

North Yorkshire Council

Executive

Minutes of the meeting held on Tuesday, 17th October, 2023 commencing at 11.00 am.

Councillor Carl Les in the Chair. plus Councillors Gareth Dadd, Derek Bastiman, Michael Harrison, Janet Sanderson, David Chance, Keane Duncan, Greg White and Annabel Wilkinson.

In attendance: Councillors Barbara Brodigan, Caroline Dickinson, George Jabbour and Steve Shaw-Wright.

Officers present: Stuart Carlton, Gary Fielding, Barry Khan, Nic Harne, Gareth Bentley, David Caulfield, Rachel Joyce, Andrew Rowe, Abigail Barron, Linda Marfitt, Christine Phillipson, Liz Small, Paul Thompson, Laura Venn, Legal Manager, Mark Haynes, Hannah Heinemann, Alex Richards and Julian Rudd.

Other Attendees: .

Apologies: Simon Myers. Karl Battersby, Richard Flinton and Richard Webb.

Copies of all documents considered are in the Minute Book

319 Apologies for Absence

320 Minutes of the Meeting held on 19 September 2023

Resolved – That the public Minutes of the meeting held on 19 September 2023, having been printed and circulated, be taken as read and confirmed by the Chairman as a correct record.

321 Declarations of Interest

There were no declarations of interest.

322 Public Participation

There was one public statement received relating to Agenda item 7 – Hackney Carriage Zones, and the Chair agreed to consider the submission as part of that agenda item.

323 Economic Growth Strategy 2024-2029

Considered – A report of the Corporate Director for Community Development presenting the Economic Growth Strategy 2024-2029 for the Executive's consideration and recommendation to Full Council.

Councillor Derek Bastiman introduced the report and draft Strategy recognising the hard work undertaken by officers to develop the Strategy in such a short time since the formation of the new Council. He drew specific attention to the three pillars on which the Strategy was built – Enterprise, Infrastructure & People and provided a brief overview of

those pillars and their associated priorities.

Members notes the Strategy had evolved over a period of time and provided a clear pathway forward for the Council but recognised the Authority would need future financial support to enable the Strategy to be delivered in full.

Councillor Paul Haslam acknowledged the Strategy showed merit and ambition but suggested it would benefit from the inclusion of information on:

- retrospective growth to understand how the economy has grown in key areas in the last five years;
- what the 5-year expected growth figure was if a) the authority did nothing or b) it carried out the investments it wanted to do; and
- what the value added would mean for urban centres, market towns, rural areas and coastal communities in order to understand where investment would achieve the most

David Caulfield - AD Economic Development, Regeneration, Tourism & Skills, welcomed the feedback and in response confirmed the Strategy was underpinned by a substantial evidence base that would provide the facts and figures to demonstrate where the Authority had come from and where it wanted to go to.

Members thanked officers for their work on the Strategy and it was

Resolved – That:

- i) The Economic Growth Strategy 2024-2029 be approved
- ii) The Strategy and action plan that flowed from it be agreed and reviewed annually, to ensure it reflected the prevailing economic conditions and wider opportunities that may arise.

324 Double Devolution

Considered – A report of the Assistant Chief Executive Local Engagement advising on the outcome of the invitation that was sent to all town and parish councils seeking expressions of interest for double devolution pilots and seeking approval for those expressions of interest recommended to be jointly developed to full business case, and for other further work to be undertaken.

Councillor David Chance introduced the report and provided an overview of the expressions of interest received, as listed in paragraph 3.1 of the report, and the process undertaken to evaluate them. Finally he provided a breakdown on the outcome of Evaluation Board and the next steps.

It was noted that all full business cases would be evaluated by the Council using a similar process as that used for the evaluation of the expressions of interest, and that the decision on which would be implemented would be taken by the Executive following consultation with the relevant Area Committee.

Recognising that Ripon City Council and Selby Town Council might require more support, Members welcomed the proposal to create two project teams, to work with them to bring forward their double devolution proposals for the Executive's future consideration.

Specifically in regard to the Ripon City Council submission, Councillor Andrew Williams was pleased to note the proposal of that future support, given the previous fractured relationship with Harrogate Borough Council.

Overall, Members agreed that Double Devolution was the right thing to do, with the aim of having more decisions being taken locally, and it was

Resolved – That:

- i. The progress of the double devolution project and the outcome of the invitation to bid by town and parish councils be noted.
- ii. The recommendations set out in section 3 of the report as to the outcome of the double devolution evaluation panel be agreed as follows:
 - a. That Settle Town Council, Little Ouseburn Parish Council and Stokesley Town Council not be invited to full business case.
 - b. That Malton Town Council, Northallerton and Thirsk Town Councils, Richmond Town Council, Filey Town Council and Knaresborough Town Councils be invited to move forward to full business case.
 - c. That Skipton Town Council and Whitby Town Council be recommended to move forward to full business case but with amendments to their Expression of Interest proposals.
 - d. That separate project teams be established to work with Ripon Town Council and Selby Town Council to bring forward their double devolution proposals in acknowledgement of the ambition and complexity of their expressions of interest.
- iii. The next steps as set out in section 4 of the report be approved.
- iv. The proposed approach to further invitations to submit expressions of interest be agreed as part of a further report to the Executive in January 2024. as set out in section 5 of the report.

325 Hackney Carriage Zones

Considered – a report of the Corporate Director for Environment seeking confirmation of the Council's position on abolishing the seven predecessor authority hackney carriage zones and operating a single hackney carriage zone for North Yorkshire.

Mr Richard Fieldman read out his public participation submission as follows:

"I speak on behalf of 70 members of the hackney carriage trade from across North Yorkshire. Although we are opposed to the Council abolishing the seven legacy hackney carriage zones, if that were the Council's intention, there is a straightforward statutory process a council must follow.

North Yorkshire Council failed to follow that process. Astonishingly, it appears not a single licensing officer or lawyer from any of the eight former local authorities were aware of the statutory requirements.

The Council now dances on a pinhead in an attempt to avoid openly admitting its mistake. Rather than honestly and openly accept it did not abolish the hackney carriage zones, it attempts to rely on the legal maxim of 'presumptive regularity'. That simply means that, if the Council passed a resolution to abolish hackney carriage zones, it is to be accepted it did so, unless overturned by the courts, even though it did not comply with the statutory requirements and admits it did not do so.

But no such resolution was ever passed. There is no resolution to rely on. There is no basis on which the Council can rely on presumptive regularity. As a result, despite officer

assertions to the contrary, the seven legacy hackney carriage zones legally remain to this day.

Officers ask you to pass a resolution today to regularise the position, to correct their procedural mistakes, but can you do so? In a word, “no”, because passing a resolution to abolish hackney carriage zones is a function reserved to the Full Council or, more precisely, it is not a function that is an executive function or one that can be exercised by the Executive.

In the circumstances, on behalf of myself and those on whose behalf I speak, I ask you not to compound an already bad position by passing an illegal resolution, but to instead refer this matter to the Full Council for a full and proper consideration of the proposal to abolish the hackney carriage zones.

If a council passes a resolution to abolish hackney carriage zones it cannot be reversed – this is a one-way street, down which you can only go once. If you refer this matter to Full Council, and the Council then follows the statutory process, and Full Council passes the appropriate resolution, we trust the Council will then recognise all hackney carriages as North Yorkshire hackney carriages by removing the zonal markings; and applying the same rules to all hackney carriages and their drivers, irrespective of which former district council by which they were previously licensed.

So, in all the circumstances, I ask you not to pass the resolution officers ask you to pass, and to instead refer this matter to Full Council. If you have any questions, I will be pleased to attempt to answer them, but like you, we rely upon legal advice, and our legal advisor is not here to help me to answer any such legal questions.”

In response Councillor Greg White provided an overview of the report presented to the Executive on 21st February 2023 and suggested that it together with the consultation, the resulting resolutions and adopted policy clearly set out the Council’s intention to operate a single zone. He also suggested it was apparent that the Executive subsequently agreed to abolish the seven predecessor authority hackney carriage zones and to operate a single zone.

He confirmed that whilst the decision of the Executive was clear, the Council was now seeking to address the technical requirement of passing an extension resolution to formally abolish the previous zones and apply provisions of the hackney carriage licensing regime across the whole of the administrative area of North Yorkshire. In order to achieve this intention, the Council had produced a new notice under the Local Government Act 1972 which had been published for two consecutive weeks in a local newspaper circulating in the area and served on all the parish and town councils across the Council’s administrative area.

He went on confirm that as the Executive had made a formal decision in February, this decision would stand unless overturned by a Court of Law. He noted the decision had not been challenged by way of Judicial Review within the appropriate timescales and therefore the decision stood under the principle of presumptive regularity.

Finally, he noted that Section 9D of the Local Government Act 2000 provided that any function of a local authority which was not specified in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 was to be the responsibility of an executive of the authority under executive arrangements. The 2000 regulations make no reference to the passing of a resolution under paragraph 25 of Schedule 14 to the Local Government Act 1972. The Council was therefore satisfied that the Executive was the appropriate body to take the decision.

In support of Mr Fieldman’s comments, Councillor Barbara Brodigan confirmed her submission of a petition on 9 October 2023 supporting reverting back to the former district

taxi zones and outlined a number of concerns as detailed in the petition.

Councillor Andrew Williams confirmed that he too still had concerns about the one zone approach and the potential implications arising from its implementation. He noted that in other areas where a one zone approach had been introduced, due to a number of issues, they had chosen to revert to their original multi-zone approach e.g. Northumberland.

In response Councillor Greg White suggested the petition had no bearing on the content of the report, as the report did not reopen the debate on whether the former taxi zones should be abolished, it merely sought to reconfirm what had previously been agreed. That said, he went on to clarify a number of points raised in the petition as follows:

- Congestion and over-supply in the bigger towns, (taxi drivers can now pick-up fares anywhere) but with limited parking on taxi stands. **Response** – No evidence had been presented to support this being the reality. Enforcement evenings and routine monitoring suggested there had been no significant impact. In fact, some companies had taken advantage of hiring vehicles and drivers that were licensed outside of the former district boundary due to lack of local availability.
- Difficulties in rural areas and villages, left with limited or no access to taxis. **Response** – This was a problem before the decision to create one North Yorkshire taxi zone. There was no evidence presented to suggest that the change to zones had any impact.
- Disabled people being further disadvantaged as drivers are selling wheelchair accessible vehicles, due to increased costs/reduced income. **Response** – There is no evidence presented that the change to zones had any impact. A separate study was ongoing looking at this specific issue and any recommendations would be fed into the planned taxi policy review early next year.
- More taxi drivers from outside districts not knowing the local area or the local people. **Response** – There is no evidence presented to support this. The Council had not received an increase in complaints from customers. If drivers were driving in unfamiliar areas of North Yorkshire they were most likely using technology to overcome this.
- Local taxi driver's businesses rendered worthless- some losing up to £30,000. **Response** –Again, this was considered by the Executive in February 2023. In two predecessor authority areas there had been a cap on the number of hackney carriage vehicles. Proprietors in these areas were afforded 'grandfather rights' on existing licences and were often able to charge a premium when selling their licensed vehicles to individuals seeking to enter the trade. Some of those proprietors had referred to trading plates as a financial investment and one which would be diminished by the proposed policy. There was no certainty for those proprietors that any financial outlay would be secured for a period of time and the risk was borne by those individuals. The licence plate itself remained the property of the relevant authority, not the proprietor, and the predecessor councils did not (and could not) guarantee that the previous grandfather rights would remain in place indefinitely.

Finally, Councillor Greg White confirmed the Council in reaching its decision in February had been mindful of the Department for Transport's advice that a limit on taxi numbers was unlikely to be in the best interest of consumers. He noted the Office of Fair Trading and Competition Commission (CMA) considered that quantity regulation limited the number of taxis, reduced availability and lowered the quality of service to the public. That competition could exert downward pressure on prices and upward pressure on quality because greater competition meant that firms must fight harder to attract and retain customers. It was the CMA's view that competition should only be restricted by regulatory rules to the extent that it was necessary to protect customers.

Councillor Greg White went on to formally introduce the report and having noted the contributions at the meeting and associated feedback, the Executive voted in favour of the recommendations, and it was

Resolved – That the seven predecessor district/borough hackney carriage zones for Craven, Hambleton, Harrogate, Richmondshire, Ryedale, Scarborough and Selby be abolished and that all provisions of the hackney carriage licensing regime be applied across the whole of the administrative area of North Yorkshire Council pursuant to paragraph 25, Schedule 14 to the Local Government Act 1972, with effect from 30 November 2023.

326 Application for Homes England Investment Partner Status and Associated Affordable Housing Programme 2021-26 Bid

Considered – A report of the Corporate Director Community Development seeking the Executive's permission to apply to Homes England for Investment Partner status, to submit an associated bid to Homes England for grant funding under the Affordable Housing Programme (AHP) 2021-26, to accept the transfer of Harrogate Borough Council's Recycled Capital Grant Fund (RCGF) credits from 2022/23, and to use those credits towards HRA capital budget development costs.

In the absence of the Executive Member for Culture, Arts and Housing, Nic Harne – Corporate Director for Community Development introduced the report and provided an overview of the proposal detailed therein.

The Executive voted in favour of the recommendations within the report, and it was

Resolved – That:

- i) The Assistant Director for Housing be authorised to complete and submit the application and the associated capital bid on behalf of NYC for Homes England Investment Partner status.
- ii) Authority be delegated to the Assistant Director Resources (Community Development) to transfer Harrogate's RCGF credits 2022/23 to North Yorkshire Council, to sign the registered transfer approval letter, and to accept the grant as set out in the report if successful.

327 Amendments to the Council's Constitution

Considered – A report of the Assistant Chief Executive Legal and Democratic Services presenting proposed changes to the Constitution for the Executive's consideration and recommendation to full Council for approval.

Councillor David Chance introduced the report and provided an overview of the proposed changes to the Constitution, as detailed in the report and its appendices.

Barry Khan Assistant Chief Executive Legal and Democratic Services drew specific attention to the proposed changes to the contract procedural rules as set out in Appendix 2 of the report. In particular he noted the proposal to add into Rule 8.5 that where three quotes are being obtained, at least one quote should be from a local supplier based within North Yorkshire and at least one SME. This would require reasonable endeavours to seek those specific quotes.

Councillor Paul Haslam welcomed the proposed changes to the procurement and contract procedure rules at section 6 of the report and suggested the opportunity should not be

missed to include something around environmental impact and sustainability.

Having considered the proposals, the Executive voted in favour of the recommendations, and it was

Resolved – That the following be noted and recommended to full Council for approval:

- (a) The amendments to the Constitution as set out in Appendix 1 of the report, made by the Assistant Chief Executive Legal and Democratic Services under his delegated powers;
- (b) the proposed amendments to the Council Procedure Rules as set out in paragraphs 4.2, 4.5, 4.10, 4.11 and 4.15 of the report;
- (c) the proposed amendments to the Specific Delegations to the Assistant Chief Executive Legal and Democratic Services in the Officers' Delegation Scheme as set out in paragraph 5.4 of the report;
- (d) the proposed changes to the Procurement and Contract Procedure Rules as set out in Appendix 2 of the report;
- (e) the proposed changes to the Financial Procedure Rules as set out in Appendix 3 of the report;
- (f) the proposed changes to the Specific Delegations to the Corporate Director of Environment in the Officers' Delegation Scheme as set out by way of tracked changes on the extracts attached at Appendix 4;
- (g) the proposed changes to the Area Constituency Planning Committee Terms of Reference as set out in Appendix 4 of the report;
- (h) the proposed amendments to the Specific Delegations to the Corporate Director of Community Development and the Corporate Director of Resources in the Officers' Delegation Scheme as set out at Appendix 5 of the report;
- (i) the approach to Member engagement and decision-making throughout the preparation of Development Plan Documents and Neighbourhood Plans as set out in section 4 of the report, including the establishment of a Development Plan Committee, and the consequential amendments to the Constitution as set out in paragraph 10.3 of the report;
- (j) the approach to the review of Outside Bodies as set out in paragraph 11.4 of the report.

328 Area Constituency Committee Feedback Report

Considered – A report of the Assistant Chief Executive (Legal & Democratic Services) providing an overview of the key issues considered at recent meetings of the Area Constituency Committees.

Councillor David Chance introduced the report and drew attention to a number of specific recommendations made by the Harrogate and Knaresborough ACC at its meeting on 14 September 2023 in relation to the installation of EV charging points in Knaresborough, as listed in paragraphs 3.5 & 3.6 of the report.

Councillor George Jabbour raised the issue of the future changes to parliamentary boundaries and the alignment of ACC boundaries to them. The Chair confirmed the issue was to be considered by the Council in due course and therefore it was not appropriate to discuss that at this stage.

Recent examples of cross-over between the remit of the ACCs and Planning ACCs at recent meetings were also raised as a matter of concern, together with the time being allowed for public participation at ACC meetings

Having considered the report in full, the Executive

Resolved – That:

- i) The report be noted.
- ii) The specific recommendations made by the Harrogate and Knaresborough ACC at their meeting on 14 September 2023 as listed in paragraphs 3.5 & 3.6 of the report, be delegated to the Executive Members for Highways & Transportation for his consideration and approval.
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329 Appointments Report

Considered – A report of the Assistant Chief Executive (Legal and Democratic Services) proposing the appointment of Councillor David Hugill to the North Yorkshire Moors National Park Authority.

Councillor Carl Les introduced the report. Noting that the NYMNP had a number of forthcoming decisions that needed to be made, it was proposed that the Executive recommend to the Chief Executive that he make the appointment, using his emergency powers for the period through the next Full Council meeting on 15 November 2023, to enable Councillor David Hugill to participate in that decision making.

Resolved: That the Executive recommend to the Chief Executive that using his emergency powers, he appoint Councillor David Hugill to the North York Moors National Park Authority, to fill the existing Conservative vacancy, for the period through to the next meeting of Full Council on 15 November 2023.

330 Forward Plan

Considered –

The Forward Plan for the period 9 October 2023 to 31 October 2024 was presented.

Resolved - That the Forward Plan be noted.

331 Date of Next Meeting - 7 November 2023

The meeting concluded at 11.58 am.