

BRECKLAND COUNCIL

At a Meeting of the

OVERVIEW AND SCRUTINY COMMISSION

**Held on Thursday, 18 June 2009 at 2.15 pm in the
The Town Hall, Queen's Square, Attleborough**

PRESENT

Mr S.G. Bambridge	Mr M.A. Kiddle-Morris
Mr A.J. Byrne	Mr R.G. Kybird
Mr J.P. Cowen (Chairman)	Mr K. Martin
Mr K.S. Gilbert	Mrs S.M. Matthews
Mr R.F. Goreham (Vice-Chairman)	Mr J.D. Rogers
Mrs D.K.R. Irving	Mr B. Rose
Mr A.P. Joel	

Also Present

Mr W.H.C. Smith	Mrs J. Jenkins
Councillor E. Gould	

In Attendance

Mark Broughton	- Member Development and Scrutiny Officer
John Chinnery	- Solicitor & Standards Consultant
Daniel Cox	- Trainee Economic Development Officer
Karen Hitchcock	- Training and Development Manager
Michael Horn	- Head of Legal Services
Graham Parfitt	- Legal Executive
Lindy Warmer	- Economic Development Officer
Elaine Wilkes	- Senior Member Services Officer

49/09 MINUTES

The minutes of the meeting held on 30 April 2009 were confirmed as a correct record and signed by the Chairman.

50/09 APOLOGIES

Apologies for absence were received from Messrs. J. Gretton and A. Stasiak. Mr. J. Rogers gave apologies for late arrival due to a prior meeting in Norwich.

51/09 NON-MEMBERS WISHING TO ADDRESS THE MEETING

The following Members were in attendance:

- Councillor E. Gould, Chairman, Development Control Committee (for item 9)
- Councillor W. Smith, Executive Member – Business Transformation (for item 6)
- Mrs. J. Jenkins, Chairman, Standards Committee (for item 9)

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52/09 EXECUTIVE MEMBER PORTFOLIO UPDATE (AGENDA ITEM 6)

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Mr. W.H.C. Smith explained that there would shortly be announced a re-organisation of the Portfolio structures.

Mr. Smith then gave an update on key ongoing areas of work within the area of Business Transformation as it stood at present:

- Contracts - The contract with Capita Symonds for the Planning, Building Control and Environmental Planning service had been completed and signed and implementation work on the reorganisation of the service had commenced.

With the signing of this latest contract, a new Contract Monitoring Group had been established to oversee and monitor all of the Council's contracts, which included those with Serco, Parkwood PFI Leisure, Steria and Capita Symonds. This would be a specialist team which would develop an in-depth knowledge and expertise in dealing with contracts across all portfolio areas.

- Customer Service Centres – The trial being run at the Attleborough Customer Service Centre had been positive and a report on the results of the trial was due to be completed at the end of the month. There had been an increased footfall in the use of the Centre and the Police had expressed an interest in using the facility to provide a public point of contact to their service in the town.

The results of the Attleborough trial would help to inform the plan for an integrated system of presence offices in all the five market towns in the District. This would involve an increased financial resource and some ICT issues remained to be resolved to build in the necessary appropriate links to the back-office. This work was being progressed.

- Business Improvement Team – This was a small but highly successful team, very ably led by Adam Colby, which helped the Council to improve and update its ways of working and effectiveness. The team's work on the Council Tax project, for example, had produced excellent results and other authorities had shown interest in the project.

Monitoring of ICT initiatives was carried out by the Business Improvement Board (previously the ICT Strategic Board), which now reported through the Executive Board to enable corporate monitoring and control.

The next major project for the team would be that of "mud to houses".

- Anglia Revenues Partnership (ARP) – The work of the Partnership and its trading arm, ARPT Limited, was progressing well. The ARP jointly with Steria had just secured a major contract to provide a service to Welwyn Hatfield Borough Council. There was growing interest from other authorities in the Partnership and its trading arm, ARPT.

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With reference to the Police's interest in having a presence at the Attleborough Customer Service Centre, Mr. Gilbert drew attention to the similar facility established at the Watton Post Office and offered to provide contact information if required.

So far as the ARP was concerned, a member queried the potential risk to the Council from the Partnership outgrowing its original purpose and asked at what stage could the ARP be said to have reached its optimum size?

The Executive Member replied that the ARP and ARPT had provided significant savings and income to the Partners and confirmed there were plans for further growth. It was appreciated that as they grew, the contractual arrangements would become more complex. ARP was now a recognised and respected brand name across the country and further growth would see continued savings on the benefits service to the Partner authorities.

However, EU procurement rules were a complicating factor for the continued growth of ARP and therefore expert advice was being sought on how the Partnership can be developed in the way the Partners wanted within the limits set by these procurement rules.

It was also noted that, to date, the Partner authorities had opted not to take any dividends out of ARPT to enable the company to continue to develop.

Further questions related to the return on investment on ARP and whether the quality of service issues in the Capita Symonds contract had been fully resolved to the Council's satisfaction.

Mr. Smith answered that the ARP had produced approximately £1million savings to the Council per annum.

So far as the Capita Symonds contract was concerned, an undertaking had been given by the contractor confirming that the existing quartile service would be maintained and on its hand-back at the end of the contract. The service under the contract would be closely monitored through appropriate reports to OSC, Audit Committee and the Client Monitoring Group.

The Chairman felt there should be more frequent monitoring of the Capita Symonds contract initially by the OSC and Audit Committee and he suggested that a quarterly review might be more appropriate as this was such a new venture for the Council.

The progress of the ARP and the interest being shown in the Partnership by other authorities was pleasing to note and the Chairman felt the experience gained would be useful to the Capita Symonds contract.

It was noted that the new corporate Contract Monitoring Group was expected to be established by September, with work being managed through the governance and performance management process. The Member Development and Scrutiny Officer confirmed that an item on contract monitoring was included in the OSC work programme for October.

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The Chairman thanked Mr. Smith for his report and it was

RESOLVED that the report be noted.

**53/09 ECONOMIC IMPACT OF THE RECESSION IN BRECKLAND
(AGENDA ITEM 7)**

The Trainee Economic Development Officer presented the report, which was made in response to the request made at the last meeting for an overview of the current economic situation in Breckland and how the recession had impacted on the local economy.

In summary, it was explained that the recession would continue throughout 2009, although there was evidence that the rate of decline was slowing and showing signs of improvement.

House prices were beginning to stabilise and borrowing was increasing. Businesses were less pessimistic than they were earlier in the year but, even if the economic situation improved, expansion was likely to be slow until there was confidence in a sustained recovery.

There was a range of support being offered to the business community through the local enterprise agencies, Business Link and Norfolk and Waveney Enterprise Service and Breckland liaised with these agencies and also gave support itself through visits and signposting services, as well as running business initiatives, for example the Breckland Enterprise and Learning Account (BELA). The Economic Development team had also developed a Business Response Toolkit which was readily available to provide support to businesses facing an administration or possible redundancy situation.

An update on the situation affecting the Council's commercial portfolio was given. The portfolio's overall occupancy rate was currently holding steady at 91%. There was continued interest in lettings and sales and the Council was diversifying the portfolio to meet the needs of a changing market, e.g. by turning vacant rooms in the Dereham Business Centre into meeting rooms, and introducing a Finders Fees service, as well as a programme of property improvements.

As a result, the commercial service was bucking market trends at present, and there were new sites being developed at Victory Park, Attleborough and on the Thetford Enterprise Park.

In considering the report, Members highlighted their concerns over the fact that the shortage of skills was still a significant issue, not only within Breckland but across the County as a whole.

The Chairman expressed the view that this was a fundamental problem for the County and a key factor affecting progress in improving the situation was the critical under-funding of the Learning and Skills Council (LSC) in Norfolk, which was responsible for further education.

Another Member added that another area of concern was that of those youngsters in the 16-19 age group who were not in full-time or further education, where support was needed. However, while the Council should do what it could to help, it had to be remembered that it was not

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a key provider for education and there were a range of other agencies and organisations involved where joint working on economic issues was to be encouraged.

The Member also commented that the Commercial Property portfolio was a long-standing and important sector for the Council, providing a good return on investment, which supported the other services of the Council and it was pleasing to hear of the continuing good progress of the portfolio. Business Link was cited as one of the key agencies along with Breckland and others in providing business advice and it was felt important that the various agencies worked together in a co-ordinated manner.

Further to the points made on further education, the Economic Development Officer drew attention to the new Diplomas scheme being implemented through the High Schools in conjunction with the Connexions service (which did not form part of the further education service through the LSC). There was concern that the schools were not engaging with or involving local businesses and as a result were missing vital links. The Economic Development Officer explained that she would therefore be looking to follow this up with the relevant bodies. A particular concern related to the position at Thetford, where the schools were not participating in the diploma scheme. (On the latter point, Mr. Kybird requested details which he could refer to the Moving Thetford Forward Group.)

Members were concerned to note the above situation, although it was pointed out that the further education system, through the various Colleges, was fully engaged with the business sector and that they worked well together. It appeared to be the schools sector where this was not happening.

A member felt it would be useful to have a breakdown of the figures given in the table of qualifications in the report to indicate how/if improvements were being made and to highlight any trends.

Referring back to commercial activity in the housing market, a member wondered whether developers could stimulate the market by commencing starts on sites at an earlier stage than normal and couple this with a reduction in prices for the affordable housing market. Another member responded that there was already a backlog of vacant sites and until that cleared, developers were unlikely to bring more sites forward.

At the conclusion of the discussion, the Chairman thanked the officers for their report and the position was noted.

54/09 SCRUTINY REVIEW - SICKNESS ABSENCE (AGENDA ITEM 8)

The Training and Development Manager presented the report and circulated an additional paper showing a graph giving monthly comparison figures of overall sickness levels covering the years from 2006 to the present date, from which it could be seen that there was an overall downward trend.

The Training and Development Manager summarised the key elements of the sickness management policy and procedure, as outlined in

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paragraph 3.1.2 of the report, which included, amongst other things, requirements for return to work interviews to be conducted after every period of absence regardless of length or overall record; trigger points requiring a manager to review an employee's absence levels and an informal and formal approach to managing sickness absence once trigger points had been reached.

The top three reasons for sickness absence were noted as:

1. Coughs / colds / 'flu'
2. Anxiety / stress (work and/or personal)
3. Back problems

One of the Human Resources' objectives for 2009-10 was to implement a well-being scheme for staff to encourage healthier lifestyles. The first stage of this would be aimed at training for managers on "Tackling Stress in the Workplace".

In noting the report, a Member was pleased to note that training on stress management was being introduced.

While being pleased to note the decrease in overall absence rates, Members were interested in receiving comparator information with the other Norfolk local authorities, noting that the overall absence figures equated to a sickness absence rate of two weeks per member of staff per annum, notwithstanding that these figures were comparable to those in the private sector. It was felt the use of comparator data would help identify trends and improve benchmarking, as well as ensuring targets were both realistic and challenging.

Another Member felt that there should be a clear review date indicated in the policy document.

Members discussed a number of factors influencing absences due to illness and it was noted that there were opportunities for staff to work from home where feasible in appropriate circumstances, for example to avoid the spread of coughs and colds or due to physical injury (such as a sprain or fracture) preventing them getting into the office.

The Commission concluded that it would be useful to look in more depth at the issues affecting sickness absences and the steps being taken to address them and reduce absence rates, as well as looking at comparison information for benchmarking purposes and target setting for the future.

Accordingly, it was

RESOLVED that <1<

- (1) a Task and Finish Group is set up to review sickness absence, to look in more depth at the issues affecting sickness absences and the steps being taken to address them and reduce absence rates, as well as looking at comparison information for benchmarking purposes and target setting for the future;

Mark
Broughton

Action By

- (2) Mrs. S.M. Matthews be appointed as Chairman of the Group;
- (3) the Member Development and Scrutiny Officer be authorised to invite nominations from the non-executive Members of the Council to complete the membership of the Task and Finish Group.

55/09 PLANNING PROTOCOL FOR MEMBERS (AGENDA ITEM 9)

The Consultant Solicitor explained that this item had been previously considered by the Development Control Committee and the Standards Committee, the latter Committee having recommended some amended wording as set out on the agenda. When the matter was considered by the Council on 28 May, there had been some concern that the advice in relation to dealing with discussions with members of the public was unworkable. In the circumstances, the Council had decided to refer the matter to the Commission for further consideration.

The Planning Protocol was intended to be a general guide to Development Control Members on planning matters and for other Members generally in their roles as Ward Representatives.

Breckland was one of the few Councils that had not adopted such a Protocol. The main reason for having a Protocol was because people were generally more litigious these days and the number of applications for Judicial Review on planning matters was growing. Any perceived gaps in the Council's procedures would be used by litigants to get a planning decision reviewed.

However, it was important that any Protocol was acceptable to and supported by the Council as whole.

The Standards Committee had proposed the inclusion of "supporters" as an additional lobbying group to those of applicants, developers and objectors and this was accepted.

The main wording in question was that contained in the second bullet point in paragraph 2.1 of the Protocol. While the Development Control Committee had agreed the draft Protocol, the Standards Committee had proposed an amendment to this part of paragraph 2.1 as shown highlighted on the agenda, taking the view that the protocol should not cramp the style of the ordinary Member in their relations with their constituents.

The Consultant Solicitor reiterated the legal advice given by Queen's Counsel, which was, in effect, that Members should not meet with applicants, objectors, etc. without the presence of an officer, to avoid misunderstandings, and that responding to lobbying had to be exercised with great care, since if not, a Member's integrity and honesty could be called into question. By way of further explanation, the view on the matter as expressed in the Nolan Report was read out, i.e. that it was not the intention to stifle the role of the Member in their constituency work, and it was this intent that the Standards Committee had in mind when proposing the amendment.

If Members' concerns were not allayed by that explanation, their options were to recommend back to Council to either amend or cut the

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offending wording or to delete the paragraph in its entirety. A third option was to move that the section be applied to Development Control Committee Members only, bearing in mind the QC's advice as reported to that Committee that its Members were 'in the firing line' as the decision-making body.

A lengthy debate then followed during which Members endorsed the need to have a Protocol but, at the same time, expressed their continued concerns that the wording in question would create more problems than it solved and would have the effect of unduly limiting the Ward Member's ability to respond in a timely and flexible manner to their constituents' needs on planning issues. Members felt it would be impossible to have an officer in attendance when meeting people, not least because the majority of discussions either on site or in the street took place out of office hours and/or at very short notice.

Some Members took exception to the wording in question as they felt it removed their ability to use their knowledge, judgement and discretion in their role as Ward Members. The view was also put that their constituents saw it as their fundamental right to have full and reasonable access to their elected Ward Representative. It was felt it would be damaging to this relationship if Members felt obliged to have to defer any discussions for an officer to be present to take notes.

The Consultant Solicitor reiterated that there was no intention to question the need for Members to be available to their constituents and he felt the Standards Committee had covered this point. The point in question was to guard against instances where an applicant or others might try to influence a decision by giving information in private that could not then be corroborated.

Members agreed but suggested that was precisely when they would use their judgement and knowledge to stop such a situation developing. While the risk was acknowledged, generally it was felt that it was a small risk given that most planning applications that Members were involved with in their Wards could be considered to be of a minor nature.

It was proposed that an acceptable way forward was to delete the second bullet point in its entirety from paragraph 2.1 and to amend the third bullet point so that it applied to all Members (by deleting the words "... of the Development Control Members.." in line one and to insert the words "...undue influence or pressure or any ..." between the words "any" and "meetings" in line two. The insertion of "supporters" as a lobbying group was also agreed.

The Chairman concluded the debate by assuring the Chairman of the Standards Committee that Members fully supported the principle of the Protocol but wished to protect the ability of the Ward Member to fulfil their role.

RECOMMEND TO THE COUNCIL that paragraph 2 of the Planning Protocol for Members is amended to read as follows, subject to which the Protocol is recommended for adoption:

".... 2 to 5 APPLY TO ALL MEMBERS

John
Chinnery

Action By

2. **Lobbying of Members by Applicants / Developers / Objectors / Supporters**

2.1 If you are contacted by applicants, developers, objectors or supporters:

- Consider referring those who approach you for planning, procedural or technical advice to the officers.
- Members should reveal at the discussion in Committee any **undue influence or pressure or any** meetings with or written material from applicants, developers, objectors or supporters. ...”

56/09 REGULATORY & INVESTIGATORY POWERS ACT (RIPA) - ANNUAL REPORT (AGENDA ITEM 10)

The Legal Executive presented the report which updated the Commission on the numbers and types of authorised cases handled in the past 12 months under the Regulatory & Investigatory Powers Act 2000 (RIPA), and their success or otherwise.

The Commission had requested an annual report to ensure proper scrutiny of the function.

The report revealed that the number of cases dealt with between July 2005 and May 2008 had totalled 32. Between May 2008 and May 2009, just eight cases had been authorised and details of these were as set out in paragraph 3.2.1 of the report, which was considered a moderate and appropriate use of the powers by the Council.

No issues were raised by the Commission and it was

RESOLVED that the report be noted.

57/09 TASK AND FINISH GROUPS (AGENDA ITEM 11)

(a) **Affordable Housing Task & Finish Group - Unconfirmed minutes of the meeting held on 20 May 2009**

Mr. B. Rose presented the minutes of the meeting, which were self-explanatory, and highlighted that three speakers would be attending the next meeting to talk about their respective fields of operation in the housing market.

RESOLVED that the unconfirmed minutes of the meeting of the Affordable Housing Task and Finish Group held on 20 May 2009 be adopted.

58/09 SCRUTINY CALL-INS (STANDING ITEM)

There were no items.

59/09 COUNCILLOR CALL FOR ACTION (STANDING ITEM)

There were no items to report.

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The Member Development and Scrutiny Officer advised that he would be making a presentation on the new provisions to Members of the Council in July.

60/09 BT PAYPHONES - RESPONSE TO BT PROPOSALS FOR CASHLESS CONVERSIONS (AGENDA ITEM 14)

The Member Development and Scrutiny Officer presented the report and circulated a copy of an emailed response received from BT, refuting the Council's claims that the move to cashless conversions was a further step in the run down of public telephone services prior to ultimate removal on the grounds of diminishing use making the facilities uneconomic.

On the issue of availability of 'phone cards, three replies from a very quick and rough and ready survey of nine outlets indicated that the 'phone card facilities were not well advertised or readily available.

Twelve best-case locations had been identified as needing to be retained and were put forward for the Commission's support, although the emailed reply from BT did not give any encouragement in this.

Members took the view that the Council now had very good evidence to support its case for the retention of the telephone kiosks and opposing their conversion to cashless facilities. The Commission felt that BT's response flew in the face of this evidence.

The Commission concluded that it needed to keep up the pressure on BT in what was a vital issue for rural areas and consequently, it was

RESOLVED that

- (1) the Member Development and Scrutiny Officer, in consultation with the Chairman of the Task and Finish Group, be asked to write to the two local Members of Parliament to present the Council's case evidence and enlist their support for the retention of existing public telephone kiosks in the rural areas through Parliamentary debate; and
- (2) the proposed official response to BT be endorsed.

Mark
Broughton

61/09 WORK PROGRAMME (AGENDA ITEM 15)

The Chairman proposed a review of BT broadband provision across the County and the current poor service levels was included in the work programme.

Another suggested item was for a post-elections review.

62/09 NEXT MEETING

Arrangements for the next meeting on 23 July at Swaffham were noted.

The meeting closed at 4.40 pm

CHAIRMAN