

BOROUGH COUNCIL OF KING'S LYNN AND WEST NORFOLK

CABINET SCRUTINY COMMITTEE

**Minutes of a Meeting of the Cabinet Scrutiny Committee
held on Monday 22 June 2009 at 6.00pm
in the Committee Suite, King's Court, Chapel Street, King's Lynn.**

PRESENT:

Councillors I Gourlay (Chairman),
C Crofts, J Loveless (substitute for P Burall), I Mack (Vice-Chairman),
R Payn, D Pope, J M Tilbury, A Tyler

Other Members Present:

Councillor N Daubney, Leader and Portfolio Holder for Resources
Councillor Mrs E Nockolds, Portfolio Holder for Sports Arts and Open Spaces
Councillor Mrs V Spikings, Portfolio Holder for Development

Apologies for absence were received from Councillors P Burall, R Johnston and
C Sampson

CSC1: APPOINTMENT OF CHAIRMAN

Nominations were received for Councillor Tyler and Councillor Gourlay to be appointed as Chairman. Councillor Tyler indicated that he did not wish to stand.

RESOLVED: That Councillor I Gourlay be appointed Chairman of the Committee for the following year.

CSC2: APPOINTMENT OF VICE-CHAIRMAN

RESOLVED: That Councillor I Mack be appointed Vice-Chairman of the Committee for the following year.

CSC3: MINUTES

The minutes of the meeting held on Wednesday 15 April 2009 and the special meeting held on 12 May 2009 were agreed as a correct record and signed by the Chairman.

CSC4: URGENT BUSINESS UNDER STANDING ORDER 7

There was none.

CSC5: DECLARATIONS OF INTEREST

There was none.

CSC6: **MEMBERS PRESENT PURSUANT TO STANDING ORDER 34**

There was none.

CSC7: **CHAIRMAN'S CORRESPONDENCE**

There was none.

CSC8: **RESPONSE TO PREVIOUS COMMITTEE RECOMMENDATIONS**

The Committee noted the response made by Cabinet at its meeting on 6 May 2009, to the Committee's recommendation made on 15 April 2009 in respect of the Service Review Programme.

CSC9: **MATTERS CALLED-IN PURSUANT TO STANDING ORDER 12**

There was none.

CSC10: **SCRUTINY OF CABINET/PORTFOLIO HOLDERS' DECISIONS**

(a) Cabinet Decisions 26 May 2009

The decisions/recommendations from the Cabinet meeting held on Tuesday 26 May 2009 were received.

(i) **Councillor Call for Action**

The Vice Chairman made reference to consideration of this matter by each of the Policy Review and Development Panels, who were invited to consider the pros and cons of the 2 options presented ie whether the validity of a Call for Action should be determined by the relevant Panel or by the Chairman in liaison with the Scrutiny Team. Differing views had been expressed by the Panels and Cabinet had agreed that the latter option should be adopted. He commented that he felt that the best way to demonstrate that a Call for Action had been subject to the widest consideration, was for the decision to be taken by the Members of the relevant Panel. He sought clarification as to why Cabinet had reached its decision.

Concerns were raised about the length of the process of consultation prior to a matter potentially being brought before a Panel and whether there would be a right of appeal if a Call for Action failed. It was suggested that a Chairman might be reluctant to agree that a particular issue should be taken to a Panel for scrutiny, potentially leading to a Notice of Motion being taken to Council, which could further delay the consideration of an issue. A view was expressed that the procedure should be reviewed after a 12 month period of operation.

In response, the Leader advised that difficult issues were often presented to the Panels to enable full and adequate discussions to

take place. It was unfortunate, but understandable, that differing views had emerged in respect of the Call for Action options. Cabinet had taken the view that it was better for the process to be streamlined as much as possible and for adequately argued comments to be put to the Chairman of the Panel rather than for two debates to take place. He advised that, as far as he was aware, there was no right of appeal without a particular, valid reason and in any case a Call for Action request could also be rejected by the Panel. It was acknowledged that as a new procedure, it would need to be allowed to develop and would be monitored over time.

The Chief Executive referred Members to the criteria, set out in the protocol, against which all Call for Action requests would be judged, whether by the Chairman and Scrutiny Team or by the Panel. Reasons would need to be given as to why the Call for Action request was rejected.

In response to a question, the Leader indicated that he would expect all advice given to the Chairman or to the Panels to be robust, as was the case with advice given to Cabinet. He stated that a Panel Chairman would not be able to refuse a Call for Action out of hand, as it would be judged against the criteria and the Chairman would have to defend his or her decision.

The Vice Chairman commented that he considered that taking a Call for Action request to a Panel for a decision would provide a wider forum for discussion, benefit from the wealth of experience of all the Members and feel more democratic. However, he acknowledged that the issue had been discussed fully by the Committee and he felt assured that the process would be closely monitored and that Cabinet would be likely to consider amending the process in the future, if necessary.

(ii) Building Control Structural Checking Policy

At the invitation of the Chairman, the Building Control Manager explained that the report to Cabinet proposed amendments to Section 2 of the Building Control Operational policy, which provided a mechanism for delivering the service following the deletion of an in-house Structural Engineer post from the establishment, as agreed by Cabinet on 20 October 2008.

The Vice Chairman stated that the report to Cabinet in October 2008 had been issued as a late report, which had not been considered by a Panel at that time. The report stated “alternative risk based methods will be introduced to continue to ensure the safety of the general public, the needs of developers and satisfy our insurers.” He made reference to Appendix A to the Cabinet report of 26 May 2009 and expressed a number of concerns, including what was the definition and qualification requirements of “historically known competent individuals”, quality control standards, and the training

and qualifications of Building Control staff undertaking the methodology checks. With regard to the potential merger with CNC, he sought assurance that a robust system would be put in place to ensure the Council was protected from the consequences of any future claims. He made reference to the increasing pressures on the service, through deficiencies discovered after building work had started and the requirement for more detailed plans and checking prior to a development starting.

In response, the Executive Director, Development Services, explained that, faced with a budget deficit, it was necessary to explore alternative ways to deliver the service at a lower cost in order to balance the budget. The early retirement request which was received in 2008, provided an opportunity for service delivery to be reviewed and the alternative approach had been set out in the previous Cabinet report. He advised that more councils were now adopting a risk based approach, did not employ a structural engineer and accepted the material and views submitted by professional engineers. This was an accepted approach which minimised the risk to the Council.

The Building Control Manager advised that, in practice, an assessment was made by officers of the information received and where it was judged to be appropriate, these were referred to contracted structural engineers for checking. He outlined the qualifications and experience of the existing Building Control staff and explained that in the 3 months prior to his retirement, the Structural Engineer had worked with and mentored the staff to develop the methodology and ensure a level of competence. It was confirmed that all staff were committed to their continued personal development, but there was no specific training programme planned.

In response to questions with regard to the proposed merger with CNC, the Executive Director, Development Services, advised that discussions were at an exploratory stage and he was not in a position to advise the costs involved or to recommend that the Council should join. He hoped to be in a position to bring a report to Cabinet in the near future. He explained that CNC was an arms length organisation, whose staff were employed by the constituent authorities. Costs were shared between the authorities which enabled savings to be made.

Reference was made to the recent Ombudsman case, where the Council's procedures were found to be deficient when challenged. Concern was expressed that if this policy was not clearly understood and the terminology clearly defined, the Council might find itself in a similar position in the future.

The Vice Chairman suggested that it would be better for the item to be withdrawn from the Council agenda and go back to Cabinet for

clarification. He proposed the following recommendations to Cabinet, which was seconded by Councillor Tilbury:

- 1) That Cabinet seeks assurance on quality control systems and training needs within these changes.
- 2) That the Committee raised concern with the term “historically known competent persons” and develop a more specific criteria for others whose work may be suitable for a methodology check by Building Control staff.

In response, the Leader stated that the report presented a suggest approach for service delivery. While acknowledging that terminology needed clarification and a stronger definition, he felt that this did not alter the decision and was happy to give an undertaking that the amendments would be made.

The Executive Director, Development Services commented that the system had been in operation for six months and there was nothing to be gained from postponing the decision. He acknowledged that the policy and the terminology needed to be clear, so that the intention was understood by all concerned. However, a degree of discretion was required in certain circumstances and it was suggested that the wording could be changed to make this clearer.

Councillor Tilbury advised that he was happy with the intent behind the policy and that the Building Control Manager should be able to use his discretion in certain circumstances, but considered it was important that the policy and standards be more clearly defined before being adopted.

The Leader reiterated that the Cabinet decision would go to Council for approval later in the week and he had already agreed that the wording should be amended.

The Vice Chairman advised that he wished his proposed recommendations to be put to Cabinet and he considered it would be more effective if the item was withdrawn from the Council agenda.

The Committee then voted on the Vice Chairman’s earlier proposal, which was seconded by Councillor Tyler, and was carried.

RESOLVED: 1) That Cabinet seeks assurance on quality control systems and training needs within these changes.

2) That the Committee raised concern with the term “historically known competent persons” and develop a more specific criteria for others whose work may be suitable for a methodology check by Building Control staff.

(b) Cabinet Decisions 18 June 2009

Following discussions prior to the meeting, the following items shown on the agenda were withdrawn:

- Small Business Engagement Accord
- Private Sector Housing Strategy
- Capital Programme 2008/09
- Final Accounts and Statement of Accounts 2008/09

(i) Aspire Project

Councillor Tyler stated that he wished to put on record his praise for the fundraising achievements of the Arts Development Team, which had also been praised in a recent peer review. He welcomed and supported this project, which would benefit and provide opportunities for young people. He supported the recommendation to subscribe as Founder Employers in the National Skills Academy for Creative & Cultural Skills. However, he expressed concern with regard to the funding situation in years two and three of the project. He also requested clarification with regard to 'Grow Your Own'.

In response, the Arts and Education Manager explained that the funding which had been obtained from the Arts Council was for three years and would be received in phased payments, conditional on the project continuing in future years. Partnership funding from the other contributors could only be applied for annually. Aspire was a one year scheme, which would be repeated three times and the evidence of success of the first year should enable funding for future years to be secured. It was acknowledged that there was a risk that future funding would not be forthcoming, but there would be no financial implication, due to the fact that if year one was not successful then future years would not go ahead.

With regard to 'Grow Your Own', the Arts and Education Manager advised that apprenticeships had not worked well across the country and had been slow to become established. However, the College of West Anglia had been running a number of relevant courses enabling students to acquire appropriate skills and would be involved in the Aspire project, which would contribute the 'Grow Your Own' scheme.

In response to questions on funding and risks to the Council, the Arts and Education Manager explained that fundraising was a major part of her job. As soon as year one of the project started she would be actively working to provide the evidence required to secure the funding for future years. She confirmed that there would be no further financial implications for the Council.

In response to a query, the Arts and Education Manager advised that the project was aimed at the borough as a whole and included a rural element. Workshops would be delivered by the Apprentices in the communities around the borough, depending on the interest. These areas had yet to be identified using the results of the Quality of Life Survey.

Councillor Payn stated that the Arts and Education Manager was to be commended for all the hard work in obtaining the funding to bring this project forward and proposed that the Committee should support the recommendations. The proposal was seconded by Councillor Crofts and on being put to the vote was agreed.

RESOLVED: That the Committee supports the recommendations set out in the Cabinet report, as follows:

1) That the recruitment of 6 Creative Apprentices in the NEET category under the umbrella of the Arts Council funded Aspire Project be approved.

2) That the Council subscribe as Founder Employers in the National Skills Academy for Creative & Cultural Skills (www.nationalskillsacademy.co.uk).

(c) Portfolio Holders' Decisions made under Delegated Powers.

The list of Portfolio Holders' Decisions made under Delegated Powers was noted.

CSC11: **DATE OF NEXT MEETING**

The Committee noted the date of the next meeting was scheduled for **Wednesday 22 July 2009** at 6.00 pm.

Meeting closed at 7.24 pm