



Coventry City Council

Council Meeting

18 March 2008

Booklet 2

Recommendations

CABINET

11th March 2008

Cabinet Members Present:-
Councillor Ahmed
Councillor Blundell
Councillor Foster
Councillor Mrs Johnson
Councillor Noonan
Councillor O'Neill (Chair)
Councillor Ridley
Councillor Sawdon

Non-Voting Opposition Representatives present:-
Councillor Benefield
Councillor Duggins
Councillor Mutton
Councillor Nellist

Employees Present:-
H. Atwood (Children, Learning and Young People's Directorate)
A. Bennett (City Services Directorate)
M. Checkley (City Services Directorate)
F. Collingham (Chief Executive's Directorate)
J. Daly (Finance and Legal Services Directorate)
M. Godfrey (Community Services Directorate)
C. Green (Director of Children, Learning and Young People)
S. Heawood (Children, Learning and Young People's Directorate)
L. Knight (Customer and Workforce Services Directorate)
S. Manzie (Chief Executive)
B. Messinger (Director of Customer and Workforce Services)
C. Parker (Chief Executive's Directorate)
J. Parry (Assistant Chief Executive)
C. Pearson (City Development Directorate)
S. Pickering (Director of City Services)
D. Taylor (Finance and Legal Services Directorate)
C. Thomas (City Services Directorate)
A. Vaughan (City Services Directorate)
J. Venn (Chief Executive's Directorate)
A. Walster (City Services Directorate)
R. Weaver (Children, Learning and Young People's Directorate)
C. West (Director of Finance and Legal Services)
L. Wroe (City Development Directorate)

Apologies:- Councillor Taylor

RECOMMENDATIONS

214. **Exclusion of Press and Public**

RESOLVED that, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the item of business referred to in Minute 227 below relating to "Equal Pay Claims – Employment Tribunal Judgement" on the grounds that this item involves the likely disclosure of exempt information as defined in Paragraph 5 of Part I of Schedule 12A of that Act.

215. **Coventry Sustainable Community Strategy and Local Area Agreement**

The Cabinet considered a report of the Chief Executive, which sought approval of the Coventry Sustainable Community Strategy for adoption by the Council, and the agreement of a set of indicators for the new Local Area Agreement as a basis for further negotiation with the Government.

The Cabinet noted that the Scrutiny Co-ordination Committee had considered this report at their meeting on 5th March 2008, and a briefing note detailing their comments was tabled at the meeting.

The development of a local Sustainable Community Strategy for Coventry was a Government requirement and was the subject of national Government guidance and inspection. It was the responsibility of the Council, as the local authority, to ensure that the strategy was developed and adopted.

The Strategy was developed from the second Coventry Community Plan that was adopted in July 2004 and had been developed in partnership through the Coventry Partnership, the City's Local Strategic Partnership that consists of public, private, voluntary and community organisations, including the Council, using evidence from a strategic assessment of the needs of the City that was undertaken in summer 2007.

The report indicated that it was important that both the Sustainable Community Strategy and the Local Area Agreement were evidence-based and built upon the analysis of the current position in Coventry, expected future trends and the existing priorities and strategies that had been agreed with the Government, local partner organisations and local people and communities.

The Cabinet had agreed the consultation process on the draft Sustainable Community Strategy at its meeting on 14th November 2007. Extensive consultation took place from 3rd December 2007 to 25th January 2008 and the Strategy had been revised to take account of the comments received. An analysis of the comments received and the amendments made was available as a separate document. It was noted that the Coventry Partnership Board had considered the final Strategy, which was appended to the report submitted, at its meeting on 21st February 2008.

The Cabinet was advised that once the Strategy was adopted, action plans and a performance management framework would be developed to ensure that the outcome and priorities in it were achieved, including the delivery of the new Local Area Agreement.

The new Local Area Agreement would be signed between the Coventry Partnership, the City Council and the Government and would set out, after negotiation up to 35 agreed priorities with improvement targets across a range of areas such as employment and skills, housing, environment, community safety and health. There would also be an additional 16 statutory targets for early years and educational attainment in schools.

The Agreement would have a three-year time scale and include short-term priorities that would help to achieve the long-term objectives and outcomes of the Sustainable Community Strategy. The priorities and targets were based on the National Indicator Set of 198 indicators and the Agreement would be key to Government's assessment of the Council's performance in the future and would be used to assess the performance of the Coventry Partnership and other partners.

Although formal approval of the Local Area Agreement would take place in June 2008, the Council and Coventry Partnership had been asked to provide a proposed set of indicators for the Government to consider in March 2008, although it was acknowledged that at this stage these could still be changed.

Extensive discussions had taken place with partner organisations to identify indicators for the Agreement and initial negotiations had taken place with the Government Office for the West Midlands about the indicators the Government considered should be included within the Agreement.

The report indicated that care had been taken to ensure that the indicators selected were robust and measurable and made sense together as a set. Equality and Cohesion issues would be addressed through all of the indicators, where it was appropriate, and priorities requiring partnership working had received particular attention. As with the existing Local Area Agreement, with the exception of anti-social behaviour, perception measures were avoided, as they did not lend themselves to robust performance management of target-setting over the three years.

The proposed indicators were set out in Appendix B to the report, although it was noted that they had not been finalised or formally agreed and could be changed before the final Agreement would be approved in June 2008. However, they would provide the basis for further negotiations and target-setting with the Government.

The Cabinet approved the proposed indicator set for the Local Area Agreement as the basis for further negotiation with the Government.

RESOLVED that the City Council be recommended to adopt the Coventry Sustainable Community Strategy, set out in Appendix A to the report submitted.

216. **Climate Change – A Strategy for Coventry**

The Cabinet considered a report of the Director of City Services, which outlined Coventry's approach to climate change and presented the post-consultation Climate Change Strategy for consideration.

The Cabinet noted that Scrutiny Board 3 had considered the report submitted at their meeting held on 5th March 2008, and a briefing note detailing their comments was tabled at the meeting.

Coventry had signalled its intent to prioritise the issue of climate change by signing the Nottingham Declaration on Climate Change in October 2006. This declaration committed the Council to work to deliver the UK Climate Change Programme, within two years to deliver a plan to tackle the courses of climate change within its community and to reduce the Council's greenhouse gas emissions.

In June 2007, the Council created a dedicated Cabinet Member portfolio for Climate Change, Housing and Sustainability, which provided enhanced leadership, raised the profile and recognised the increasing local, national and global need for concerted action on climate change. There was a ready acceptance throughout the Council of the role it must play as a community leader, major employer, property manager and service provider.

There was equal recognition that tackling climate change would be a long-term, multi-agency, community-centred challenge and was the reason why the Coventry Partnership, supported by the Council, had drafted the City's Climate Change Strategy, covering the period 2008 to 2050. The Strategy had been the subject of extensive consultation and the proposed final version was appended to the report submitted.

The need to proactively tackle climate change was also being recognised by others, including the Government, the UN's Intergovernmental Panel on Climate Change and the Local Government Association. A Climate Change Bill was published in March 2007 and was likely to be enacted in the summer. The report submitted outlined the main components of the Bill. The Bill also reaffirmed the leadership role that Councils would play on climate change.

In addition, the Local Government Association's Climate Change Commission produced a report in November 2007 entitled "A Climate of Change".

At a local level, the Council had included "making the City clean, green and work to tackle climate change" as one of its corporate objectives since June 2007. More recently, the Sustainable Community Strategy, which charted the future direction for the City for the next 20 years, prioritised climate change as one of only two underpinning priorities themes, recognising the centrality of tackling climate change to Coventry's future prosperity.

The proposed Climate Change Strategy set out a target for reducing carbon dioxide emissions by 70 per cent by the year 2050, using 2003 as a baseline year, with an interim target of 40 per cent by the year 2025. It was noted that progress against the longer-term targets would not be linear given the varying impact of new technologies, market forces surrounding increasingly scarce natural resources and the impact of additional infrastructure investment. However, as a rule of thumb, a year-on-year reduction of 3 per cent would deliver the long-term reductions in carbon dioxide emissions.

The Cabinet noted that the Strategy reflected the short-term and long-term approach, with a number of short-term actions established for 2008/09 sitting alongside longer-term research, evaluation and policy-led actions to inform medium-term plans.

The Strategy set out six key themes of Putting People First; Where We Live; Making A Difference; Fit For The Future; Gearing Up; and Towards A Sustainable City. The report submitted detailed the aims of each theme.

Appendix B of the report submitted detailed the consultation process on the draft Strategy, demonstrated overwhelming support for the Strategy, and provided an analysis of the feedback from the consultation.

The Strategy set out a framework to respond to the unique challenge and the actions detailed represented a framework by which Coventry could respond. Whilst 61 actions were set out in the Strategy, they could be broadly differentiated into those actions that were shorter-term, more immediate and deliverable and those that explore long-term issues and prepare the City for its challenge of tackling climate change. Inevitably, the longer-term challenges were more policy and research based, whilst the shorter-term challenges were more action based. A summary of the key deliverables for 2008/09 was set out in the report submitted and the Cabinet noted that these activities were to be funded from existing budget provisions.

The delivery of the Strategy required a multi-track and integrated approach to be taken. Careful consideration was given to the potential delivery obstacles and the report submitted outlined the key building blocks being assembled to ensure delivery of the strategy, particularly in relation to leadership and governance and organisational capacity.

RESOLVED that the City Council be recommended to:-

- (1) Approve Coventry's Climate Change Strategy, attached as Appendix A to the report submitted.**
- (2) Approve the specific short-term actions for 2008/09**
- (3) Request the Director of City Services to bring forward a further report, which sets out the detail of the Climate Change Act, once enacted, and its implications for both Coventry and the City's proposed Climate Change Strategy.**
- (4) Note that the Cabinet Member (Climate Change, Housing and Sustainability) is to receive regular performance updates on the progress being made against the action plan.**
- (5) Note the responses from the consultation exercise attached as Appendix B to the report submitted.**

217. Innovative Coventry: A Strategy for Growth and Transformation: Draft Economic Development Strategy

The Cabinet considered a report of the Director of City Development, which sought agreement to changes, resulting from consultation responses, and the adoption of "Innovative Coventry: A Strategy for Growth and Transformation" as the Council's Economic Development Strategy (EDS).

The Cabinet at their meeting on 4th December 2007 agreed the Draft EDS. A period of consultation ran from 5th December 2007 to 25th January 2008. As part of the consultation process, the Draft EDS was considered by the Coventry Partnership Operations Group on the 9th January 2008; the Coventry Partnership Board on 16th January 2008, and by Scrutiny Board 3 on 16th January 2008. The feedback received was very positive and had enabled a variety of changes to be made to the document.

A number of revisions were to be made to the text and a full list of the changes and suggestions was included in Appendix 1 of the report submitted. The Cabinet noted that the most significant changes had been made in relation to the goals of the EDS; the role and contribution of the Universities; developing a Graduate Retention Strategy; and the indicators used to measure the impact of the Strategy.

The information gathered during the consultation had been used to inform the development of the final Economic Development Strategy and a further briefing on the progress of the consultation was circulated to the Coventry Partnership Board at their meeting on 21st February 2008.

The Cabinet agreed the changes to two of the key goals of the strategy, as set out in paragraph 3.4 of the report submitted; and the changes made to the overall Strategy, including those significant changes set out in paragraphs 3.5 to 3.7.

RESOLVED that the City Council be recommended to adopt the amended strategy as the City Council's Economic Development Strategy for the City.

218. Consultation Paper on a New Planning Policy Statement 4: Planning for Sustainable Economic Development

The Cabinet considered a report of the Director of City Development, which sought approval of a proposed response to the "Consultation Paper on a new Planning Policy Statement 4: Planning for Sustainable Economic Development". The paper was published by the Department for Communities and Local Government (DCLG) on 17th December 2007 and required responses by 17th March 2008.

The Cabinet noted that Scrutiny Board 3 had considered the report submitted at their meeting held on 5th March 2008 and a briefing note detailing their comments was tabled at the meeting.

The aim of the Planning Policy Statement 4 (PPS4) was to encourage local authorities to plan effectively and pro-actively for economic growth and to achieve a proper balance between economic opportunities and environmental and social considerations. PPS4 was, in part, a response to the Barker Review of Land Use Planning and the Planning White Paper.

The main purpose of the PPS4 was set out in the preamble to the consultation questions as “ensuring that sustainable economic development, as a key component in sustainable development more generally is fully considered and planned for”. It also indicated that there was a need to rationalise and make more consistent the data and indicators used in drawing up plans so that national, regional and sub-regional and local plans could be better integrated. Finally, it was suggested that planning authorities needed to have a better understanding of the changing needs of business and of industrial change and of their locational implications. It stated that the planning system must deliver economic development in a way that was sensitive to climate change. Therefore, the Cabinet were advised that PPS4 should be read in conjunction with PPS1.

Once adopted, PPS4 would put in place a national planning policy framework for economic development at regional, sub-regional and local levels for both urban and rural areas. It would replace the existing Planning Policy Guidance Note 4, paragraphs 53, 54 and Annex D of Planning Policy Guidance Note 13 (Transport) and all of Planning Policy Guidance Note 8 (Telecommunications), with the exception of the annexes: expansion of Permitted Development Rights and prior approval for telecommunications development.

The report submitted outlined the Government’s key policy outcomes in relation to planning outcomes; definition of economic development; positive planning for economic development; recognising business needs; and effective use of land.

The consultation included a number of questions and draft responses to those questions were detailed in Appendix 1 of the report submitted. The report also summarised the implications of the draft PPS4.

RESOLVED that the City Council be recommended to approve the Council’s response to the consultation, as appended to the report submitted.

221. Approval for the Extension of the Coventry and Solihull Waste Disposal Contract

The Cabinet considered a joint report of the Director of City Services and the Director of Finance and Legal Services, which sought approval to extend the Joint Waste Disposal Contract held with Coventry and Solihull Waste Disposal Company Limited (CSWDC).

The Cabinet noted that Scrutiny Board 3 had considered the report at their meeting held on 5th March 2008 and a briefing note detailing their comments was tabled at the meeting.

The Council had responsibilities as both a waste collection and waste disposal authority. To assist in delivering its waste disposal responsibilities, the Council part owned the Local Authority Waste Disposal Company (LAWDC). CSWDC managed the Energy from Waste facility located at London Road.

The Cabinet noted that the current contract between Coventry, Solihull and CSWDC had been in place since the 1st April 1993 and was for a period of 15 years. The contract was administered on Coventry's behalf by Solihull and legal advice obtained by Solihull indicated that this contract must, at some point, be tendered in accordance with European Union (EU) Procurement Rules. The procedures prescribed within the EU Procurement Rules take time, and therefore it was necessary to extend the existing contract for a period of up to three years in the interim.

In addition, advice obtained from the City Council's own Finance and Legal Services had suggested that other procurement options were available and both authorities would consider these options during the extension period.

Given that this was a joint contract, approval to extend the contract was required from both Coventry and Solihull Councils. Solihull Council agreed to this extension at its meeting on 4th December 2007.

RESOLVED that the City Council be recommended to extend the Joint Waste Disposal Contract with CSWDC for a period of three years, commencing 1st April 2008.

225. **Equal Pay Claims – Employment Tribunal Judgement**

The Cabinet considered a joint report of the Chief Executive and the Director of Customer and Workforce Services, which detailed the outcome of the equal pay claims case Ms Nicholls and others vs. Coventry City Council heard by the Birmingham Employment Tribunal between September and December 2007. The report also sought agreement to take forward an appeal against parts of the Tribunal judgement.

The Cabinet noted that a corresponding private report, detailing confidential aspects, had also been submitted to this meeting (Minute 227 below refers).

Following the job evaluation exercise and subsequent introduction of Single Status in June 2005, in December 2005 the Birmingham Employment Tribunal started to receive claims for equal pay against the Council. These claimed that the Council had breached an equality clause in the Equal Pay Act 1970. The claimants were members of Unison and Unite (Amicus and the T&G).

Claims continued into 2006 and the report indicated that a small number of claims were still being regularly received. The Council currently had 652 equal pay claims. In addition to the volume of the claims, rather than quoting one comparator against whom the claimant was comparing their difference in pay, a large number of the claimants quoted multiple comparators, which made the claims more complex. Of the claims, 489 quoted refuse workers as a comparator, and of that number, approximately 250 compared themselves only to refuse workers.

In consultation with both parties, the Tribunal decided to bundle claims together on the basis of the comparators; and to hear the claims where claimants were citing refuse workers as a comparator either in isolation or part of a group first.

The basis of the Tribunal approach was that the unions were challenging the Council on whether it was sex discrimination to have a bonus scheme in the refuse service (before Single Status) which did not apply to some other services employing more women; and whether the Council's pay protection scheme, implemented as part of Single Status, should apply to the 'gainers' as well as the 'losers'.

In addition to hearing the Council's defence on these two points, the Tribunal also agreed to hear an overarching argument put forward by the Council, which would have created a new potential defence, as to whether the Council had a defence against equal pay claims, in connection with pay arrangements before Single Status, because of the efforts it had made over so many years to implement Single Status.

Using the comparator of the refuse scheme determined the largest number of claims in one go. The Tribunal also determined that it would hear the case in relation to the Council's 'genuine material factor' defence in respect of all of these claims before hearing any of the individual pay claims.

The Tribunal sat for 24 days between September and December 2007, heard evidence from six witnesses for the Council and two union witnesses. The Council received the judgement of the Tribunal on 15th February 2008 and all elected members and members of staff were provided with a summary of the judgement and the full judgement, which was appended to the report submitted, was also posted onto the Council's website. The Council subsequently received legal advice on the outcome of the judgement on 29th February 2008.

The judgement found in part for the claimants and in part for the Council. In relation to the refuse bonus scheme, the Tribunal agreed that the Council's refuse bonus scheme, put in place in 1999, was a genuine, transparent and well-monitored scheme that was about delivering a better service through increased productivity. The scheme, along with all others, was abolished on the introduction of Single Status in 2005, which implemented pay equality. However, the Tribunal determined that the Council should have at least considered alternative methods of achieving its management objectives other than by payment of a bonus and also considered whether it could apply similar schemes to groups of employees with a bigger female workforce and therefore found against the Council in this matter.

With regard to pay protection, the Tribunal upheld the application of the Council's pay protection scheme, which was introduced as part of the Single Status arrangements to protect the pay of those employees who had been re-graded at a lower level.

In respect of the overarching defence, although the Council had a significant weight of evidence on this issue, the Tribunal were not persuaded on the argument and considered that the reasonable efforts made over the years by the Council were not a relevant consideration under the Equal Pay Act.

The report indicated that the Council did not yet face any financial liability as no successful equal pay claims had yet been made. The Tribunal had only heard the general defence against these claims as opposed to the individual defence on each claim. Each claimant had yet to demonstrate on an individual basis that they were entitled to equal pay. However, the judgement did potentially mean that at least some of the claimants may be able to succeed with their claims, if they could prove to the Tribunal that they have an equal value claim for back pay against the Council or that their jobs were rated equivalent to refuse posts previously under a valid job evaluation scheme. The Tribunal would then make a decision on each claim, which would require a separate hearing or hearings.

The Cabinet were advised that, should the Council wish to appeal against any part of the judgement, this would need to be submitted by 27th March 2008. The Council's external legal advisors, including the QC who represented the Council at Tribunal, had provided an assessment of the merits of appealing the aspects of the judgement that the Tribunal found against the Council. Counsel's advice was that there were issues of law that remained contestable. The overall conclusion of the advice was that the Council should consider an appeal as worthwhile, given the limited costs of an appeal and balancing the risk of cross appeal from the Trade Unions.

The report submitted outlined alternative options to appealing the judgement. However, having considered the barrister's advice in full, the recommendation was that the Council should appeal.

RESOLVED that the City Council be recommended to agree in principle, subject to consideration of the additional information in the associated private report (Minute 227 below refers):-

- (1) To note the outcome of the Employment Tribunal and its implications for the Council.**
- (2) To agree to take forward an Appeal against parts of the Tribunal judgement.**

(Note: This matter was considered as urgent public business, the reason being the need for the Council to consider the options and legal advice regarding appealing the decision prior to the deadline of 27th March 2008, for submission of any appeal.)

Private business

227. Equal Pay Claims – Employment Tribunal Judgement

Further to Minute 225 above relating to the public aspects of this matter, the Cabinet considered a joint report of the Chief Executive and the Director of Customer and Workforce Services, which detailed the outcome of the equal pay claims case Ms Nicholls and others vs. Coventry City Council heard by the Birmingham Employment Tribunal between September and December 2007. The report also sought agreement to take forward an appeal against parts of the Tribunal judgement.

A copy of the legal advice provided on the merits of appealing against the recent Employment Tribunal judgement was appended to the report submitted.

RESOLVED that the City Council be recommended to:

- (1) Note the outcome of the Employment Tribunal and its implications for the Council.**
- (2) Agree to take forward an Appeal against parts of the Tribunal judgement.**

(Note: This matter was considered as urgent private business, the reason being the need for the Council to consider the options and legal advice regarding appealing the decision prior to the deadline of 27th March 2008, for submission of any appeal.)