

MINUTES OF COUNCIL MEETING HELD ON 4 MARCH 2019**I N D E X**

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NORTH EAST DERBYSHIRE DISTRICT COUNCIL

MINUTES OF THE MEETING OF THE COUNCIL

HELD ON 4 MARCH 2019

Present:

Councillor C A Smith..... Vice Chair in the Chair

Councillor P Antcliff

“ W Armitage

“ J Austen

“ N Barker

“ B Barnes

“ J Barry

“ G Baxter MBE

“ L Blanshard

“ S Boyle

“ G Butler

“ A Cooper

“ C Cupit

“ A Dale

“ S Ellis

“ M Emmens

“ M Foster

“ R Hall

“ D Hancock

“ E A Hill

Councillor P A Holmes

“ C D Huckerby

“ C Hunt

“ P R Kerry

“ H Laws

“ J Lilley

“ R Marriott

“ A Powell

“ B Rice

“ B Ridgway

“ L Robinson

“ K Rouse

“ R Smith

“ L Stone

“ K Tait

“ M E Thacker MBE

“ R Welton

“ J Windle

“ B Wright

Also in attendance:-

D Swaine - Chief Executive

K Hanson - Strategic Director (Place)

L Hickin - Strategic Director (People)

S Sternberg - Head Corporate Governance & Monitoring Officer

D Clarke - Head of Finance & Resources

N Calver - Governance Manager

594 Apologies for Absence

Apologies for absence had been received from Councillors S Cornwell, P Elliott, A Foster, A Garrett, M Gordon, G Hopkinson, B Lewis, T Mansbridge, G Morley, T Reader, J Ridgway, D Skinner and C Tite.

595 Declarations of Interest

Members were requested to declare the existence and nature of any disclosable pecuniary interest and/or other interest, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

No declarations of interest were declared at this meeting of Council.

596 Chair's Announcements

The Vice Chair of Council, Councillor C A Smith, led the Council in a moment of silence to remember former Councillor David Hill who had recently passed away.

597 Apprentices

Members welcomed Sara Gordon, Human and Resources & OD Manager, to the meeting along with some of the Council's apprentices to give a short presentation on Apprenticeship Reform and the success of apprentices employed by the authority.

Members noted that the Joint Apprenticeship Framework was in place at both Bolsover District Council and North East Derbyshire District Council and that all new apprenticeship posts were paid at the National Living Wage.

In 2017/18 seven apprenticeships had commenced, of which six were existing staff and one was a new apprenticeship post.

In 2018/19 North East Derbyshire District Council's apprenticeship starts were above the target by two, and of the 13 apprenticeship starters, nine were existing staff and four were new apprenticeship posts. Four apprentices were in attendance at the meeting and spoke to Members about their posts and the qualifications they had achieved or were currently undertaking.

It was noted that the Council aimed to recruit, retain and develop high performing apprentices, together with effective succession planning and building organisational capacity and diversity.

When questioned it was confirmed that no upper age limit applied to apprenticeship positions and that each position was evaluated for its sustainability within the Council prior to recruitment, including creating clear pathways.

Representatives of all political parties congratulated the apprentices on the work they had undertaken so far and the progress against their qualifications, and wished them well in their successful careers.

RESOLVED – That the presentation be noted.

598 Public Participation

In accordance with Council Procedure Rule No 8 members of the public were allowed to ask questions about the Council's activities for a period of up to 15 minutes. The replies to any such questions will be given by the appropriate Cabinet Member. Questions must be received in writing or by email to the Monitoring Officer by 12 noon seven clear working days before the meeting.

No questions from the public had been submitted.

599 Questions from Members under Procedure Rule No 9.2

In accordance with Council Procedure Rule No 9.2 Members were permitted to ask the Chair of the Council or relevant Committee or the appropriate Cabinet Member questions about Council activities.

Question submitted by Councillor Charlotte Cupit to Councillor Michael Gordon, Portfolio Holder for Environment:-

What action is this Council taking to encourage progress on unfinished building infill plots?

Due to his planned absence at the meeting, Councillor M Gordon, Portfolio Holder for Environment, had provided a written response which was read by the Leader of the Council as follows:-

"I am unaware that unfinished building infill plots is a particularly wide spread problem within the District, although I am aware of one or two sites where it can cause difficulties for neighbours with whom I empathise.

As you will be aware as a Member of the Planning Committee, there is no provision within planning legislation to impose a condition to a permission that requires a development to be completed within a specific time scale. This is a fact that is regularly mentioned in planning training events.

The reasons behind cases of unfinished infill plots will vary considerably. It could be financial, personal, business or legal reasons. You will also be aware that Section 94 of the Town and Country Planning Act 1990 is, for many reasons, a particularly unwieldy tool for local authorities to try to enforce the completion of a development.

If unfinished building infill plots is a matter that is causing great concern to you and a great number of residents across the District I will happily ask officers to prepare a training session about the legislation, legal judgements and planning practicalities so all Members will be able to understand the restrictions placed upon local planning authorities in this area. Members will then be able to understand the context when discussing this with constituents who may be experiencing the effects of unfinished sites".

In accordance with the provisions within the Constitution Councillor C Cupit exercised her right to ask a supplementary question of Councillor M Gordon.

Councillor Cupit called for a clear message to be sent in regard to unfinished building infill plots, stating that the problem was not training and more to do with the understanding of Section 94. She requested for the Leader to make himself aware of the legislation, revisit identified sites, and work towards a strategy to progress those sites.

In response to the supplementary question the Leader of the Council, Councillor G Baxter MBE, confirmed that a request would be made to officers to brief both himself and Councillor M Gordon on the matter and training would be organised for Members around the legislation and its context within their roles as community leaders.

600 Motions from Members under Procedure Rule No 10

In accordance with Council Procedure Rule No 10 to consider motions on notice from members. Motions must be received in writing or by email to the Monitoring Officer by 12 noon seven clear working days before the meeting.

To consider the following Motion submitted by Councillor A Dale:-

“On Monday, 18 February 2019, the Labour Leader informed the Council of a recent customer service inspection which he contends had been positive.

Council notes that this is just one assessment on a particular aspect of the authority. As we approach the end of the current administration’s term of office, and in the interests of balance, Council also notes the authority has been on the receiving end of a wide range of criticism from local residents and other external agencies, including over the following:-

- *The Council’s failure to put a new Local Plan in place over several years, which has meant that hundreds and hundreds of homes have been approved in entirely inappropriate locations, much to the frustration of local residents who care passionately about protecting the identity of their communities. Rightly so, the Secretary of State has nationally shamed this Council for being one of the worst performing in the Country for being so slow to act to put a Local Plan in place and for failing to fulfil its duties to the residents it serves.*
- *The Council has ridden roughshod over the views of residents living in the District’s northern communities in seeking to concrete over an equivalent of 96 football pitches worth of green belt land to build over 1,000 houses. It received feedback from over 4,000 residents who were strongly opposed to the plans in the form of a petition. Rather than giving the petition the consideration it deserved, this administration went to the extraordinarily anti-democratic lengths of amending the Constitution so that it could be ignored instead.*
- *More recently, the Council has attracted severe criticism for its failure to adequately defend important planning appeals in the south of the District and has uniformly rejected several opposition calls for an urgent review to fix some of the problems within our local planning system.*

- *The Council has ignored opposition calls to better promote Neighbourhood Plans to give local communities more of a say over the development of their areas. Worse still, some of those communities who had already pursued Neighbourhood Plans have fed back that that Council has been purposefully obstructive to them.*
- *Earlier this year, the Council announced new proposals for traveler sites in the District, without giving the local communities affected any prior notice and only a relatively short window of opportunity to comment. At such a late stage in the Local Plan process, this is unforgivable and the Council's dire handling of this sensitive subject has contributed to the groundswell of opposition we have seen.*
- *The Council has received scathing criticism from some Parish Councils for the significant reduction in the support it offers them, despite this being contrary to Government policy.*
- *Under this administration, Council Tax has risen significantly in each of the last four years at the same time that millions of pounds have been put into reserves. The Council has failed to adequately justify why the increases were necessary when savings to offset them could have easily been found.*
- *The Council has ignored opposition calls for improved enforcement action against flytippers, despite this being a key concern for lots of our communities and an issue which is regularly fed back to Members.*
- *East Midlands Councils has refused to give the Council accreditation on member development because the administration refuses to work constructively with opposition parties.*
- *The Council also notes that North East Derbyshire District Council has continued to let residents down and should do more to rely on what they tell us and act accordingly.*

An observation was made by the Leader of the Council that the issues raised within the motion were tantamount to grand-standing given the forthcoming election.

In response to Councillor A Dale's motion the Leader of the Council, Councillor G Baxter MBE, took a number of points made and answered them in turn. The Leader offered some quotes from the Independent Assessor's report in relation to the recent Customer Service Inspection, which stated that *"there was a very strong commitment to customer focus service delivery across the organisation, which continued to be led by the Leader of the Council, and a high degree of awareness across the authority of the needs of both residents and business customers"*.

In regards to the Local Plan, the Leader clarified that this was not a failure and a timetable was in place which had been agreed with the Secretary of State. He confirmed that it was a complex process, made more difficult by Central Government moving goalposts and changing laws throughout. Many of the requirements changed in 2014 when the Council was close to publishing its Local Plan Core Strategy and again when the National Planning Policy Framework changed its emphasis the previous year. It was important for the Council to press ahead and the authority was now in a position where the Local Plan would be ready for adoption later in 2019.

The motion made reference to a petition submitted by over 4,000 residents of the District's northern communities in relation to provisions within the Local Plan for housing development within the District's Green Belt.

The Leader of the Council confirmed that an extensive consultation took place on the plans and this has been confirmed by the Planning Inspector. Difficult decisions have to be taken when allocating sites for development and the wider District needed to be considered, not only specific areas. The Planning Inspector had been issued with the petition for her to consider and provisions were made to ensure that residents were able to make representations on this matter to the Inspector directly.

Public views had been sought around new proposals for traveller sites within the District and the Inspector would consider these sites as part of the Local Plan Public Examination.

The Leader confirmed that the Council supports the preparation of neighbourhood plans and thus far several plans had been supported and a number approved following local referendum.

The motion put criticised the Authority's local planning system and the Leader responded to confirm that many planning applications put to the Committee that were unwanted by residents had been resisted, however, all need to be determined in accordance with the National Planning Policy Framework (NPPF). All Members were aware of the pressures on Local Government to deliver 300,000 new homes a year (a target set by Central Government) regardless of local opinion.

In seconding the motion Councillor S Ellis further reiterated the lack of determinations by the Planning Committee and recent failures on appeal and suggested that a new administration with fresh ideas may find a path to resolve this matter.

Councillor E A Hill, the Deputy Leader, responded on behalf of the Administration to the remaining points within the motion. In reference to the reduction in support provided to Parish Councils, the Deputy Leader confirmed that NEDDC had continued to face significant financial challenges of its own with a predicted deficit of almost £1m in 2019/20 rising to £2.4m in 2021/22. Whilst other local District Councils immediately reduced the support to Parish and Town Councils by 25% following the change to Government Policy, NEDDC only reduced it by 10% which was then phased

out gradually rather than the approach taken by other Local Authorities to end support immediately.

The RSG was due to end in 2019/20. Due to the uncertainties the Authority faced due to the withdrawal of the RSG the Council maintained an uncommitted reserve of £2m. The Deputy Leader clarified that a sensible level of reserve was required to ensure that the Council would continue to deliver key services to its residents during this period of public sector cuts.

The Deputy Leader further advised that enforcement action was being taken against fly-tippers within the District, with fixed penalty notices being issued and commercial businesses being assessed for proper arrangements for storage and disposal of their waste.

Comments were made within the motion in regard to cross party working on Member Development and the Deputy Leader confirmed that the Opposition Members failed to attend training offered and declined to participate in the Member Development Working Group.

The Portfolio Holder for Corporate Governance, Councillor R Smith, balanced the arguments put and informed Members and public present of the excellent services delivered by the Authority.

Conservative Members, in supporting Councillor Dale's motion, drew Members attention to recent motions submitted to meetings of Council urging Members to work together to redress Planning Policy for the benefit of local residents. Further, it was refuted that support was provided to Parish Councils in preparation of Neighbourhood Plans.

In accordance with Council Procedure Rule 14.4 a recorded vote was requested by Councillors A Dale, M E Thacker MBE and S Ellis.

For the motion – 14

(Councillors P Antcliff, W Armitage, L Blanshard, C Cupit, A Dale, S Ellis, M Emmens, M Foster, R Hall, C D Huckerby, A Powell, K Tait, M E Thacker MBE and R Welton)

Against the motion – 23

(Councillors J Austen, N Barker, B Barnes, G Baxter MBE, S Boyle, G Butler, E A Hill, P A Holmes, C Hunt, P R Kerry, H Laws, J Lilley, R Marriott, B Rice, B Ridgway, L Robinson, K Rouse, C A Smith, R Smith, L Stone, J Windle and B Wright)

Abstentions – 2

(Councillors A Cooper and D Hancock)

The motion was defeated.

601 Level of Council Tax 2019/20

Council considered a report of Councillor P R Kerry, Portfolio Holder for Finance, which recommended the levels of Council Tax for the 2019/20 financial year.

The Localism Act 2011 required for all billing authorities to calculate the Council Tax requirement each year. The approved amount on the Collection Fund in respect of North East Derbyshire Council was £5,871,162.

In order to calculate the Council Tax requirement for North East Derbyshire District Council at the relevant bands, the demand of Derbyshire County Council, the Police Authority, the Fire Authority and local Parish Councils had been taken into account.

The table of paragraph 1.5 to the report set out the levels of Council Tax for the year for each of the categories of dwellings.

The report requested approval by Council for the precepts of the relevant public authorities operating within the North East Derbyshire District area in order for the Council to agree the Council Tax Liability for local residents in respect of 2019/20.

Both Councillors M E Thacker MBE and S Ellis spoke in opposition to the proposals within the report on the basis that they believed the budget was flawed and £2m worth of reserves were unallocated. They called for a base budget review in order to take the opportunity as policy makers to ensure that the Council delivered good value for its residents.

On the request of legal advice it was confirmed that the Authority was legally required to set a Council Tax for its area and the demand on the Collection Fund had been approved at the previous meeting of Council. Members were advised that the report set out how the demand would be met through precepting.

In line with the provisions set out within the Council's Constitution a Recorded Vote was taken (where matters affecting the Council's budget or Council Tax are considered).

For the motion – 25

(Councillors J Austen, N Barker, B Barnes, G Baxter MBE, S Boyle, G Butler, A Cooper, D Hancock, E A Hill, P A Holmes, C Hunt, P R Kerry, H Laws, J Lilley, R Marriott, B Rice, B Ridgway, L Robinson, K Rouse, C A Smith, R Smith, L Stone, J Windle and B Wright).

Against the motion – 14

(Councillors P Antcliff, W Armitage, C Cupit, A Dale, S Ellis, M Emmens, M Foster, R Hall, C D Huckerby, A Powell, K Tait, M E Thacker MBE and R Welton).

Abstentions – 0

RESOLVED – That Council formally approves the Council Tax for the financial year 2019/20 as set out in the report.

602 Joint Employment Committee & Joint Appeals Committee

Council considered a report of the Joint Head of Corporate Governance and Monitoring Officer, which sought to advise the process for the hearing of disciplinary and capability matters in relation to members on the Strategic Alliance Management Team (SAMT) to ensure the process was fit for purpose.

The proposals put included amalgamating the Joint Employment Committee and the Joint Appeals Committee to create a Joint Employment & Appeals Committee (JEAC). The rationale for the change was that under the current arrangements any appeal against a decision by the Joint Employment Committee would be made to the Joint Appeal Committee, an appeal could not be heard by the same Members that heard the original disciplinary or capability case and was therefore a breach of natural justice.

RESOLVED – That:-

- (1) The Joint Employment Committee and the Joint Appeals Committee be merged to create a Joint Employment & Appeals Committee (JEAC).
- (2) The proposed membership and Terms of Reference to the JEAC and the proposed amendment to the Scheme of Delegation to Officers a set out in the report, be approved. *(This includes approving the membership of the JEAC as eight members, four from each of the two Councils and appointing the additional Executive Member representative to the Committee)*
- (3) Authority be delegated to the Chief Executive as Head of Paid Service to make any minor alterations to the process as required.