

# Public Document Pack

## Cherwell District Council

### Executive

Minutes of a meeting of the Executive held in at Bodicote House, Bodicote, Banbury, OX15 4AA, on 17 November 2008 at 6.30 pm

Present: Councillor Barry Wood (Chairman)  
Councillor G A Reynolds  
Councillor Norman Bolster  
Councillor Michael Gibbard  
Councillor James Macnamara  
Councillor Kieron Mallon  
Councillor Nigel Morris  
Councillor D M Pickford  
Councillor Nicholas Turner

Also present: Councillor Mrs Catherine Fulljames  
Councillor Andrew Fulljames  
Councillor Daniel Sames  
Councillor John Donaldson

Officers: Mary Harpley, Chief Executive and Head of Paid Service  
Ian Davies, Strategic Director - Environment and Community  
John Hoad, Strategic Director - Planning, Housing and Economy  
Mike Carroll, Head of Improvement  
Liz Howlett, Head of Legal & Democratic Services and Monitoring Officer  
Karen Curtin, Chief Accountant  
Philip Clarke, Head of Planning & Affordable Housing  
David Marriott, Head of Economic Developments & Estates  
Chris Rothwell, Head of Urban & Rural Services  
Jo Smith, Communications Manager  
James Doble, Democratic, Scrutiny and Elections Manager

### Recommendations to Council

#### 116 Authorisation of Staff

The Head of Safer Communities and Community Development submitted a report to authorise a new member of staff.

#### Resolved

- (1) Authorise Daniel Rowson for the purposes of the following legislation:-

Building Act 1984  
Caravan Sites Act 1968  
Clean Air Act 1956, 1968 and 1993  
Clean Neighbourhoods and Environment Act 2005  
Control of Pollution Act 1974  
Dogs (Fouling of Land) Act 1996  
Environmental Protection Act 1990  
Factories Act 1961  
Litter Act 1983  
Offices, Shops and Railway Premises Act 1963  
Prevention of Damage by Pests Act 1949

Public Health (Control of Disease) Act 1984  
Refuse Disposal (Amenity) Act 1978  
Sunday Trading Act 1994  
Water Acts 1973 and 1989  
Water Industry Act 1991

- (2) Invite the Council to authorise Daniel Rowlson for the purposes of the following legislation:-

Animal Boarding Establishments Act 1963  
Breeding of Dogs Act 1973  
Breeding and Sale of Dogs (Welfare) Act 1999  
Caravan Sites and Control of Development Act 1960  
Dangerous Wild Animals act 1976  
Food Hygiene (England) Regulations 2006  
Food Safety Act 1990  
Health Act 2007  
Health and Safety at Work, etc Act 1974  
Local Government (Miscellaneous Provisions) Acts 1976 and 1982  
Noise and Statutory Nuisance act 1993  
Official Feed and Food Controls (England) Regulations 2007  
Pet Animals Act 1951  
Public Health Acts 1936 and 1961  
Riding Establishments Acts 1964 and 1970  
Scrap Metal Dealers Act 1964  
Zoo Licensing Act 1981

**Reasons** - This will ensure that the Council undertakes its regulatory duties in compliance with the law.

## Resolutions

### 117 **Declarations of Interest**

Councillors Bolster, Reynolds, Turner, Mallon declared prejudicial interests with regard to Minute 119 due to them being County Councillors and the County Council holding a land interest at Gowells Farm, Bicester.

### 118 **Minutes**

**Resolved**, that the minutes of the meeting of 3 November 2008 be deferred due to not being available at this time.

### 119 **Proposed Eco-Town at Weston Otmoor - Update**

The Head of Planning and Affordable Housing Policy submitted a report to update the Executive and present further information on the Government publication Draft of the Planning Policy Statement on Eco Towns and the Sustainability Appraisal of the Eco Towns Programme, and the Council's involvement in the continuing assessment of the Weston Otmoor Eco-Town proposal.

Councillor Mrs Fulljames and Councillor Fulljames addressed the Executive on this issue. The Executive discussed the issue in detail and agreed the recommendations as set out in the report with the amendment that a further report be requested for the December meeting setting out the next steps that would be required with regard to this issue.

**Resolved**, that the contents of the Report and the supporting Appendices be noted and that a further report be requested for the December meeting setting out the next steps that would be required with regard to this issue.

**Reasons** - the Eco-Town process has attracted considerable comment and concern Throughout this process, the Council has maintained a watching brief on the issue.

Councillor Pickford requested that her abstention be recorded in the minutes.

### 120 **RAF Bicester Conservation Area**

The Head of Legal and Democratic Services submitted a report that contained a referral to the Executive from the Overview & Scrutiny Committee. Councillor Sames as Vice-Chairman of the Overview and Scrutiny Committee introduced the report.

#### **Resolved**

- (1) That it be agreed that the Overview and Scrutiny Committees belief that, having regard to the situation and historic status of RAF Bicester it should not be considered as a suitable site for housing, be fed into the consultation process for the Local Development Framework.
- (2) That the historic status of the RAF Bicester site be recognised and the commitment to ensure that the appropriate bodies ensure the historic buildings are maintained be confirmed.
- (3) That in light of resolution two above, the Portfolio Holder for Planning and Housing be requested to keep this issue within his consideration and to take action as appropriate.

- (4) That proposals such as that of Bomber Command Heritage to raise the profile of the heritage and value of the RAF Bicester site be welcomed.

**Reasons** – RAF Bicester is considered to be a historic site and of value to the district

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### **Cherwell Rural Strategy**

The Head of Urban and Rural Services submitted a report to present the initial outcomes and findings from the consultation on the Draft Cherwell Rural Strategy and to consider the adoption of the main themes for the final document.

#### **Resolved**

- (1) That the themes set out in the Draft Cherwell Rural Strategy, with the amendment to Theme C to: Provide Village Homes and Village Infrastructure, and Theme E to: Protect, Enhance & Increase Enjoyment of Cherwell's Natural & Historic Environment, for adoption in the final Cherwell Rural Strategy 2009-2014 be confirmed.
- (2) That a further report on the draft Strategy following a full analysis of the detailed responses be received

**Reasons** - the need for a Rural Strategy for Cherwell stems from the fact that Cherwell is predominantly rural in character and one third of the District's people live in rural communities. This is recognised in Theme 8 of the Cherwell Community Plan "Rural Focus".

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### **Local Authority Business Grant Incentive Scheme**

The Head of Economic Development and Estates submitted a report to advise Members as to the grant awarded to the Council under the Local Authority Business growth Incentive (LABGI) scheme, to seek guidance as to how this grant should be used, and to advise as to future proposed changes to the scheme.

#### **Resolved**

- (1) That the Council place £45,000 in a reserve account to finance up to £15,000 pa for 3 years from 2009/10 to fund the continuation of the business mentoring service currently administered by Oxfordshire Business Enterprises.
- (2) That the remaining LABGI funds received this year be placed in a reserve account, to be used to finance economic development activities and projects in future years
- (3) That £5,000 be allocated to finance a contribution towards the cost of an employer skills survey being undertaken in this area by the Learning and Skill Council this year.
- (4) That authority to allocate the remaining funds referred to in paragraph (2) above to individual projects be delegated to the Portfolio Holder for Economic Development and Estates.
- (5) That the Council respond to the Government consultation on the future of the LABGI scheme, indicating its view that the method of allocating funds in future be based on increases in NNDR contributions calculated on a sub-

regional basis, as defined by Government, divided more equally between County and District Councils.

**Reasons** - that the LABGI funds should be ring fenced to finance economic development activity, for the benefit of the local economy which has generated the growth, and has resulted in the grant being received.

123 **Sports Centres Modernisation - Update**

The Strategic Director – Environment and Community submitted a report to provide an update on the Sport Centre Modernisation project.

**Resolved**, that the current position and progress to date be noted and the approach to contingency planning endorsed.

**Reasons** - the sports centre modernisation programme has made good progress with only minor delays to date.

124 **2008/09 Projected Revenue & Capital Outturn at 30 September 2008 and 2009/10**

The Strategic Director – Customer Service and Resources and Chief Accountant submitted a report that summarised the Council's Revenue and Capital performance for the first 6 months of the financial year 08/09 and projections for the full 08/09 period.

**Resolved**

- 1) That the revenue & capital position at Sept 08 be noted.
- 2) That the projected revenue position for 08/09 and the actions taken to date to reduce the projected overspend be noted.
- 3) That it be agreed that £3,605,367 of capital schemes as part of the 08/09 budget but profiled for expenditure in 2009/10 are bought forward for utilisation in 08/09 as per the revised profiles of the accommodation review and sports centre modernisation project.
- 4) That it be agreed that £607,100 of capital schemes approved as part of the 08/09 budget are to be delayed and agree that they are carried forward for utilisation in 09/10. This delay will generate additional investment income in 2008/09.
- 5) That it be agreed that £467,833 of schemes listed as no longer required and approved as part of the 08/09 budget be deleted from the capital programme and that supplementary estimates totalling £135,328 for inclusion into the 08/09 capital programme comprising of:
  - £20,000 Data Encryption Software
  - £25,000 Service Desk Software
  - £35,328 Iclipse Software Licences
  - £27,000 Iclipse System Upgrade
  - £28,000 Banbury Visitor Management Plan

be agreed and it be noted that the net decrease of £332,505 on cashflow projections will generate additional investment income.

- 6) That the projected capital out-turn position for 2008/09 be agreed.

- 7) That no further actions be taken to further contain expenditure during this period of economic downturn at this time.

**Reasons** - In line with good practice budget monitoring is undertaken on a monthly basis within the Council. The revenue and capital position is reported monthly to the Corporate Management Team and formally to the Executive on a quarterly basis. This is the Q2 report for financial year 2008/09.

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**Performance Management Framework 2008/2009 - Second Quarter Progress Report**

The Chief Executive and Head of Improvement submitted a report to report on the Council's performance against the Performance Management Framework for the period July – September 2008.

**Resolved**

- 1) That the progress made in delivering performance against the Corporate Scorecard and the other performance frameworks be noted.
- 2) That the responses to the issues raised in the 1<sup>st</sup> Quarter Report be noted.
- 3) That it be agreed that in the next Quarterly Report there will be an update on the impact of the economic downturn on:
  - a) The Council's ability to deliver the 2008/09 corporate targets of 400 new homes, including 100 units of social housing, and the creation of 200 net new jobs.
  - b) The income received through building control, planning applications, and land charges and the budget implications of rising costs (fuel costs for example).
  - c) The progress of key development projects such as Banbury Canalside, Bicester Town Centre, and South West Bicester.
- 4) That it be agreed that in the next Quarterly Report there will be an update on the following:
  - a. The time taken to process 'minor and other' planning applications.
  - b. Increasing the visitor numbers to Banbury Museum.
  - c. Addressing the 2.1% rise in overall crime figures, the failure to meet the target for reducing acquisitive crime and the timetable and process for producing the Anti Social Behaviour Strategy.
  - d. Improving the average time taken to process new benefits claims.
  - e. Reducing the amount of waste going to landfill (and implementing the Food Waste Pilot).
  - f. The progress on delivering Nightsafe Bicester.
  - g. The financial impact of the Government's Free Swimming Programme for over 60's and under 16's.
- 5) That a colour scorecard be circulated separately to the Executive with the next two PMF monitoring reports.

- 6) That Portfolio Holders and officers (assisted by the Improvement Team) be requested to consider if reports on any performance elements are required prior to the next PMF Monitoring report and that the Forward Plan be updated accordingly.

**Reasons** - This report shows the council continues to make significant progress on delivering its strategic priorities and in particular the promises made to the public for this year in the Council Tax Leaflet. The report highlights a wide range of achievements and areas where achievements have received external recognition. Since the last performance report the economic environment has taken a significant downturn. This is highlighted as having a potentially significant impact on the ability to deliver some key objectives, the level of income raised, and the demands made on Council services.

## 126 **Review of Call-in Arrangements**

The Chief Executive submitted a report to consider the proposals arising from the Overview and Scrutiny Committee review of Call-in arrangements and to make recommendations to Council (via the Executive and Standards Committee).

### **Resolved**

- (1) That the results of the consultation on the review of Call-in and the proposals from the Overview and Scrutiny Committee be noted;
- (2) That having considered the Overview & Scrutiny Committee's preferred Call-in model the model as set out below be recommended to Standards Committee and Council, including the following amendments:
  - a) That paragraph 15g of Annex to these minutes (as set out in the minute book) be amended to reflect that portfolio holders do not make decisions at scheduled meetings.
  - b) That paragraph 17 of Annex to these minutes (as set out in the minute book) be amended to bring in 5 minute time limits on speakers and confirm that the Chief Executive will confirm the validity of the Call-in.
  - c) That the period in which a decision is available for call-in be kept as at present and not extended.

**Reasons** - The Leader of the Council asked the Overview and Scrutiny Committee to review the Call-in process, in light of councillors' concerns about the current arrangements following the Call-in earlier this year. This made it clear that Call-in is currently ill-defined in the constitution which gives precise guidance on the timescales and criteria for Call-in but it is vague about the practicalities of preparing for and conducting the hearing. The fact that Call-in is used so infrequently has compounded the problem as the arrangements have not been reviewed and updated, unlike those in Authorities where Call-ins are more frequent.

## 127 **Exclusion of the Press and Public**

**Resolved**, that, in accordance with Section 100A(4) of Local Government Act 1972, the press and public be excluded from the meeting for the following item(s) of business, on the grounds that they could involve the likely disclosure of exempt information as defined in paragraph(s) 3 of Schedule 12A of that Act.

# EXEMPT

128 **Sports Centres Modernisation Update - Exempt Financial Appendix**

(Exempt by virtue of paragraph 3)

The Strategic Director – Environment and Community submitted an exempt financial appendix in relation to Minute 123.

**Resolved**, that a supplementary capital estimate of £295,154 be approved.

**Reasons** – To cover the risks and issues that have been reported previously to the Executive at the time of contract finalisation from the pre-commencement building surveys.

129 **Banbury Flood Alleviation Scheme**

(Exempt by virtue of paragraph 3)

The Head of Economic Development and Estates submitted an exempt report to update Members on the progress of the fundraising for the scheme, and to approve proposed agreements between the Council, the Environment Agency, and funding partners

**Resolved**

1) To approve the completion of agreements between the Council and funding partners as described in the report, securing contributions towards the cost of the Flood Alleviation Scheme.

2) To approve the completion of an agreement with the Environment Agency, under which the Council agrees to pay over contributions received under agreements referred to at (1) above, to the Agency.

**Reasons** - The Flood Alleviation Scheme (FAS) will protect a large part of the flood plain affecting Banbury.

The meeting ended at 9.07 pm

Chairman:

Date:



## **(e) Overview and Scrutiny Procedure Rules**

### **15. Call-in of Executive and Other decisions**

- (a) Details of the decisions taken at meetings of the Executive, a Committee of the Executive, individual portfolio holders, and any key decisions taken by officers will normally be published by 5pm on the next working day after they have been made. This will be made publicly available and all Members of the Council will receive notification (normally by e-mail) of the decisions taken.
- (b) The notice will specify that the decision will come into force and take effect at 5pm on the fifth working day following publication of the decision, unless it is called-in.
- (c) The Chief Executive shall call in a decision for scrutiny if so requested in writing, by e-mail or by text from a known or recognised source by any 6 non-executive members of the Council within the specified timescale.

However if at any point during a municipal year the total number of opposition councillors is 6 or less the total number of non-executive members required to call in a decision shall be the total number of opposition Councillors less two. This reduced number will apply to any Call-in, regardless of the political affiliation of the members concerned.

In all cases the request for Call-in must set out the reasons for the request.

On receipt of a Call-in request, the Chief Executive shall call-in the decision and notify the decision taker and Chairman of the Overview and Scrutiny Committee of the Call-in.

- (d) The Overview and Scrutiny Committee must consider the decision within 10 days of the decision to Call-in, and if necessary, it may be dealt with as an item of urgent business at a scheduled meeting of the Overview and Scrutiny Committee within that period. If the Overview and Scrutiny Committee does not meet within 10 days and consider the matter the decision shall take effect on the expiry of that period.
- (e) The Overview and Scrutiny Committee upon hearing a Call-in may decide to let the decision stand, refer the decision back to the decision maker for reconsideration or exceptionally refer the decision to Council if it is of the view that the decision is contrary to the Council or policy framework, or not wholly consistent with the budget.
- (f) If the Overview and Scrutiny Committee refer a decision back to the decision maker for reconsideration they must set out in writing the reasons for their concerns and their preferred course of action.
- (g) Reconsideration by the decision maker shall take place at the next scheduled meeting or earlier at the discretion of the relevant portfolio holder in consultation with the Chief Executive and Leader of the Council. In the case of delegated decisions taken by officers, the decision shall be referred back to the portfolio holder in the first instance for reconsideration. Portfolio holders have the option of forwarding any decision referred to them to the full Executive for reconsideration.
- (h) If on reconsideration by the decision maker the original decision is upheld or the recommendations of the Overview and Scrutiny Committee are accepted then the decision shall take effect immediately and shall not be subject to a further Call-in period.

- (i) If for any reason either Overview and Scrutiny or the decision maker fails to meet and carry out their obligations under this process or in the event of any situation not foreseen in this procedure the issue will be referred to Council for the process to be resolved. Implementation of the decision will be postponed until Council has determined how it shall be resolved.
- (j) If the Overview and Scrutiny Committee decide not to refer a decision back to the decision maker or to Council, the decision shall take effect immediately at the conclusion of the meeting at which the Call-in has been considered.
- (k) If the Overview and Scrutiny Committee is considering a called-in matter where the decision taker is recommending to the Council it may formulate alternative proposals for the Council to consider.
- (l) A request to Call-in a decision may only be nullified by agreement of all the Call-in signatories.

In the case of a Called-in decision being referred Council If the Council decide that the called-in decision was contrary to the policy framework or not wholly consistent with the budget it shall decide on the issue in question.

If the Council decide that the called-in decision was not contrary to the policy framework or consistent with the budget then no further action is necessary and the decision will take effect on the date of the Council meeting.

- (m) The call-in procedure is not intended to be used to challenge decisions as a matter of course, and should not be abused in order, for example, simply to cause delay in implementing decisions.

## **16. Call-in and Urgency**

The call-in procedures set out above shall not apply where the decision being taken by the Executive, individual portfolio holder, Committee or Sub-Committee is urgent. A decision is urgent if any delay is likely seriously to prejudice the Council's or the public's interest. The record of the decision and the notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one and therefore not subject to call-in. In all cases, the Chief Executive must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency and if agreed, shall circulate the decision electronically to members of Executive and Overview and Scrutiny.

The Chief Executive shall then ask the Chairman of the Overview and Scrutiny Committee to agree to Call-in being waived. In the absence of the Chairman, the Vice-Chairman's consent shall be required, and in the absence of the Vice-Chairman, the Chairman of Council.

## **17. Call-in Protocol at Overview and Scrutiny Committee**

In considering a Call-in decisions the Overview and Scrutiny Committee will follow this protocol:

### **Before Receipt of Call-in**

Overview and scrutiny support officers will work with the Call-in signatories to complete the reasons for Call-in. Completed reasons for Call-in will be received by Chief Executive, who will then consider whether to Call-in the decision.

### **After Receipt of Call-in and before the meeting**

The Chief Executive will confirm which portfolio holder or decision taking officer

should attend the Call-in, which officer should accompany them and which officer they appoint to advise the Overview and Scrutiny Committee on the Call-in. All Councillors and Corporate Management Team members will be advised of the Call-in Request.

Overview and scrutiny support officers will meet with the Call-in signatories, to clarify the procedure, consider how they will present the Call-in and prevent duplication. Overview and scrutiny support officers will brief the Chairman on the Call-in.

### **Documents**

The agenda will contain:

- This Call In Protocol
- The Call-in request form
- The Portfolio Holder decision statement or minutes\*
- The original report(s) upon which the decision was made

\* (In the case that either the minutes or report are exempt a public summary of information will be provided as far as is possible).

Any other document that the Chief Executive, Portfolio Holder or Call-in signatories feel would assist the Committee in considering the Call-in.

### **At the start of the meeting**

The Chairman will outline the procedure for the meeting, setting the tone and approach that will be taken.

### **The meeting**

1. The spokesperson(s) for the Councillors who have made the Call-in request (who shall be seated together) should outline the reasons for the Call-in.
2. The relevant Portfolio Holder or decision taking officer explains the rationale for the decision and may be supported by officers and the Leader of the Council as appropriate. They shall also be seated together.
3. Councillors who have made the Call-in request have the opportunity to question the Portfolio Holder or decision taking officer.
4. Other Members of the Overview and Scrutiny Committee have the opportunity to question the Portfolio Holder or decision taking officer.
5. At the discretion of the Chairman, other Members present may have the opportunity to question the Portfolio Holder or decision taking officer or make a brief statement.
6. At the discretion of the Chairman, anyone else present may have the opportunity to make any brief statement on the issue.
7. The Portfolio Holder or decision taking officer will have a right of reply to any brief statement made on the issue.
8. Before forming a decision, the Chairman may decide to adjourn the meeting in order to allow the Call-in signatories to reflect on the evidence received and to consider any proposals they wish the Committee to consider.
9. The Overview and Scrutiny Committee will move in to debate on the issue, only members of the Committee and the officer appointed by the Chief Executive to advise the Overview and Scrutiny Committee on the Call-in may speak.
10. If there is no proposal the Chairman or another member may propose a motion which can be voted on in the normal way.

### **Options available to the Overview and Scrutiny Committee**

There are only three options available to the Overview and Scrutiny Committee when they are considering a call in:

- Let the decision stand
- Refer the decision back to the decision taker, stating their concerns and the decision that the Committee wish the decision taker to make.
- Refer the decision to full Council if the decision is contrary to the policy framework or contrary to or not wholly consistent with the budget.

Additionally the Overview and Scrutiny Committee may make other recommendations as a result of the Call-in to relevant bodies, which shall be considered after a decision has been reached a decision on the Call-in.