

KENT COUNTY COUNCIL

CABINET

MINUTES of a meeting of the Cabinet held in the Swale Borough Council, East Street, Sittingbourne, Kent ME10 3HT on Monday, 1 December 2008.

PRESENT: Mr P B Carter (Chairman), Mr M C Dance, Mr G K Gibbens, Mr P M Hill, OBE, Mr K G Lynes, Mr R A Marsh and Mr L B Ridings

ALSO PRESENT: Mr A H T Bowles and Mr D L Brazier

IN ATTENDANCE: Mr P Gilroy (Chief Executive), Ms A Honey (Managing Director Communities), Ms L McMullan (Director of Finance), Ms M Peachey (Kent Director Of Public Health), Mr M Austerberry (Interm Executive Director, Environment, Highways and Waste), Dr I Craig (Interim Managing Director of Children, Families and Education Directorate) and Mr S Leidecker (Director of Operations, Kent Adult Social Services)

UNRESTRICTED ITEMS

1. Welcome to Swale - oral presentation from Andrew Bowles, Leader of Swale Borough Council
(Item 1)

(1) Mr Andrew Bowles, Leader of Swale Borough Council gave a presentation highlighting the actions being taken to deliver Swale's Regeneration Agenda. During the course of this presentation, he highlighted the ambitions which Swale Borough Council has set itself in developing its sustainable community strategy covering the period 2009 to 2026 and said that within the strategic context, regeneration was seen by the Borough Council as a significant corporate priority. This included developing and expanding areas of policy including economic development, learning and skills, housing, culture, transport and technology. Mr Bowles said that for Swale, the learning and skills deficit was one of its biggest problems and the Borough Council was therefore doing all it could in terms of strategic policy to address this major issue which required an input of resources not only from the Borough Council but also the County Council. Mr Bowles also spoke about the opportunities which the Thames Gateway has brought to Swale with partners building multi area agreements with the Borough Council of the three themes based on learning and skills, housing and transport.

(2) Mr Bowles also spoke about the challenges which the Borough Council faced, particularly in terms of social and demographic issues. Housing completions had already been on a downward trend during 2007/08 and this had continued. He said the strength of the investment market underpinned regeneration projects so there was a need to retain a long term vision which above all would require patience.

(3) Mr Bowles said significant investment was being undertaken in Sittingbourne Town Centre and this would create new jobs and homes and provide important and much needed transport links. There was also significant investment taking place in the area of Queenborough and Rushenden and also at the Port of Sheerness.

(4) Mr Bowles also spoke about the ambitions of the Borough Council for the future and highlighted the infrastructure investment needed to build for example new junctions on the M2 to unlock potential regeneration opportunities and the employment potential of the Kent Science Park. He also spoke about the need to invest in long term skills and employment, the development of the Sittingbourne Learning Campus and initiatives being taken to invest for the long term in developing local communities. He also spoke about the Localism Agenda and the fact Swale Borough Council and Kent County Council would be working together to pilot Local Engagement Forums to cover the Faversham, Sheppey and Sittingbourne areas.

(5) In conclusion, Mr Bowles said that from KCC, Swale Borough Council was seeking to move forward with a shared agenda which would address the priorities and strategies he had highlighted in his presentation. These included commitment to funding and delivering infrastructure, support for the Learning Campus as a long term catalyst for improving skills, the establishment of Gateways and support for Swale's regeneration strategy.

(6) Mr Carter said on behalf of KCC that he shared the Borough Council's priorities and agenda for change. He said the County Council in its capacity as the education authority had heavily invested in education provision in Swale and he wanted to work with not only the Borough Council but all the Kent Boroughs and Districts in developing joint regeneration strategies. Mr Carter also said he wanted a report submitted to a future meeting of County Council Cabinet detailing progress on the Rushenden Relief Road and an update on the likely timing of the construction of junctions 5A and B on the M2.

(7) Discussion concluded with it being agreed to hold at some future suitable date a meeting of the Cabinets of KCC and Swale Borough Council in order to assess progress on the matter discussed during the course of this item.

2. Minutes of the Meeting held on 13 October 2008 *(Item 3)*

The Minutes of the meeting held on 13 October 2008 were agreed and signed as a true record.

3. Revenue and Capital Budgets, Key Activity and Risk Monitoring *(Item 4 – Report by Mr Nick Chard, Cabinet Member for Finance; and Lynda McMullan, Director of Finance)*

(1) Mr Brazier said that currently the revenue budget was showing an underspend of some £2.4m after management action and excluding Asylum costs. Expenditure on the Capital Programme was continuing to move forward and overall given the circumstances, he felt the budget was in a satisfactory position. With regard to Asylum, a letter had been received from the Home Office which confirmed that it would meet in full the shortfall of £2.1m for 2007/08 subject to a final audit. This together with the £2.4m for 2006/07 confirmed by the Home Office in September this year meant that the County Council had agreement that the Home

Office would fund the full £4.5m of its special circumstances bids leaving an anticipated £1.5m to come from the DCSF. The Department still has to agree final client number so this issue remained outstanding but if the full £1,5m was secured (of the original claim for £2.6m) then the County Council would have reached the £6m, of the £10m originally claimed and this was as per the agreement reached with the LGA in the Summer.

(2) Lynda McMullan said that in the forthcoming budget build there would be three key areas which the County Council would need to look at and those were transport demographics, the budget for Adult Kent Social Services and the budget relating to Child Social Services. Two key budget risks remained, one of these which was Asylum but as detailed in the previous paragraph, the Government had promised the County Council would not be out of pocket for this year. The other key budget risk related to the funds which the County Council had in Icelandic Banks. As a result of these investments, the interest on these deposits would not be received as expected resulting in a potential loss on income. This however, needed to be considered in the light of the whole Treasury Management Budget which was impacted by recent and predicted changes in the bank base rate. The County Council was continuing to have ongoing discussions with both the CLG and the Icelandic Banks via the Creditors Group to ensure that the County Council secured the best outcome for the residents of Kent. Until the situation became clearer, the impact of this and not so far been reflected in the forecast outturn position of this report, but the County Council remained confident that it would eventually have its investments back returned.

(3) In concluding discussion, Mr Carter said that he was pleased to note the good progress which was being made in relation to both the revenue and capital budgets and welcomed the update on the position with the County Council's investments in Icelandic Banks. He expressed concern regarding Asylum and the number of referrals which appeared to be increasing and said that this was something which the County Council would need to monitor closely.

(4) Cabinet then noted the latest monitoring position on the revenue and capital budgets and the additional revenue grant income as identified in Appendix 2 of the Cabinet report, together with the changes to the capital programme.

4. Select Committee: Domestic Rail Services

(Item 5 – Report by Mr Kevin Lynes, Cabinet Member for Regeneration and Supporting Independence; and Mr Keith Ferrin, Cabinet Member for Environment, Highways and Waste)

(1) In introducing the report of the Select Committee, Miss Carey said that Mr Ray Parker was unable to attend the meeting. Miss Carey placed on record her thanks to her fellow Members of the Select Committee and the officers who had supported it during the course of its work. Miss Carey said that the Select Committee had welcomed the investment which was proposed in respect of the Kent Rail Network. It was essential that Kent had access to modern, fast and efficient services and that these needed to be coupled with improved connections to the rest of the country. In its business model, South East Trains expect services to be full during peak periods, but have spaces available during the off peak and therefore this could present an opportunity to develop them for other uses to such

as tourism. Miss Carey said that the Select Committee also wanted a review produced of stations that would be served by the High Speed Rail Service and for this and, to identify and prioritise work needed to those stations and station access and for these to be in place in or soon after the December 2009 launch. She said the Select Committee also wanted to see lobbying undertaken to secure the introduction of low fares to ensure the early success for High Speed Services. In highlighting other recommendations which the Select Committee had set out in its report, Miss Carey also said that the bus and rail companies should be encouraged to introduce more promotional off-peak fares, joint passes, through tickets (such as the BusPlus pass) and Open Jaw Tickets.

(2) Mr Daley placed on record his thanks to Miss Carey for her work as Chairman of the Select Committee and also to the officers who had supported it in its work. He said the objective of the Select Committee had been to try and not only identify the benefits of the rail service within the county but also to highlight the dis-benefits. He said that the Members of Cabinet had before them an executive summary of a report which was much more detailed and he commended those who had not already, to read the full report. He said that the High Speed line would improve service for areas such as Folkestone, Dover and Canterbury but would have less of an impact for services to which served Thanet. He also said that there needed to be significant investment undertaken on the Mid Kent line in order to improve services and to encourage growth. He said it was also essential that the Thames Link services had a connection into Mid Kent and there was still a need to maintain what could be referred to as the "classic" lines. Mr Daley said the County Council should press for a link to Ebbsfleet and Gatwick to be provided from the Medway Valley line and also spoke about integrated transport patterns and the need to link those aspirations into the recommendations and outcomes from the report of the Select Committee. He said that this report should be seen as ongoing and he hoped that it would be kept and developed as a "live" document.

(3) Mr Lynes said that the rail authorities needed to focus on developing rail services which attracted people into the county to visit as tourists or to shop. Therefore, the rail companies needed to invest and develop off peak services as a mechanism to attract tourists and shoppers and as part of that the County Council had to play its part by being in a position to both facilitate and offer integrated transport solutions. Mr Lynes also said that the Select Committee report presented the County Council with a opportunity to develop a clear vision as to what it believed rail services within the county should look like and based on that the rail companies needed to be sent a robust response as to what the County Council expected to see in terms of rail provision across the county.

(4) Mr Gibbens said that he welcomed the report and that the development of the High Speed link would be a key to regeneration, especially in areas of East Kent. He said there was two particular issues which needed to be taken up with the rail companies and that was improving commuting links into London, especially from East Kent and coupling that with the need to improve off-peak services to encourage tourism and greater use of rail for shopping purposes. He said that the Select Committee report also provided an opportunity for there to be a wide ranging and robust discussion about developing integrated transport systems and improving transport links particularly in and around railway stations which of themselves needed to be improved. Mr Sutch said that he welcomed the findings of the Report and said that he would recommend that the Department of Transport be involved in any further discussions with the rail companies. In concluding the

discussion, Mr Carter thanked the Select Committee for its report and said that the opportunity needed to be taken to use its findings as part of a campaign to lobby South East trains and Government for improved rail services across the county. He said he would be meeting in the near future with Lord Adonis and he said that the Cabinet needed to look in detail at these important issues before the report was submitted to the County Council.

5. Operation Stack Lorry Park - Update on Progress

(Item 6 – Report by Mr Keith Ferrin, Cabinet Member for Environment, Highways and Waste; and Mr Mike Austerberry, Executive Director of Environment, Highways and Waste)

(1) This report provided an update on developing the proposals for the Operation Stack Lorry Park and a brief situation report on current Stack activity.

(2) A site between Junctions 10 and 11 of the M20 located between the Converter Station, the motorway and the railway embankment was being considered as the preferred site for a lorry park because of its location, natural screening and absence of formal land use designations. Feasibility work was currently in hand to carry out a full range of engineering and environmental surveys so that the proposal could be progressed to the next stage and the environmental impact and mitigation can be assessed. Also Consultants will be commissioned to undertake an economic impact study. Mr Carter said that the cost of providing a solution to Operation Stack was the responsibility of the Department of Transport and this was something which the County Council would be taking up with the Minister, Lord Adonis. He also that the County Council had taken fresh legal advice as to the legality of introducing a “Brit Disc” and counsels opinion was now more encouraging.

(3) Cabinet then noted the report

6. Adoption of Kent Downs and High Weald Area of Outstanding Natural Beauty Management Plans

(Item 7 – Report by Mr Keith Ferrin, Cabinet Member for Environment, Highways and Waste; and Mr Mike Austerberry, Executive Director of Environment, Highways and Waste)

(1) This report provided an overview of the revised Area of Outstanding Natural Beauty Management Plans for the Kent Downs and High Weald and sought approval for adoption by the County Council. This was the first review of the AONB Management Plans which the Council had adopted in 2004 and it strongly reflected the original adopted plan. Mr Austerberry said that the revised plan had been subject to a very careful and thorough process and had been subject to detailed consultation.

(2) Cabinet agreed:-

- (i) that the first revision of the Kent Downs AONB Management Plan be adopted as detailed in the Cabinet report in fulfillment of the County Council’s statutory duties under the Countryside and Rights of Way Act 2000.

- (ii) that the Kent County Council adopt the first revision of the High Weald AONB Management Plan as detailed in the Cabinet report in fulfillment of the its statutory duties under the Countryside and Rights of Way Act 2000; and
- (iii) that the appropriate officers in consultation with the Cabinet Portfolio Holder be delegated authority to review and accept changes made by other local authorities during the adoption process leading to the formal date of adoption of both plans by the end of February 2009.

7. NHS LD Transfer

(Item 8 – Report by Mr Graham Gibbens, Cabinet Member for Adult Social Services; and Mr Oliver Mills, Managing Director, Kent Adult Social Services)

- (1) This report provided details of the proposed transfer of funding for all social services for people with learning disabilities currently living in NHS accommodation in Kent.
- (2) Mr Gibbens said that the purpose of the report was to advise Cabinet on some of the detailed work which had been undertaken since the report to Cabinet at its meeting in March 2008. This report was not seeking at this time confirmation that the transfer should go ahead as there was still a considerable amount of work to be done to resolve some outstanding issues. The report detailed the risks attached to the project, both with continuing and ceasing with the current arrangements. The report outlined the mitigation processes which were in place and showed that the risks of ceasing with the current arrangements were greater than those for continuing. The report did however ask for Cabinet's agreement for some specific tasks and work streams to continue so that work to sustain momentum in improving service quality could continue.
- (3) The report also asked for the County Council to accept and manage a capital grant of £6m, on behalf of the PCT's, subject to certain assurances from the Department of Health. Without this agreement, Mr Gibbens said there was a very real risk that some or not all of this capital grant would have to be returned to Government which would be to the detriment of the programme and leave both the County Council and the PCT's without the resources to improve the quality of the stock. The report also proposed that the Government should commission actuarial research to look at the long term demographics and cost of support for all people with learning difficulties (not just those transferring from the NHS). Mr Gibbens concluded by saying that with the support of the PCT's he commended the recommendations set out in the report for adoption by Cabinet. He also placed on record his thanks to the Chief Executives of the two NHS Trusts in Kent for their co-operation and engagement in this work which he said was an excellent example of the good partnership work which existed between KCC and the PCT's.
- (4) Mr Leidecker said that this report built on the earlier ambitious programme which the County Council agreed in 2002 to work in collaboration with the PCT's and to more closely integrate health and social care provision through the pooling of budgets. The Government's intention was to transfer the funds for supporting people with learning disabilities from the Health Service to local Government, confirmed earlier developments whereby local Government had taken the lead

commissioning responsibility for learning difficulties. These earlier developments meant that KCC had in fact been managing integrated teams, for learning disability services since 2004. Miss Highwood referred to paragraph 9 of the report which commented in detail on the risks and mitigation that such a major policy change would bring. She said that it was acknowledged the financial risks were large, both immediately and after April 2011 and the immediate mitigation strategy was to ensure that the Section 256 Agreement that would need to be completed under the National Health Service Act 2006 was robust and fully protected the County Council's interests. The discussions currently under way at the strategic level meant there would be sustained and robust lobbying undertaken to ensure that whatever in respect of these proposals full and proper regard was made as to the true costs of the service. The clarity of costing achieved through the Section 256 Agreement prior to April 2011 would facilitate that and would enable a robust response to be submitted to the Department of Health when it consulted on the proposed allocations.

(5) Mr Lynes expressed concern that once the agreements and contracts had been signed, then the County Council would be committed to providing this service with all the financial risks that that could entail. Whilst he was confident that KASS Officers had sought to mitigate the detrimental effects of the transfer as far as possible, and the transfer should proceed as planned, he believed the County Council should consider commissioning its own survey of the possible consequences of proceeding and for that work to possibly be undertaken jointly with some of the County Council's neighbouring authorities. Mr Marsh also spoke about the financial risks and the need for the County Council to be clear as to the ongoing capital costs associated with maintenance and refurbishment.

(6) Miss Sutton said that this was an important priority for the PCT's who needed to do all they could together with the County Council to make this was an open and transparent process. Mr Meikle said that the PCT's had looked at the proposal in great detail and the capital programme had been developed around need. Mr Gilroy said that he believed it was right for the County Council to take over these responsibilities and he therefore generally therefore supported the thrust of what was being proposed. However, he was also concerned to ensure that the financial risks had been fully explored and therefore supported the undertaking of a dedicated piece of work in collaboration with the County Council's PCT colleagues.

(7) Mr Carter concluded the discussion by saying before any contracts and agreements were signed, he wanted there to be complete clarity as to what the County Council's on going financial responsibilities would be if it was to take over fully the provision of this service.

(8) Mr Carter said that it was essential that the County Council looked at these proposals in great detail and did everything it could in order to minimize any risk. He said he wished the Director of Law and Governance to look at the detail of any agreement on contracts to be entered into by the County Council under Section 256 to ensure that they were sound and robust. He also wanted the County Council's audit team to examine the financial records and accounting processes to equally make sure that these were in good order. He said he agreed with Mr Lynes that the County Council needed an actuary report about the long term demands and potential financial risks. He said only when that information was to hand should the County Council consider proceeding with these proposals.

(9) Subject to the caviats outlined in the above paragraph and in particular the commissioning of a report on the Medium Term financial outlook and impact on the County Council's social care budget should these proposals be proceeded with, Cabinet agreed as follows:-

- (i) to agree that a progress report, based on this Cabinet paper, should be sent to Department of Health
- (ii) To agree that Kent Adult Social Services should continue to lobby the Department of Health, directly and through the LGA, ADASS and CIPFA, to ensure that the risks identified in this report are mitigated as far as is possible.
- (iii) to agree to manage the newly let care contracts on a temporary basis, on behalf of the NHS
- (iv) to agree to receive and manage the capital grant on behalf of the PCTs, provided DH gives assurances on the issue of the obligation, and that therefore a way can be found to mitigate the risks of under funding
- (v) to agree to propose to the Department of Health and LGA that a review is commissioned to identify future demands for social care support for adults with a learning disability and the costs, similar to the 'Securing the Good Care of Older People' review commissioned by the Kings Fund in 2006, with recommendations as to how these can be best addressed
- (vi) to agree that once the outstanding issues identified above have been satisfactorily resolved, a further report should be brought to Cabinet, setting out the numbers and costs, and confirming a decision for the transfer to proceed as planned.

8. Proposal for Kent's Corporate Parenting Framework

(Item 9 - Report by Mr Graham Badman, Managing Director, Children, Families and Education; Mr Mark Dance, Cabinet Member for Operations, Resources & Skills, CFE; and Mr Leyland Ridings, Cabinet Member for Children, Families & Educational Standards, CFE)

(1) This report outlined a proposal for Kent's Corporate Parenting framework as means for ensuring that Kent is effective in the delivery of services that lead to better outcomes for children and young people in and leaving care.

(2) Cabinet:-

- (i) noted the revised Terms of Reference for the Looked After Children Strategy as detailed in Appendix 3 of the Cabinet report;
- (ii) noted the revised Terms of Reference for the Children's Champion Board as detailed in Appendix 4 of the Cabinet report;
- (iii) agreed that Kent's Corporate Parenting Group/Forum be represented

by the Children's Champion Board and a sub-structure of the Kent Children's Trust as detailed in Section 3 of the Cabinet report; and

- (iv) agreed the proposed framework and implementation plan for the Kent Children in Care Council as detailed in Section 4 of the Cabinet report.

9. Decisions from Cabinet Scrutiny Committee - 22 October 2008

(Item 10 – Report by Mr Alex King, Deputy Leader; and Mr Peter Sass, Head of Democratic Services and Local Leadership)

Cabinet noted this report and agreed the actions recommended by the Cabinet Portfolio Holders.

Exempt Item

(Open Access to Minutes)

10. Connexions: Commissioning the Service from April 2010

(Item 12 – Report by Mr M Dance, Cabinet Member for Operations, Resources and Skills, CFE; Mr L Ridings, Cabinet Member for Children, Families and Educational Standards, CFE; and Mr Graham Badman, Managing Director, Children, Families & Education)

(This is an unrestricted minute of a report which was exempt under Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972)

(1) This report provided the context for the decisions that the County Council needed to take regarding the commissioning of the Connexions Service for Kent from April 2010.

(2) From April 2008, responsibility for the Connexions Service transferred from the Government Office for the South East to the County Council and a contract for two years with a new specification was awarded to the existing provider, Connexions Partnership Kent and Medway. This ensured that the risk of service disruption was mitigated against during the transition process. However, the County Council was advised that a full European tendering process would have to be undertaken in respect of the Connexions Services from April 2010.

(3) Having considered options for the future delivery of the service, the report recommended that the commissioning of the Connexions Service as a whole should be undertaken by way of a European Tender Process on the basis that this would provide a single coherent service, bring about ease of managing and monitoring a single contract and allow the integration of services to remain. On this basis, this was the recommended preferred option.

(4) Mr Carter said that members should be involved in the selection of a preferred partner

And that prior to the commencement of the tendering process he wanted a further

briefing brought put before Cabinet members.

(4) Cabinet agreed that the commissioning of the Connexions Service should be undertaken as a whole via a European Tender process and noted that this matter would be the subject of a further report to Cabinet regarding the approval of a recommended supplier.