

DURHAM COUNTY COUNCIL

At a Ordinary Meeting of the County Council held in the Council Chamber, County Hall, Durham on **Wednesday 21 January 2015 at 10.00 a.m.**

Present:

Councillor J Robinson in the Chair

Councillors E Adam, B Armstrong, J Armstrong, L Armstrong, A Batey, D Bell, E Bell, R Bell, H Bennett, J Blakey (Vice-Chairman), G Bleasdale, A Bonner, D Boyes, J Brown, Carr, C Carr, J Chaplow, J Charlton, J Clare, J Clark, P Conway, J Cordon, K Corrigan, P Crathorne, R Crute, K Davidson, M Davinson, K Dearden, S Forster, N Foster, D Freeman, I Geldard, B Graham, J Gray, O Gunn, C Hampson, J Hart, K Henig, S Henig, M Hodgson, G Holland, A Hopgood, K Hopper, L Hovvels, E Huntington, I Jewell, O Johnson, C Kay, A Laing, P Lawton, J Lethbridge, H Liddle, R Lumsdon, J Maitland, C Marshall, N Martin, P May, J Measor, O Milburn, B Moir, S Morrison, A Napier, M Nicholls, H Nicholson, R Ormerod, A Patterson, T Pemberton, M Plews, C Potts, G Richardson, J Rowlandson, A Savory, K Shaw, A Shield, J Shuttleworth, M Simmons, H Smith, T Smith, M Stanton, W Stelling, B Stephens, D Stoker, P Stradling, A Surtees, L Taylor, P Taylor, O Temple, E Tomlinson, J Turnbull, A Watson, M Wilkes, M Williams, A Willis, C Wilson, S Wilson, R Yorke and S Zair

Apologies for absence were received from Councillors J Allen, J Alvey, B Avery, A Bell, J Bell, P Brookes, J Buckham, M Dixon, B Glass, S Guy, D Hall, B Harrison, D Hicks, J Hillary, S Iveson, J Lee, L Marshall, J Maslin, P McCourt, T Nearney, P Oliver, L Pounder, S Robinson, M Simpson, K Thompson, R Todd, A Turner and R Young

Prior to the commencement of the business, the Chairman of the Council formally reported the death of former Councillor and Alderman Joe Goodwin. Joe was a former Easington District Councillor and Seaham Town Councillor.

The Council stood for a moments silence as a mark of respect.

The Chairman informed the Council that he had received requests to ask 5 urgent questions at the meeting, under Paragraph 10.4 (b) of the Council Procedure Rules and had decided as follows:

- A question from Councillor Conway relating to the closure of Durham Free School could be asked because the urgency related to the closure being recently announced by the Minister
- A question from Councillor Wilkes relating to a joint consortium for the development of the area known as Sniperley Park could be asked because a judgement had only recently been made by the High Court
- Questions received from Councillors Hopgood, Martin and Simmons would not be allowed because the reply to Councillor Wilkes question would potentially answer these three questions.

1 Minutes

The minutes of the meeting held on 3 December 2014 were confirmed by the Council as a correct record and signed by the Chairman.

2 Declarations of Interest

The Chairman informed the Council that, following advice received from the Head of Legal and Democratic Services, it was not necessary for Members of the Combined Fire Authority to declare an interest in the Motion on Notice from Councillor K Shaw. Councillor M Hodgson declared an interest in the Motion as the parent of a serving firefighter, took no part in the debate and did not vote on the Motion.

3 Chairman's Announcements

The Chairman requested that the Council place on record its' congratulations to Martin Avery, a photographer regularly used by the County Council, on winning the 'Make it Britain' photography competition. Mr Avery won the Best Professional Photographer award, with his image 'Globe Body Valve' which showed a 7.75 tonne 30 inch globe body valve being dressed as part of the casting finishing process at Bonds Foundry in Durham. His photograph was one of 72 images shortlisted in the competition.

The Chairman referred Members to the Porrajmos Exhibition: "Through the Eyes of the Children" which had been on display in the Durham Room since Monday. The exhibition explored atrocities perpetrated against the Roma in Europe during the Second World War and the Chairman urged any members who had not viewed the exhibition to take the time to do so following the meeting.

4 Leader's Report

The Leader of the Council provided an update to the Council as follows:

- The Leader referred to the disappearance of Durham University student Euan Coulthard and reported that the County Council would continue to work with its partners at Durham Constabulary and with relevant riverbank landowners including the University and Cathedral to do everything it could to support public safety in the city. The Council was reviewing its Water Safety Policy which covered physical aspects such as signing, edge protection and safety equipment; together with education of at risk groups and the monitoring and management of riverside locations.

A 'water safety review' of the riverbanks would be carried out through the City, concentrating on the lengths of riverbank with particular high footfall, and those sections in proximity to the night time economy. This review would identify any areas where physical controls may need to be changed to meet current safety expectations of the public.

In addition to the physical aspects, the County Council would work with partners to review and refresh the community safety work that had been delivered in the past including planning a safe journey home, not walking home alone, and working with licenced premises through the best bar none scheme.

- The North East Combined Authority (NECA) had agreed, as a starting point, a list of powers and functions which it believed should be devolved to the North East away from Whitehall. Whilst recent years had seen a process of devolution in Scotland, Wales and Northern Ireland, governance in England remained highly centralised. The prospectus agreed yesterday by leaders of the seven local authorities within the combined authority area and which had been distributed to Council was a starting point would need to be discussed with all key regional stakeholders including business leaders, trade unions and the community and voluntary sector.
- Last week the Leader had addressed a briefing of Members of Parliament on behalf of the Association of North East Councils at Westminster. County Council officers had studied the Chancellor's Autumn Statement and the Council's own provisional settlement and the initial projections look to be fairly accurate, indicating continued large cuts in grant funding in 2015/16 and likely to be repeated in the years ahead if the Chancellor's plans were implemented. The County Council's own detailed plans, which would see a fifth successive year of reduced budgets, would be presented to Cabinet and Council in February. The Leader firmly rejected the government's claim that the 2015/16 budget reduction was only 2%, a figure which included a large amount of health spending, some of which was not even within the control of councils. Furthermore the Leader pointed to the unfairness of the settlement, with huge variations between significant cuts in areas like the North East and actual increases in areas such as Surrey.

Detailed analysis carried out by ANEC also showed those areas hit hardest were the same areas which have the greatest needs.

Councillor R Bell referred to the last bullet point of the Devolution Prospectus released by the NECA and asked whether this was a preamble to regional government and increased bureaucracy. The Leader replied that the Prospectus was a starting point which had been drafted by all seven Local Authorities and the detail was still to be completed. The last bullet point had been included to pull together health and social care systems more effectively, which was a national agenda item and therefore reflected in the Prospectus. Integration management of public assets was inevitable if austerity and cuts continued, but this did not imply a move towards regional government. The Combined Authority had been established to operate within existing resources, and this continued to be the case.

Councillor D Freeman asked whether the devolution of power may result in the need for a directly elected mayor. The Leader replied that the Prospectus made no mention of governance structures but concentrated on functions and powers. The views of Government would be sought on whether the need for an elected mayor was a pre-requisite for the devolution of powers.

5 Questions from the Public

A question had been received from a member of the public relating to the timing of the school sports primary finals for County Durham which were all taking part on the same day.

The Head of Legal and Democratic Services informed the Council that the questioner was unable to attend the meeting and would receive a written response to his question following the meeting and both the question and response would be published on the Council's website, following the meeting.

6 Petitions

There were no petitions for consideration.

7 Report from the Cabinet

The Leader of the Council provided the Council with an update of business discussed by the Cabinet at its meeting held on 17 December 2014 (for copy see file of Minutes).

Councillor M Wilkes referred to Items 1 (MTFP) and 3 (Welfare Reform and Poverty Issues) of the Cabinet report which included a saving of £85,235 at RES22 and expressed concern about this being in the MTFP and its impact on poverty issues.

Councillor Napier, Cabinet Portfolio Holder for Finance replied that the £85,000 saving would be realised by increasing court fees for council tax and business rates by £5 in 2015/16 to £90, which was £50 for the summons and £40 for liability orders which were awarded by the Magistrates Court at the court hearing. The £90 bill for court costs would still be in line with what other council's in the region charged.

The Council's Debt Management Strategy deliberately placed emphasis on supporting people who 'couldn't pay' and the Council had a number of measures in place to support residents and businesses experiencing financial difficulties.

The recovery processes the Council had in place included prompt early warning reminder letters to those that defaulted, before the court action stage and in addition to offering a wide variety of payment methods the Council always encouraged those that fell into arrears to contact the Council so that financial circumstances could be discussed and payment arrangements agreed where possible. The Council also offered help with benefit applications where these may be eligible.

The Council's decision to retain 100% council tax reduction to help support low income council tax payers in line with the national Council Tax Benefit system, plus its work on Discretionary Housing Payments to help those affected by the bedroom tax and support through the Welfare Assistance Scheme and the use of Hardship Relief Policy were examples of policies and processes the Council used to help support those council tax payers who were genuinely struggling to pay whilst

maintaining a focus on those that could usually afford to pay but waited to receive a summons before paying.

The majority of tax payers paid their bills on time. Unfortunately, a minority didn't and it was those the Council needed to take recovery action against, otherwise their bills would not get paid.

There was always a balance to be struck between focussed and efficient recovery processes and impact on poverty. Clearly, the most financially disadvantaged households would invariably be in receipt of benefits and Council Tax Support and through the work of the Council's Welfare Rights Service the Council continued to promote take up and ensure people received what they were entitled to.

The additional revenue from increasing court cost fee income was being carefully monitored and would be taken into account in the expected financial outturn performance for 2014/15 to see whether the proposed MTFP saving could be accommodated from over-achievement for the existing budget or whether the £5 increase was needed to bring the 2015/16 budget into balance.

Councillor Wilkes referred to Item 4 of the Cabinet, Review of Current Policy on 20 mph Zones and Limits. He considered the report which was considered by Cabinet to be flawed due to it omitting 4 colleges, and Councillor J Armstrong had agreed that a Scrutiny Working Group would investigate the methodology used in formulating the Policy. Councillor B Stephens, Cabinet Portfolio Holder for Neighbourhoods and Local Partnerships replied that he had nothing to add to the report which was considered by Cabinet and Scrutiny had been asked to consider this report.

8 Members' Allowances Scheme

The Council considered a report of the Corporate Director, Resources regarding the recommendations of the Independent Remuneration Panel for Members' Remuneration and Allowances for 2014/15 following the settlement of the 2014/15 pay award for employees with effect from 1 January 2015 (for copy see file of Minutes).

Councillor Henig informed the Council that the Labour Group considered it was not an appropriate time to consider an increase in Members' Remuneration and Allowances and **Moved** approval of Option 1 in the report. **Seconded** by Councillor Napier.

Councillor N Martin **Moved** an amendment that the mileage allowance for Members be reduced from 48p per mile to 45p per mile which would be in line with the Inland Revenue approved mileage payment. From April 2015 changes were to be introduced which would result in Councillors not paying tax on their travel expenses and therefore negate any reduction in the mileage allowance. **Seconded** by Councillor A Hopgood.

Councillor Henig recommended that the amendment be defeated or withdrawn. The report referred to Remuneration and Allowances for 2014/15 whereas the amendment related to the next financial year, and would be considered before then.

Councillor Martin refused to withdraw his amendment which would have no impact on 2014/15, but would make a statement for the 2015/16 financial year.

Councillor R Bell thanked the Independent Remuneration Panel for their work and supported approval of Option 1.

Councillor Wilkes informed the Council that employees who travelled to work received no allowances and there was a budget proposal to reduce the staff mileage rate to 45p per mile. If this proposal was approved, and the Members mileage rate remained at 48p per mile, this would result in Members receiving a greater allowance than most County Durham residents and all County Council staff.

The Corporate Director, Resources informed Council that there was a budget proposal to reduce staff mileage rates for 2015/16 from 48p per mile to 45p per mile, but this was subject to consultation with trade unions. Councillor Henig added that the current staff mileage allowance was 48p per mile for 2014/15.

Upon a vote being taken the amendment was **Lost**.

Upon a further vote being taken it was:

Resolved:

That no changes be made to the Members Allowance Scheme for 2014/15.

9 Public Questions at Council

The Council considered a report of the Head of Legal and Democratic Services regarding a recommendation of the Constitution Working Group in relation to questions that could be raised at Full Council meetings (for copy see file of Minutes).

In **Moving** the report, Councillor Henig informed the Council that methods of public interaction had changed since the introduction of the current public questions procedure, with increased options for public participation through the 14 Area Action Partnerships. It was proposed that issues raised at AAP's could be raised at County Council meetings in the future, similar to the system which had operated at Cabinet meetings for some time. The facility for public questions would remain but, to ensure that all Council business was transacted at a meeting, a time restriction of 10 minutes for public questions would be placed upon them. To ensure as many people as possible had the opportunity to raise questions it was also proposed that questions be limited to one per person.

In **Seconding** the report, Councillor B Stephens, Cabinet Portfolio for Neighbourhoods and Local Partnerships informed the Council that meetings of Cabinet were held at various locations around the County and presented

opportunity for questions from AAP's and from the public. This proposal would allow for questions to be asked from AAP's in full Council.

Councillor A Hopgood informed the Council that she opposed a time restriction being placed on public questions. The proposed time restriction was based upon one or two incidents of lengthy questions over the last six years and it was an excessive reaction to these. While it was a daunting prospect for members of the public to ask questions at Council, some questioners wanted all Members to hear their question. Not all Councillors were representatives on AAP's and public questions was the one opportunity to address full Council. Councillor Hopgood **Moved** an amendment to the proposals that the time limit for public questions be removed.

In **Seconding** the amendment Councillor O Temple informed the Council that the imposition of a time restriction on public questions was an unnecessary overreaction.

Upon a vote being taken the amendment was **Lost**.

Upon a vote being taken it was

Resolved:

- (i) That the draft amended Rules of Procedure at Appendix 3 be approved;
- (ii) That the draft protocol at Appendix 4 be approved and be included in the Constitution at the May Annual General Meeting

10 Updated Local Code of Corporate Governance

The Council considered a report of the Corporate Director, Resources regarding the inclusion of the updated Local Code of Corporate Governance in the revised Council Constitution (for copy see file of Minutes).

Resolved:

That the updated Local Code of Corporate Governance be approved to replace the existing version in the Constitution.

11 Motions on Notice

Prior to the consideration of Motions on Notice the Chairman reminded Council that under Council Procedure Rule 11.6 the time allowed for consideration of motions shall not, without the consent of the Council, exceed 30 minutes.

Moved by Councillor N Martin, **Seconded** by Councillor Hopgood that the Council consent suspend Council Procedure Rule 11.6 to allow greater time for the consideration of Motions. Upon a show of hands the Motion was **lost**.

In accordance with a Notice of Motion it was **Moved** by Councillor K Shaw, **Seconded** by Councillor A Laing:

This Council calls on the Government to re-enter talks with the Fire Brigades Union in line with the devolved administrations of Scotland, Wales and Northern Ireland to reach a negotiated settlement that puts public and firefighter safety first.

Upon a vote being taken, the Motion was **carried**.

Councillor A Hopgood informed the Council that she was withdrawing her Motion at the request of Councillors B Stephens and J Armstrong who had agreed that the subject matter of the Motion be referred to Scrutiny.

In accordance with a Notice of Motion it was **Moved** by Councillor N Martin, **Seconded** by Councillor D Freeman:

This Council notes the continuing undermining of public order and the additional burdens placed on the emergency services across County Durham due to the excessive consumption of alcohol. This Council therefore calls on all political parties at the forthcoming general election to commit to implementing a countrywide policy for a minimum unit pricing of alcohol in order to mitigate these highly undesirable effects.

This Council notes the continuing undermining of public order and the additional burdens placed on the emergency services across County Durham due to the excessive consumption of alcohol.

In **Moving** an amendment to the Motion, Councillor L Hovvells, Cabinet Portfolio Holder for Safer and Healthier Communities informed the Council that Councillor Martin was correct to highlight the problems caused by the misuse of alcohol in County Durham. Latest figures estimated that alcohol misuse cost County Durham well over £200 million each year, which included over £50m cost to the NHS, £51m for crime related costs, £95m for workplace and wider economy and £16m for social services.

Around 90 alcohol related crimes were recorded every day in the county and over 20 under 30 year olds were admitted to hospital every week because of alcohol. Residents in most deprived communities were 45% more likely to suffer an alcohol related death than those on higher incomes. Parental alcohol misuse accounted for 24% of children with a child protection plan in the County.

The Safe Durham Partnership identified alcohol misuse as one of its top priorities and there was an alcohol harm reduction strategy, signed by key partners, that was being taken forward by a multi-agency group.

There was only so much that could be done as a local council and support was needed from central government that put in place a national approach to three evidence based measures that went further than the proposed motion from Councillor Martin.

Moved by Councillor Hovvells, **Seconded** by Councillor D Boyes:

This Council calls on all political parties at the forthcoming general election to commit to the following:

- *Introduction of a minimum unit price of 50 pence per unit of alcohol*
- *A comprehensive review of licensing legislation to ensure that licensing authorities are empowered to tackle alcohol related harm by, for example, controlling total availability of alcohol in their area, according to local need*
- *An urgent review of alcohol advertising and sponsorship with a view to protecting children from the influence of alcohol marketing. This would include banning advertising in cinemas unless an 18 certificate film is being screened and withdrawing alcohol sponsorship from professional sport.*

These measures are all evidence based and would help us, as a council, to achieve the best for communities in most need.

Councillor Martin informed Council that he accepted the amendment, which extended his Motion and added that the forthcoming general election was an opportunity to get the issue onto the agenda.

Upon a vote being taken, the Motion, as amended, was **carried**.

12 Questions from Members

In accordance with paragraph 10.2 of the Council Procedure Rules, Councillor Conway asked the following question:

What are the implications for children at Durham Free School and for the County Council of the government announcement on Monday regarding the highly critical Ofsted report and withdrawal of funding?

Councillor O Johnson, Cabinet Portfolio Holder for Children and Young People's Services thanked Councillor Conway for his question. Councillor Johnson replied that the County Council had no responsibility or involvement in the management and leadership of Durham Free School. Following an inadequate OFSTED report of Durham Free School the Secretary of State for Education had announced that Durham Free School's funding agreement was to be ended. This was of concern for both pupils and parents currently at the school and for those who had chosen Durham Free School as their first preference for admission in September 2015. The Admissions Team in Children and Adults Services had already received telephone calls from over 45 parents of pupils who either attended the school or had chosen the school as first choice preference. The County Council was confident that it could provide alternative school places in good schools for all current pupils of Durham Free School and all who had chosen the Free School as their first choice preference from September 2015, and parental preference would be accommodated as far as was possible. The County Council would today be writing to all parents to inform them that places at alternative schools would be available and to inform them of the procedure should Durham Free School close. Additionally, staff and managers in the Admissions Team of Children and Adults Services would be available to give parents advice.

In accordance with paragraph 10.2 of the Council Procedure Rules, Councillor Wilkes asked the following question:

In the High Court in London, 15 January 2015, Durham County Council's decision to join a consortium for the development of the area known as Sniperley Park has been ruled "Unlawful".

One of the Country's top judges said that Cabinet had not been provided with the necessary information so that it could take into account obviously relevant considerations.

As result of defective advice from Council officers, the strategic nature of the Council's land was not properly considered

Given that the judge has found that Cabinet were not provided with the necessary information, can the relevant Cabinet member please explain

- i) why the mention of a multi-million pound agreement of such significant importance was at paragraphs 31 and 32 of a report which was passed by Cabinet with no indication in the title heading that the report contained such an important decision;
- ii) and given that the High Court has found the cabinet decision to be flawed, can the Cabinet further confirm that the Council will immediately withdraw from the Sniperley Park LLP;
- iii) tell us when they first knew about the decision being challenged and why we were not notified; and
- iv) confirm that there will now be a full and extensive investigation into what has happened here?

Councillor N Foster, Cabinet Portfolio Holder for Economic Regeneration thanked Councillor Wilkes for his question.

The legal verdict could be summarised as:

- officers should have included more information in the Cabinet report on what they had considered in making their recommendations;
- the playing field land should have been advertised as a loss of open space before inclusion in the agreement, as opposed to pre any planning application as had been intended.

Councillor Foster had already asked for a full investigation into the issues raised by the judgement so he could report to Cabinet on how best to proceed in the future.

The decision followed a judicial review taken out by one developer against the Council over its involvement in the partnership (LLP) to develop land at Sniperley for housing. The decision was under an embargo until last Thursday. Councillor

Foster confirmed that the decision to join the Sniperley LLP had been quashed as a result of the Judicial review.

The Council needed to consider its next steps carefully. The removal of the Council's land from the consortium assembled to develop the site did not undermine the allocation or affect its deliverability.

This was, to a degree, the result of a wider dispute between rival developer/landowners involved in the possible development of the land at Sniperley. The Council became aware of the developer's ambition to challenge the Council last June. It was not County Council practice to put in the public domain a threatened legal challenge, to avoid speculative public debate on matters that may have to be dealt with by a court.

There were four parcels of Council owned land which had been identified, and which formed part of the much larger proposed Sniperley development allocation. These sites had been the subject of significant consultation as part of the Local Plan.

In April 2014 Cabinet considered a report which set out the involvement in the partnership. The report dealt with the delivery of sites in the Durham City area as part of the Local plan. The purpose of the report was to ensure that the wider development opportunities could be delivered in a comprehensive manner, agreeing an approach to the delivery and financing of the strategic sites in Durham City. The report explicitly included how the council intended to market its land but in a context which also considered issues such as the delivery of roads, drainage, new school provision, open space and community buildings.

For clarity, Councillor Foster reported that at no point through this process had the Council sold land. The decision to join the LLP was a mechanism to market the land if and when the Council decided to sell it. The Council needed to consider its next steps carefully. The removal of the Council's land from the consortium assembled to develop the site did not undermine the Sniperley allocation or affect its deliverability. For the planned development to take place the land needed to be removed from the Green Belt as a result of the current Examination into the County Durham Plan. Without this the land would not be developed and the outcome of the legal proceedings academic. It was hoped that Inspectors initial thoughts on the Local Plan would be known in early February.