

BRECKLAND COUNCIL

At a Meeting of the

OVERVIEW AND SCRUTINY COMMISSION

**Held on Thursday, 29 November 2012 at 2.00 pm in the
Anglia Room, The Conference Suite, Elizabeth House, Walpole Loke, Dereham**

PRESENT

Mr J.P. Cowen (Chairman)	Mrs S.M. Matthews
Mr T. J. Jermy (Vice-Chairman)	Mr R. R. Richmond
Mr A.J. Byrne	Mr J.D. Rogers
Mr C G Carter	Councillor C Bowes (Substitute Member)
Mr A.P. Joel	Mr S.G. Bambridge (Substitute Member)
Mr R.G. Kybird	

Also Present

Mrs S Armes	Mr M.A. Kiddle-Morris
Mrs E. M. Jolly	Mr M. A. Wassell

In Attendance

Mark Finch	- Assistant Director of Finance
Zoe Footer	- Land Management Officer
Helen McAleer	- Senior Committee Officer
Kim Parks	- Senior Performance Analyst
Rory Ringer	- Democratic Services Team Leader
Teresa Smith	- Committee Officer (Scrutiny & Projects)
Mark Stokes	- Deputy Chief Executive
Steve Udberg	- Asset & Property Manager
Rod Urquhart	- Operations Manager (Support and Fraud)
Robert Walker	- Assistant Director of Commissioning

106/12 MINUTES (AGENDA ITEM 1)

The Minutes of the meeting held on 18 October 2012 were confirmed as a correct record and signed by the Chairman.

107/12 APOLOGIES AND SUBSTITUTES (AGENDA ITEM 2)

Apologies for absence had been received from Mrs D Irving, Mr K Gilbert and Mr B Rose. Councillor C Bowes and Mr G Bambridge were present as substitutes.

108/12 URGENT BUSINESS (AGENDA ITEM 3)

None.

109/12 DECLARATION OF INTERESTS (AGENDA ITEM 4)

No declarations were made.

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**110/12 NON-MEMBERS WISHING TO ADDRESS THE MEETING
(AGENDA ITEM 5)**

Mrs Armes, Mr Kiddle-Morris, Mrs Jolly and Mr Wassell were in attendance.

**111/12 EXECUTIVE MEMBER PORTFOLIO UPDATE (AGENDA ITEM
6)**

Mr M Wassell, Deputy Leader and Executive Member for Finance and Governance gave Members a presentation on his Portfolio which gave details of the three main areas within the Portfolio: Democratic Services, Legal Services and Finance (copy attached). The key areas of responsibility were noted and an explanation of the 'day job' of each service was given.

Democratic Services had the key responsibility of promoting local democracy. That included maintaining the register of electors, dealing with standards of ethical practice of both District and Parish Councillors; maintaining the register of interests of District and Parish Councillors; dealing with complaints and Freedom of Information requests and supporting the Scrutiny Commission and other Committees.

Current projects included the Local Government Boundary Review and preparing for the Norfolk County Council elections to be held in May 2013.

Legal Services was a small team that provided legal advice on a wide range of issues across the Council, in both a re-active and pro-active way. Where specialist advice was required, external solicitors were used.

The Finance Team provided a wide range of services including Accountancy, Treasury Management and Purchase Ledgers. The team managed and safeguarded the Council's resources and supported Committee reports through the provision of Proforma Bs. Their responsibilities also covered Central Administration, Post Opening, Cashiers Office and stationery procurement, along with preparing the Council's accounts by 31 December each year.

The Executive Member concluded his presentation by saying that combined with his responsibilities as Deputy Leader he found that his Council duties were a full time role. He relied on his officers and trusted them to assist him in decision making. He was also grateful to his Executive Support Member, Ellen Jolly, for her support.

Members then asked questions about the details provided in the presentation.

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With regard to individual registration (which would replace household registration in 2014/15) Mr Bambridge asked how people would be affected.

The Democratic Services Team Leader advised that the initial process would be to match the Electoral Register to DWP records. Anyone on the Register in 2014 would stay on it until after the 2015 elections. After that everyone would have to register individually and provide details of date of birth and National Insurance Number. There was a fear that the change might reduce the number of people on the Register, but to counter that, new ways of registering would be introduced, including on-line and possibly registering by text.

The Vice-Chairman wondered if a separate Finance Portfolio should be created to reduce the workload, but the Executive Member thought that having responsibility for Finance gave him a good insight into all areas of the Council. He pointed out the additional costs of having an extra Portfolio.

The Chairman asked about Freedom of Information requests which had risen exponentially. He wondered what percentage were valid, and how many were spurious requests? The figures were not available but would be provided.

With regard to the recent PCC Elections at which there had been a very low turn-out, the Chairman asked if the complexity of the voting system had affected analysis.

The Democratic Services Team Leader thought that the problem stemmed from the lack of information from the Government and the Electoral Commission. Although a booklet should have been delivered to every household, that had not happened and anyway the booklet had not explained the Supplemental Vote system. The majority of calls from the public had been because they didn't understand the role of the PCC or the Supplemental Vote.

The Council had not been allowed to publicise the candidates. That and the fact that the election had been held in November had added to the general apathy and the low turnout. The Council's hands had been tied, they had been told how to organise the election but had not been allowed to issue any press releases or other information.

The Executive Member noted that he had attended the count as an Agent and he considered that the large number of spoilt votes had been due to people not understanding the system.

Moving on to the subject of Councillor's Register of Interests, Mr Joel asked what would happen to those Councillors that did not return their forms. The Executive Member advised that the Council's role was only to administer the forms and publish them

Rory
Ringer

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on the website. It was up to individuals to raise complaints about non-compliance.

Mr Bambridge asked about the Parish Precept. He had heard that Parishes were not required to submit their precept until March, was that correct? The Assistant Director of Finance confirmed that legally the Parishes were not required to submit their precept request until March but a letter had been sent out encouraging early submission by the end of January, to enable the setting of Council Tax.

Mr Joel asked about the need for Councillors to get a dispensation to allow them to vote on budget setting matters and the Executive Member advised that the Parish Clerk was the proper officer for dealing with those matters. He agreed that under the new Standards regime, Councillors should not discuss such matters without a dispensation.

The Chairman was concerned that some Parishes might have set their precepts without having granted dispensations to their Councillors. He suggested that Members should engage with their Parishes to encourage compliance with the new regulations.

The Chairman thanked the Executive Member and his Lead Officers for their time.

**112/12 QUARTERLY GOVERNANCE AND PERFORMANCE
MONITORING REPORT (AGENDA ITEM 7)**

The Senior Performance Analyst presented the report on behalf of the Joint Performance Team Leader who was unable to attend.

The report was for information only. In future it would be reported to the Commission quarterly, before being presented to Council.

Mr Kybird was concerned that the summary report on Audit was the worst he had ever seen and that performance against Audit measures was 100% red or purple. It was pointed out that there had been some IT issues during the transition period which had caused problems with getting the data onto the system. They had been sorted out and the system was now more up to date.

The Chairman asked when the Commission would receive the report in future and the Deputy Chief Executive advised that the new system places accountability with the Portfolio Holders and their Managers. A Performance Board, consisting of the Executive Member for Performance with the Deputy Chief Executive and others, would look at under-performance, risk and failure to achieve key milestones on a quarterly basis.

The system was interactive and could be updated daily. It would be presented to the Commission quarterly for their advice on

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where the Performance Board should focus their activities.

The Chairman suggested that the report should be a Standing Item on the Commission's agenda four times a year and that the report should be presented to Scrutiny before going to the Performance Board.

Mr Kybird asked for the report to include a summary of items that had been red for two quarters.

The Chairman said that he was more interested in trends, if they could be seen then it might be possible to influence them. The Deputy Chief Executive pointed out that on page 56 it showed the position in the current and previous quarter and the direction of travel.

Mrs Jolly asked how the level of risk could be shown and also asked if the system tracked the performance of contracts. The Senior Performance Analyst advised that they were currently looking at adding contracts to the Performance system and once that was done they would be able to produce reports.

The Deputy Chief Executive thought that the Executive Support Member was more concerned about contract expiry and renegotiation. He explained that each contract had key indicators. The Performance Board would look at the 'reds' in each quarter and identify risks.

The Chairman noted that high risk items needed to be addressed very quickly.

He thanked the officers for the report.

113/12 LOCAL COUNCIL TAX SUPPORT SCHEME (AGENDA ITEM 8)

The Assistant Director of Commissioning gave Members a presentation on the changes to Council Tax Benefit which would take place from 1 April 2013.

Council Tax Benefits would be abolished and replaced by a Local Council Tax Support scheme. The Council was required to have adopted a scheme by 31 January 2013 to implement on 1 April 2013. That scheme would operate on 10% less funding than was currently received. The exact grant settlement was not yet known and the new scheme was being developed using models based on estimated figures.

The key elements of the new scheme would be:

- that the benefits of Pensioners and vulnerable groups would be protected;

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- that it would continue to support and give incentives to those in work; and
- that it would be affordable for the people of Breckland.

A key issue was that currently CT Benefit matched the maximum Council Tax charge. One way to address the 10% funding gap would be to cap Council Tax allowance. That would affect all the current CT Benefit claimants.

Other, technical changes had also been consulted on. They included questions about Council Tax on second and empty homes. The proposal was to charge 100% Council Tax on second homes (currently it was 90%) except for military personnel. The exemption period on empty properties would be reduced to three months, followed by a 60% allowance for a further three months, then charging full Council Tax after that time. It was hoped that that would also encourage empty properties to be brought back into use.

Members were shown the questions in a survey carried out with two groups of people: those on benefits who would not be affected and those on benefits that would be directly affected by the changes.

Of 770 people surveyed 48% had responded. 258 of those responses were from people directly affected by the changes. Members were shown a table of findings comparing the responses from the two groups. It showed broad support for the majority of the proposals. The only exception was the proposal to cap the level of support which only 53% of those directly affected supported as opposed to 80% of those not directly affected.

Other preceptors had also supported the scheme as it was cost neutral.

The scheme was being developed in an atmosphere of constant change with new announcements regularly being made by Government. There would be a £100 million grant for the transition to specific scheme requirements, but it could only be applied for once the scheme was adopted and it was not guaranteed.

The Operations Manager (ARP) was in attendance to answer any technical questions.

Mr Bambridge noted that it was a big difference of opinion regarding the cap. The Assistant Director for Commissioning agreed and said they were not underestimating the impact of the changes. There were difficult decisions to be made but the 10% gap had to be made up somewhere.

Mr Joel asked how 'vulnerable groups' were defined and was

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advised that the same rationale would be used as with the current system. The people in those groups were those with dependent children, carers and those in receipt of disability living allowance.

With regard to empty properties, the Vice-Chairman asked what would happen if a property was empty for three months (receiving the full Council Tax exemption) then occupied for a short time and then empty again. Would it qualify for the full exemption again?

The Operations Manager (ARP) advised that under current arrangements there was a minimum period of 42 days of re-occupation before the exemption would be re-applied.

Mr Bambridge requested that a copy of the slides from the presentation be circulated to Members. The Chairman agreed that the slides from the Executive Member's presentation should be circulated, but he suggested that the Council Tax slides should not be sent out until the presentation to Council on 6 December – as there might be some changes in the meantime.

He thanked the officers for their presentation.

114/12 TASK AND FINISH GROUPS (AGENDA ITEM 9)

The Chairman noted that a new Task & Finish Group would be needed to consider the Local Development Plan. The Executive Member for Assets & Strategic Development advised that there would be a report coming shortly to Cabinet with a recommendation to set up a Cabinet sub-Committee to hold open meetings on the subject, which would feed into Scrutiny.

Mr Kybird noted that he was awaiting a response from the Emergency Planning Officer and the Deputy Chief Executive with regard to the Business Continuity Task & Finish Group.

115/12 HEALTH & SCRUTINY (STANDING ITEM) (AGENDA ITEM 10)

Mr Kybird reported that at the meeting held the previous week there had been discussion about the radical redesign of Mental Health Services. He had requested to be on the joint committee that was to be set up.

116/12 SCRUTINY CALL-INS (STANDING ITEM) (AGENDA ITEM 11)

(a) **Sale of Council Owned Land at Mackenzie Road, Thetford**

The Chairman asked the Vice-Chairman to introduce this matter as he had 'called in' the decision. A note outlining the reasons for the call-in had been tabled. The Vice-Chairman advised that Councillor Armes had been dealing with the issue as Ward Member and he asked her to speak on behalf of residents.

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Mrs Armes explained that the problem had commenced in 2010 and she had become involved following her election as one of the Ward Members for Saxon Ward in 2011.

As no Commission Members had visited the site she passed round photographs to give a sense of the area of dispute. This formed part of a piece of wooded land belonging to Breckland Council on which 'Mr R' had been parking his cars. At times access to two footpaths had been blocked.

Mrs Armes asked why enforcement action had not been taken at an early stage. She considered that the Authority had not been sufficiently strong in preventing misuse of its land. If that land was now sold at auction she believed it would set a dangerous precedent. There was little amenity space in the area and the woodland was much used by residents. If the land was sold she thought other residents might apply to purchase parts of the land to extend their gardens.

She reiterated that it would be wrong to auction the land and to continue to allow its use for parking. She suggested a site visit.

The Vice-Chairman said that it was clear that there were a number of issues in the area which were complicated by neighbour disputes. There were two principle issues:

1. had the misuse of the land been addressed robustly enough; and
2. was an auction the fair way to deal with disputed land?

He had called the matter in because he thought it would set a precedent and because he knew that residents did not feel that it had been enforced properly and that the sale was just to resolve the dispute. On the contrary, he thought that the sale would escalate the problem and be a tacit endorsement of the misuse if sold to the person flouting the law. It was also unfair as there was no regard to the ability to pay.

If it was the Council's approach to dealing with members of the public who abused Council land not to protect that land, what was to stop abuse of further areas of land? Would future enforcement action be compromised? He thought it was important to debate the Council's responsibility for protecting public land.

The Chairman noted that the Council did not get involved in neighbour disputes and that it was the issue of selling the land that was to be debated.

The Executive Member for Assets & Strategic Development sought to put the matter into context. He said that the Council

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owned over 5000 pieces of land in Breckland. The unfortunate Land Management Officer had the onerous job of controlling those 5000 pieces of land.

The Active Land Management exercise had identified a lot of encroachment which had not always been known about before. The piece of land under discussion was designated open space. It could not be sold for any other purpose, so any applications for extensions to gardens would not receive planning permission for change of use.

The Land Management Officer gave some background information. The encroachment was on a small part of a relatively large area of land. When a complaint had been received the internal encroachment procedure had been initiated and external legal advice had been sought.

The recommendation by officers to Members had been to dispose of the small piece of encroached land as it had no strategic importance to the Council and was protected as open space. It had minimal value and its sale would relieve the Council of management and maintenance responsibilities. Under the Active Land Management scheme the Council was seeking to dispose of land identified as having no strategic value.

The Asset & Property Manager confirmed that the enforcement option had been considered but would have been a very costly route both in management time and cost resources. It was a small piece of land with nominal market value, designated as open space and with no strategic value but high management cost. He urged the Commission to consider carefully that if it was retained and enforcement action taken that would come at a price. The pragmatic and business like solution was to dispose of the liability giving equal opportunities to bidders to purchase it.

The Executive Member for Assets & Strategic Development noted that in paragraph 1.3 of the report it referred to an easement by prescription which meant that even if enforcement action was taken Mr R might retain the right to park on the land.

Mr Bambridge sought confirmation that if the land was sold public access to footpaths could not be blocked and the land could not be fenced. It was confirmed that without planning permission for change of use fencing could not be erected.

Mr Carter thought that the land did have a value and that selling it would just shift the responsibility and cost.

Councillor Bowes asked if it would set a precedent if the land was sold and asked if other pieces of land had been sold by

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auction. The Executive Member for Assets & Strategic Development said that some land was being sold as people made applications. Other land had been transferred to Parish Councils at nil consideration. Some people had attempted to register land with the Land Registry because they had fenced it. It was a very difficult job for the Land Management Officer.

The Chairman was concerned that even if the land was sold, the Council might be required to take enforcement action if Mr R continued to park on it as it would be a breach of planning law. The Executive Member disagreed, saying Mr R would not require planning permission to park his cars if he had a prescriptive right. He went on to say that he made a lot of delegated decisions and he considered each one carefully. He had thought that selling the land was the best option in this case.

The Vice-Chairman sympathised about the number of pieces of land and the problems associated with them. However, in this case the residents had approached the Council for support in protecting the land and had not received it. The lack of action had increased the cost.

He was saddened by the language used; saying the land had no strategic value when it was obviously valuable to the residents. The Council had a duty to protect Public Open Space. The prescriptive right had not been determined. The real issue was that there had been encroachment onto Council land and nothing had been done about it.

Mr Bambridge was concerned that the purchaser of the land could apply to move the Rights of Way but it was confirmed that the footpaths did not actually cross the land.

Mrs Jolly noted that although the land to be sold was very small it formed part of a much larger area which might have future strategic value as a ransom strip.

Mrs Matthews wondered why the problem had only come to light now if the parking had been taking place for 20 years.

The Chairman thought that the nub of the issue was that the recommendation was based on there being a 'likely' prescriptive easement. He did not think a decision should be taken without unequivocal evidence. It was clear that the land did have importance to the people in that part of Thetford. If there was no prescriptive right and the land was sold and the owner stopped public use it would be a problem for the Council.

Mr Kybird agreed and said that the factory site to the rear had potential as a redevelopment site which enhanced the land's strategic value in terms of providing additional access to that

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site possibly by a cycle way in future.

Mr R Richmond completely agreed. Mr Joel asked what alternatives were available.

The Scrutiny Officer advised that the Commission could recommend that the decision maker reconsidered their decision or refer the matter to Council.

The Land Management Officer advised that the correct process had been followed regarding enforcement and legal advice had been sought. She could only give advice on the information she had been sent. That information was limited and had been supplied by the complainant. The amount of years that the land had been used as a car park was not known. The Solicitors acting for Mr R said that they believed he had a prescribed right. They had not provided any evidence.

The Chairman asked the two Ward Members what evidence they had and Mrs Armes advised that Mr R had lived in the house for 13 years but she could not say how long he had used the land.

Mr Rogers proposed that the matter be deferred and Mr R asked to produce evidence. Mr Kybird said that Mr R would have to prove that he had encroached on every piece of the land.

The Executive Member explained that the Council had no legal right to ask Mr R to prove his prescriptive right.

Members debated the possibility of taking enforcement action or of putting in posts to restrict access to the land. It was pointed out that they were likely to lead to costs for the Council. Another suggestion was to offer the land to the Town Council, but the Land Management Officer advised that the Town Council were unwilling to assume responsibility for land with any encumbrances.

The Vice-Chairman seconded Mr Roger's proposal to defer the application and the Executive Member was happy with that and hoped that the necessary information would be forthcoming.

RESOLVED to defer the decision and delay the sale until the matter could be reconsidered with more evidence on the period of time that the land had been used by Mr R at the next meeting of the Commission.

117/12 COUNCILLOR CALL FOR ACTION (STANDING ITEM)
(AGENDA ITEM 12)

None.

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118/12 WORK PROGRAMME (AGENDA ITEM 13)

The work programme was noted.

119/12 NEXT MEETING (AGENDA ITEM 14)

The arrangements for the next meeting on 10 January 2013 at 2pm in the Anglia Room were noted.

The meeting closed at 4.07 pm

CHAIRMAN

Democratic Services

Legal Services

Finance Services

Overview & Scrutiny
29th November 2012

Presentation
By
Cllr Michael Wassell

Democratic Services

Service in a nutshell

Democratic Services provides a range of services for elected members, public and officers to promote local democracy.

These include:

- committee administration
- effective overview and scrutiny
- standards
- member support
- electoral registration
- election services



Responsibilities

- Key areas of responsibilities
 - Committee Administration
 - Standards
 - Freedom of Information
 - Scrutiny
 - Democratic Engagement
 - Electoral Registration
 - Election Management
 - Community Governance Reviews & Boundary Arrangements
- Supports democracy and is governed by legislation



Responsibilities

The day job

- Committee Administration
- Standards
- Electoral Services -
 - Parish elections
 - District elections
 - County elections
 - Parliamentary & European Parliamentary elections
 - Referendums & Parish Polls
 - Maintenance of the Register of Electors
 - Boundary Reviews
 - Electoral advice to Town & Parish Councils
- Freedom of Information
- Scrutiny
- Democratic Engagement



Key projects

- Police & Crime Commissioner Elections
- Norfolk County Council Elections
- Local Govt Boundary Commission Electoral Review of Breckland
- Individual registration
- Localism Act – Review of Standards Arrangements
- Further development of Modern.Gov



Legal Services

Service in a nutshell

Legal advice to services across the council

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- Proactive
- Reactive



The day job

Examples

- Advising on a wide range of issues
- Drafting contracts and agreements
- Defending legal challenges on decisions
- Providing legal advice on policy decisions
- External specialist advice



Finance Services

Service in a nutshell

- Accountancy Services
- Treasury & Capital Management
- Purchasing & Sales Ledgers
- Central Admin
- Financial Control Environment (incl Internal Audit)



Responsibilities

- Managing the council's finances
- Statutory Reporting



The day job

- Budgetary control
 - Monitoring income & expenditure
- Decision support
 - Project appraisal & Proforma B
- Treasury management
 - Cashflow & 'investment'
- Paying suppliers & collecting sundry debts
- Statutory returns
 - VAT & Gov't stats
- Maintaining systems of internal control
 - Incl. Internal Audit
- Central Admin



Key projects

- Budget & Council Tax
- Statements of Accounts
- Corporate Financial Strategies & Policies
 - Medium Term Financial Plan
 - Capital Strategy
 - Treasury Management Policies & Strategy
 - Annual Internal Audit Plan



In Summary - A Team Effort

- Portfolio encompasses whole council
- Held portfolio for 6 months
- Been an interesting challenge
- Sometime feels quite relentless
- But Never Boring
- Very Time Consuming
- Far more than I expected



And Finally.....

- Team work is **vital**
- I am very lucky to have the team that I do
- On both sides of the portfolio – best officers in the council – my “unbiased” opinion of course
- Also thanks to my ESM – Ellen Jolly - for all of her support and advice



And Really Finally.....

- Thank you for your time and attention
- I will happily take questions

