

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Cabinet**
held on Tuesday, 18th October, 2016 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor Rachel Bailey (Chairman)
Councillor D Brown (Vice-Chairman)

Councillors A Arnold, P Bates, J Clowes, L Durham, J P Findlow, P Groves
and D Stockton

Members in Attendance

Councillors C Andrew, Rhoda Bailey, B Burkhill, S Corcoran, B Dooley,
S Edgar, I Faseyi, R Fletcher, D Flude, L Jeuda, A Kolker, G Merry, A Moran,
S Pochin, J Saunders, A Stott and M Warren

Officers in Attendance

Mike Suarez, Kath O'Dwyer, Bill Norman, Mark Palethorpe, Alex Thompson,
Andrew Ross, Jacky Forster, Peter Hartwell, Mark Wheelton and Paul
Mountford

Apologies

Councillor G Hayes

The Chairman welcomed everyone to the meeting, including teachers and school children from Tytherington High School and Malbank High School as well as parents from those and other schools referred to in Item 6 on the agenda relating to Available Walking Routes to School. Owing to the exceptional number of people attending the meeting for this item, additional meeting rooms had been provided, with the webcast of the meeting being broadcast to screens in those rooms. The Chairman announced that she would be bringing Item 6 forward on the agenda and would be extending the public speaking time to 30 minutes to allow sufficient time for those wishing to speak on the item. Any members of the public wishing to speak on another matter would have an opportunity to do so once consideration of Item 6 had been concluded.

43 DECLARATIONS OF INTEREST

There were no declarations of interest.

44 PUBLIC SPEAKING TIME/OPEN SESSION

Before Cabinet considered the Item 6 on the agenda concerning Available Walking Routes to Schools, the Chairman invited members of the public to speak on the matter.

Bollington Town Councillor Ken Edwards commented that the Council's proposal to remove free school bus transport from Bollington to Tytherington High School was bringing anxiety and stress to local children and adults. He added that the proposal was not economically efficient or morally right and would lead to increased inequality.

Emanuel Botwe, Head teacher at Tytherington High School, asked the Council to provide evidence to support the view that the Emergency Services agreed with the proposal. He also asked if the Council had considered the issue of personal safety when making its decision about whether to withdraw free transport from Bollington to Tytherington School. Finally, he referred to a House of Lords ruling in 1988 relating to George v Devon which he said required local authorities to consider whether it would be practical for parents to accompany their children on the route and whether it would be normal for children of a certain age to be accompanied.

Heidi Reed felt that the Middlewood Way on route to the Tytherington High school was isolated and poorly lit and therefore unsafe to walk. She also said that it was inaccessible to emergency service vehicles.

Donald Muir felt that the Council's school transport policy was flawed and out of date and had been based on out-of-date guidance. He asked the Council to update its policy before considering any changes to available walking routes and school transport provision. In particular, he felt that the evaluation of available walking routes should be a risk-based assessment which included child safety, and that there should be a recognition that personal circumstances may influence the ability of a parent to accompany their child to school.

On behalf of a Dr & Mrs C Murdock, Emanuel Botwe called on the Cabinet to release in full all correspondence between the Council and the Emergency Services relating to available walking routes to school so that parents of vulnerable at risk children could make an informed choice on how their children should get to school.

Mrs S Buckle, the parent of a child attending Wheelock Primary School, said that she would not allow her children to use the proposed walking route to school as it was overgrown and poorly lit. Mrs Buckle also commented that this change presented a challenge to her work and life/family balance as a working mother.

Jeanette Walker, the Head Teacher of Malbank School, referred to the unmanned railway crossing which her school children would have to cross in walking to school, which she considered to be dangerous.

At the conclusion of public speaking, the Chairman thanked those who had spoken for their contribution to the debate.

45 AVAILABLE WALKING ROUTES TO SCHOOL PROGRAMME

Cabinet gave further consideration to this matter in the light of the recommendations of the Children and Families Overview and Scrutiny Committee and the officer response to the recommendations.

On the 14th June 2016, Cabinet had considered a report in relation to a 'review of the available walking routes to school' and had resolved as follows:

"That Cabinet

1. notes the reclassification of routes that have been re-assessed as available walking routes to school and agrees that free school transport for those routes be withdrawn from April 2017; and
2. authorises the Executive Director for People to spend £150,000 from the Local Transport Plan budget allocation for 2016/17 to improve further walking routes to school to bring them up to required standard so that free school transport for those improved routes may be subsequently withdrawn."

Cabinet's decisions had subsequently been called in for review on the basis that:

- a) relevant information was not considered;
- b) viable alternatives had not been considered; and
- c) the decision taken by Cabinet could be open to challenge.

On the 19th July 2016, the Children and Families Overview and Scrutiny Committee considered the call-in of the Cabinet decision and made a series of recommendations to Cabinet as set out in the report.

The officer response to the Committee's recommendations and subsequent recommendations to Cabinet were set out in Appendix 3 to the report.

At the invitation of the Chairman, Councillor Rhoda Bailey, Chairman of the Children and Families Overview and Scrutiny Committee, addressed the meeting, paying tribute to everyone who had taken part in the process. She went through the Committee's recommendations as set out in the report and noted that some of these had been accepted by the Cabinet. She urged Cabinet to ensure that any necessary improvements to the proposed walking routes were completed before the proposals were implemented.

The following councillors were invited to address Cabinet in relation to the proposals, having expressed the wish to do so: Councillors A Stott, S Corcoran, B Dooley, S Edgar, D Flude, L Jeuda, G Merry, A Moran, S Pochin, J Saunders and M Warren. Among the views expressed were that

some working parents would find it difficult to accompany their children to school; some routes were unsafe for children to walk along alone and could attract opportunistic predators; the cost of transport would be prohibitive for large families; there had been a lack of consultation with schools and local ward members; the safety of children should take precedence over financial savings; and the weight of opposition across the political parties and the views of the cross party overview and scrutiny committee, local ward members and local MPs should not be ignored.

On the question of consultation with local ward members, the Portfolio Holder for Children and Families confirmed that meetings with local ward members for the areas affected had been offered.

At the conclusion of member speaking, the officers presented the report which focussed primarily on the recommendations of the Children and Families Overview and Scrutiny Committee. The officers advised that the Emergency Services had confirmed that they would be able to access Middlewood Way if necessary; that children with long term health issues and families on low incomes had been taken into account by the Council's policy; and that the Council had a duty to apply its policies consistently and fairly across the Borough which would inevitably lead to the removal of school transport where a walking route was deemed to be available. Finally, the officers indicated that the process had provided for a nine month period before implementation to allow sufficient time for engagement with the affected schools and local communities. Cabinet members then asked the officers a number of questions to clarify certain aspects of the report.

At 4.00 pm the Chairman announced a 10 minute adjournment.

Following the adjournment, the Chairman summed up the debate by commenting that the Cabinet had acknowledged the concerns of local schools and residents and had considered carefully the advice and recommendations of the Children and Families Overview and Scrutiny Committee. In doing so, the Cabinet had had regard to its responsibility to all the residents of the Borough in applying the Council's policy on Available Walking Routes to School in a consistent and equitable manner.

The Cabinet had welcomed the debate on the re-assessment of the five walking routes to school, had listened to the views of the schools and residents and had taken on board the suggestions and comments made as reflected in the revised recommendations in the report. The Chairman thanked everyone concerned for their participation in and contribution to the debate.

The Portfolio Holder for Children and Families then moved the recommendations in the report with a number of additional amendments.

RESOLVED

That having reconsidered its decisions of 14th June 2016, and the minutes and recommendations of the Children and Families Overview and Scrutiny Committee meeting of 19th July 2016, Cabinet resolves as follows:

That the decisions taken by Cabinet on 14th June 2016 be confirmed subject to the following:

1. Middlewood Way be confirmed as an available walking route;
2. the implementation of changes to the availability of routes be postponed until September 2017;
3. the Executive Director - People be given delegated authority (in consultation with the Portfolio Holder for Children and Families) to discuss with relevant schools and academies, and arrange such transitional grant funding as the Executive Director considers appropriate, so that where practicable any child who currently receives free school transport will continue to receive subsidised transport until they either conclude their education at their current school or move to another school, and the Executive Director report back on progress;
4. the highway improvements recommended by the Children and Families Overview and Scrutiny Committee, and identified as 'to be implemented' in Appendix A to the report, be approved and monitored by the relevant Portfolio Holders with a view to implementation by 2017;
5. for any future route assessments, where changes to the classification are being considered, local members to be invited to accompany officers on a route review;
6. the Executive Director - Place be requested to review the Council's Sustainable Modes of Travel Strategy and bring a revised strategy to Cabinet for consideration and approval; and
7. Cabinet note the Children and Families Overview and Scrutiny Committee's disappointment at a perceived lack of consultation in relation to the proposals and log the ongoing engagements with overview and scrutiny on this policy as a whole, but in particular with regard to the routes before Cabinet today.

46 PUBLIC SPEAKING TIME/OPEN SESSION

There were no further members of the public wishing to speak at the meeting.

47 QUESTIONS TO CABINET MEMBERS

Councillor S Corcoran had read in the press that the Chief Inspector of Weights and Measures did not have the required qualifications. He asked what were the implications and what mitigation measures had the Council put in place. At the Chairman's request, the Director of Legal Services confirmed that a person had been appointed as Chief Inspector of Weights and Measures without the qualification required by the Weights and Measures Act 1985 but that person no longer occupied the role and a person with the relevant qualification had been appointed. The Director confirmed that none of the work carried out under the previous, unqualified post holder had been invalidated and he was confident that there would be no adverse consequences to decisions in this area.

Councillor D Flude referred to a study by Brighton University which had found that there had been a decline in local authority compliance with equalities duties under the Equality Act 2010. She asked what the Council was doing to improve its compliance with the Act. The Portfolio Holder for Corporate Policy and Legal Services replied that currently he was reasonably satisfied that the Council was complying with its responsibilities under the Act but would now seek further confirmation and confirm in writing.

Councillor R Fletcher commented that a number of years ago, Network Rail had announced that it was going to replace all half barrier railway crossings across the country. He referred to the response by Network Rail in relation to the half barrier crossing at Nantwich as referred to in the Available Walking Routes report which stated that the crossing complied with Network Rail's risk assessment and that no further action would be taken. He asked if the Council would write to Network Rail to ascertain its intentions with regard to the crossing as he felt that the response received previously was not correct. At the Chairman's request, the Executive Director for People replied that the officers had ensured that the correct individuals at Network Rail had been contacted about the crossing in Nantwich and the response had been as outlined in the report. However, Network Rail had indicated that it had a programme of reassessment of its crossings and the Executive Director would be able to confirm over what period the reassessment was undertaken. The Deputy Leader and Portfolio Holder for Highways and Infrastructure undertook to raise the matter in his role as Director of Rail North and would reply in writing to Councillor Fletcher.

Councillor Fletcher also referred to street lights that had been re-lit on the Alsager/Church Lawton boundary. When the Council recently removed lights which had become surplus to requirements at this location, they also removed lights that had been re-lit. He asked if the technicians who were removing redundant lights around the Borough could be made aware of lights that had been re-lit so that those lights were not removed.

48 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 13th September 2016 be approved as a correct record, with a small correction of F Fletcher to R Fletcher.

49 NOTICE OF MOTION - TAX COMPLIANCE AND PROCUREMENT PROCEDURES

Cabinet considered the following motion which had been moved by Councillor S Hogben and seconded by Councillor S Corcoran at the Council meeting on 28th July 2016 and referred to Cabinet for consideration:

“This Council notes that:

- corporate tax evasion and avoidance are having a damaging impact on the world’s poorest countries, to such a level that it is costing them far more than they receive in aid*
- this is costing the UK as much as £30bn a year*
- this practice also has a negative effect on small and medium-sized companies who pay more tax proportionately.*

This Council further notes that the UK Government has taken steps to tackle the issue of tax avoidance and evasion by issuing Procurement Policy Note 03/14 (PPN 03/14). This applies to all central government contracts worth more than £5m.

This Council also notes the existence of voluntary schemes promoting tax compliance such as the Fair Tax Mark, which can serve as an independent means of verification. This council notes the 2015 Public Contract Regulations which state (in section 4) that local government can choose to adopt Procurement Policy Note 03/14.

This Council believes that bidders for council contracts should be asked to account for their past tax record, using the higher standards in PPN 03/14.

This Council therefore calls for procurement procedures to be amended to require all companies bidding for service and works contracts worth more than figures to be agreed with the Chief Operating Officer to self-certify that they are fully tax-compliant in line with central government practice using the standards in PPN 03/14, applying to contracts of the size specified above.

This Council asks the Cabinet to publicise this policy and to report on its implementation annually.”

The Council had sought to apply the best practice outlined by the Government, and its procedures followed those laid out by the

Government's Crown Commercial Service Department. Ensuring tax compliance was an important attribute that the Council considered as good practice.

At the invitation of the Chairman, Councillor S Corcoran spoke on this matter.

The Director of Legal Services advised that any changes to the Council's procurement procedures would require suitable amendments to the Council's Contract Procedure Rules in the normal manner. This was noted.

RESOLVED

That the Council's procurement procedures be amended with effect from 1st January 2017 to require all companies bidding for contracts of £5m or greater to self-certify that they are fully tax compliant in line with the UK Government's Procurement Policy Note (03/14).

Note: At this point, the Chairman vacated the Chair and shortly afterwards left the meeting. The Deputy Leader took the Chair for the remainder of the meeting.

Councillor D Brown in the Chair

50 EVERYBODY SPORT & RECREATION ANNUAL PERFORMANCE REPORT 2015- 16

Cabinet considered the second Annual Performance Report from "Everybody Sport & Recreation" (ESAR) for the financial year 2015-16 in respect of the delivery of services on behalf of the Council.

Councillor A Kolker, Chairman of the Trust, and Peter Hartwell, Chief Executive of the Trust, attended the meeting and at the invitation of the Chairman spoke on the report and the work of the Trust.

RESOLVED

That the progress made by the Trust in its second year of trading as an independent Charitable Trust, and the Annual Report, be noted.

51 CREWE GREEN ROUNDABOUT IMPROVEMENTS - PREFERRED OPTION AND PROCUREMENT

Cabinet considered a preferred option for the junction improvement at Crewe Green Roundabout and a procurement route for the delivery of the scheme.

Option 3 as detailed in the report was considered to be the most effective in achieving the Council's objectives, was the one most favoured in public consultation and had the lowest cost.

RESOLVED

That Cabinet

1. approves Option 3 as the preferred design solution in accordance with the layout shown at Appendix 1;
2. approves the use of the Scape Civil Engineering and Infrastructure Framework for the procurement of the scheme works with the NEC Target Cost form of contract;
3. authorises the Director of Legal Services to enter into any necessary delivery agreements (or supporting agreements) for the provision of services by the Contractor;
4. authorises the Executive Director of Place, in consultation with the Highways and Infrastructure Portfolio Holder, to enter into negotiations with third party landowners for the acquisition of the land and rights necessary for the construction of the scheme;
5. authorises the Executive Director of Place to take all necessary action to undertake the advance diversion of any utility services necessary to deliver the scheme;
6. authorises the Director of Legal Services in consultation with the Portfolio Holder to enter into such legal agreements as necessary to acquire all land and rights to that land necessary for the construction of the scheme and to dedicate that land as highway;
7. authorises the Executive Director of Place, in consultation with the Highways and Infrastructure Portfolio Holder, to proceed with all necessary technical work, including preparation of a detailed design, land assembly, investigation and conduct of diversions of statutory-undertakers apparatus to enable the Highway Works in regard of the Preferred Option;
8. approves the continuation of Jacobs as designers for the scheme under the existing arrangements with them for delivery of highway professional services; and
9. authorises the Executive Director of Place in consultation with the Highways and Infrastructure Portfolio Holder, to complete the assembly of the necessary third-party funding contributions for expenditure on the scheme and authorise the forward funding of the scheme up to £1.7m.

52 CREWE MARKETS

Cabinet considered a report setting out an approach for moving forward on setting and implementing the future vision for the market offer in Crewe.

Crewe Town Councillor Simon Yates attended the meeting and at the invitation of the Chairman spoke on the matter, warmly welcoming the report.

RESOLVED

That Cabinet

1. agrees to the principle of developing a vision, business plan and delivery programme for the markets jointly with Crewe Town Council;
2. approves the allocation of £50,000 of revenue funding from the sustainability revenue budget for this work; and
3. notes the potential future capital requirements for this project, the funding of which will be subject to a separate report and decision.

53 PREVENT DUTY & CHANNEL DUTY PROGRESS REPORT

Cabinet considered a report on the Council's responsibilities under the Prevent Duty Guidance 2015 and the Channel Duty Guidance 2015. The report also outlined the work taking place in Cheshire East and sub-regionally with Cheshire West and Chester, Warrington and Halton Borough Councils.

RESOLVED

That

1. the collective progress to date be noted and the Council's partners be thanked for their involvement, support and contributions;
2. the responsibilities placed upon the Council by the Prevent and Channel duties be noted; and
3. the Pan Cheshire Prevent Strategy be noted and supported.

54 CHILDREN'S RESIDENTIAL HOME TENDER

Cabinet considered a report on progress with the tender process to put in place a wholly commissioned service for Children's Homes in Cheshire East. The report sought delegated authority to award the contract.

RESOLVED

That

1. authority be delegated to the Deputy Chief Executive and Executive Director for People, in consultation with the Portfolio Holder for Children and Families, to award the Children's Homes contract; and
2. the Director of Legal Services be authorised to enter into the contract with the successful bidder and any ancillary legal documentation required including the granting or taking of leases, underleases and licence agreements (after having consulted the Head of Assets in respect of any property agreements).

55 LAN SWITCH REPLACEMENT PROJECT

Cabinet considered a report recommending the procurement and installation of replacement Local Area Network equipment that would deliver a PSN compliant infrastructure for the Council.

RESOLVED

That

1. Cabinet approves the procurement and award of contracts for the replacement of all EOL/EOS LAN equipment at an estimated cost of £3m over a seven year contract period, via the Crown Commercial Service RM1045 LOT 2 – Local Connectivity Services: in accordance with the Public Contracts Regulations 2015 and Cheshire East Borough Council's Contract Regulations;
2. the Chief Operating Officer, in consultation with the Portfolio Holder for Finance and Assets, be authorised to prepare and undertake the procurement, including any contract negotiations, and thereafter enter into the contract with the successful bidder;
3. the Director of Legal Services be authorised to enter into all necessary contractual documentation with the successful bidder and other bodies intending to participate in the contract; and
4. Cabinet notes that the recommendation is to procure and install replacement LAN equipment that will deliver a PSN compliant infrastructure for both councils. The requirement is to replace all EOL/EOS switches on the corporate LAN. There are 552 devices (over 232 sites) in scope at this time. The project will procure, order and implement the new hardware. The procurement will include support and maintenance contracts for five years, with an option for two 12 month extensions. The project will be implemented in a phased approach, phase one, 59 sites, will be replacing LAN equipment at sites that consume PSN services direct and public locations such as

Libraries, Leisure Centres and Children's Centres. Phase two, 173 sites, will be completed by end of December 2017.

The meeting commenced at 2.00 pm and concluded at 5.10 pm

Councillor Rachel Bailey (Chairman)