

# **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Cabinet**  
held on Tuesday, 22nd August, 2017 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 P Findlow, P Groves, D Stockton, G Hayes  
and L Wardlaw

## **Members in Attendance**

Councillors G Baxendale, M Deakin, L Durham, I Faseyi, D Flude,  
S Gardiner, M Grant, J Jackson, N Mannion, R Menlove, S Pochin,  
B Roberts and G Williams

## **Officers in Attendance**

Kath O'Dwyer, Frank Jordan, Peter Bates, Jan Willis, Linda Couchman, Dan  
Dickinson and Paul Mountford

## **Apologies**

Councillor J Clowes

## **29 DECLARATIONS OF INTEREST**

Councillors G Hayes and S Pochin, as Chairman and a Director  
respectively of the Skills and Growth Company, declared pecuniary  
interests in Items 8 and 10 on the agenda relating to the Fairerpower  
contract and announced their intention to leave the meeting prior to the  
consideration of those items.

## **30 PUBLIC SPEAKING TIME/OPEN SESSION**

Councillor Jonathan Parry, Middlewich Town Council, referred to findings  
of deliberate manipulation of air quality figures in Cheshire East and asked  
Cheshire East Council to order an investigation into the data for Lewin  
Street, Middlewich and report on how the findings of that investigation  
impacted on the planning application for the ANSA waste depot being  
constructed at Cledford Lane. The Portfolio Holder for Housing and  
Planning undertook to provide a written response.

Sue Helliwell referred to play equipment, including a roundabout, at  
Wayside Linley Park in Alsager which had been condemned as it failed to  
meet health and safety requirements. She asked if the Council would  
replace the play equipment. The Portfolio Holder for Highways and

Infrastructure undertook to review the matter and provide a written response.

Ted Wall referred to the reported manipulation of air quality figures in Cheshire East, and to the Council authorising expenditure on car parking in contravention of its own rules, set against a background of bus service reductions for local residents. He asked how residents were supposed to have confidence in Cheshire East's Cabinet. The Leader responded by acknowledging Mr Wall's concerns and giving an assurance that the Council was addressing the issues he raised.

Carol Jones referred to the need for a sustainable community strategy and asked how the people of Cheshire East would be helped by reductions in bus services. She mentioned in particular the 72 and 73 bus which went to Whitchurch from Nantwich and bus services from Sandbach. She felt that such reductions in service would lead to the isolation of people and that the Council should instead be investing in bus services. The Leader responded that the bus service review was currently subject to public consultation and that the outcome would come back to Cabinet. The Portfolio Holder for Highways and Infrastructure added that local ward members were also being consulted. He gave an assurance that in considering the review, the Council would do everything in its power to help the elderly and vulnerable.

The Portfolio Holder for Regeneration referred to a question by Michael Unett at the Cabinet meeting on 11<sup>th</sup> July regarding investment in the infrastructure of Alsager, especially the provision of a burial ground. At that meeting, the Leader had given an undertaking that a full response would be provided at the next meeting. In response to the question, the Portfolio Holder reported that Cheshire East Council had recently initiated a procurement process to appoint consultants to draft a Corporate Cemeteries Strategy for the Borough. The primary purpose of the Cemeteries Strategy would be to provide a strategic framework to ensure that the provision of Cemeteries met the local needs of existing and future residents within Cheshire East. Subject to public consultation, completion and adoption of the Strategy was targeted for the end of March 2018.

### **31 QUESTIONS TO CABINET MEMBERS**

Councillor G Baxendale, as Chairman of the Audit and Governance Committee, asked that the Leader request the Environment Overview and Scrutiny Committee to undertake a complete overview of the air quality management within the authority. The Leader undertook to raise the matter with the Committee's Chairman at the earliest opportunity.

Councillor D Flude asked if the Council had enough out of hours social work cover for people under 18. The Portfolio Holder for Children and Families undertook to look into the matter and provide a written response.

Councillor J Jackson asked what action was being taken to identify the person or persons responsible for the deliberate manipulation of air quality figures. She also asked what assurances could be given that this would not happen again. The Portfolio Holder for Housing and Planning gave an assurance that as a result of action now taken, the manipulation of air quality data could not be replicated. The Leader and the Acting Chief Executive added that any similar issues arising in the future would be investigated in a transparent way.

Councillor M Grant asked about undertakings given to the Berkeley Academy in relation to parking and sought assurances that this would not happen again. The Leader responded that this would be addressed when considering the agenda item later in the meeting.

Councillor M Deakin commented that from September, residents of Alsager would not be able to take a bus direct to Leighton Hospital in Crewe, owing to the withdrawal of D&G's commercial services. He asked what the scope was for TSS getting another tender in place and could the Portfolio Holder confirm when this service would be up for tender. The Portfolio Holder for Highways and Infrastructure undertook to provide a written response.

Councillor R Menlove referred to his inability to find any information on the media hub in relation to complaints against the Council to the Ombudsman, particularly in relation to planning matters, and the outcome of those complaints. He asked to be directed to the relevant part of the Council's website. The Portfolio Holder for Housing and Planning referred to a press statement issued on 11<sup>th</sup> August concerning a number of complaints against the Council in relation to planning matters, only one of which had been upheld.

Councillor I Faseyi referred to the number of HMO applications for Crewe town centre and asked what could be done to address this. The Portfolio Holder for Housing and Planning responded that members concerned about such applications could call them in for consideration by the Southern Planning Committee. The Leader added that a piece of work on the matter was being undertaken. She undertook that a written response would be provided, drawing together the planning and other aspects.

Councillor N Mannion referred to a decision taken at the Council meeting on 27<sup>th</sup> July to approve £2.4M for the completion of the ANSA Environmental Hub in Middlewich. There had been an indication given to Council during that meeting by the Portfolio Holder for Finance and Communities that the money would be provided on the basis of a loan at commercial rates. That had been a misarticulation of an intention of the Portfolio Holder that where appropriate, advances to the Council's ASDVs would take place upon commercial terms. Councillor Mannion queried whether the misarticulation affected the vote at Council and whether it should be taken again. At the Leader's invitation, the Director of Legal Services advised that the decision was to adopt the resolution contained in

the papers before Members, to approve two supplementary capital estimates and that notwithstanding any other indications given during the heat of debate, the decision taken was clear and so was valid, binding and lawful. There was no legal basis on which it could be taken back to Council to be decided again. The Portfolio Holder for Finance and Communities apologised if he had inadvertently misled anyone.

Councillor B Roberts commented that he had made two separate requests for the issue of air quality to be brought back to the Environment Overview and Scrutiny Committee but had not received a reply. The Portfolio Holder for Housing and Planning responded that the matter was due to be considered by the Committee at its meeting in September.

### **32 MINUTES OF PREVIOUS MEETING**

#### **RESOLVED**

That the minutes of the meeting held on 26<sup>th</sup> July 2017 be approved as a correct record.

### **33 SAFER ROUTES TO PRIMARY SCHOOLS**

Cabinet considered a report seeking authority for the Council to make an award of grant funding of up to £70,000 to the Berkeley Academy to be used for the purposes of piloting a safer drop off facility at the school. The report also outlined an approach to the formation of policy which would enable similar proposals to come forward to address congestion issues at other primary schools.

#### **RESOLVED**

That Cabinet

1. notes the outline approach in respect of safer parking for communities around Schools in advance of its full response to the Corporate Overview and Scrutiny Committee's Task and Finish Group recommendations;
2. notes that discussions and work have been undertaken with the Berkeley Academy and that an undertaking has been given that the Council will make a £70,000 contribution for an off highway parking facility;
3. authorises the Executive Director of Place to make an award of grant funding of up to £70,000 (to be funded by virement from the highways and linked access fund capital programme allocation) to the Berkeley Academy to be used for the purposes of piloting a safer drop-off facility at the school in order to inform the development of Council policy in this area, upon such terms the Executive Director of Place considers prudent; and

4. authorises the Executive Director of Place in consultation with the Director of Legal Services and the Portfolio Holder for Corporate Policy and Legal Services to dispose of any requests received for reimbursement of additional expenses reasonably and properly incurred by the Academy which it is considered the Council may be liable to reimburse flowing from action taken in connection with the undertaking given.

#### **34 TRANSPORT FOR THE NORTH - MEMBERSHIP OF CHESHIRE EAST COUNCIL**

Cabinet considered a report which set out the process and governance arrangements for Transport for the North to become a statutory body, and which sought Cabinet approval for Cheshire East Council to confirm its membership of Transport for the North.

#### **RESOLVED**

That Cabinet

1. notes the progress made by Transport for the North in securing Government approval to become a statutory Sub-National Transport Body;
2. agrees that the scope of the powers which are being sought by Transport for the North is acceptable to Cheshire East Council, these being:
  - (a) The preparation of a Northern Transport Strategy;
  - (b) The provision of advice on the North's transport priorities, as a Statutory Partner in the Department's investment processes; and
  - (c) The coordination of regional transport activities, (such as smart ticketing), and the co-management of the TransPennine Express and Northern rail franchises through the acquisition of Rail North Ltd.
3. notes and consents to Rail North (which the Council is already a member of as agreed by Cabinet at its meeting held on 2<sup>nd</sup> September 2014) being subsumed into Transport for the North and that its powers to specify and let rail franchises for the North of England are proposed to be unaffected by it being subsumed into Transport for the North;
4. notes that the transfer of Rail North Limited to TfN so that it can be subsumed within TfN will require the signing of a new Rail Franchise Management Agreement with TfN. This agreement will replicate as far as possible the current Rail North Limited Members Agreement;
5. agrees that Cheshire East Council should continue its payment of the current funding for Rail North Limited to TfN after its inauguration;

6. agrees that Cheshire East Council should become a member of Transport for the North – this will require the making by the Secretary of State of Regulations under section 102E of the Local Transport Act 2008 to establish Transport for the North as a Sub-National Transport Body;
7. notes that the taking up of this membership is subject to the making of regulations to be put before Parliament in the Autumn of 2017;
8. delegates the final decision to accept the regulations and confirm the Council's membership of Transport for the North to the Chief Executive in consultation with the Leader of the Council, the Portfolio Holder for Transport, the Executive Director for Place and the Director of Legal Services, once the final version of the regulations is available – this is anticipated to be in September 2017; and
9. agrees that Cheshire East Council will appoint a Council Member to represent the authority on the TfN Board and that this representative will seek prior Cabinet or Council consent to any decision which is to be made by voting of TfN's Constituent Members, where this decision:
  - (a) requires the unanimous decision of TfN members,
  - (b) affects the transfer or sharing of functions,
  - (c) makes any financial commitment for Cheshire East Council or is a matter affecting the land ownership or land interests of Cheshire East Council.

Note: At this point, having declared pecuniary interests in the following item earlier in the meeting, Councillors G Hayes and S Pochin left the meeting and took no part in the consideration or voting on the matter.

### **35 TRANSFER OF THE FAIRERPOWER CONTRACT TO THE SKILLS & GROWTH COMPANY**

Cabinet considered a report proposing that the Fairerpower Contract be transferred to, and modified by, The Skills & Growth Company to enable the expansion of the Fairerpower scheme in the North West and Midlands Region to support the Council's energy objectives and ensure that the scheme was viable and sustainable in the longer term.

In considering the report, Cabinet was asked to have regard to a confidential appendix set out in Part 2 of the agenda which contained legal advice in relation to the contractual arrangements proposed. It would therefore be necessary to consider the matter in the absence of the public and press.

## **36 EXCLUSION OF THE PRESS AND PUBLIC**

### **RESOLVED**

That the press and public be excluded from the meeting during consideration of the following item pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 3 and 5 of Part 1 of Schedule 12A to the Local Government Act 1972 and the public interest would not be served in publishing the information.

## **37 TRANSFER OF THE FAIRERPOWER CONTRACT TO THE SKILLS & GROWTH COMPANY**

Cabinet gave further consideration to the report in conjunction with the confidential appendix.

### **RESOLVED**

That, having had regard to the content of the report and the legal advice set out in the confidential appendix, Cabinet

1. approves the novation of the Fairerpower contract between the Council and OVO Energy Limited dated 12<sup>th</sup> December 2014 (“the Contract”) to the Skills and Growth Company, and delegate authority to agree the terms of the novation agreement to the Executive Director of Place in consultation with the Director of Finance and Procurement, Director of Legal Services and the Portfolio Holder for Regeneration;
2. agrees that the preferred option for the operation of Fairerpower is to provide a multi-energy supplier offering in the North West and Midlands (Option D) as it best meets the Council’s commercial principles of eliminating future subsidy;
3. authorises the Executive Director of Place in consultation with the Director of Finance and Procurement, Director of Legal Services and the Portfolio Holder for Regeneration to agree any future changes relating to the contract for Fairerpower;
4. authorises the Executive Director of Place in consultation with the Director of Finance and Procurement and Portfolio Holder for Finance and Communities to approve a loan on commercial terms to fund setup costs and cash flow requirements, subject to appropriate due diligence;
5. authorises the Executive Director of Place in consultation with the Director of Finance and Procurement, Director of Legal Services and the Portfolio Holder for Regeneration to determine the terms on which the Skills & Growth Company may enter into contracts with other Local Authorities for the supply of energy; and

6. authorises the Executive Director of Place to take any and all necessary or consequential actions, arising from the above recommendations, in consultation with the Director of Finance and Procurement, Director of Legal Services and the Portfolio Holder for Regeneration.

The meeting commenced at 2.00 pm and concluded at 3.30 pm  
Councillor Rachel Bailey (Chairman)