

## KENT COUNTY COUNCIL

---

### CABINET

MINUTES of a meeting of the Cabinet held in the Darent Room - Sessions House on Monday, 3 December 2018.

PRESENT: Mr P B Carter, CBE, Miss S J Carey, Mr M C Dance, Mr G K Gibbens, Mr P M Hill, OBE, Mr E E C Hotson, Mr P J Oakford, Mrs S Prendergast (Substitute for Mr R W Gough), Miss C Rankin and Mr M Whiting

IN ATTENDANCE: Mr D Cockburn (Corporate Director Strategic & Corporate Services), Mrs B Cooper (Corporate Director of Growth, Environment and Transport), Ms Z Cooke (Corporate Director of Finance), Mr M Dunkley CBE (Corporate Director for Children Young People and Education), Ms P Southern (Corporate Director, Adult Social Care and Health) and Mr B Watts (General Counsel)

### UNRESTRICTED ITEMS

#### **81. Introduction/Webcasting**

*(Item 1)*

1. The Leader welcomed Zena Cooke, Corporate Director of Finance, to her first meeting of the Cabinet.
2. The Leader read out the following statement:

*“Would Members please note that the order of business has been changed: Item 6 - Delayed Transfers of Care will now be considered as Item 4.”*

*“Given the levels of public interest in the Kent Minerals and Waste Local Plan and the Minerals Sites Plan work, and the need to consider the matters arising from the legal opinion submitted by the promoter of the M8 West Malling Site on 27<sup>th</sup> November 2018, I have decided to take this to Cabinet as an urgent report prior to consideration by County Council. This will be Item 8 on the agenda and the papers for this have been published and circulated to Members of Cabinet.”*

#### **82. Declaration of Interests by Member in Items on the Agenda for this meeting**

*(Item 2)*

1. Mrs Prendergast and Mr Payne declared an interest in the Kent Minerals and Waste Local Plan as they had both previously commented on this.

#### **83. Delayed Transfers of Care**

*(Item 6)*

*Janice Duff (Assistant Director SKC and Thanet) and Michael Thomas-Sam (Strategic Business Adviser) were in attendance for this item.*

1. Mr Gibbens, Cabinet Member for Adult Social Care and Public Health, introduced this report, he explained that there were two elements: Delayed Transfers of Care and the new monies announced by the Government (summarised in points 1.6 – 1.8). Appendix 1 outlined suggested ways in which the new monies should be spent.
2. The Adult Social Care Cabinet Committee had previously considered the same information as Cabinet about the proposals.
3. Across Kent the current Delayed Transfer of Care (DToC) performance was 'red' for both health and social care and combined responsibilities. On the percentage of delays that were the responsibility of social care, performance was 'green' against the target. Kent performance was 4<sup>th</sup> when compared to its statistical neighbours.
4. A post winter review report would be submitted to Cabinet in Feb/March 2019.
5. Janice Duff, Assistant Director SKC and Thanet, outlined some key areas of the report. DToC remained a key priority and there was a focus on improved performance. Adult Social Care and Health continued to support people as far as possible to return to their own homes. The performance across social care had gone from strength to strength and KCC was in a strong position. The challenges included; workforce, recruitment of staff, increase in demand and an increase in requirements to provide domiciliary care across all client groups.
6. Penny Southern, Corporate Director, Adult Social Care and Health, welcomed the additional £6.1million, the Cabinet was being asked to approve the schemes and activity response as set out in Appendix 1. It was very useful to have had an early announcement around funding for next year, and this allowed further evaluation of investment for future years. A DToC occurred when a patient was ready to be moved from care but continued to occupy a hospital bed, it was crucial that KCC and its partners supported and got this right for the people of Kent. In response to a question about whether the Council's health partners were also innovating the Officer explained that this was a complex issue in Kent; partners were innovating but they were starting from a difficult position with their own financial deficits.
7. A Member referred to workforce; was this one of the biggest problems and what was being done about it? Could some of the additional money be put towards the workforce problems? Penny Southern explained that workforce was an issue across all of social care. There were a number of initiatives both short and long term focussing on increasing the workforce, including three major conferences to support the workforce. CCGs offered free training for staff, officers in Social Care were working hard with colleagues in education to encourage people to choose social care as a career with an appropriate salary rate. The money would be used to look at contracts and investing in the hourly rate or weekly charge to ensure money went into individual worker's pockets.
8. The Leader commented that it was also important to look to recruit from overseas.

9. A Member noted that when commissioning new services it was important to consider risk and monitor contracts to ensure value for money and that they were delivering against the framework.

10. Mr Gibbens summarised and endorsed all the comments made, workforce was a national issue and the Council was working to encourage a sustainable market in accordance with the requirements of the Care Act.

11. The Leader proposed that recommendation (c) be amended as follows: “~~Agree to~~ **Welcome and** accept the additional winter funding for 2018-19”.

RESOLVED that Cabinet:

- a) COMMENT and NOTE progress and the ongoing challenges since the last report;
- b) COMMENT and NOTE the whole system and partnership working that led to the development of the preparation and escalation plans;
- c) WELCOME and accept the additional winter funding for 2018-19;
- d) APPROVE the schemes and activity response in Appendix 1 with any consequent detailed spending decisions for the winter funding to be taken by the Cabinet Member for Adult Social Care and Public Health.
- e) NOTE that a post-winter review report will be prepared for Cabinet in February/March 2019.

#### **84. Minutes of the Meeting held on 24 September 2018** (Item 3)

RESOLVED that the minutes of the meeting held on 24 September 2018 were correctly recorded and that they be signed by the Chairman.

#### **85. Revenue and Capital Budget Monitoring - September 2018-19** (Item 4)

1. Mr Oakford (Deputy Leader and Cabinet Member for Finance and Traded Services) introduced this report. He reminded Members that this year’s budget included £50million savings which had already been made and he recognised the amount of work undertaken to achieve these savings.

2. Mr Oakford set out the two areas where pressure was maintained, these were: infrastructure budget £800k and pressures on children’s services - £6.2million (£2.3million asylum). The Council was lobbying the government over the additional £2.3million owed to balance the budget. The Leader commented that the Asylum costs did not just affect Kent, all local authorities were struggling to recoup this money.

3. There was confidence that the budget would be balanced this year. Zena Cooke commented that work was continuing with Corporate Director colleagues and management action was ongoing.

4. A Member asked that they receive an update on what was being done to try to recoup the asylum money. How would the recent arrival of people coming over the Channel into Kent affect Kent in the future? The Leader explained that those individuals would join the national transfer system and the majority would not settle in

Kent. The Leader and Matt Dunkley were constantly pressurising the government, it would be preferable if the government would provide a sensible grant to support young people, this would calm things down and allow authorities to accept vulnerable young people.

5. The Leader and the Cabinet thanked officers and teams across the county for reducing the overspend to modest figures, it was essential to deliver a balanced budget this year and the Council had a good track record of doing this.

RESOLVED that the Cabinet:

- a) Note the forecast revenue budget monitoring position for 2018-19 and capital budget monitoring position for 2018-19 to 2020-21, and that the forecast pressure on the revenue budget needs to be eliminated as we progress through the year.
- b) Agree that any additional Business Rate receipts received under the 100% retention pilot over and above the 2018-19 budgeted amount, are transferred to the local taxation equalisation reserve to smooth future fluctuations in the business rates baseline and collection fund. The Quarter 1 monitoring from Maidstone Borough Council who undertake the overall monitoring for the pool shows the position is broadly on track with our assumptions.
- c) Approve the capital cash limit adjustment proposed in section 5.
- d) Note the half year position of the Revenue Reserves at Appendix 4.

## **86. Quarterly Performance Report - Q2 2018/19**

*(Item 5)*

*Richard Fitzgerald (Business Intelligence Manager – Performance) was in attendance for this item.*

1. Miss Carey introduced this report which set out the key areas of performance for the authority. The strength of this report was that the Key Performance Indicators (KPIs) had been measured consistently over a long period and this allowed the Council to look at trends and highlight areas which needed addressing. Miss Carey referred to Customer Services, levels of satisfaction with the contact point and the call centre remained high. In addition, more people were choosing to use the website.

2. One area which would be monitored was the system for handling and recording complaints; there was an increase in the numbers being recorded. It was important to determine whether this was down to the authority doing a better job of recording complaints or whether something more fundamental was happening.

3. Mr Fitzgerald set out the highlights of the report, it was the Quarter 2 report with results up to the end of September 2018. Performance was generally good for the quarter with the majority of indicators rated as green and a higher number of improving indicators than those showing a decline. He drew out the highlights of the report as follows:

### **a. Customer Services**

- i. Call answering and complaints responded to in timescale, both indicators moved to ahead of target.

### **b. Economic Development**

- i. Jobs created and safeguarded from the Regional Growth Fund stood at 4360 with 168 created and safeguarded in the quarter.
- c. **Environment and Transport**
  - i. This showed a good picture with all targets achieved
  - ii. Waste Management performance was maintained with only 1% of waste going to landfill.
  - iii. Numbers on Carbon Emission Reductions were significantly ahead of target.
- d. **Children, Young People and Education**
  - i. Percentage of schools good or outstanding 91%
  - ii. There continued to be pressure on the completion of Education Health and Care Plans (EHCPs) and this was significantly off target. There were high levels of demand and this was expected to continue, this was a concern in terms of performance and financial impact.
- e. **Integrated Children's Services.**
  - i. This area saw a significant increase in the number of qualified social workers employed.
  - ii. Case loads remained high although the number of Children on Child protection plans had declined along with a slight decline in the number of children in care.
- f. **Adult Social Care**
  - i. Contacts resolved at first point of contact was above target along with the number of referrals to enablement.
  - ii. Admissions to residential nursing care were higher than expected and the number of people experiencing delayed transfer of care continued to be a pressure.
- g. **Public Health**
  - i. Health Checks completed in year remained below target but the issues experienced earlier in the year were resolved so it was hoped that this would improve.
  - ii. The number of universal checks completed by the health visitor service continued to be ahead of target.

4. In conclusion there were many positive results, there were areas where performance was lower than expected, these were being monitored and were subject to management action.

5. Members discussed the issues around EHCPs and high needs funding. There were questions over how this was presenting itself in Kent and how KCC was responding to the significant growing demand. The Leader requested an item on how this risk was being managed along with a comprehensive update on how the current system operated and KCCs position within this. This should be on the agenda for the January or March 2019 meeting of Cabinet.

RESOLVED that Cabinet note the Quarter 2 Performance Report.

## **87. Corporate Risk Register** (Item 7)

*David Whittle (Director of Strategy, Policy, Relationships and Corporate Assurance) and Mark Scrivener (Corporate Risk Manager and Interim Corporate Assurance Manager) were in attendance for this item.*

1. Miss Carey, Cabinet Member for Customers, Communications and Performance, introduced this item, it was not just a case of identifying risks but what KCC could and should be doing to mitigate the risk, this was done very well by officers at KCC.
2. David Whittle explained that the risk register was timed to come back to Cabinet after the autumn refresh. The Risk Management Team had received a high assessment this year and this was a credit to Mark and his team who, with small resources, did a very good job.
3. Mark Scrivener set out the highlights of the report.
4. Mr Gibbens stated that safeguarding vulnerable people was the Council's priority and biggest risk, including serious reputational risk.
5. Mr Hotson asked how and when items were taken off of the risk register. David Whittle explained that this was done through discussions with colleagues. If mitigating actions were delivered it was possible to reduce the risk level or remove the risk altogether. Some of the risk was inherent, and some specifically related to Kent. It would not be possible to maintain the risk register without the active support of the Council's Corporate Management Team.
6. There was also strong regional collaboration, the Association of Local Authority Risk Managers shared risk registers to ensure that authorities were not becoming too insular.
7. Mr Hill asked that civil contingencies be made the responsibility of the whole authority.

RESOLVED that Cabinet NOTE the report.

**88. Kent Minerals and Waste Local Plan 2013 - 2030 Early Partial Review.  
Kent Mineral Sites Plan and revised Local Development Scheme  
(Item 8)**

*Sharon Thompson, (Head of Planning Applications) was in attendance for this item.*

1. Mr Oakford introduced this item and was grateful for the work that Sharon and her team had done to produce the information. The report had already been submitted to the Cabinet Committee and would be on the agenda for Full Council, where approval would be sought to submit the Pre-Submission drafts of the Plans to Government for independent examination.
2. Sharon Thompson explained that the County Council was required to prepare a Minerals and Waste Local Plan and that this was an important document for future planning decisions.

3. KCC adopted the Kent Minerals and Waste Local Plan (KMWLP) in July 2016 and this provided the overarching strategy for mineral and waste management development within the County. The Plan also committed the County Council to preparing Site Plans to identify the agreed need in the KMWLP. The report provided an update on the local plan work undertaken since 2017, it proposed a pre-submission draft of the Minerals Sites Plan and an Early Partial Review of the Kent Minerals and Waste Local Plan. The intention was that subject to the views of the Environment and Transport Cabinet Committee, Cabinet and County Council those documents would be submitted to the Government appointed inspector. The Cabinet consideration of the document was a key part of the journey but by no means the end of the journey.

4. Sharon explained the two work streams; Early Partial Review and the Minerals Sites Plan.

5. The Early Partial Review work had concluded that the Council would not require a Waste Sites Plan. The work had included a review of capacity need and identified that the KMWLP capacity had been met, so a waste sites plan was not necessary. The adopted KMWLP had to be varied to avoid a public stated need for additional capacity. Evidence of using the adopted policies had also identified some inefficiencies in the waste and minerals safeguarding policies and opportunities were being taken to improve the efficiency of these policies. The Early Partial Review work proposed revised recycling and recovery targets which reflect Kent and EU targets.

6. Minerals Sites Plan – work identified that there was a need for a Sites Plan. Following the call for sites and initial assessment, 9 sites subject to public consultation and detailed assessment. The documents set out the outcome of the public assessment and detailed technical advice.

7. The allocated sites need to meet certain tests, and be acceptable in principle for mineral development. They will also require planning permission. Allocation in the plan did not automatically result in planning permission. The papers included the methodology along with the consultation responses and views of the technical consultees. A wide range of environmental impacts were considered and as a result 3 potential sites were identified for allocation and these were set out in the document provided to the Cabinet. The 6 other remaining sites were not proposed to be taken forward, the reasons behind this were set out in the documents.

8. The Environment and Transport Cabinet Committee considered Kent Minerals and Waste Local Plan documents during the previous week along with some late representations. Sharon drew this information to Members' attention and this was set out in Appendix 9 of the agenda pack. There was a detailed representation from:

- a. The Brett Group promoting the Lydd site, suggesting why that site should be allocated;
- b. The residents of Whetsted, opposing the potential allocation of Mote Farm and Stonecastle Farm sites;
- c. The Ryarsh Protection Group opposing the allocation of the West Malling site and drawing attention to petition given to the House of Commons.

Lastly the promoters of the West Malling site (the Ryarsh site) submitted a legal opinion advising that in its view the Council's methodology which had led to the exclusion of the Ryarsh site on greenbelt grounds was flawed. As a result of this the County Council had sought its own legal advice the previous week. The Ryarsh opinion was in Appendix 9. The County Council's legal advice was circulated at the meeting, along with a summary from Invicta Law. Sharon added that KCC had re-considered the green belt assessment in light of the legal advice, and had also held a telephone conference with Counsel. A final version of the assessment was being prepared and it was proposed that this would be submitted to County Council on 13 December, however Sharon advised the Cabinet that reconsideration of green belt matters had concluded that the mineral excavation development and the restoration of the mineral working by infilling to existing ground levels would constitute inappropriate development within the green belt and there were no very special circumstances that would justify allocating that site. Therefore, it was still proposed that the Ryarsh site was not allocated in the Minerals Sites Local Plan.

9. Sharon drew Members' attention to Appendix 4 which proposed a new timetable which had to be available to the Secretary of State and explained that the report would now be submitted to County Council on 13 December.

10. The Leader reinforced that there would be another opportunity to discuss this at County Council on Thursday 13 December.

11. Miss Rankin asked for clarification on why Stonecastle Farm quarry site (which was in greenbelt) was not inappropriate and how would the Council ensure that, bearing in mind the close proximity between Stonecastle Farm and Moat Farm quarry, the two sites were not extracted together. Sharon explained that the Stonecastle and Moat Farm sites were not deemed inappropriate because the circumstances in those sites were different to Ryarsh and would be worked in extension to existing sites. To stop sites being worked concurrently, the Minerals Sites Plan Appendix 1 clearly set out the timing implications and these would not work concurrently.

RESOLVED that Cabinet agree to:

(i) Note the additional representations from

(a) Brett Group, the promoter of the M2 Lydd Quarry Site

(b) Local resident on behalf of Whetsted Residents in respect of the M10 and M13 sites at Stonecastle Farm and Moat Farm

(c) Ryarsh Protection Group in respect of M8 West Malling Site

(d) Borough Green Sandpits, the promoter of the M8 West Malling Site in the form of legal opinion dated 27th November 2018 from Landmark Chambers and that the County Council had sought legal advice in respect of the legal opinion referred to in (i)(d) above to inform the consideration of the Pre-submission Draft of the Minerals Sites Plan in advance of the report being considered by County Council.

(ii) Note Counsel's response to the legal opinion from the promoter of the West Malling Site (M8)

(iii) Consider and endorse, or make recommendations to the Cabinet Member responsible for the Minerals and Waste Local Plan on the proposed:

- (a) Pre-submission Draft of the Kent Mineral Sites Plan;
- (b) Pre- submission Draft of the Early Partial Review of the Kent Minerals and Waste Local Plan; and,
- (c) the updated Local Development Scheme (revised timetable) to reflect changes to the programme and timetable concerning preparation of the Local Plan work.

(iv) note that the decision to approve the Pre-submission Drafts Plans for submission to the Secretary of State for independent examination is a matter for County Council;

(v) request the County Council to:

- (a) Approve and publish the Pre-Submission Drafts of the Kent Mineral Sites Plan and the Early Partial Review of the Kent Minerals and Waste Local Plan for a statutory period of representation and to submit the Draft Plans to the Secretary of State for independent examination; and,
- (b) delegate powers to the Corporate Director for Growth, Environment & Transport to approve any non-material changes to the Mineral Sites Plan and Early Partial Review of the Kent Minerals and Waste Local Plan in consultation with the Deputy Leader prior to their publication and during their examination.