

North Yorkshire County Council

Executive

Minutes of the hybrid meeting held on Tuesday, 13th December 2022 commencing at 11.00 am.

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

In attendance: County Councillors Caroline Dickinson, Paul Haslem and Arnold Warneken.

Officers present: Karl Battersby, Stuart Carlton, Gary Fielding, Richard Flinton, Barry Khan, Richard Webb, Melanie Carr, Daniel Harry, Martin Grainger, Linda Marfitt, Karen Iveson, Jo Ireland, Theresa Dykstra and David Edwards.

Other present: Mr Alisdair Clark

Apologies: Gary Fielding

Copies of all documents considered are in the Minute Book

130 Introductions

County Councillor Carl Les welcomed everyone to the meeting.

131 Public Minutes of the Meeting held on 29 November 2022

Resolved –

That the public Minutes of the meeting held on 29 November 2022, having been printed and circulated, be taken as read and confirmed by the Chairman as a correct record.

132 Declarations of Interest

There were no declarations of interest.

133 Exclusion of the public from the meeting during consideration of each of the items of business listed in Column 1 of the following table on the grounds that they each involve the likely disclosure of exempt information as defined in the paragraph(s) specified in column 2 of Part 1 of Schedule 12A to the Local Government Act 1972 as amended by the Local Government (Access to information)(Variation) Order 2006:-

Resolved –

That on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 as amended by the Local government (Access to Information) (Variation) Order 2006, the public would be excluded from the meeting during consideration of agenda item 11 - Confidential

Minute, if the content was to be discussed.

134 Public Questions and Statements

There was one public question from Mr Alisdair Clark, who was late joining the meeting via TEAMS due to technical issues. His question was therefore read out by the clerk to the meeting, as follows:

'Has NYCC shared with all elected councillors a copy of all legal advice obtained by the council relating to the Community Infrastructure Levy (CIL) Grant Scheme in Ryedale. Can you please confirm who provided this advice, the total cost of this advice, who requested this advice and who was it sanctioned by? Can NYCC guarantee today that Ryedale's Community Infrastructure Levy funds will be reserved for community Infrastructure and spent within the Ryedale area in a timely manner if they are not spent before vesting day and are transferred to NYC. Can you please confirm the collective general position of North Yorkshire County Council towards the applicants and existing recipients of Ryedale District Council's CIL fund?'

Mr Clark joined the meeting as his question was being read out.

In response, Barry Khan, Assistant Chief Executive (Legal & Democratic Services) confirmed that legal advice had been requested by Ryedale District Council in October 2022, and that NYCC legal services had been provided the following advice in-house:

Section 24 of the Local Government and Public Involvement in Health Act 2007 provides the Secretary of State may direct a relevant authority to obtain the written consent of a District Council to enter into any capital contract under which the consideration payable by the District Council exceeds £1m. (Section 24(1)(b)).

The Secretary of State issued a Direction under Section 24 to state in effect a District Council, being an authority which is to be dissolved, may not without the consent of North Yorkshire County Council enter into a capital contract exceeding £1m or a non-capital contract over £100,000 (subject to certain conditions). Definition of capital contract means a contract involving capital expenditure for the purposes under Part 1 of the Local Government Act 2003.

Section 27(2) provides that "in determining whether the limit specified in a direction by virtue of Section 24(1)(b) or (c) is exceeded in the case of a contract entered into by a relevant authority ("the contract in question"), the consideration payable by the relevant authority under any relevant contract shall be taken into account".

Section 27(3) provides that a relevant contract means a contract which is either or both:

(a) a contract entered into after the 31st December 2006 by the Council and the person with whom the contract in question is entered into; and

(b) a contract entered into after that date by the District Council which relates to the same or a similar description of matter as that to which the contract in question relates.

Section 28(2) provides that any contract entered into by a district council in breach of the Direction will not be enforceable against the new authority. Therefore if the District Council have entered into contracts for similar descriptions as the CIL money will be spent after 31st December 2006, and the total value of that land has exceeded £1m, then any future contracts requires specific consent. It is noted that the total CIL money by Ryedale already exceeds this amount.

Under the general consent that was granted by the Executive on 23rd May 2022, there was no consent granted for this particular transaction as the contracts that were approved were specifically those included in the procurement forward plan attached to the general consent. [general consent link](#)

Section 26(6) provides that where a question arises in relation to the value of any consideration, then the value is to be determined by the Secretary of State.

Therefore under the above Rules it is submitted that any decision to spend the circa £3m capital CIL money will require Section 24 consent to enter into the relevant agreements, even if each agreement is less than £1m. This will apply whether the money is given under a contract, loan or grant (albeit the CIL funding will need to have enforceable conditions to enable it to deliver the necessary infrastructure requirements).

To make sure the levy is open and transparent, the District Council must prepare short report on the levy that gives information for the previous financial year. Ryedale's Infrastructure Funding Statement for 2021 states that:

"The work undertaken to evidence delivery of the allocations (and the Ryedale Plan as a whole) has identified that the key infrastructure requirement would be concerning primary school provision, and that based on housing delivery at Malton and Norton a site would be required to deliver a new primary school in either settlement, depending on where the allocation is made.

"This site for a school has been identified and allocated in the Development Plan as part of a housing allocation in Norton (SD3).

"The value of the land (educational value) will be a payment in kind and so any CIL payment will factor this in. Collated CIL funds will be utilised to help deliver the school.

"At the time of writing this IFS, a planning application for the Norton allocation site, known as Land Adjacent to Norton Lodge, Beverley Road is currently under consideration. It is expected that work with NYCC, the Developer and the LPA will be taking place during the course of the application, to establish the funding framework which will inform any decisions around the timing and allocation of CIL funds. Based on the initial submission information for the scheme, the proposal is set to be CIL liable for roughly £2.3 million, subject to permission being granted and any revisions made to the scheme."

Therefore the concerns are that the law regarding CIL, is that it must be spent on the provision, improvement, replacement, operation or maintenance of public infrastructure needed to support development of growth. Currently the District Council has identified what projects would achieve this aim and there is concerns in opening up a new set of applications from the public will give a unrealistic level of expectation that their new projects that have not previously been identified will be funded, when this is not the case.

County Councillor Gareth Dadd expressed confidence that the £3m capital CIL money would be spent on projects within the Ryedale District Council area and gave examples of the kinds of schemes that might benefit. He also drew attention to the financial challenges the new Authority would be facing over the next two years and therefore welcomed Section 24 consent being required.

He also recognised that elected members across the County would have to take some very serious decisions around the wellbeing of local communities going forward. Finally, he referred to the structural change order and noted that sovereignty only existed within the framework of the law, and as such he was confident that the Authority would take the

correct decisions in the interests of the people of Ryedale and the wider communities of North Yorkshire.

County Councillor Carl Les confirmed there was review of assets ongoing cross North Yorkshire thanked Mr Clark for his contribution at the meeting.

135 The operation of leisure services in Selby district 2024 onwards

Considered – A report of the Corporate Director Health and Adult Services / Local Government Re-organisation Sponsor for Culture, Leisure and Sport entitled 'Shaping the future of Leisure Services in the new North Yorkshire Council', setting out the key issues impacting on Leisure Services following the establishment of the new North Yorkshire Council; proposing a countywide Strategic Leisure Review; and seeking approval for an interim leisure service for Selby whilst the countywide strategic review was undertaken.

County Councillor Simon Myers introduced the report and provided a brief overview of the background to the previous Selby District Council decision regarding awarding an interim contract to Brimhams Active, as detailed in the report, drawing attention to the cost analysis carried out and the strategic reasons behind that decision.

In regard to the future introduction of a new Leisure Strategy, he noted the new Authority would be taking possession of a vast and diverse range of leisure and sports services/facilities across the county, run through a plethora of operating models, and therefore recognised the need for a timely countywide Strategic Leisure Review.

Finally, he thanked officers for their work in support of the LGR workstream and for the report.

Richard Webb, Corporate Director Health and Adult Services noted the importance of having a good interim offer in place in Selby whilst a Strategic Review was undertaken. He drew attention to Appendix 1 of the report providing the rationale behind Selby District Council's decision and Appendix 2 an initial draft of the proposed Strategic Review, which he confirmed could start early in the new year.

Karen Iveson, NYCC AD Strategic Resources & Chief Financial Officer at Selby District Council drew attention to the high level financial assessment that had been undertaken but noted that the figures in the report were indicative only at this stage.

Members agreed a strategic review was a logical first step and noted the indicative timings for the transfer of the individual contracts. It was confirmed that all ongoing contracts had been reviewed to assess when they could be moved over in to a single service delivery model.

Resolved – That:

- i) the decisions taken by Selby District Council on 1 September 2022 be noted i.e.:
 - To support the proposed Selby interim service option, which was the transfer to a Teckal company;
 - Not to re-procure its leisure contract; and
 - Engage with any future proposals that were considered by North Yorkshire's Executive later in the autumn, in relation to a countywide Strategic Leisure Review.
- ii) Approve the interim proposal for Selby Leisure services, with the services being provided by Brimhams Active from August 2024, pending the implementation of a countywide service delivery model for leisure and sport.

- iii) Approve the commencement in 2023 of a countywide Strategic Leisure Review, overseen by a Member Working Group, chaired by the Executive Member for Planning for Growth, with final recommendations to be presented to Executive during 2023/24.
- iv) Approve the allocation of up to £120k for the strategic review, with this to be funded from the earmarked LGR funds.

136 Reports of the Member Working Group on Planning

Considered – A two-part report of the LGR Member Working Group on Planning:

Report A - seeking endorsement of a recommended approach to planning governance for North Yorkshire and the most appropriate way forward in relation to the number of Planning Committees required, so that the necessary preparatory work could be undertaken before vesting day.

Report B - seeking endorsement of a recommended approach to plan making for North Yorkshire, taking into consideration legal requirements, local context, an assessment of risks and benefits, and feedback from the Members Planning Task and Finish Group held on 3 October 2022

County Councillor Simon Myers introduced both reports and thanked the members of the Working Group for their diligence and officers for the support given.

Specifically in regard to Report A, he noted the importance of having the Planning Committees set up and ready to go as of vesting day. He drew attention to the modelling work that had been undertaken on the two options under consideration i.e. to have one Strategic Planning Committee and either three or six Area Planning Committees, and confirmed that both options would work. Finally, he confirmed the preferred option of the Member Working Group was to have six Area Planning Committees based on the six MP Constituency areas, in line with the six Area Constituency Committees.

It was noted

- The number of applications received across the county had been considered as part of evaluating both proposed models;
- The proposed scheme of delegation was an essential component, and attention was drawn to the triggers that would require a planning application to go to the Strategic Planning Committee, which included those more contentious applications and where an application covered more than one Area Planning Committee area;
- The Area Planning Committees would need to have a degree of autonomy to ensure the decisions were made locally;

In regard to Report B, Linda Marfitt Head of Planning at Harrogate Borough Council confirmed a robust approach had been taken to the review involving all Planning Authorities across the county, which had led to an agreed position across all teams.

It was noted:

- The proposal took account of the legal duties and national legislation etc, and was considered to be capable of delivering the new priorities and challenges of the new Authority;
- A new Local Plan and Minerals & Waste Joint Plan had to be delivered within 5 years and the extensive resources and costs associated with delivering them within that time frame;
- The willingness of officers to work hard to get as far down the road to delivery of the new Plans within that timeframe, and their eagerness to start that work as soon as

possible;

- Having the new Local Plan in place would enable the Authority to have consistency across some other required and linked policies and strategies e.g. affordable housing policy, and the protection of heritage and natural assets;
- The new Local Plan could be made up of a series of Sub Plans covering specific areas of the county;
- The importance of having an ambitious Local Plan that informed the decisions taken by the Planning Committees, in part to avoid the dangers of parochialism and also to support economic development and inward investment opportunities;

County Councillor David Chance drew attention to Appendix 1 of Report B and expressed concern about the large housing number (500) that would qualify an application as being significant and therefore required to go to the Strategic Planning Committee, as in his view it would adversely affect smaller communities.

In response, Martin Grainger, Head of Planning at Selby District Council confirmed it was just one part of the Scheme of Delegation, and other issues would also be taken into account. He also confirmed that the Working Group and Planning officers from across the county were all in agreement that fundamentally Area Planning Committees would be able to deal with contentious applications.

County Councillor Arnold Warneken expressed concern about a particular ongoing planning application made to Harrogate Borough Council in relation to Maltkiln New Settlement DPD, as detailed in an email he had previously circulated to Executive Members ahead of the meeting. He suggested the issue of a relief road had yet to be properly addressed and expressed concern about the speed at which the process was being rushed through.

Following some discussion, Members agreed the matter needed to be addressed to Harrogate Brough Council, and Linda Marfitt agreed to

Regarding Report A, it was

Resolved – That:

- i. The recommended approach of the LGR Planning Member Task and Finish Group relating to Planning Governance be endorsed;
- ii. The proposal to have a Strategic Planning Committee and six Area Planning Committees be endorsed as the most appropriate way forward

Regarding Report B, it was

Resolved – That the following Executive recommendations be taken forward for decision by Full Council:

- iii. A single local plan be prepared and progressed as far as possible within five years and
 - a) Work on the new local plan start as soon as possible
 - b) A separate Minerals and Waste Local Plan be prepared
 - c) The following plan reviews be halted in order to focus resources on preparing a new Local Plan:
 - Craven Local Plan
 - Hambleton Local Plan
 - Harrogate District Local Plan
 - Richmondshire Local Plan

- Scarborough Borough Local Plan
- iv. The following reviews be continued:
 - Harrogate: Maltkiln New Settlement DPD
 - The Ryedale Plan
 - Selby Local Plan
 - Minerals and Waste Joint Plan
 - v. An Interim Local Development Scheme, including key milestones and programme management arrangements, be prepared on the basis of the above recommendations
 - vi. A specific report be prepared setting out the required evidence base and associated costs/ resource to support the preparation of the new plan
 - vii. Formal governance arrangements be established to oversee plan making ahead of transformational changes

137 Report of the Member Working Group on Customer Strategy, including Service Standards & Complaints Policy

Considered – A report of the Chair of the LGR Customer Member Working Group, advising the Executive of the recommendations of the Working Group and the process by which it arrived at those recommendations.

County Council David Chance provided a detailed introduction to the report, which included an overview of the work undertaken and the issues considered and addressed to identify appropriate decision-making processes that would be required prior to vesting day for the new North Yorkshire Council. He drew specific attention to paragraph 3.7 of the report in relation to the draft complaints policy and noted the Working Group's view that all strategies should be produced using plain English, to ensure they were accessible to all.

Finally, he thanked the Member Working Group and the officers who had supported the work undertaken.

Theresa Dykstra – confirmed the Executive would receive a further report in March 2023, which would provide the opportunity to further debate the issues.

As Members had no questions, it was

Resolved – That:

- i. A customer friendly, accessible customer strategy be developed for an initial period of two years as set out in paragraph 3.7 of the report. The completed Strategy to be the subject of Executive approval.
- ii. A set of performance standards for the new Council be developed as part of the Customer Strategy as set out in paragraph 3.8 and 3.9 of the report.
- iii. The new complaints policy be produced as set out in paragraph 3.6 of the report, and submitted for Executive approval with the customer strategy in due course.

138 Consideration of the building condition at Welburn Hall school and potential remedial plans

Considered: A report of the Corporate Director for Children & Young People Services providing a brief overview of the building challenges in relation to Welburn Hall Special school, seeking approval for a set of initial decisions in relation to the school (in light of the major challenges that have been identified), and discussing the longer-term strategic plans

and investment decisions that will need to be developed and routed back through the Executive in Spring 2023.

County Councillor Annabel Wilkinson introduced the report and drew attention to the heating system challenges and the need to consider a more effective way forward. She noted the plans to consult with families and thanked officers for their work and for the report.

As Members had no questions, it was

Resolved – That:

- i. A consultation process be undertaken in relation to the pausing of residential provision at Welburn Hall for a two year period from September 2023
- ii. Planning permission be sought to install temporary classroom provision on site
- iii. The local authority will not install temporary accommodation for residential operation

139 Forward Plan

Considered –

An extract from the Forward Plan for the period 5 December 2022 to 31 December 2023 was presented showing future items of Executive business.

Resolved - That the Forward Plan be noted.

140 Confidential Minute of the meeting held on 29 November 2022

Resolved – That:

- i. There were no matters arising from the Confidential Minute requiring discussion, and therefore the Executive did not need to enter into private session.
- i. The confidential Minute of the meeting held on 29 November 2022, having been printed and circulated, be taken as read and confirmed by the Chairman as a correct record.

The meeting concluded at 12.13 pm.