

## MINUTES OF A MEETING OF THE OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE HELD ON 17 MAY 2016 FROM 7.30 PM TO 9.30 PM

### **Committee Members Present**

Councillors: Tim Holton (Chairman), Michael Firmager (Vice-Chairman), Prue Bray, Kate Haines, Norman Jorgensen and Ken Miall

### **Other Councillors Present**

Councillors: Lindsay Ferris, Julian McGhee-Sumner and Richard Dolinski

### **Officers Present**

Neil Carr, Principal Democratic Services Officer

Matt Davey, Head of Highways

Andrew Moulton, Head of Governance and Improvement Services and Monitoring Officer

Mary Severin, Borough Solicitor and Deputy Monitoring Officer

### **74. APOLOGIES**

Apologies for absence were submitted by Councillors Clark, Helliar-Symons, Jarvis and Richards.

### **75. DECLARATION OF INTEREST**

There were no declarations of interest.

### **76. PUBLIC QUESTION TIME**

There were no public questions.

### **77. MEMBER QUESTION TIME**

There were no Member questions.

### **78. CALL-IN OF EXECUTIVE DECISION - EVENING, SUNDAY AND SHUTE END CHARGES**

The Committee considered the Call-In of the decision taken by the Executive, at its meeting on 31 March 2016, relating to the introduction of evening and Sunday charges for Wokingham Borough Council car parks and charges for the Shute End Council offices car park. The decision had been called in by Councillors Prue Bray, Lindsay Ferris, Tom McCann, Beth Rowland and Rachelle Shepherd-Dubey.

The Executive decision had been called in on the following grounds:

- The action proposed was not proportionate to the desired outcome;
- Due consultation had not taken place;
- A presumption in favour of openness had not been observed;
- Clarity of aims and objectives had not been achieved;
- Only one option was presented and no details of other any other options considered had been presented.

The following witnesses were invited to submit evidence and answer questions in order to assist the Committee in its deliberations:

- Councillor Lindsay Ferris to set out the reasons behind the Call-In;

- Councillor Richard Dolinski to represent the views of Woodley Town Council and the Woodley Town Centre Management Initiative;
- Keith Malvern and Peter Must to challenge the reasons underpinning the Executive decision;
- Matt Davey (Head of Highways) to provide facts and figures relating to the Executive decision;
- Councillor Julian McGhee-Sumner to represent the views of the Leader of the Council and the Council's Executive;
- Andrew Moulton (Monitoring Officer) and Mary Severin (Borough Solicitor) to answer any legal/procedural questions relating to the Executive decision and subsequent Call-In process.

Councillor Tim Holton (Chairman) welcomed the witnesses and explained the format of the meeting. Each witness would be invited to make a short presentation to the Committee followed by a question and answer session. Following the witness session the Committee would consider all the evidence and decide upon any appropriate recommendations.

**Councillor Lindsay Ferris addressed the Committee on the reasons behind the Call-In and made the following points:**

- Proportionality – a blanket charge had been proposed for all car parks except one, no matter what their location or usage.
- Consultation – the consultation which took place was on the tariff, not on the principle. No specific consultation had taken place with affected businesses, organisations or individuals. Additionally, professional advice appeared to have been provided by Highways Officers only.
- Openness – there had been no warning about the proposal prior to the consultation on the level of charges.
- Clarity of aims and outcomes – during the Executive meeting it was suggested that the new charges would not be introduced in Woodley and that daytime charges would be increased instead. However, the original recommendations were voted through.
- Options – only one option was presented to the Executive and no details of other options considered have been presented.
- The Call-In challenged the decision making process rather than the introduction of new charges. The decision was originally due to be an Individual Executive Member Decision until the process was challenged and it was referred to the Executive. The survey which produced key information was not carried out until after the consultation was closed and the Executive decision was based on partial information about the impact of the changes. There was no evidence that the proposal relating to Woodley was based on any robust data.
- In summary, the decision making was poorly handled and there was a need for more robust systems to ensure that decisions were evidence based and communicated effectively.

In the subsequent question and answer session the following points were raised:

- Introduction of a blanket charge for all car parks was not appropriate without an assessment of the different impacts on each car park.
- It was not clear how the savings figure of £150k had been estimated without detailed evidence.
- The Executive report should have contained an assessment of other options which could have delivered the required savings.

**Councillor Richard Dolinski addressed the Committee and made the following points:**

- Councillor Dolinski had asked a question at the Executive following consideration of the proposals by Woodley Town Council's Community Services Committee, the full Town Council and the Woodley Town Centre Management Initiative (TCMI).
- The view from Woodley Town Council and the Woodley TCMI was that a 10p increase to existing daytime charges was fairer.

In the subsequent question and answer session the following points were made:

- Councillor Dolinski's understanding (confirmed in writing before the Executive meeting) was that the 10p increase to daytime charges in Woodley would be trialled for one year.
- It was confirmed that Councillor Keith Baker had attended the Town Council Community Services Committee meeting, but had not taken part in the discussions on the Borough Council's proposals.

**Keith Malvern addressed the Committee and made the following points:**

- Mr Malvern referred Members to his written witness statement. This highlighted the fact that a number of opportunities had been missed to find a better solution.
- The Borough Council's Head of Highways (Matt Davey) had stated in writing that the principle of charging had already been established but there was no evidence that this "in principle" decision applied to the evening and Sunday charging proposal.
- The written statement highlighted a number of lessons that should have been learned in relation to consultation, clarity on the established principles, the handling of customer feedback and transparent decision making.

In the subsequent question and answer session the following point was made:

- It was confirmed that the Council's Constitution (paragraph 1.4.2 f)) stated "when decisions are taken by the Executive, details of the options which were taken into account and the reasons for the decision will be recorded".

**Peter Must addressed the Committee and made the following points:**

- There was confusion about the level of charges in different car parks. For example, it was not clear whether the former Wellington House car parks were included in the proposals.
- Inconsistent advice about the charging regime had been provided by different parts of the Council, e.g. the Highways team and the Town Centre Regeneration team.

In the subsequent question and answer session the following points were made:

- The March 2016 report to the Executive included a list of car parks which were subject to the new charging regime. The list included the Carnival Pool car park but did not include the former Wellington House car parks.
- The former Wellington House car parks had not been included in the Executive proposals as a result of the need to generate additional car parking spaces to accommodate Carnival Pool car park users when that car park was closed to enable building work on the new multi-storey car park.

**Matt Davey, Head of Highways addressed the Committee and made the following points:**

- The Officer response to the list of Call-In issues was contained in a report included in the Agenda for the Committee.
- In relation to proportionality, Officers considered that the proposals were proportionate as they ensured that all users of the Council's car parks made a contribution. The income generated would be used to fund transport improvements and maintenance costs across the Borough.
- In relation to due consultation, Officers considered that the consultation was clear that it included the introduction of charges and the level of charges to be applied. In addition, professional advice had been received from the Highways, Legal Services and Town Centre Regeneration teams.
- In relation to openness, Officers considered that the consultation process had been consistent with corporate guidelines. The number of responses indicated that it had been seen by a large number of individuals and groups.
- In relation to clarity of aims and outcomes, Officers considered that the aims of the proposals were clearly stated, i.e. to ensure that the Council's off-street car parks provided a best value return on the asset.
- In relation to options, Officers considered that the original Executive report and draft Minutes were consistent with the Constitutional requirements, i.e. the Executive report had only included one option and this was reflected in the draft Executive Minutes.

In the subsequent question and answer session the following points were raised:

- The principle of evening and Sunday charging had been confirmed by the Executive. However, there was flexibility to vary the charges through Executive Member and Officer delegation.

- There had been some discussion prior to the Executive about a different solution in Woodley. However, the Executive decision covered all parts of the Borough and that was the decision under scrutiny through the Call-In process.
- In relation to the principle of charging, the Council's Car Parking Plan (2011) included the statement "all car parks must be fully self-funding based around the principle of user pays".
- In Mr Davey's professional opinion, the Executive decision had complied with all the relevant Constitutional principles.
- The proposals were estimated to provide £150k additional income. Delays in implementing the Executive decision resulted in a shortfall of £12.5k per month.
- The savings estimate of £150k was not based on an exact scientific formula. However, previous estimates of income generation had been reasonably accurate. Other factors such as the introduction of Civil Parking Enforcement and town centre regeneration would also have an impact.
- Costs of enforcement and new pay and display machines had been factored into the financial estimates reported to the Executive.

**Councillor Julian McGhee-Sumner addressed the Committee and made the following points:**

- There had been some discussion about different options for Woodley at the Executive meeting. However, this was not included in the decision made on the night.
- Discussions about Woodley had taken place because stakeholders in Woodley had made representations to the Council before any other parts of the Borough.

In the subsequent question and answer session the following points were made:

- In Councillor McGhee-Sumner's opinion the relevant Constitutional principles had been observed during the Executive decision-making process.

**Andrew Moulton (Monitoring Officer) and Mary Severin (Borough Solicitor) addressed the Committee and made the following points:**

- Andrew Moulton and Mary Severin were both satisfied that the relevant Constitutional principles had been observed in relation to the Executive decision on the introduction of new car parking charges.

In the subsequent question and answer session the following points were made:

- In relation to the Individual Executive Member Decision-making process (IEMD), it was sometimes difficult to establish the correct route for a decision. The Chairman confirmed that the Overview and Scrutiny Management Committee would be reviewing the IEMD Forward Programme at future meetings, which would bring additional rigour to the process.

- In relation to any future decisions to vary the new car parking charges (including any proposals for individual parts of the Borough) Mary Severin (Borough Solicitor) agreed to write to Members of the Committee with clarification on the implications of Paragraph 12.1.16.24 of the Constitution (Fees and Charges).

**Following the witness session, a summary session was held to allow witnesses to provide clarification on points raised by the other witnesses. The following point was raised:**

- Once the new charges were introduced, car park users parking at 5.30pm would have to pay an additional evening charge to park after 6pm in the Council's car parks.

**Following the completion of the witness session, the Committee considered the evidence in relation to the points raised by the Call-In request. During the discussion the following points were made:**

- Councillor Bray felt that the decision making process had been muddled and the final decision should have been based on more detailed information. Furthermore, the issue relating to Woodley had been introduced at the last minute and had caused further confusion. The need for the Council to identify additional income streams was understood but the issue here was the way in which the decision had been taken. Consequently, Councillor Bray felt that the Committee should, at least, make a recommendation to the Executive about the importance of decision making based on a clear process underpinned by sufficient detailed information and customer feedback.
- Councillor Miall felt that decision had been taken in line with the principles of decision making set out in the Council's Constitution. It appeared that the communication surrounding the decision could have been handled better. Consequently, Councillor Miall suggested that the Chairman discuss the relevant communication issues with the Leader of the Council.
- Councillor Norman Jorgensen felt that correct procedures had been followed in line with the Council's Constitution. The evidence provided by Councillor McGhee-Sumner and various Officers indicated that the Executive understood the decision being made on the introduction of new car park charges.
- Councillor Firmager felt that the correct decision making principles had been used. This was supported by evidence from the Monitoring Officer and the Borough Solicitor.
- Councillor Haines felt that the decision was taken in line with the Council's Constitution as evidenced by the professional opinion of key Officers.
- Councillor Holton felt that the decision had been taken in line with the Council's decision making principles. The Monitoring Officer and Borough Solicitor had examined each of the Call-In points and had concluded that there was no breach of the Constitution. Furthermore, the evidence from Councillor McGhee-Sumner demonstrated that the Executive was clear on the decision being made at the Executive meeting on 31 March 2016.

**RESOLVED** That:

- 1) the Executive decision relating to the introduction of Evening, Sunday and Shute End charges be confirmed;
- 2) the Borough Solicitor write to Members of the Committee, clarifying the appropriate decision making process for any future variations of the agreed Evening, Sunday and Shute End charges, including any proposals for individual parts of the Borough;
- 3) the Chairman write to the Leader of the Council to highlight the communication issues arising from the decision making process in this case.

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