

## **PUBLIC**

**MINUTES** of the meeting of the **DERBYSHIRE COUNTY COUNCIL**  
held on 3 June 2015 at County Hall, Matlock

### **PRESENT**

Councillor S Freeborn (In the Chair)

Councillors D Allen, S A Bambrick, Mrs G Birkin, Ms C Bisknell, Mrs S L Blank, Mrs M W Booth, A Botham, S J Bradford, S Brittain, S Bull, K Buttery, Mrs D W E Charles, Mrs L M Chilton, D Collins, Mrs C M Cox, J A Coyle, R Davison, J E Dixon, P Dunn, S J Ellis, M Ford, J A Frudd, Mrs P A Gilby, K Gillott, D T Greenhalgh, Mrs C A Hart, Mrs Janet A Hill, Ms Julie A Hill, R L Hosker, Mrs J M Innes, P Jones, T A Kemp, Mrs K D Lauro, B Lewis, D W Lomax, W Major, D McGregor, R R Mihaly, C R Moesby, K P Morgan, C E Neill, J R Owen, R A Parkinson, Mrs J E Patten, Mrs I Ratcliffe, B Ridgway, T Southerd, S A Spencer, Mrs M Stockdale, Mrs J S Street, D H Taylor, Mrs J A Twigg, D Walton, Ms A Western, D J Wilcox, E S Wilcox, D A Williams and B Wright.

**38/15      APOLOGIES FOR ABSENCE** Apologies for absence were submitted on behalf of Councillors Mrs E Atkins, S Marshall-Clarke, P J Smith and J G Williams.

**39/15      DECLARATIONS OF INTEREST**      There      were      no declarations of interest.

**40/15      CHAIR'S      ANNOUNCEMENTS**      The      following announcements were made:-

- (1) Councillor Steve Bull, new member for the Ashbourne Division, was welcomed to the Council
- (2) The Chair reported the death of County Councillor Mike Longden who had represented the Derwent Valley Division from 2009. A minute's silence was observed and tributes were made.
- (3) This was Mary McElvaney's and Kieran Hickey's last Council meeting. Council thanked them for the considerable contribution that they had made to the work of the Council and wished them all the very best in the future.
- (4) Sue Allen, a teacher from Tibshelf Community School, presented the County Council with a book which celebrated the achievements of Tibshelf School's ten-year project with Sri Lanka.

(5) Families in Need - Staff had been asked to donate household items, clothes toys and games etc to this very worthwhile cause and this request had been very well supported. The Chair thanked all those who had kindly donated items.

(6) The presentation to be made at agenda item 10 was to be brought forward on the agenda.

**41/15      PRESENTATION** A presentation on the Derbyshire Youth Council's Manifesto was made. This was introduced by Libby Brown Shirebrook Academy, Mitchell Duggins, Pingle School, Samantha Beacham, William Allitt School and Imogen McAra-James, Swanwick Hall.

The Chair thanked the Youth Council members for their contribution.

**42/15      CABINET      APPOINTMENTS,      PORTFOLIO RESPONSIBILITIES,      COMMITTEE      MEMBERSHIP      AND APPOINTMENTS TO OUTSIDE BODIES** On the motion of Councillor Ms A Western duly seconded,

**RESOLVED** (1) to note the Leader's appointments to Cabinet and the portfolio responsibilities; and

(2) to approve the appointments to Committees and Sub-Committees and the appointments to serve on outside bodies; subject to the list being amended as follows:-

The Conservative Group nominees to be substitute members of the Regulatory - Planning Committee to be Councillor K Buttery, S J Ellis, B Lewis, W Major and D Walton.

The Vice Chair of the Standards Committee to be Councillor P Gilby.

Councillor P Innes to serve on the Standing Advisory Committee for Religious Education

Councillor B Lewis to serve on the Local Government Association – national.

**43/15      MINUTES OF THE PREVIOUS MEETING** On the motion of Councillor S Freeborn, duly seconded,

**RESOLVED** that the minutes of the meeting of Council held on 8 April 2015 be confirmed as a correct record.

**44/15      REPORT OF THE LEADER OF THE COUNCIL**

Councillor A Western, Leader of the Council, reported on the progress made on current major issues, notably progress on the establishment of a Combined Authority and the discussions that had taken place on a Devolution Deal.

Questions on the Leader's report were asked as follows:-

By Councillor S J Bradford - As a previous participant in hopefully the formulation of a Combined Authority, does the Leader find the mood music now coming from the Chancellor disappointing?

The Leader responded as follows:-

If I answer Councillor Bradford's question first about the "mood music", I think what we are getting is what is reported in the media and it is very difficult to make sense of that in a county region context so that is why we are pushing for an early meeting with Ministers and through the LGA as well to get some clarity around what exactly that does mean for different parts of the country. If I was not here today, I would have been at a County Council Network meeting where Greg Clark was present this morning. Hopefully, there will be some information from that that clarifies what is on offer. It is very difficult at the moment to know whether what the Chancellor is saying is a take-it-or-leave-it sort of devolution situation or whether there is a continuum along which people can position themselves. We wait for some clarity around that.

**45/15      PUBLIC QUESTIONS** (1) Question from Mr M Redford (As Mr Redford had not specified to which Cabinet Member his question was addressed, Councillor R L Hosker was invited to respond, given his role as Chair of the Derbyshire Fire and Rescue Service.)

'Will this Council oppose the downgrading of fire cover in South Derbyshire that is currently being trialled at Swadlincote Fire Station? This trial is part of an agenda of cuts to frontline, full time firefighters and services at Swadlincote Fire Station, resorting to On Call Firefighters during the night, and is due to end later in June. The FBU believe that this is a cut too far, at a time when the establishment of DFRS has never been so low. The FBU urges the Fire and Rescue Authority and Senior Managers of Derbyshire Fire and Rescue Service to reconsider these cuts and protect the frontline services of Derbyshire. Derby City has seen its fire cover reduced by 25% in 2010 and we cannot allow further fire service cuts to happen in the city or the county of Derbyshire. As a representative of the Fire Brigades Union in

Derbyshire, the protection of our communities, their safety and that of our members is of paramount importance, therefore, I further request that you support us in our opposition of this trial and the subsequent cuts to jobs, fire cover. Can you assure us that you will join us in opposing these cuts?'

Councillor Hosker responded as follows:-

There are no plans to close Swadlincote Fire Station or reduce the numbers of fire appliances operating from there. However, the Authority has supported the exploration of options which could provide a more effective and risk based approach to how we deliver our services from there. As an outcome of this, we have supported the implementation of trial duty system which commenced on the 6 January and which will be fully evaluated and reported back to our Fire Authority on the 25 June. I would not wish to speculate or take any decision which might pre-determine the outcome of that meeting before Members have received and considered all the relevant information.

This is not part of a Fire Authority agenda of cuts to frontline services or full-time firefighter posts, it is part of our service plan 2014-17 which has been created following feedback from communities and employees. The ongoing savings we have to make over the next four years (due to a cut in funding from the Government) are estimated to be around £4m. £1.6m has been identified to be saved through the reviewing of staffing levels, duty systems and ways of working.

There are no other proposals at this time to look at any further changes to duty systems within Derby or Derbyshire. The Fire Authority has worked extremely hard to avoid any changes to frontline services and have agreed only to look at any further possible changes when the Treasurer indicates that this would be an absolute requirement. At this time there is no mandate beyond Swadlincote Fire Station.

A supplementary question was asked as follows:-

I don't think this is necessarily the place to debate some of the finer points of the proposed cuts to Swadlincote Fire Station, notwithstanding the Fire Authority currently holding over £20m in reserves. However, could we seek an assurance that the Fire Authority meet with representatives of the Fire Brigades Union on a regular basis, undertake these discussions so that we can seek a mutual way forward that provides the savings required of the Fire and Rescue Service so we can move forward in the future? Could you please give us that assurance as regards the Fire Authority?

Councillor Hosker responded as follows:-

First of all, I am pleased that we have £20m in reserves. It will come in useful in the future, there is no doubt about that. Compared to a Fire Authority that is not far away from Derbyshire who are absolutely desperate for money I am very pleased that we have this £20m in reserves. Yes, we used to have regular meetings and that seemed to have petered out during a time when there hasn't been many major issues with the Service. I am absolutely prepared to set up meetings again on a regular basis with Fire Authority members and yourselves.

(2) Question from Mr D Owens to Councillor D Collins, Cabinet Member for Highways, Transport and Infrastructure

Is it BT or Digital Derbyshire responsible for the unacceptable delays in the provision of faster broadband to Stanton By Dale?

Councillor Collins responded as follows:-

The short answer is that it is neither. The problem arising at Ilkeston's cabinet 7 is around the power supply which has delayed the implementation. I can confirm that the power company is continuing to negotiate access to the power supply and have now been instructed to liaise with the landowner's solicitor. At the moment, Digital Derbyshire and BT are pushing for that to happen sooner rather than later but directly from the question, it is neither our problem it is a power problem and it will be implemented as soon as possible.

A supplementary question was asked as follows:-

How did neither Digital Derbyshire nor BT realise they needed a bigger fuse board in a box because that surely is all it is? The planning that should have gone into it must have included the fact you need a bigger fuse?

Councillor Collins responded as follows:-

I am assuming the checks were made and since they implemented the upgrade of the cabinet there have been issues with the power supply to it. I would not say it was a "fuse". It is the access across land to get the power supply to it so I am assuming they are putting in more power to that cabinet, but I will get a full reply to you.

(3) Question from Mr J Evans to Councillor P Smith, Cabinet Member for Adult Social Care (In Councillor Smith's absence, the question was answered by Councillor D Collins)

You will soon be commissioning the Dementia Unit in Darley Dale. There will be a large fanfare and tons of publicity. I want to ask you to take action regarding the safety of those who will visit this unit, and to take this action now, before you open it and expose the visitors to danger.

When this project came before your Planning Committee, I pleaded with them to make it a condition that a pedestrian crossing be installed across the A6. That request received a lot of support from members of the Planning Committee, but they were persuaded by the officers that the condition they should apply to the planning consent was that the Highways Department be consulted over the need for a pedestrian crossing. I understand that the highways department has said they see no need for a pedestrian crossing, and the fact that they have been consulted satisfies the planning condition.

It is highly dangerous to cross the A6 at this point, to get to the bus stop on the other side of the road. Please could you install a pedestrian crossing before an old lady visiting her husband in the new Dementia Unit is killed?

Councillor Collins responded as follows:-

I can answer on the pedestrian crossing. In January 2013, as part of Condition 24(c), the Authority did an assessment on site and they have determined that there will not be sufficient pedestrian movements to warrant a pedestrian crossing. What I will say is there are difficulties at that site as well for getting a pedestrian crossing in. However, what I can give you an assurance on is we will do another assessment as soon as the facility is open. Yes, we have done one but that was two years ago and we will do another one.

A supplementary question was asked as follows:-

If a survey has been done and indicated that there is very little need then the presence of a light controlled crossing would not impede traffic in any case. You have not provided a large amount of parking on this site and the principle has been that we will try to encourage as many people as possible to travel by public transport. Anybody who arrives by public transport on the Dementia Unit side of the A6 has to cross the A6 to go back, so everybody who comes on foot or by bus will have to cross that road. There should be no problem in installing a crossing because although you do not own the piece of land on the other side,

on the western side, I am sure if you approached the landowner he would be happy to sell you ten square metres, which is all that is needed, and if that does not work you just need to go 100 yards down to where there is a grass verge on each side of the road and install a crossing there.

Councillor Collins responded as follows:-

As I have said, we will go out and re-assess it. In the time of these cuts - and I take on board your question and concerns about the people who have to cross there - we have sites throughout the county where there are presently accidents and casualties. We have a scoring system that we base the pedestrian crossings on. We use that rigorously throughout the county and we will do the same on this site

**46/15      RECEIPT OF PETITIONS**      No petitions had been received.

**47/15      COUNCIL PROCEDURE RULES – DISCIPLINARY ARRANGEMENTS FOR STATUTORY OFFICERS**      The Chair notified Council that the three officers affected by the changes referred to in the report, I Stephenson, Head of Paid Service; J McElvaney, Monitoring Officer; and P Handford, Chief Finance Officer, had asked that he declare their interests.

The Local Authorities (Standing Orders) (England) Regulations 2001 set out the statutory requirements for the process of recruiting, appointing, disciplining and dismissing a local authority's head of paid service, monitoring officer and chief finance officer (the statutory officers). In exercising their functions, the statutory officers work in a political environment and so the 2001 Regulations afforded them protection by requiring that disciplinary procedures incorporated the mandatory appointment of a designated independent person (DIP) to investigate any allegation of misconduct and to provide a binding recommendation on disciplinary action against them. The arrangements were designed to provide objectivity and impartiality to the disciplinary process.

In 2013, the Department for Communities and Local Government (DCLG) consulted on proposals to remove the DIP from the disciplinary process for these officers. Although the consultation gave rise to concerns being expressed about the dilution of the protection of the statutory officers, The Local Authorities (Standing Orders) (England) (Amendment) Regulations were brought into force on 11th May 2015.

These Regulations set out a new procedure which must be undertaken should disciplinary action be taken in respect of these officers and removed the requirement for a DIP to be appointed. The new procedure

required that any disciplinary sanction should be determined by Full Council, which must consider any advice, views or recommendations of an Independent Panel, the conclusion of any investigation into the proposed dismissal and any representations from the statutory officers concerned. The Panel must include at least two “independent persons” and these were those who had been appointed to assist the Standards Committee in maintaining the high ethical standards of Councillors.

The independent persons must be invited to join the Panel in the following priority order:

- (a) A relevant independent person who has been appointed by the authority and who lives within the authority’s area;
- (b) Any other relevant independent person who has been appointed by the authority and lives outside the authority’s area;
- (c) A relevant independent person who has been appointed by another authority or authorities.

It was proposed that the Panel, to be known as the Statutory Officers Disciplinary Panel, should include three Elected Members (politically balanced) and two independent persons. The appointment of Panel Members would occur as and when the Panel was required to be convened. All members of the Panel, including those who were not Elected Members, would have voting rights.

The new Regulations required the County Council to amend its Standing Orders at its first meeting after 11th May and it was proposed that the Council’s Rules of Procedure (Part 4 of the Constitution) be amended.

The proposed change to the Rules of Procedure had been considered by the Standards Committee on 12th May 2015. The Committee supported the recommendations contained in the report.

A number of issues in respect of these new regulations remained under consideration and further guidance was awaited.

**RESOLVED** to (1) note the legislative changes to the disciplinary procedures in respect of statutory officers; (2) to approve and adopts the proposed amendment to the Council’s Rules of Procedure; and (3) to receive further reports as necessary

#### **48/15      THE COUNCILLOR DEVELOPMENT CHARTER**

At its meeting on 24 March 2015, Cabinet considered a review of the activity of the Member Development Working Group and agreed to



recommend that the Council should adopt the Councillor Development Charter. The Councillor Development Charter promoted best practice in Elected Member development by providing a focus and external benchmark against which the Council could measure its performance and identify areas for improvement. The Charter involved an accreditation process set against standards which had been developed in conjunction with the LGA and other regions around the country. The Charter took into account and complemented the Investors in People Quality Standard which had already been achieved by the Council.

**RESOLVED** to adopt the Councillor Development Charter.

**49/15      STRATEGIC DIRECTOR APPOINTMENT**      Council was asked to confirm the appointment to the established post of Strategic Director, Adult Care. The Appointment Panel had recommended the appointment of Mrs Joy Hollister.

The Council's Officer Employment Procedure Rules required that the appointment was subject to any objection from any Cabinet Member (none had been received) and confirmation by the Council. In addition, it was a requirement of the Council's Pay Policy that all appointments in excess of £100,000 per annum be reported to and approved by the Council and the post was Grade 20 (£108,087 - £118,895).

It was anticipated that Mrs Joy Hollister would commence her employment in early August.

**RESOLVED** to approve the appointment of Mrs Joy Hollister to the post of Strategic Director, Adult Care.

**50/15      ESTABLISHMENT OF A LOCAL PENSION BOARD**

At its meeting on 8 April 2015 Council approved the establishment of a Local Pension Board and the Terms of Reference for the Board. The Council was informed that a further report would be presented relating to the appointment of Board members.

The Terms of Reference provided that the Board should consist of four voting Board members, made up of two Employer Representatives and two Member Representatives, together with a non-voting independent Chair. It was agreed that one of the Member Representatives would be subject to nomination by the Trade Unions which were recognised by the Pension Scheme's Employers.

A recruitment and selection process had been carried out. Applications were received for the position of Scheme Member Representative from

Ms Karen Gurney and from Mr Nick Read whose appointment was supported by Unison, GMB, Unite and UCATT.

No applications have yet been received for the two Employer Representative positions on the Board. There would be a further report to Council at its meeting on 23 September regarding appointments to these positions.

Applications had been invited for the position of Independent Chair which would be a paid position. Five applications had been received and these were evaluated against the published specification for the post and three applicants were invited for interview. It had not been possible to select a candidate for recommendation for the position.

**RESOLVED** to approve (1) the appointment of Ms Karen Gurney and Mr Nick Read as Scheme Member Representatives to the Local Pension Board for Derbyshire for a two year term; and (2) that the appointment of the Independent Chair be the subject of a further report to Council.

**51/15      WAIVER OF CALL-IN PROVISIONS**      On the motion of Councillor Ms A Western, duly seconded,

**RESOLVED** to note the report on the agreements to waive the call-in provisions.

**52/15      REPORT OF CABINET AND MEMBERS' QUESTIONS ON THE REPORT**      Councillor A Western, Leader of the Council, presented a report on the decisions that had been taken at meetings on Cabinet held on 14 April and 5 and 26 May 2015.

Questions on the report had been received as follows:-

Question from Councillor W Major for Councillor P Smith, Cabinet Member for Adult Social Care on Independent Sector Care Home Fees 2015-16 (Cabinet, 5 May 2015)

This report shows another example of using tax payers' money from Government, in a way it was not intended to be used. For example, the report states 'the costs of meeting the pension auto-enrolment will be met from funding to assist with implementation of the Care Act.'

Although in this case it's a relatively small sum of money, how can it be sustainable for the Council to use a one-off grant, which was intended to cover the costs the Council faces when implementing the Care Act, to

fund an ever growing expense of pension auto-enrolment in independent sector care homes? A full explanation is deserved.

In the absence of Councillor Smith, Councillor P Jones responded as follows:-

The Care Act element of the Better Care Fund quite clearly states that the £178,000 that has been allocated to this Authority is to deal with impacts of the DWP policies on Councils and providers as well as auto-enrolment so the Government have deliberately given us money to help with automatic enrolment. Now is he condemning automatic enrolment that we don't want people having pensions? Are we opposing that? Are we not prepared to impose? Do we want to impose on the private sector the statutory obligations they have? Do we want to increase the costs that these will be charging to their clients? What I would ask him to suggest is he goes back to his Government and asks them to stop taking so much money out of this Authority so we can actually do it. He is quite right this is a one-off grant and if the Government don't continue reimbursing us it will be the taxpayers of Amber, Derbyshire who will pick up the tab and the taxpayers of Amber Valley. It will be the taxpayers of Derbyshire who pick up this tab and I would strongly ask them to ask their Ministers to actually ensure that we get a fair settlement for Derbyshire.

A supplementary question was asked as follows:-

I think we were talking about two different funds. There was the £4m fund for the implementation of the Care Act for Derbyshire and I was under the impression that *this* is that fund not the £157m. Otherwise it has a very similar title, so I do question that and if that is the case this is the same fund that presentations have been passed round Derbyshire into LACs saying that we have not had enough money and we have to prop that up by £2m out of the Better Care Fund (which I would also argue isn't the correct use of that money) and that is the same money that we were told isn't available for the Council to use to spend at two full Council meetings ago. So given the fact that we are using that money to pay for auto-enrolment in independent sector care homes, is there enough money in the implementation of the Care Act grant or isn't there

Councillor Jones responded as follows:-

I answered the question. It is quite clear there is an allocation from Government for auto-enrolment that is a one-off grant. What is he suggesting as an alternative? Do we therefore no longer contract with the private sector in supporting them in auto-enrolments for people in the Pension Scheme? It is quite easy to ask questions giving the

position that the Government funding has put this Authority in, given that we are expected to implement the statutory obligations that the Government has imposed on people to provide pensions. Doesn't he want anybody to have pensions? He seems to be castigating Local Authorities for their Pension Scheme but it would appear that they don't want the private sector to have one or that it should be the clients that pay for it rather than the company. Where does he expect us to get this from? If he could write to me a coherent question that is intelligible and to do with the Better Care Act I will be more than happy to provide him with a detailed response.

(2) Question from Councillor S A Spencer to Councillor D Collins  
Cabinet Member for Highways, Transport and Infrastructure on the  
Improvement and Scrutiny Review of Highway Inspection and  
Maintenance Procedures (Cabinet 26 May 2015)

Following the recent publication of the scrutiny report on highways maintenance, the Leader of the Council stated that she believed that the reason for the appalling level of data input from maintenance crews (21% of all work carried out) was as a consequence of IT issues. Could the Cabinet member explain that comment, and also how he plans to address the issue?

Councillor Collins responded as follows:-

I can't answer the question for the Leader but I did ask her what she meant about it. It was not actually how it is reported here. She asked Scrutiny "Is the level of data input from maintenance crews about the way it was logging or was it that they were not logging it?" and the answer was "It is around the consequence of IT issues."

How I plan to address this is we have got a new single asset management system in place. We are going out repairing different ways to how we have previously done it. We have 16 gangs and 4 jet patchers currently undertaking work which involves repairing all potholes as they see them working along all the main routes across the county. This is enabling us to close down all outstanding defects in the system as well as repairing any that have not been reported. Running alongside that we are looking at replacing the outdated Toughbooks with newer IT equipment, so that is how I will be addressing the issue.

A supplementary question was asked as follows:-

We are fully aware that the single asset management system will not operate if data input is not given the correct and appropriate time.

The scrutiny report that took some 14 months to publish (and a significant amount of work was carried out particularly by the Chair, Councillor Lauro, and I was pretty much at every meeting with the exception of the one in Leicestershire because of a prior engagement) looked into every issue relating to the management of the highways and repairs that were taking place.

I actually believe that there is a particular issue with data input. We expressed this to Councillor Collins some six months ago when we had the initial discussion. There is so much training to be given, there is so much discussion can take place, but fundamentally the crews must do their job as specified and I hope that Councillor Collins' comments with regard to the fact that he will not "use the big stick" as he calls it - not my words, his - is only an option that will be removed as a consequence of the work being carried out. If the work is not carried out it is absolutely imperative that we use every mechanism at our disposal to make it happen because, if it does not happen, the single asset management system will fall flat on its face. Can the Cabinet member give me an assurance that every mechanism available to him will be used to make this system work?

Councillor Collins responded as follows:-

Yes, I can give you that assurance but it is not just the frontline who are failing the system. Senior management now will also be involved in this process and if they are not doing their job then yes, once we have explored every avenue possible for retraining or anything like that we will use any disciplinary means if we have to, so yes.

(3) Question from Councillor M Ford to Councillor D Collins, Cabinet Member for Highways, Transport and Infrastructure on the Proposed Amendment to the Countryside Car Park Order (Willington Picnic Site) (Cabinet 26 May 2015)

If the concerned public in Willington and the surrounding areas, likely to be affected by the proposed charges and consequent traffic and parking issues, want a public meeting, would the Cabinet Member be willing to attend it?

Councillor Collins responded as follows:-

I will do the same as I did at Hasland. There will be public consultations and I will attend those public consultations so if there are members of the public there who have any issues and would like to raise them with me then they can do.

There was no supplementary question.

On the motion of Councillor A Western, duly seconded,

**RESOLVED** that the report be noted.

**53/15      COUNCILLOR QUESTIONS**      There were no Councillor Questions.

**54/15      MINUTES OF MEETINGS OF COMMITTEES AND OTHER BODIES**      On the motion of Councillor S Freeborn, duly seconded,

**RESOLVED** that the minutes of the following meetings be received:-

- (a) Regulatory – Licensing and Appeals Committee held on 13 April 2015
- (b) Regulatory – Planning Committee held on 20 April 2015
- (c) Standards Committee held on 12 May 2015
- (d) Pensions and Investment Committee held on 18 March and 29 April 2015
- (e) Audit Committee held on 25 March and 12 May 2015
- (f) Health and Wellbeing Board held on 14 May 2015
- (g) Derbyshire Police and Crime Panel held on 26 March 2015
- (h) Derbyshire Fire and Rescue Authority held on 19 February 2015
- (i) D2 Joint Committee for Economic Prosperity held on 13 March 2015