new arrangements, all is on track to meet the due deadline. Stuart Carlton acknowledged the rising numbers - with more children presenting as eligible and in need of a care plan. He explained that the new arrangement has effectively lowered the bar and it is having the effect of raising parents' expectations regarding funding and budgets and this situation is therefore being closely monitored.

County Councillor Keane Duncan, commenting upon the reference to care plans in the primary indicators, observed that the increase in the number can be interpreted as a negative when in actual fact this should be regarded as a positive in that more children's needs are being recognised earlier. He spoke of the importance of young people accessing such care in a timely manner as it may sometimes take years to achieve a diagnosis. He hoped that the Council can work with its partners to reduce the lead time to diagnosis. Stuart Carlton acknowledged the involvement of Health with this issue and stated that there are demand/supply issues here. He accepted that the issue needs more work to address the delay. He reflected that previously more needs were met informally within schools rather than waiting until specialist care becomes available. He felt it is preferable to address such needs within the local school if at all possible.

County Councillor Janet Sanderson felt that the increase in such diagnoses is a worrying trend and she acknowledged that the referral process can be very expensive. She felt that it is even sadder, if more is not done in the local school to accommodate those children. She recognised that the parental view that problems can only be addressed upon diagnosis may be misguided - when actually much is done prior to formal diagnosis. She also acknowledged the growth in diagnosis at primary stage as a result of increased awareness across the spectrum. She advised of her recent visit to a very small primary school at Bentham where she had been surprised by the above average number of children diagnosed with autism and she speculated whether some parents may choose to move to small villages, where they perceive that education will be delivered in a more nurturing environment.

### Revenue

County Councillor Gareth Dadd urged caution regarding the reported £4.3m underspend. He explained that operational budgets had benefited from £8m of one off windfalls which would be reduced to £1.9m if the Scarborough and Whitby investment proposals are taken forward. Whilst acknowledging the overspending of £3.5m across operational budgets, he acknowledged that this overheating is offset by the windfalls. He stressed that there is no suggestion of giving up on the targeted savings proposals and he stated that each Directorate is working very hard to better understand their cost drivers with a view to improving the position. Setting this performance in context, he advised that by the end of the current financial year £143m of savings will have been achieved towards the overall target of £169m by 2020. He reiterated that as each year passes it is getting inevitably harder to deliver further savings. Notwithstanding this he explained that in comparison to other County Councils - particularly Northamptonshire and Lancashire who are in dire straits - North Yorkshire is well placed. County Councillor Gareth Dadd stated that this is a result of financial prudence, principles to which the Council will continue to adhere in future. He acknowledged that the benefit of this approach is reflected in the ability to then make capital investments in the projects such as Kex Gill realignment and the LED street lighting scheme.

Gary Fielding, Corporate Director - Strategic Resources, commented upon the position of Health and Adult Services (HAS) explaining that this is particularly confusing due to arrangements relating to the administration of the Better Care Fund. In Quarter 1 the Service had appeared to be £1m overspent, by Quarter 2 this now appears to be £3m which is attributable to a number of factors. Firstly £1m of corporate contingency funding being taken back and also £850,000 of savings not being achieved. Thirdly a deterioration of the operating position by £100,000. He assured Members that the reality of the change is not as significant as it first appears, as there is now the opportunity to access the Better Care Fund which will mean £3m of overheating will be offset.

Commenting upon these pressures County Councillor Don Mackenzie noted that the Executive have been asked to support a further contribution for Scarborough South Cliff and Whitby Piers of £1.9m. He acknowledged that coastal erosion is an ongoing threat which occurs mostly on the East Coast, so this could be a major issue again in future. He supported the proposal regarding extra funding on the basis that such contributions are limited for now. David Bowe, Corporate Director - Business and Environmental Services, sought to assure Members that the service is working closely with Scarborough Council to better understand the risks associated with the scheme. County Councillor David Chance explained the County Council's involvement as a beneficiary of such schemes. The Environment Agency used to provide 100% of the funding for such schemes via Scarborough Council, however beneficiaries are now also required to contribute. County Councillor Greg White queried what may stop Scarborough Borough Council from spending the full £2.2m. Gary Fielding responded acknowledging that in theory this could happen, and he stressed the reliance upon Scarborough Borough Council to be prudent in their spending, and also close scrutiny to be exercised by Business and Environmental Services.

### Capital Plan

Introducing the report County Councillor Gareth Dadd took the opportunity to highlight the provision earmarked in respect of the Kex Gill realignment. County Councillor Don Mackenzie acknowledged that the first tranche of LED street lights had been agreed and he stressed the importance of the work on Kex Gill realignment, this being a major route in terms of east west connectivity. He advised that the location was still operating with temporary lights as a heavy goods vehicle had collided with the crash barriers causing further damage. He stressed that the present route is totally unsatisfactory and that the funding of £9m will be the County Council's contribution, to be supported by a bid to the DfT. County Councillor Carl Les recorded thanks for the support of MPs Julian Smith and Andrew Jones on this matter.

### Treasury Management

Agreed without discussion.

### **Resolved –**

- (a) That the County Council continues to perform well and demonstrate improvements in its services is noted.
- (b) That the latest position for the County Council's 2017/18 Revenue Budget as summarised in paragraph 2.1.2 of the report is noted.
- (c) That the proposal to allocate a non-recurring £1.9m funding contribution for Scarborough South Cliff and Whitby Piers from Corporate Miscellaneous as set out in paragraph 2.2.3 of the report is endorsed.
- (d) That the position on the GWB as set out in paragraphs 2.4.1 and 2.4.3 of the report is noted.
- (e) That the position on 'Strategic Capacity - Unallocated' reserve as set out in paragraphs 2.4.4 to 2.4.6 of the report is noted.
- (f) That the updated Capital Plan, summarised at Appendix E which incorporates a number of specific refinements reports in paragraph 3.7 of the report, is approved.

- (g) That the funding contribution of £4.95m from the Strategic Capacity Reserve for the Kex Gill Realignment scheme as set out in paragraph 3.7 of the report is approved.
- (h) That no action be taken at this stage to allocate any additional capital resources as set out in paragraph 3.11 of the report is agreed.
- (i) That the position on the County Council's Treasury Management activities during the second quarter of 2017/18 is noted.
- (j) That the section of the report relating to Treasury Management is referred to the Audit Committee for their consideration as part of the overall monitoring arrangements for Treasury Management.

#### **84. Traffic Management Act 2004 - Permit Scheme**

Considered –

A report of the Corporate Director - Business and Environmental Services providing the rationale for the Authority's intention to replace the current Street Works notices regime with a Permit Scheme under the Traffic Management Act 2004 and seeking approval to implement a Permit Scheme, attached at Appendix A to the report, in accordance with the powers provided by the Traffic Management Act 2004.

County Councillor Don Mackenzie advised of the proposed introduction of a permit scheme for utility works on the highway, explaining that the change would come in from 7 February 2018. From this time utility companies will be required to purchase permit prior to commencing work on the highway. It was noted that this additional funding stream will enable a monitoring team to be set up with whom the public will be able to liaise when concerns arise. This will enable utility schemes to be kept to time and it will hopefully reduce disruption to road users, the permit scheme will strengthen the previous arrangements. Barrie Mason, Assistant Director - Highways and Transportation, advised that the scheme will allow more proactive management of activity on the network. This is in accordance with the provisions of the Traffic Management Act 2004 and he advised that the full scheme is set out in Appendix 4 of the report. Technical checklists are detailed at Appendix B which seek to ensure compliance by the utility companies. It was noted that these proposals have been the subject of public consultation which included utility stakeholders. The key objectives for the permit scheme are documented in section 3 of the report, while section 4 sets out the scheme fees. The proposals were recently been considered by the Transport, Economy and Environment Overview and Scrutiny Committee who were supportive of the scheme.

County Councillor Greg White queried the fee structure in relation to emergency repairs and Barrie Mason advised that these are determined by statute. He acknowledged that on occasion an emergency situation may arise due to the poor standards of work initially undertaken by the utility.

County Councillor Patrick Mulligan raised a query regarding the intention for such schemes to be cost neutral and how this relates to set-up costs for the scheme. Barrie Mason advised that whilst this regime is based upon a national fee structure he was confident that the Council can achieve beneficial margins against these.

**Resolved –**

- (a) That the implementation of the North Yorkshire Permit Scheme (attached in Appendix A to the report) prepared under Section 33 of the Traffic Management Act 2004 is approved.
- (b) That the proposed start date for the Permit Scheme is 7 February 2018.

**85. Forward Work Programme**

The Forward Plan for period 1 October 2017 to 31 October 2017 was presented.

**Resolved –**

The forward work programme is noted.

**86. Private Minutes of the meeting held on 17 October 2017**

**Resolved –**

That the Private Minutes of the meeting held on 17 October 2017, having been printed and circulated, are taken as read and are confirmed and signed by the Chairman as a correct record.

The meeting concluded at 12.25 pm.

JOD/JR