

KENT COUNTY COUNCIL

CABINET SCRUTINY COMMITTEE

MINUTES of a meeting of the Cabinet Scrutiny Committee held at Sessions House, County Hall, Maidstone on Wednesday, 28 June 2006.

PRESENT: Dr M R Eddy (Chairman), Mr D Smyth (Vice Chairman), Mr A H T Bowles, Mr D L Brazier (substitute for Mr A R Bassam), Mr J R Bullock MBE, Mr C J Capon, Mr B R Cope, Mr M Cullinane (substitute for Dr D Wadman), Mrs T Dean, Mr J B O Fullarton, Mr C Hart, Mr C Hibberd (substitute for Mr C J Law), Mrs M Newell, Mr R J E Parker, Mr J E Scholes, Mrs P A V Stockell and Mr C T Wells.

ALSO PRESENT: Mrs E D Rowbotham and Mr K Sansum (for Item E1).

IN ATTENDANCE: Mr J Wale, Assistant to the Chief Executive and Mr S C Ballard, Head of Democratic Services.

UNRESTRICTED ITEMS

7. Membership
(Item A1)

The Committee expressed its best wishes to Mr Bassam for a speedy recovery from his illness.

8. Minutes
(Item A2)

RESOLVED that the Minutes of the meeting held on 31 May 2006 are correctly recorded and that they be signed by the Chairman.

9. Informal Member Group on Budgetary Issues – 12 June 2006
(Item A3)

RESOLVED that:-

- (a) on note 3(3) the Adult Services Policy Overview Committee be asked to consider the recent increase in delayed discharges and the extent of Adult Services' responsibility for these; and
- (b) the notes of the special meeting of the Informal Member Group on Budgetary Issues held on 12 June 2006 be noted.

10. Cabinet Scrutiny Committee - Outcomes and Actions to June 2006
(Item A4 - Report by Assistant to the Chief Executive)

- (1) The Committee welcomed the fact that its recommendations were now receiving fuller consideration at Cabinet meetings.
- (2) RESOLVED that the report on the actions taken as a result of the Committee's decisions at previous meetings, and on progress with Select Committee Topic Reviews, be noted.

11. Forward Plan of Key Decisions

(Item A5 – Report by Head of Democratic Services)

RESOLVED that:-

- (a) the Monitoring Officer be recommended to amend as necessary the references to Key Decisions in the Constitution so that all references are consistent that a decision should be treated as a Key Decision if it has a significant impact on one or more electoral divisions;
- (b) the Monitoring Officer be recommended to incorporate within Appendix 2 Part 4 of the Constitution the detailed examples of Key Decisions contained in the officer guidance;
- (c) the Monitoring Officer be recommended to rationalise the references to the definition of Key Decision so that the complete definition appears in one place in the Constitution;
- (d) through the Chief Officers' Group, Directorates be encouraged to use the Forward Plan to give advance notice of the more significant (but non-Key) decisions;
- (e) the Committee's concern about the lack of meaningful summaries provided by Directorates for Key Decisions in the Forward Plan be drawn to the attention of the Chief Officers' Group; and
- (f) the importance of reminding the relevant staff of the need not only to identify all Key Decisions, but to do so far enough in advance to allow them to be included in the Forward Plan for the full four months before they are expected to be taken, be drawn to the attention of the Chief Officers' Group.

12. Revenue and Capital Budget Outturn 2005-06 and Related Matters

(Item B1)

RESOLVED that:-

- (a) the decision by Cabinet to agree the recommendations in the report be accepted without comment; and
- (b) the Informal Member Group on Budgetary Issues be requested to consider proposals for the use of the rolling budget reserve at its next meeting.

13. Proposed Closure / Variation of Service Use of Whitegates Registered Care Centre, Hythe

(Item D1)

(1) Mr K G Lynes, Cabinet Member for Adult Services; Mr O Mills, Managing Director of Adult Services; and Mr D Weiss, Project Manager, Adult Services Directorate, attended the meeting to answer Members' questions on this item, which covered the following issues:-

(a) Justification for Closure

In answer to questions from Mr Smyth, Mr Capon, Mr Fullarton and Mr Parker, Mr Lynes, Mr Mills and Mr Weiss confirmed that the care provided by the staff at Whitegates was of a very high standard. However, the building was not. They explained that Care Standards Act 2002 required all new care homes to be built to the standards set out in the Act. Existing homes were exempt unless and until any improvement works were carried

out, in which case the new standards would apply. Mr Mills offered to write to all Members to explain this in more detail. To adapt the existing Whitegates building to meet the new standards would cost £1m and reduce the number of places from 33 to 23.

Whitegates could be left unimproved but there was an opportunity now, which might not be available again in the future, to use PFI fundings to replace Whitegates with a modern purpose-built facility offering 40 extra-care sheltered apartments. There would also be 7 apartments for people with learning disabilities, for which there was a need in the area. The new facility would support the principles of "Better Homes, Active Lives" and better meet the needs and aspirations of this client group.

In answer to a question from Mr Capon, Mr Lynes said that the primary purpose of the proposal was to improve the quality of care and was not about money. In particular, he wished to categorically deny the rumour he had heard that KCC planned to sell the Whitegates apartments on the open market.

(b) Impact on Existing Residents

In answer to questions from Mr Smyth and Mr Hart, Mr Weiss said that existing residents were being given the choice of:-

- (i) moving to a local KCC care home;
- (ii) moving to a local private care home;
- (iii) moving elsewhere (if this was their and their relatives wish); and
- (iv) applying to return to Whitegates when the new facility opened in 2008.

Mr Lynes said that, following a meeting he had had with one of the residents, he had now written personally to every resident and respite patient at Whitegates offering to meet them there and to take them to visit an existing extra-care facility, similar to that proposed for Whitegates.

(c) Details of PFI Agreement

In answer to questions from Mrs Newell and Mr Smyth, Mr Weiss explained that the land on which Whitegates stood would remain in the ownership of KCC. It would be leased to the facility provider on a 99-year lease; the first 30 years at a peppercorn rent, the remainder at a semi-commercial rent. It needed to be borne in mind that the rent level would inevitably be reflected in the charges which the facility provider made to KCC and residents for the provision of the service.

Mr Weiss confirmed that 99-year leases were the norm for PFI schemes. In the case of Whitegates, the 99-year lease increased the residual value of the building and so resulted in reduced charges to KCC and residents.

(d) Effect on Delayed Discharges from Hospital

In answer to a question from Mrs Newell, Mr Mills said that, although there was real pressure on hospital beds in East Kent, only a small proportion of discharges were delayed through a lack of social care provision. KCC was also working with PCTs to invest in new facilities, so that the temporary closure of Whitegates should not cause any increase in delayed discharges.

(e) Influence on Market for Care Beds

In answer to a question from Mrs Newell, Mr Mills said that KCC controlled 700 care beds out of a total of about 1,000 in Kent, so the temporary closure of 33 beds at Whitegates was not expected to have any effect on the market.

(f) Planning Position

In answer to a question from Mr Capon, Mr Weiss confirmed that outline planning permission had been granted for the Whitegates scheme. Application for detailed permission would be submitted shortly. Mr Weiss also confirmed that Shepway District Council's Housing Department was a co-partner in the scheme.

(g) Balance between Sheltered Accommodation and Residential Care

In answer to a question from Mr Smyth, Mr Mills agreed that it was necessary to strike the correct balance between sheltered accommodation and residential care, but all the information available indicated that there was currently a shortage of extra-care sheltered housing.

(2) RESOLVED that:-

- (a) Mr Lynes, Mr Mills and Mr Weiss be thanked for attending the meeting and answering Members' questions;
- (b) the justification for the proposed closure / variation of service use of Whitegates be accepted;
- (c) the Cabinet Member for Adult Services be commended for his proposal to meet residents and respite care patients at Whitegates to try to allay their concerns, and to arrange for them to visit an extra-care sheltered housing scheme of the type to be provided on the Whitegates site;
- (d) the Cabinet Member for Adult Services be requested to provide feedback to the Committee on the outcome of the meetings and visit referred to in (c) above; and
- (e) the Managing Director, Adult Services be requested to provide details of the requirements of the Care Standards Act; the exemption available under the Act to homes like Whitegates; and examples of the actions which could cause the loss of that exemption.

14. Consultation on Proposals for the Reduction of Surplus Capacity in Primary Schools in Dover District
(Item E1)

(1) Dr I Craig, Director of Operations, and Mr M Doole, Area Education Officer, Children, Families and Education Directorate, attended the meeting to answer Members' questions on this item.

(2) Mr Sansum set out the issues of concern to him as the local Member about the proposals for the closure of St Radigunds and the amalgamation of Melbourne and The Powell Schools. Mrs Rowbotham set out the issues of concern to her as the local Member about the proposals for the closure of St Joseph's, Langdon and Ripple Schools. Councillor L Knight (Dover District Council) circulated a paper and spoke to explain his concerns about the proposal to close St Joseph's School and about the way in which the decision to consult on the closure had been taken.

(3) Dr Craig and Mr Doole confirmed that the issues relating to the individual schools had already been picked up as part of the consultation process.

(4) Members' questions about the process leading up to the decision to consult on proposals for the reduction of surplus capacity in primary schools in the Dover District covered the following issues:-

(a) Justification for Reducing Surplus Primary School Places

In answer to a question from Mr Sansum, Dr Craig said that it was not true that the Audit Commission had set a limit on surplus places. The fact was that KCC had adopted a policy to reduce surplus primary school places to 5-7%. The Audit Commission had stated that any over-capacity was a waste of public resources; that over-capacity of 10% or more would trigger audit action; but that 5-7% was appropriate. As a result, most education authorities had adopted a similar policy to Kent. 5-7% over-capacity was justified because it allowed a margin for error and some room for growth in pupil numbers. In response to requests from Dr Eddy and Mr Bullock, Dr Craig agreed to supply copies of relevant Audit Commission documents to Members of the Committee.

(b) Consultation with Archdiocese of Southwark Commission for Schools and Colleges over Future of St Joseph's RC School, Aylesham

In answer to a question from Mrs Rowbotham, Dr Craig said that it was quite true that KCC was required to consult with the Commission about any proposals affecting their schools.

Mr Doole gave full details of all the discussions he had had with the Commission and with the School. The first meeting with the Commission to discuss Dover primary school capacity issues had been on 1 March 2005.

Mr Cullinane (who was the Assistant Director of the Commission) said that he agreed with the sequence of events set out by Mr Doole but did not accept that it had been proper consultation. The Commission felt that it had been sidelined by KCC and not treated as a full partner. In particular, he was concerned that the questions which Mr Doole had asked at a meeting with the Chairman of Governors and Headteacher of St Joseph's about its possible closure in June 2005 should have been discussed with the Commission first. Mr Cullinane had also asked in September 2005 for written clarification of KCC's proposals relating to St Joseph's so that the Commission could itself consult others within the Archdiocese, but Mr Doole had said that he was unable to put anything in writing as a decision to consult had not been made at that stage.

Dr Craig said that he was sorry if Mr Cullinane had felt that there had not been full consultation with the Commission. As far as he was concerned there had been genuine dialogue between KCC officers and the Commission about the need to reduce surplus primary school capacity in the Dover District. Indeed, it was because dialogue had still been taking place, and no views had yet been formed about the way forward, that it had not been possible to put anything in writing for Mr Cullinane in September 2005.

(c) Responsibility for Reviewing the Provision of School Places

In answer to a question from Dr Eddy, Dr Craig explained that it was the responsibility of each Area Education Officer, specified in their job description, to continually review the provision of school places in their area

and to bring forward proposals for dealing with any surplus or shortage of capacity. This was a long-standing requirement for Area Education Officers and their predecessors which predated the Local Government Act 2000 and the introduction of Cabinet arrangements.

Once Area Education Officers had formulated proposals for dealing with either surplus or shortage of capacity, and discussed them informally with the relevant Cabinet Member, they would be reported to the School Organisation Advisory Board (SOAB) to seek SOAB's advice about whether the proposals should proceed to public consultation.

(d) Handling of Proposals for Dover Schools as Against Other Areas

In answer to a question from Mr Sansum, Dr Craig said that the process for reducing surplus capacity was exactly the same in all areas of the County. However, Dover had a higher proportion of surplus places than other areas and, because of this, the Dover review had started earlier (at the beginning of 2005) than the review in other areas. In Autumn 2005, following informal discussions with the relevant Cabinet Members, the Dover review had been put on hold pending a decision on the Primary Strategy. The Primary Strategy had been agreed in February 2006 but by then, news of the Dover review had reached the local press. Nevertheless, no firm proposals had been formulated until the Area Education Officer reported them to SOAB on 19 April.

(e) Report to SOAB

In answer to a criticism from Mr Parker, Dr Craig accepted that it would be helpful in future to use consistent headings (if possible) in reports to SOAB proposing consultation about the possible closure or amalgamation of schools.

(f) Current Position of Decision Taken following SOAB on 19 April to Consult on Proposals for the Reduction of Surplus Capacity in Primary Schools in Dover District

In answer to questions from Dr Eddy and Councillor Knight, Dr Craig explained that it was his task, taking into account the views expressed by SOAB and by the relevant Cabinet Member who, in turn, and in accordance with normal practice, had consulted his Cabinet colleagues, to decide whether or not each proposal in the report to SOAB should proceed to public consultation. His decisions on the proposals relating to schools in the Dover District was set out on the "Record of Officer Decision with Member Support" forms included with the Committee's papers. Dr Craig emphasised that the only decision he had taken was to consult on the possibility of closing or amalgamating various schools. The outcome of the consultation would be reported back to SOAB which would be asked to offer advice to the Cabinet Member. The Cabinet Member would then take formal decisions about which proposals should proceed to the issuing of a public notice. The Cabinet Member's decisions would be key decisions and had already been included in the Forward Plan.

(g) Reasons for Not Accepting SOAB Recommendations

In answer to points raised by Mrs Dean, Mr Scholes, Mr Brazier, Dr Eddy, Councillor Knight and Mr Cullinane, Dr Craig said that he was not party to the debate which had taken place between the relevant Cabinet Member

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and his Cabinet colleagues after SOAB on 19 April so he was not aware of the precise reasons why it had been decided not to accept SOAB's advice in respect of some schools.

(h) Tracking of Pupils Displaced by School Closures

In answer to a question from Mrs Newell, Dr Craig said that the performance of pupils displaced by school closures was tracked by the School's Advisory Service. There was therefore evidence available to justify decisions to close schools on the grounds that it would give pupils access to improved learning opportunities.

(5) RESOLVED that:-

- (a) Dr Craig and Mr Doole be thanked for attending the meeting and answering Members' questions;
- (b) the relevant Cabinet Members and Chief Officers be recommended that, where a Cabinet Member or officer decides not to accept the recommendation of an Advisory Board, the reasons for not accepting the recommendation should be recorded and reported back to the Advisory Board concerned;
- (c) the Managing Director, CFE be requested to check with the Monitoring Officer that the "Record of Officer Decision with Member Support" form complied with legal requirements and the Council's Constitution; and
- (d) the Policy Overview Co-ordinating Committee be requested to consider establishing a Select Committee to investigate way of improving performance of schools in deprived areas. The use of "giving pupils access to improved learning opportunities" as grounds for proposing closure of a particular school impacted more harshly on schools in deprived areas, because they were likely to perform relatively poorly against schools in less deprived areas.