

Meeting of Council

Monday 7 January 2019

Members of Cherwell District Council,

A special meeting of Council will be held at Bodicote House, Bodicote, Banbury, OX15 4AA on Monday 7 January 2019 at 6.30 pm, and you are hereby summoned to attend.



Yvonne Rees
Chief Executive

Friday 22 December 2018

AGENDA

1 **Apologies for Absence**

2 **Declarations of Interest**

Members are asked to declare any interest and the nature of that interest which they may have in any of the items under consideration at this meeting.

3 **Communications**

To receive communications from the Chairman and/or the Leader of the Council.

4 **Urgent Business**

The Chairman to advise whether they have agreed to any item of urgent business being admitted to the agenda.

5 Minutes of Council (Pages 1 - 10)

To confirm as a correct record the Minutes of Council held on 17 December 2018.

Council Business Reports

6 Collaboration Agreement (Pages 11 - 14)

Report of Director Law and Governance / Monitoring Officer

Purpose of report

To agree to enter into a Collaboration Agreement between Cherwell District and South Northamptonshire councils.

Recommendations

Following the endorsement of Executive, the meeting is recommended:

- 1.1 To agree to enter into a Collaboration Agreement between Cherwell District and South Northamptonshire councils, and to delegate to the Monitoring Officer, in consultation with the Leader of the Council, authority to finalise and enter into the Agreement based on the provisions provided by the Local Government Act 1972, the Local Government Act 2000, the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 and the Localism Act 2011.

Councillors are requested to collect any post from their pigeon hole in the Members Room at the end of the meeting.

Information about this Agenda

Apologies for Absence

Apologies for absence should be notified to democracy@cherwellandsouthnorthants.gov.uk or 01295 221589 prior to the start of the meeting.

Declarations of Interest

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item.

Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

Evacuation Procedure

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the car park as directed by Democratic Services staff and await further instructions.

Access to Meetings

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

Mobile Phones

Please ensure that any device is switched to silent operation or switched off.

Queries Regarding this Agenda

Please contact Natasha Clark, Democratic and Elections
natasha.clark@cherwellandsouthnorthants.gov.uk, 01295 221589

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Cherwell District Council

Council

Minutes of a meeting of the Council held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 17 December 2018 at 6.30 pm

Present: Councillor Maurice Billington (Chairman)
Councillor David Hughes (Vice-Chairman)

Councillor David Anderson
Councillor Hannah Banfield
Councillor Andrew Beere
Councillor Claire Bell
Councillor Mike Bishop
Councillor John Broad
Councillor Hugo Brown
Councillor Phil Chapman
Councillor Mark Cherry
Councillor Colin Clarke
Councillor Ian Corkin
Councillor Surinder Dhesi
Councillor Sean Gaul
Councillor Timothy Hallchurch MBE
Councillor Simon Holland
Councillor Shaida Hussain
Councillor Tony Ilott
Councillor Mike Kerford-Byrnes
Councillor Alan MacKenzie-Wintle
Councillor James Macnamara
Councillor Kieron Mallon
Councillor Nicholas Mawer
Councillor Andrew McHugh
Councillor Tony Mepham
Councillor Richard Mould
Councillor Cassi Perry
Councillor D M Pickford
Councillor Lynn Pratt
Councillor G A Reynolds
Councillor Barry Richards
Councillor Alaric Rose
Councillor Dan Sames
Councillor Les Sibley
Councillor Nicholas Turner
Councillor Douglas Webb
Councillor Bryn Williams
Councillor Lucinda Wing
Councillor Barry Wood
Councillor Sean Woodcock

Apologies for absence: Councillor John Donaldson
Councillor Carmen Griffiths
Councillor Chris Heath
Councillor Neil Prestidge
Councillor Sandra Rhodes
Councillor Jason Slaymaker
Councillor Tom Wallis

Officers: Yvonne Rees, Chief Executive
Adele Taylor, Interim Executive Director: Finance and Governance
Nick Graham, Director of Law and Governance / Monitoring Officer
Natasha Clark, Governance and Elections Manager

66 **Declarations of Interest**

10. Purchase of The Mill Arts Centre.

Councillor Andrew McHugh, Declaration, as a trustee of The Mill and would leave the chamber for the duration of the meeting.

Councillor Mark Cherry, Declaration, as a trustee of The Mill and would leave the chamber for the duration of the meeting.

Councillor Tony Illott, Declaration, as a trustee of The Mill and would leave the chamber for the duration of the meeting.

15. Land in Banbury - Proposed Acquisition.

Councillor Sean Woodcock, Declaration, as a family member was a tenant of part of the site but it was not part of the site being discussed.

67 **Communications**

The Chairman made the following announcements:

Chairman's Engagements

The Chairman advised that a copy of the events attended by himself or the Vice-Chairman was included in your agenda pack. The Chairman reported that he had raised £5200 to date for his Chairman's charities.

Staff Choir Performance

That Chairman thanked the staff choir for their excellent performance of Christmas carols which had taken place prior to the Council meeting which has been very enjoyable and entertaining. The Chairman also thanked the Leader, Councillor Wood, for providing mince pies.

Post

The Chairman reminded Members to collect any post from pigeon holes.

68 **Petitions and Requests to Address the Meeting**

There were no petitions or requests to address the meeting.

69 **Urgent Business**

There were no items of urgent business.

70 **Minutes of Council**

The minutes of the meeting held on 30 October 2018 were agreed as a correct record and signed by the Chairman.

71 **Minutes**

a) **Minutes of the Executive, Lead Member Decisions and Executive Decisions made under Special Urgency**

Resolved

That the minutes of the meeting of the Executive and Lead Member decisions as set out in the Minute Book be received and that it be noted that since the last meeting of Council held on 30 October 2018, one decision had been taken which was not included in the 28 day notice relating to: Property Acquisition in Banbury.

b) **Minutes of Committees**

Resolved

That the minutes of Committees as set out in the Minute Book be received.

72 **Questions**

a) **Written Questions**

The Chairman advised Council that one written question had been submitted with advance notice in accordance with the Constitution.

The question was from Councillor Woodcock and addressed to the Leader of the Council, Councillor Wood, and was in relation to Modern Slavery requesting an update to the Motion he had submitted to July Council. A written answer had been tabled at the meeting (annex to the Minutes as set out in the Minute Book). Councillor Woodcock thanked Councillor Wood for the extensive response and confirmed he did not have a supplementary question.

b) **Questions to the Leader of the Council**

Questions were asked and answers received on the following issues:

Councillor Dhesi: Vermin at Canalside

Councillor Banfield: Air pollution and traffic congestion at Hennef Way

Councillor Woodcock: Oxford to Cambridge Expressway

Councillor Mallon: Oxfordshire County Council Banbury Locality meeting and work on sliproads

Councillor Richards: Affordable house sales in Cherwell

c) Questions to Committee Chairmen on the Minutes

There were no questions to Committee Chairman on the minutes of meetings.

73

Motions

a) Maternity and Paternity Leave for Parents to Premature Babies

It was moved by Councillor Woodcock, and seconded by Councillor Banfield, that the following motion be adopted:

“This Council supports extending paternity and maternity leave for any of its staff whose babies have been born too soon.

Parents to premature babies are faced with financial, mental and physical stress and hardship, yet their maternity leave begins the day after the birth.

We believe that the added pressure of worrying about the length of maternity or paternity leave is not good for the wellbeing of employees.

This council therefore seeks to adopt a policy of providing one extra week of leave to employees for every week a premature baby spends in hospital before the due date.”

Councillor McHugh proposed the following amendment to the motion, which was seconded by Councillor Wood:

Add the following text to the end of the motion: “In addition to premature birth, there are other clinical crises that could befall council employees. Officers are to investigate extending this motion to allow Directors the discretion to deal with significant medical crises of a similar magnitude involving council employees, in a compassionate and caring manner and report back to Executive in due course.”

Councillor Woodcock, as proposer to the motion, confirmed that he supported the amendment which was therefore added to the motion voted on by Council.

Resolved

(1) That the following motion, as amended, be adopted:

Maternity and Paternity Leave for Parents to Premature Babies

This Council supports extending paternity and maternity leave for any of its staff whose babies have been born too soon.

Parents to premature babies are faced with financial, mental and physical stress and hardship, yet their maternity leave begins the day after the birth.

We believe that the added pressure of worrying about the length of maternity or paternity leave is not good for the wellbeing of employees.

This council therefore seeks to adopt a policy of providing one extra week of leave to employees for every week a premature baby spends in hospital before the due date.

In addition to premature birth, there are other clinical crises that could befall council employees. Officers are to investigate extending this motion to allow Directors the discretion to deal with significant medical crises of a similar magnitude involving council employees, in a compassionate and caring manner and report back to Executive in due course.

74

Purchase of The Mill Arts Centre

The Interim Executive Director: Finance and Governance submitted a report to establish a budget in order to complete the transfer of The Mill Arts Centre from Oxfordshire County Council to Cherwell District Council following the Executive's decision in July 2018 to negotiate the purchase of The Mill Arts Centre building in Banbury. It was also agreed that there would be an increase in revenue support to the Mill Arts Centre Trust in the short term to enable The Trust to meet its commitment following the cessation of the financial relationship with Oxfordshire County Council.

Following on from the purchase, there would be a need to carry out a full investment options appraisal on the site to report back to Members on the scale and scope of potential investment in the Towns cultural facilities to create a sustainable venue for the Town. This would be subject to further reports once we are able to work with the Trust on those options. An internal officer working group would be established to take this work forward.

Resolved

- (1) That the expenditure of £1 to secure the transfer of The Mill Arts Centre from Oxfordshire County Council to Cherwell District Council in line with the Executive decision of July 2018 be approved.
- (2) That the establishment of a revenue budget of £50,000 to cover costs of transition funding and arrangements in 2018/19 to be funded from general reserves be agreed and it be noted future funding would be considered when setting the budget and medium term financial plan in February 2019.
- (3) That it be noted that immediate remedial works (expected early in 2019/20) in the region of £250,000 may be required, with further phases of works due later in 2019/20 or the 2020/21 to ensure that the

building is fit for purpose and will be subject to detailed capital proposals as part of the budget setting process and medium term financial plan for 2019/20 to 2023/24.

- (4) That it be noted that an officer working group would be established to establish the options and Business case for any further investment into the site to ensure that the Trust is financially more sustainable in the medium to long term.
- (5) That it be noted that the offer to acquire the asset is subject to a restrictive covenant from Oxfordshire County Council to ensure that at least 80% of the site is used for cultural purposes otherwise state aid applies.
- (6) That the final agreement for the legal agreement to transfer the asset be delegated to the Monitoring officer for Cherwell District Council in consultation with the Interim Executive Director of Finance and Governance.

75

Gambling Act 2005 - Review of Statement of Licensing Principles

The Assistant Director Environmental Health and Licensing submitted a report to consider a revised Statement of Licensing Principles as part of the Gambling Act 2005.

Resolved

- (1) That the revised Cherwell District Council Statement of Licensing Principles (annex to the Minutes as set out in the Minute Book) be adopted.

76

Council Tax Reduction Scheme 2019-2020 and Council Tax Discounts 2019-2020

The Interim Executive Director: Finance and Governance submitted a report to seek approval for a Council Tax Reduction Scheme for the year 2019-2020 on the recommendation of the Executive and Budget Planning Committee.

The report also provided members with an update of Council Tax discounts and sought approval for the Council Tax discounts for the year 2019-20.

In introducing the report, the Lead Member for Financial Management and Governance, Councillor Ilott, advised of an amendment to the recommendations in light of the late confirmation of new legislation members of the Budget Planning Committee had considered a report on 27 November 2018 and made a recommendation that as part of the Council Tax discounts for 2019-2020, there be an empty homes premium of an additional 100% for properties that have remained empty for more than 2 years be rather than the existing additional 50% premium.

Resolved

- (1) That a Council Tax Reduction Scheme (CTRS) for the year 1 April 2019 to 31 March 2020 as set out in the annex to the Minutes (as set out in the Minute Book) be approved and implemented with effect from 1 April 2019.
- (2) That delegated authority be granted to the Section 151 Officer to make further amendments to the CTRS Regulations up to and including 31 January 2019 in consultation with the Lead Member for Financial Management and Governance.
- (3) That, having given due consideration, the following Council Tax discounts for 2019-2020 be approved:
 - Retain the discount for second homes at zero
 - Retain the discount for empty homes (unoccupied and substantially unfurnished) at 25% for 6 months and thereafter at zero.
 - Retain the discount for empty homes undergoing major repair at 25% for 12 months and thereafter at zero.
 - Empty homes premium of an additional 100% for properties that have remained empty for more than 2 years.

77

Calendar of Meetings 2019/2020

The Director: Law and Governance submitted a report for Council to consider the calendars of meetings for the municipal year 2019/20.

Resolved

- (1) That the calendar of meetings for Cherwell District Council (CDC) for the municipal year 2019/20 (annex to the Minutes as set out in the Minute Book) be approved.

78

Exclusion of the Press and Public

Resolved

That under Section 100A of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business on the ground that, if the public and press were present, it would be likely that exempt information falling under the provisions of Schedule 12A, Part 1, Paragraph 3 would be disclosed to them, and that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

79

Land in Banbury - Proposed Acquisition

The Interim Executive Director: Finance and Governance submitted an exempt report relating to the proposed acquisition of land in Banbury.

Resolved

- (1) That the acquisition of the premises shown on the plan on the exempt annex to the Minutes (as set out in the Minute Book), subject to contract, be approved.
- (2) As set out in the exempt minutes.
- (3) As set out in the exempt minutes.
- (4) That the Interim Executive Director of Finance and Governance be given delegated authority to negotiate and finalise the terms for the acquisition in consultation with the Lead Member for Financial Management and Governance, the Lead Member for Economy, Regeneration and Property and the Monitoring Officer.

80 **Questions on Exempt Minutes**

There were no questions on exempt minutes.

The meeting ended at 8.10pm

Chairman:

Date:

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Cherwell District Council

Council

7 January 2019

Collaboration Agreement

Report of Director Law and Governance / Monitoring Officer

This report is public

Purpose of report

To agree to enter into a Collaboration Agreement between Cherwell District and South Northamptonshire councils.

1.0 Recommendations

Following the endorsement of Executive, the meeting is recommended:

- 1.1 To agree to enter into a Collaboration Agreement between Cherwell District and South Northamptonshire councils, and to delegate to the Monitoring Officer, in consultation with the Leader of the Council, authority to finalise and enter into the Agreement based on the provisions provided by the Local Government Act 1972, the Local Government Act 2000, the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 and the Localism Act 2011.

2.0 Introduction

- 2.1 Joint working between Cherwell District and South Northamptonshire councils has been in place since 2010. Due to the likely creation of unitary governance in Northamptonshire, Cherwell District Council and South Northamptonshire Council have agreed to end their successful joint working arrangements. Consequently notice of termination of the Section 113 Agreement between the councils was served, resulting in the agreement ending on 16 January 2019.
- 2.2 Since notice of termination was mutually served work has been taking place on how services will be separated, or where this is not possible immediately, how future services can be delivered from one council to the other. This work is complex and will take several months to undertake. Meanwhile there is a need to have a legal relationship between the councils to allow services to continue to be provided in a responsive and flexible manner beyond 16 January and for individual services to separate at different times as permanent arrangements are put in place.

3.0 Report Details

- 3.1 A number of options that might allow joint working to continue have been considered and it is proposed that a Collaboration Agreement be put in place.
- 3.2 The Collaboration Agreement will act as a framework under which individual service heads at each of the councils can negotiate separate service offers as necessary and appropriate. Accordingly, the detail as to what services will be provided by one Council to another, how those services will be provided and the appropriate termination arrangements applying to each of them will be captured within individual service schedules agreed by those service heads under the Collaboration Agreement.
- 3.3 Under the existing section 113 Agreement there were appropriate termination provisions which related to all services. The Collaboration Agreement allows individual services to separate in an orderly way and at different times as appropriate.
- 3.4 Until such time as the individual service schedules come to an end, staff will be protected in precisely the same manner as they are currently protected under the existing section 113 Agreement.

4.0 Conclusion and Reasons for Recommendations

- 4.1 It is important that both councils can continue to deliver services after 16 January 2019 which for most services will either be prior to separation taking place or permanent delivery arrangements being put in place for those services that cannot be separated. It is clear that in the interim there needs to be a legal arrangement that allows this and a Collaboration Agreement is seen as the most appropriate vehicle to enable this.

5.0 Consultation

- 5.1 The Chief Executives and Leaders of both Councils have been consulted in preparation of this report.
- 5.2 Executive will consider a similar report at their meeting of 7 January 2019 and is recommended to endorse that Full Council agree the Collaboration Agreement.

6.0 Alternative Options and Reasons for Rejection

The following alternative options have been identified and rejected for the reasons set out below.

- 6.1 **Option 1:** not to enter into an agreement between the councils. This is rejected as many council services would not be able to function.
- 6.2 **Option 2:** a Collaboration Agreement based on the provisions provided through the Local Authority (Goods and Services) Act 1970.

- 6.3 Section 1 of the Local Authority (Goods and Services) Act 1970 enables a local authority to provide another public body with goods or materials, administrative, professional, or technical services. The Act does not in itself exempt local authorities from complying with the Public Contracts Regulations 2015, however an exemption is provided by “the Hamburg exemption” (Hamburg (Commission v Germany) Case C-480/06). A Collaboration Agreement containing these provisions would allow two-way co-operation between the two councils with the aim of ensuring that the public services they have to perform: are provided with a view to achieving objectives they have in common; is governed solely by considerations relating to the public interest; and less than 20% of the activities concerned by the co-operation are performed on the open market.
- 6.4 Whilst it is considered that the Hamburg exemption could provide appropriate authority to enter into such an agreement, there is a potential argument that the Hamburg exemption applies only to services that Councils “have to perform” rather than any discretionary services. Therefore, any discretionary services over the financial threshold in the Public Contract Regulations 2015 would be subject to the procurement rules. Given that discretionary services are included in those which would be shared it is not considered that the Local Authority (Goods and Services) Act 1970 would be the best option for the Councils due to it carrying a risk of challenge.

7.0 Implications

Financial and Resource Implications

- 7.1 There are no financial implications arising directly from this report. Legal advice has been procured from existing council budgets. The financial implications of separating services will be considered in each business case.

Comments checked by:

Kelly Watson Assistant Director Finance and Procurement
Kelly.watson@cherwellandsouthnorthants.gov.uk

Legal Implications

- 7.2 From a legal perspective it is imperative that if activity continues to be carried out by staff employed by one council on behalf of the other council after 16 January 2019 there needs to be a legal basis to enable this. The recommendations in this report if adopted will provide this framework. Legal advice has been obtained which provides analysis of the various legal options available which in turn have been considered by officers. Internal advice has been provided through the non-contentious team and by the former Assistant Director Law and Governance.

Comments checked by:

Chris Mace, Solicitor, 01327 322125
christopher.mace@cherwellandsouthnorthants.gov.uk

Risk Implications

- 7.4 A full risk register has been developed as part of the action plan to separate the two councils. A significant risk was that the councils would not have in place provisions that would allow the two councils to continue joint working following the termination of the Section 113 Agreement. This Collaboration Agreement deals directly with that risk.

Comments checked by:

Chris Mace, Solicitor, 01327 322125

christopher.mace@cherwellandsouthnorthants.gov.uk

8.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

Not applicable

Lead Councillor

Councillor Barry Wood, Leader of the Council - CDC

Councillor Ian McCord, Leader of the Council - SNC

Document Information

Appendix No	Title
N/A	N/A
Background Papers	
Exempt Background Paper – Legal Advice Note, exempt from publication by virtue of paragraph 5 of Part 1 Schedule 12A of Local Government Act 1972.	
Report Author	Nick Graham, Director of Law & Governance (CDC) Andrew Hunkin, Executive Director: Resources (SNC)
Contact Information	01327 322209 andrew.hunkin@cherwellandsouthnorthants.gov.uk