
REPORT TO: North Yorkshire County Council - Executive

DATE: 8 January 2008

REPORTING BODY: Harrogate Borough Council/Scarborough Borough Council – Joint Organisation Improvement and Environment Overview and Scrutiny Commission

REPORTING OFFICER: Chairman of the Commission – Councillor Mrs Atkinson

SUBJECT: **HIGHWAYS AGENCY AGREEMENTS**

WARD/S AFFECTED: All

FORWARD PLAN REF: N/A

1.0 PURPOSE OF REPORT

1.1 This report details the outcome of the joint scrutiny of the progression and consideration of the proposed termination of the Highways Agency Agreements by NYCC undertaken at a special meeting of the Organisation Improvement and Environment Overview and Scrutiny Commission held on 17 December 2007.

2.0 RECOMMENDATION/S

- 2.1 It is recommended that North Yorkshire County Council - Executive:
- (1) Have regard to this report when it considers the proposed termination of the Highways Agency Agreements.
 - (2) Provide a response to the questions listed in **APPENDIX C**
 - (3) Provide a written response to the issues raised in the report particularly paragraphs 3.31 - 3.42.

3.0 THE REPORT

Background

3.1 The Agency Agreements have been in place since local government

reorganisation in April 1974, and the current agreement dates from 3rd November 1977. It is accepted that the agreements are due for fundamental review, since so much has changed in the last 30 years and a review process has been discussed with County since 2005. This process stalled, and seemed to come to a stop during the County's bid for unitary status.

Once the unitary bid failed, it was expected that the review would recommence

- 3.2 On 1st October, the acting Director of Development Services received a phone call from the Assistant Director of Transport at NYCC, informing him that the Corporate Director for Business and Environmental Services, Gordon Gresty, was preparing a report to go to his Executive, recommending that notice be given to terminate the Agency Agreements with Harrogate and Scarborough Boroughs. The Agreement calls for 3 years' notice to be given
- 3.3 The Executive of NYCC considered this report on 16th October. It agreed:
 - (a) That the proposal to terminate the agency agreements be supported, in principle; that the proposal be referred to the Transport and Telecommunications Services Overview and Scrutiny Committee for consideration; and the views of the Harrogate and Scarborough Borough Councils be sought on the proposal, including the possibility of reducing the period of notice in order to achieve an earlier termination date;
 - (b) That the issue, including the views of the Transport and telecommunication Services Overview and Scrutiny Committee and the Borough Councils be reported to a future meeting of the Executive no later than 8 January, 2008.
- 3.4 A meeting of the Transport and Telecommunications Services Overview and Scrutiny Committee was held on 28 November 2007 where it was agreed that it would recommend to the Executive to terminate the Agency Agreements.
- 3.5 Concern was expressed by both Harrogate and Scarborough Borough Councils regarding the progression and consideration of the issue by NYCC. This resulted in the request for the scrutiny of the issue by Councillors from both authorities as part of the remit to scrutinise external organisations on issues that affect local residents.
- 3.6 It was accepted that this was an unusual situation to scrutinise another local authority and significantly that it would also involve that authority's scrutiny of a particular issue. However, the issue was considered to be of such importance to both authorities that it was agreed to progress this as a matter of urgency.
- 3.7 It was noted that NYCC Executive required responses to the issue "no later than 8 January 2008" and so it was agreed that the Organisation

Improvement and Environment Commission would hold a special meeting on 17 December 2007 so that the outcome could be reported to NYCC prior to any decision being made. The Commission agreed to suspend its' scheduled work to ensure that the issue was considered.

Harrogate Borough Council and Scarborough Council Joint Scrutiny

- 3.8 As a joint approach to the scrutiny of the issue it was agreed that Councillor Brian O'Flynn,, Councillor Mrs Rosalyn Fox and Councillor Brian Watson from Scarborough Borough Council's Performance Overview and Scrutiny Committee would be co-opted on to the Commission for the meeting.

NYCC - Invitation to attend

- 3.9 The following representatives from NYCC were invited to attend the meeting to attend and participate in the presentation of the information and consideration of the review by the NYCC Transport and Telecommunications Services Overview and Scrutiny Committee, including responding to questions as appropriate.

Councillor J Fort - Portfolio Holder for Environment Services including all Planning Matters, Roads and Traffic and Archaeology

Councillor G Cullern - Chairman of the Transport and Telecommunications Services Overview and Scrutiny Committee (for the meeting on 28 November 2007)

Corporate Director Business and Environmental Services - Mr Gordon Gresty

Assistant Director Business and Environmental Services – Mr David Bowe

- 3.10 Letters of invitation were sent on 30 November 2007 and an acknowledgement received on 5 December 2007. A letter from NYCC was received on 10 December 2007 on behalf of all NYCC representatives declining to attend the meeting "in view of the comprehensive Scrutiny of the issue on 28 November 2007 at County Hall when both Agent Authorities and the County Council were well represented it is felt that the appropriate procedure is now for the County Council Executive to consider the findings of that meeting. They will decide what further consultation, if any, needs to be conducted". A copy of the letter is attached at **APPENDIX A** for information.
- 3.11 Since the receipt of the letter a spokesman for North Yorkshire County Council has also said that: "The review of the agency agreements has been the subject of a lengthy and rigorous scrutiny process at County Hall, involving not only the county council but also both Harrogate and Scarborough Borough Councils. The results of those discussions and deliberations will be presented to the county council's executive early in the New Year. So far as we are concerned, the scrutiny process has been thorough and robust, and is now completed."

Organisation Improvement and Environment Overview and Scrutiny Commission Meeting (Joint meeting – Harrogate Borough Council and Scarborough Borough Council) held on 17 December 2007.

Attendance

- 3.12 A special meeting of the Organisation Improvement and Environment Overview and Scrutiny Commission Meeting (Joint meeting – Harrogate Borough Council and Scarborough Borough Council) was held on 17 December 2007. The following representatives were in attendance:

Members of the Commission:

Mrs Atkinson (Chairman)
Councillor Galloway,
Councillor Grange
Councillor Hawke
Councillor Chris Lewis
Councillor Reg Marsh
Councillor Newby
Councillor Geoff Webber
Councillor Willis
Councillor Willoughby

Co-opted Members:

Councillor Brian O’Flynn -Scarborough Borough Council
Councillor Rosalyn Fox -Scarborough Borough Council
Councillor Brian Watson. -Scarborough Borough Council

In attendance:

Councillor Kempston-Parkes
Councillor Don Mackenzie (Cabinet Member Planning and Transport)
Mr N Avison - Director of Development Services
Mr J Sowden – Director of Resources
Mr S Johnson – Assistant Chief Executive
Mr C McGonigle, Chief Engineer (Traffic)
Mr R Wade, Chief Engineer (Highways)
Mr John Riby, Head of Engineering and Harbour Services, Scarborough Borough Council
Mr Bernard Goulding – Head of Street Scene, Scarborough Borough Council

Purpose of the Meeting

- 3.13 The purpose of the meeting was explained at the start of the meeting:
- To consider the process for progressing the issue by NYCC, in particular:-

- The report process, how detailed/comprehensive was the process and information presented.
 - The Scrutiny process ie was it “comprehensive”, “lengthy and rigorous”, “thorough and robust”
- To produce a report/response to NYCC.

Information

- 3.14 The Commission considered the same information presented to the NYCC Transport and Telecommunications Services Overview and Scrutiny Committee including exempt appendices (copies are available on request):
- Review of the Highways Agency Agreements and Highways Agency Service covering report and report to Executive (16 October 2007).
 - Executive summary of Harrogate and Scarborough Borough Council's position on the possible termination of the Highways Agency Agreement.
 - History of the current agency review process.
 - Harrogate and Knaresborough and Scarborough Highways Agency - overall commentary on NYCC report to the Executive on 16 October 2007.
 - The new local government agenda and its implications for the Highway Agency Agreements.
 - Scarborough Highways Agency - Service and Financial Impact.
 - Harrogate and Knaresborough Highways Agency - Service and Financial Impact.
 - Letters and e-mails received from Parish Councils.
- 3.15 In addition to the reports a verbal presentation was given by the Cabinet Member Planning and Transport, a summary is attached at **APPENDIX B**. The Commission then asked questions relating to the purpose of the meeting (paragraph 3.13) regarding the report process and Scrutiny of the issue.

Questions and Responses Arising from the Information Presented

- 3.16 **How do the current NYCC Highways Contract Rates compare with those in the Agency Areas?**

It was reported that Balfour Beatty (The NYCC’s Contractor) were up to 40% more expensive than local contractors undertaking Highway Maintenance works for the Agent Authorities.

The Agent Authorities have also invited them to tender competitively for contracts within the Agency Areas and they have 'won' only one contract in Harrogate/Knaresborough since 2004/5.

Scarborough Borough Council reported that they have an in-house contractor and that their schedule of rates compared very favourably with Balfour Beatty.

The main concern was that NYCC had not made any attempt to substantiate the proposal to terminate the Highways Agency Agreements in value for money terms. There had been no overall comprehensive financial assessment and discussion with the Borough Councils other than about staff time allocation on Agency work.

3.17 How do the current NYCC Highways consultant costs compare with those of the Agency authorities?

It was reported that Jacobs (who undertake design and supervision on behalf of the NYCC) rates vary between 11.7% and 29% of the contract value (depending upon the nature of the project) The Agents on the other hand received a standard 10.5% 'staff fee' for maintenance works which also had to cover the incidental work (not related to specific projects or services) undertaken by the Council (such as Development Control, Road Safety, public consultation etc.) for which specific funding is not provided.

The difference between Agent and consultants staff costs was illustrated by the example of a HBC member of staff who was recently seconded to the NYCC Thirsk office whose 'costs' (to NYCC) are 30% to 50% less than those incurred by equivalent Jacobs staff engaged in similar work in the same location.

3.18 What reductions in LTP and Highway Capital budgets provided by NYCC have occurred in recent years?

It was reported that In Harrogate/Knaresborough the LTP in 2002/3 was £1.50million and in 2007/8 this had been reduced to £0.79million, a reduction of almost 50%.

The approved Highways Capital budget in 2002/3 was £1.70million and in 2007/8 this had been reduced to £0.56million, a reduction of 66%.

Scarborough Borough Council confirmed that these trends were also reflected in their budgets.

There was a significant concern that there was not an objective distribution of resources across the county, and that the process of allocating funding was not transparent.

3.19 How much income (or benefit in kind) is generated by the Agent

Authorities?

It was reported that for 2007/8 the income generated by Harrogate Borough Council was £119k (superintendence fees, section 74 charges, utility defects, skip licences). The Benefit in Kind generated for the same period was £320.5k (Section 106 & 278 agreements). The total therefore in 2007/8 was over £430k.

3.20 Are NYCC contractually committed to offer their highways contractor a set value of 'work' each year and could this be why the Agents share of the allocation is decreasing?

It was reported that this was believed to be the case and it was suggested that it may explain why the Agents share of the Highway Capital/LTP budget is reducing.

It was reported that both SBC and HBC could effectively demonstrate cost-effectiveness of the service provided but when the reports were considered by NYCC there was no evidence put together to demonstrate the cost effectiveness of terminating the agreements.

It was reported that it had not been possible to obtain the criteria for the allocation of highways capital funding from NYCC or the outcome of the assessments. It was also noted that this had been challenged as part of the Scrutiny process at NYCC not just by Borough Councillors but also by those members representing both Boroughs and the County Council.

3.21 Is there likely to be a reduction in service levels and 'value for money' within Agency Areas if these are directly managed.

It was believed that a reduction in service level is inevitable if Agent subsidies (HBC £440 & SBC £127k in 2007/8) are no longer available to support the Highways service, LTP/Highway Capital funding continues to reduce and service centres are located in remote locations away from population centres.

It was considered inevitable that if countywide consultant/contractor rates are applied in the Agency Areas projects will cost more to deliver.

3.22 NYCC indicate their wish for 'consistency of provision' across the County as one reason for termination of the Agency Agreements. Is this realistic or achievable? And should the report have considered/compared other options? (District Wide Agency, better partnership arrangements etc)

The tasks involved in effectively managing the highway network in the urban area of Harrogate and Scarborough are different from and significantly more complex than those required throughout the more rural areas of the County (UTMC, Development Control/Forward Planning, demand management, co-ordinated transport plans etc.). In the view of officers it would be impractical

to deliver 'a consistency of provision' across the County because of the fundamental disparity between the issues/problems in urban and rural areas.

The Agents have, over many years, established both officer and member expertise in dealing with 'urban' issues that the County Council would be unable to replicate.

Councillors gave a number of examples of where they received requests from Parish Councils for SBC/HBC to expand the Highways Agency Agreements in to other areas within the county. It was indicated that the reasons for this were the inability of NYCC to provide an acceptable level of service. The good service provided by HBC/SBC was also mentioned and the ability to react to local emergency situations.

It was anticipated that when the original review was proposed in 2005 there would have been a full review of options and these should have been developed as part of any proposal to terminate the agreements

3.23 What examples of flexible/partnership working between the Agents and the County Council (advocated as the way forward by Central Government) are already working successfully?

The following examples were given of flexible/partnership working between the Agents and the County Council Common:

- The management of on & off street parking enforcement across the district
- Delivery of Urban LTP projects (funded by NYCC from Central Government 'grant')
- Delivery of Quality Bus Partnerships (with bus company)
- Development of Transport Interchange proposals
- Delivery of Bilton/Ripley cycleway project

Councillors referred to the Central-Local Concordat signed on 12 December 2007 by The Local Government Association and HM Government. They were particularly concerned that the way that the proposed termination of the Agency Agreements had been progressed was in opposition to the themes in the Concordat, in particular item 3 "support for the principle of subsidiarity – an assumption that powers are exercised at the lowest effective and practical level"

3.24 Have agents tended to take the lead in implementing innovative projects and initiatives?

It was reported that in HBC agents had taken the lead in the following areas:

- District wide decriminalised parking enforcement (assumption of powers to enforce on street parking restrictions by District Councils)
- Demand management (e.g. residents parking controls) (Introduction of on street parking charges and residents parking controls in and around town centres)
- UTMC (Provision of systems to control and co-ordinate traffic signals to reduce delays)
- Bus priority and RTPI (Introduction of systems to give priority to buses over other traffic and provide real time information to passengers waiting at bus stops)
- Car park management system (Provision of comprehensive system of signs giving information about the availability of spaces in car parks)
- Incident detection (2008/9) (Provision of signs to divert traffic away from incidents/congestion)

In addition to this the 'Consultation Model' adopted by the Agents has been cited as an example of 'best practice' by the NYCC in their Local Transport Plan.

3.25 What consultation do you think should have been undertaken with stakeholders (Parish Councils, other public bodies, the general public) before considering the termination of the Agency Agreements?

It was reported that there should have been significant consultation undertaken before considering the termination of the Agency Agreements. This should include parish Councils, Residents Associations, local transport providers and the business community. It was noted that both SBC and HBC had comprehensive lists of stakeholders that they normally consult on major issues.

3.26 Is there any evidence that suggests that County Councils which have withdrawn similar Agency Agreements have ultimately found this to be uneconomical or not in the best interests of Council tax payers?

It was reported that HBC were in contact with a number of County/District authorities on this subject and have learned that Surrey County Council carried out a Best Value review 5 years ago which indicated that one large maintenance contract for the whole of the County would provide Best Value for money. On the basis of this study they terminated the Agency Agreement's with the District Councils responsible for the major urban areas.

They were at present reviewing all their highway services to compare their performance against that of the District Councils and are devolving work

back to the Districts, with the appropriate budgets, where this can be shown to offer savings and service improvements

3.27 Are you satisfied with the meeting held by NYCC Scrutiny Committee on 28 November 2007?

It was the Borough Council representatives present at the Scrutiny meeting at NYCC on 28 November 2007 that it had failed to provide an in-depth look at the issue of the issue with no effective questioning or consideration of appropriate issues.

It was accepted that the Scrutiny Committee had been given only a limited time to consider the issue and therefore could do little more than review it at one meeting (a timescale imposed by the Executive) but the letter to the Commission and subsequent press release implied that there had been “comprehensive Scrutiny of the issue” that there had been “a lengthy and rigorous scrutiny process” and that as far as NYCC were concerned, “the scrutiny process had been thorough and robust”.

NYCC had previously agreed that a thorough review would require an in-depth consideration of the issue over a six month period, receiving evidence from a number of sources, resulting in a final report.

3.28 Why do you think that the review of the Highways Agency was not completed?

It was assumed that the review of the Highways Agency was not completed due to NYCC’s failed unitary bid.

The need for the review had resulted from Best Value reviews by SBC and HBC. The review was promoted by the Borough Councils with NYCC in 2005 and comprehensive Heads of Terms were proposed that were accepted by senior officers at NYCC. The review was not progressed whilst the Unitary Bid was under consideration. Once the result of the unitary bid was known it was anticipated that the review would continue. The next time SBC or HBC were informed of the issue was when the report was to be presented to NYCC Executive.

3.29 What is your opinion regarding the fact that the report simply addressed the maintenance issues without considering a full business assessment of the financial/service implications of the proposal to terminate the Agency Agreements? And, what is the detailed information that should have been included?

It was reported that the reports to the Executive/Scrutiny Commission did not contain a full business assessment of the financial/service implications of the proposal to terminate the Agency Agreements (Mr Gresty suggested this was because the Districts would have disputed the information).

More specifically: -

- The costs of relocating 2 UTMC systems, the loss of the depots operated by both Councils (including a salt barn at Harrogate) and the cost of providing new depot facilities and alternative accommodation for transferred staff.
- The implications of the District Authorities assuming responsibility for the maintenance of all non classified roads in their respective Districts if the Agencies are terminated (as is their right under enabling legislation).
- The cost of establishing separate District wide service operations to enforce/administer on street parking controls which is currently undertaken by the Agent Authorities.
- Evidence that a single Countywide Highways Maintenance contract would exhibit better 'value for money' than several area based contracts (The agents are considerably cheaper at present).
- Additional costs and reduction in service levels that could result from the impact of the decision on other partnership arrangements between the County and District Councils (e.g. Waste Management, Forward Planning etc.).
- The likely impact on service levels of the loss of the subsidies currently provided by the Agent Authorities to assist in the delivery of the Highway services in the Agency Areas (currently £440k + for Harrogate and £127k for Scarborough).
- The increase in the County Council's insurance premiums to cover highway 'claims' in the two Agency Areas (costs currently met by the Agent Authorities).
- The potential redundancy payments associated with the 'shedding' of management staff from the Agent Authorities who the County Council have indicated will be surplus to requirements (Mr Gresty indicated any staff reductions would be partly achieved through 'natural wastage').
- The potential financial risk to the County Council if the Agent Authorities apply for and are successful in achieving unitary status

It was also noted that the reports did not contain the views of the County Council's Legal and Financial Officers and that this would be a requirement had they been produced by SBC or HBC.

Consideration by the Commission

- 3.30 The Commission then considered the overall issues associated with the progression of the proposed termination of the Highways Agency Agreements by NYCC.

The report process

- 3.31 The Commission had received evidence that Officers from HBC and SBC had been discussing a review of the Agreements since 2005 with NYCC. The Borough Councils recognised that this was necessary and welcomed a full review.
- 3.32 The Commission was concerned that a report was presented to the NYCC Executive proposing termination of the Agreements without consultation and little prior notification to the Borough Councils.
- 3.33 It was noted that the report presented to the NYCC Executive did not address significant issues that the Commission would have expected to be included in a report of this significance. This would have been a full business assessment of the financial/service implications of the proposal to terminate the agencies including:
- Comparisons with NYCC contract rates and those in the Agency Areas.
 - Comparisons with current Highways consultants costs and those of the Agency authorities.
 - The Income (or benefit in kind) generated by the Agent Authorities.
 - Evidence regarding proposed service levels within Agency Areas if these are directly managed.
 - Evidence regarding the “consistency of provision” across the County and how this would be achieved.
 - An assessment of the full range of options such as District Wide Agency, better partnership working arrangements, etc.
 - An assessment of how the existing agency arrangements are working such as current flexible/partnership working with NYCC or how agents are implementing innovative projects and initiatives.
 - Evidence from other County Councils that have withdrawn similar Agency Agreements.
 - Full consultation with all stakeholders.
 - Other detail, the Commission received other detailed information (See paragraph 4.29) that it considered should have been included.
- 3.34 Overall the Commission was concerned that the report only addressed maintenance issues without considering a full business assessment of the

financial/service implications. It also did not include the views of the County Council's Legal and Financial Officers that in the Commission's view should have been required. The Commission was concerned that without this information an assessment regarding value for money and service provision could not be made.

- 3.35 The Commission was also concerned about the timescale for the production of the report and the likely date for a decision by the NYCC Executive. It was of the view that this should be subject to a full review as proposed by the Borough Councils in an appropriate timescale. It was particularly concerned that NYCC had not undertaken any consultation with the Borough Councils and did not attend the joint meeting of the Commission. It was considered that this was not a good example of partnership/two-tier working and was in opposition to the themes in the Central-Local Concordat signed on 12 December 2007, in particular item 3 "support for the principle of subsidiarity – an assumption that powers are exercised at the lowest effective and practical level"
- 3.36 The Commission therefore agreed the following:
- (1) It expressed concern regarding the proposed termination of the Highways Agency Agreements based on the evidence considered and in the timescale proposed.
 - (2) It considered that the report and information assessed by NYCC was not a full assessment of the issues and therefore not appropriate upon which to make any decision. It only addressed maintenance issues without considering a full business assessment of the financial/service implications
 - (3) It supported a full review of the Highways Agency Agreements with the Borough Councils including consultation with all stakeholders.
 - (4) It considered that the process undertaken was not a good example of partnership/two-tier working and was in opposition to the themes in the Central-Local Concordat. It also agreed to write to the Local Government Association and HM Government representatives that signed the Concordat expressing this view.
 - (5) That the list of questions arising from the consideration of the evidence by the Commission be forwarded to NYCC with its report (attached at **APPENDIX C**).

The Scrutiny Process

- 3.37 The Commission considered the Scrutiny process undertaken by NYCC. It noted that because of the timescales required by the Executive the Transport and Telecommunications Services Overview and Scrutiny Committee had only been able to meet once and consider the termination of the Agency Agreements.

- 3.38 NYCC has indicated in correspondence and press releases that it considered the scrutiny process to be “comprehensive, lengthy, rigorous, thorough and robust”.
- 3.39 The Commission had received evidence that the Scrutiny Committee meeting itself was superficial, there were few questions regarding key deficiencies in the information and that there were concerns about the depth and analysis of the issue.
- 3.40 The consideration of the issue could not have been lengthy as it was only the subject of one meeting.
- 3.41 It was recognised that for the process to be undertaken appropriately it would require a full in-depth review taking a number of months as was considered good practice. This had not been undertaken by NYCC.
- 3.42 The Commission therefore agreed that the Scrutiny process undertaken by NYCC was not “comprehensive, lengthy, rigorous, thorough and robust”

General

- 3.43 The Commission also agreed that a report based on its consideration of the progression of the proposed termination of the Highways Agency Agreements by NYCC. be sent to NYCC in order that the Executive could have regard to it when it considered the issue in January 2008.

4.0 CONCLUSION/S

- 4.1 Concern was expressed by both Harrogate and Scarborough Borough Councils regarding the progression and consideration of the proposed termination of the Highways Agency Agreements by NYCC . This resulted in the request for the scrutiny of the issue by Councillors from both authorities as part of the remit to scrutinise external organisations on issues that affect local residents.
- 4.2 It was agreed that a joint Scrutiny meeting of the Organisation Improvement and Environment Overview and Scrutiny Commission be held on 17 December 2007.
- 4.3 The Commission received appropriate evidence regarding the report process and the scrutiny of the issue by NYCC. It expressed concern regarding the proposed termination of the Agreements and the fact that it did not contain a full business assessment of the financial/service implications. It agreed that this was not a good example of partnership/two-tier working and was in opposition to the themes in the Central-Local Concordat.
- 4.4 The Commission also agreed that the Scrutiny process undertaken by NYCC was not “comprehensive, lengthy, rigorous, thorough and robust”

4.5 It was agreed that a report based on its consideration of the progression of the proposed termination of the Highways Agency Agreements by NYCC be sent to NYCC in order that the Executive could have regard to it when it considered the issue in January 2008.

Background Papers – Available on request

OFFICER CONTACT: Please contact Mark Codman if you require any further information on the contents of this report. The officer can be contacted at Crescent Gardens by telephone on (01423) 556153 or by Email – mark.codman@harrogate.gov.uk

SUSTAINABILITY ASSESSMENT / POLICY CONSIDERATIONS

		Implications are		
		Positive	Neutral	Negative
A	Economy		✓	
B	Environment		✓	
C	Social Equity		✓	
i)	General			
ii)	Customer Care / People with Disabilities			
iii)	Health Implications			
D	Crime and Disorder Implications		✓	

If all comments lie within the shaded areas, the proposal is sustainable.

Your ref:

Our ref: M49AH008.GSG

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10 December 2007

Dear Mr Codman

REVIEW OF THE HIGHWAY AGENCY AGREEMENTS

Thank you for your letter of 30 November 2007.

My reply is on behalf of all those from the County Council invited to your meeting of 17 December 2007.

In view of the comprehensive Scrutiny of this issue on 28 November 2007 at County Hall when both Agent Authorities and the County Council were well represented it is felt that the appropriate procedure is now for the County Council Executive to consider the findings of that meeting. They will decide what further consultation, if any, needs to be conducted. The Executive will consider the Transport & Telecommunications Overview and Scrutiny Committee report no later than the 08 January 2008.

Under the circumstances it will not be possible for County Councillor Fort, County Councillor Cullern, David Bowe or myself to accept your invitation to attend your meeting.

In respect of additional information I am unclear what evidence you refer to which was exempt from the Scrutiny meeting. Attached to my report are details of Agent Authority Officers and information that had been supplied by Harrogate and Scarborough Borough Councils concerning their time spent on Highways work. This I attach for your attention.

Yours sincerely

GORDON GRESTY

Mr M Codman
Scrutiny Officer
Harrogate Borough Council
Council Offices
Crescent Gardens
HARROGATE

Summary of Verbal Report from the Cabinet Member Planning and Transport Information

The Agency Agreements have been in place since local government reorganisation in April 1974, and the current agreement dates from 3rd November 1977. There is no question that the agreements are due for fundamental review, since so much has changed in the last 30 years.

Our officers have been asking for that review for the last few years, and a review process has been discussed with County since 2005. This process has stalled, and seemed to come to a stop during the County's bid for unitary status.

Once the unitary bid failed, we expected the review to recommence.

On 1st October, our acting Director of Development Services received a phone call from the Assistant Director of Transport at NYCC, informing him that the Corporate Director for Business and Environmental Services, Gordon Gresty, was preparing a report to go to his Executive, recommending that notice be given to terminate the Agency Agreements with Harrogate and Scarborough Boroughs. The Agreement calls for 3 years' notice to be given.

The Executive of NYCC considered this report on 16th October, and resolved that the proposal to terminate the agreements be supported in principle, and that the proposal be referred to the County's Transport and Telecommunication Services Overview and Scrutiny Committee for consideration. The Executive also proposed that the views of the two boroughs be sought, including the possibility of reducing the period of notice to achieve an earlier termination date. All this was to be reported back by 8th January 2008 at the latest.

Consequently, the two boroughs were invited to make a presentation to the Scrutiny Committee on 28th November.

Our officers and I held joint meetings with our counterparts at Scarborough, putting together a highly detailed and forceful case for a **review** of the Agency Agreements, stressing that the report of Gordon Gresty was totally inadequate, deficient above all in financial information and in spelling out likely consequences, as a basis on which to decide on termination.

At the Scrutiny Meeting, Gordon Gresty spoke first, outlining very briefly his report to the Executive, and his reasons for seeking the termination of the agreements. By common consent, his report and reasoning were bereft of evidence, especially in connection with value for money for the tax payer. All we heard was unsubstantiated assertion.

Five of us participated in the boroughs' presentation: John Burton, John Sowden and I from Harrogate, and two officers from Scarborough. My counterpart at Scarborough, Cllr Andrew Backhouse, was unable to speak during the presentation, because he, like other so-called twin-hatters, who were both County Councillors and

District Councillors from the boroughs in question, were refused permission either to attend as members of the Scrutiny Committee, or to speak to it, except for making brief statements at the end of the presentation, and leaving immediately afterwards. Our presentation was supported by five detailed papers, as follows:

1. History of review process
2. Commentary on the NYCC report to the Executive, including risk assessment
3. New local government agenda, enhanced 2-tier working
4. Detailed analysis of the impact of termination of agreement on Harrogate
5. Detailed analysis of impact of termination on Scarborough

The overriding message, which we delivered to the Committee was this:

in the absence of adequate business assessment in the NYCC report, it should be impossible for a scrutiny committee not to call for a thorough review of the Agency Agreements.

We also pointed out the risks of proceeding to termination without a review:

Higher costs for the County in highway maintenance, or major cuts in service delivery.

Loss of subsidies from the boroughs, especially of the highways agency fallback, which in Harrogate's case is worth £444k in 2007/2008.

Less localism, more remote provision of key services

Loss of key local personnel with wide knowledge of, and skills in, Urban Traffic Management and Control, on- and off-street parking enforcement, incident detection, CCTV surveillance, local bus partnerships and so on.

Loss of central depots in Harrogate and Scarborough (NYCC will likely have to use Boroughbridge and Whitby).

Cost of relocation of UTMC control centre.

Huge transitional costs including redundancy, early retirement, and constructive dismissal claims.

The district councils would take over the maintenance of non-classified urban roads, and the County will have to meet the costs.

After a break for lunch, the committee took just a few minutes to vote by 6 to 2 to accept the recommendations to terminate the agreements. County Cllrs Barnes and Parkes voted against.

The officers and I were left with the impression that the Scrutiny Committee had failed totally in its role to scrutinise its Executive.

We remain incredulous that a decision with such far-reaching consequences for both council tax payers and dedicated employees can be taken without any degree of analysis of the financial and service implications.

Where do we go from here?

We await the decision of the County's Executive, although we do have a pretty good idea of what that will be.

The Chief Executive has written to the Secretary of State for Communities and Local Government, asking that she "intervene as soon as possible to ask the County Council to withdraw this proposal and to undertake a proper review by all of the relevant parties of the future of the Agency Agreement". Mr Walsh has also written to our three local Members of Parliament for their support. He has written to Scarborough suggesting that they do the same.

We will consider a judicial review.

APPENDIX C

Questions arising from the consideration of the evidence by the Commission to be forwarded to NYCC

1. Why was the promised review of the Highways Agency not completed and why was there no reference to it in the reports to the NYCC Executive and Overview and Scrutiny Committee?
2. Why did the report simply address the maintenance issues without considering a full business assessment of the financial/service implications of the proposal to terminate the Agency Agreements? This would include the following:
 - Comparisons with NYCC contract rates and those in the Agency Areas.
 - Comparisons with current Highways consultants costs and those of the Agency authorities.
 - The Income (or benefit in kind) generated by the Agent Authorities.
 - Evidence regarding proposed service levels within Agency Areas if these are directly managed.
 - Evidence regarding the “consistency of provision” across the County and how this would be achieved.
 - An assessment of the full range of options such as District Wide Agency, better partnership working arrangements, etc.
 - An assessment of how the existing agency arrangements are working such as current flexible/partnership working with NYCC or how agents are implementing innovative projects and initiatives.
 - Evidence from other County Councils that have withdrawn similar Agency Agreements.
 - Full consultation with all stakeholders.
 - Other detail, the Commission received other detailed information (See paragraph 4.29 of the main report) that it considered should have been included
 - Generally issues in section 5.5 of paper 2 (Harrogate and Knaresborough and Scarborough Highways Agency – Overall Commentary on NYCC Report to the Executive on 16 October 2007.
3. Why did the reports to the Executive/Committee not include the views of the County Council’s Legal and Financial Officers (which would normally be required) and do NYCC consider this a reasonable way to undertake a review?

4. Why did the report not consider/compare other options (District Wide Agency, better partnership arrangements etc.) that are advocated by Central Government in its new Local Government Agenda?
5. What consultation did the County Council undertake with stakeholders (Parish Councils, other public bodies, the general public) before considering the termination of the Agency Agreements?