

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Executive Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Wednesday, 13 January 2016 commencing at
2:00 pm**

Present:

Chairman
Vice Chairman

Councillor R J E Vines
Councillor D J Waters

and Councillors:

R E Allen, Mrs K J Berry, Mrs G F Blackwell (Substitute for R A Bird), D M M Davies, M Dean,
Mrs E J MacTiernan and J R Mason

also present:

Councillors P W Awford

EX.57 ANNOUNCEMENTS

- 57.1 The evacuation procedure, as noted on the Agenda, was advised to those present.
- 57.2 The Chairman indicated that he had used his discretion to amend the order of the Agenda so that Item 11, Materials Recovery facilities (MRF) Contract Variation, would be considered after Item 6, Executive Committee Forward Plan.
- 57.3 Councillor P W Awford was welcomed to the meeting. The Chairman indicated that he was in attendance as Chairman of the Overview and Scrutiny Committee to introduce Item 7, Performance Management Report – Quarter Two 2015/16.

EX.58 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

- 58.1 An apology for absence had been received from Councillor R A Bird.
Councillor Mrs G F Blackwell would be acting as a substitute for the meeting.

EX.59 DECLARATIONS OF INTEREST

- 59.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.
- 59.2 There were no declarations of interest made on this occasion.

EX.60 MINUTES

- 60.1 The Minutes of the meeting held on 25 November 2015, copies of which had been circulated, were approved as a correct record and signed by the Chairman.

EX.61 ITEMS FROM MEMBERS OF THE PUBLIC

61.1 There were no items from members of the public on this occasion.

EX.62 EXECUTIVE COMMITTEE FORWARD PLAN

62.1 Attention was drawn to the Committee's Forward Plan, circulated at Pages No. 14-18. Members were asked to consider the Plan.

62.2 Accordingly, it was

RESOLVED: That the Committee's Forward Plan be **NOTED**.

EX.63 MATERIALS RECOVERY FACILITIES (MRF) CONTRACT VARIATION

63.1 The report of the Environmental and Housing Services Group Manager, circulated at Pages No. 117-122, provided the Committee with information about a possible contract variation for its Materials Recovery Facility (MRF) and asked for approval of the use of £222,500 of earmarked reserves to cover the increased cost for 2016/17.

63.2 Members were advised that, in April 2014, the Council had entered into a three year contract for the processing, sorting and selling of its comingled dry recycled materials. Since January 2015 there had been problems with contamination in the recyclate stream and, over that period, there had been more than 30 incidents of needles being found within the material; this had resulted in increased risks to staff and had an impact upon the sorting process. The contractor was responsible for the health and safety of its operatives and, despite attempts to manage the situation, material had been rejected from specific waste rounds. As a result, nine full loads and part loads of material had been diverted to landfill. Officers from Tewkesbury Borough Council and the Joint Waste Team had continued to work with various organisations to try to educate residents and resolve the issue on safe disposal of needles.

63.3 The consequences of contaminated loads of recyclate reaching the MRF were that the plant would be stopped, emptied and the contaminated material sent to landfill for disposal. This generated a cost in downtime due to the stoppage and disposal of material as well as a loss in revenue which could have been gained if the material was processed and sold for recovery. Grundon had indicated that it would continue to accept the Council's recyclate materials but that it had to slow down the process to allow more time for the contamination to be removed and dealt with safely. In addition, there would be a two stage exercise introduced to split the material; the first run would drop bottles, cans, glass etc., and anything under 120mm in size, this would reduce the density of material going into the picking line and allow the pickers a better opportunity to identify any needles. The material that was dropped out in the first phase would then be run again with anything up to 50mm in size which would allow a better level of material through the plant and another opportunity to identify needles. The process identified would involve additional costs.

63.4 The current contract was due to expire in April 2017, therefore a tendering and

procurement exercise would look to address the issues and the future costs. Members were advised that the current contract had been agreed at an advantageous price for the Council. Since that time there had been significant fluctuations in the commodity markets, and the global economy, which had impacted on the price of recycled materials; this meant that, whilst the contamination issue sat outside of the bigger picture, it was clear that, in any revisiting of the market place for MRF facilities, the Council would need to consider potential increased costs for the future.

- 63.5 A Member questioned whether the contamination issue was a problem in specific areas or whether it was Borough-wide. In response, she was advised that it had initially been in specific areas but now it appeared to be more widespread. The Deputy Chief Executive explained that the Council was extremely fortunate with the low level price that it had on the current contract which had met the Council's budgetary requirements at the time. However, this came with compromises which meant the equipment was possibly not as sophisticated as some. The contractor had been extremely proactive in working with the Council to resolve the issues faced which had been very helpful. The recycling environment was complex and volatile with the value of recycling materials also being volatile; the price of the MRF contract was dependent upon what the recyclate could be sold for. A Member questioned whether Tewkesbury Borough was the only authority with the problem. In response, the Deputy Chief Executive advised that Tewkesbury was the only authority in the County that operated a comingled service; it was that which caused the issue as there was less chance of contamination when items were sorted at the kerbside.
- 63.6 One Member expressed great concern about the additional cost which had been suggested and she questioned whether it really was a fair price; whether negotiations had taken place; and what the current cost of the contract was. In response, it was explained that the negotiation process had been very detailed and had been carried out by Officers from legal and finance, as well as receiving independent advice, and a compromise solution had been reached with an acceptable price for both parties. It was a fact that the contractor could refuse to accept loads where there was a significant health and safety risk and the cost of that over and above the contract, as well as the loss of recycling credits, was significant.
- 63.7 Having considered the information provided, it was

RESOLVED: That the use of £222,500 of earmarked reserves to cover the increased cost of the Materials Recovery Facilities Contract for 2016/17 be **APPROVED**.

EX.64 PERFORMANCE MANAGEMENT REPORT - QUARTER TWO 2015/16

- 64.1 The report of the Chairman of the Overview and Scrutiny Committee, circulated at Pages No. 19-72, asked Members to review and, if appropriate, take action against the observations of the Overview and Scrutiny Committee following its review of the 2015/16 quarter two performance management information.
- 64.2 Attention was drawn to the observations made by the Overview and Scrutiny

Committee, attached to the report at Appendix 1; the Council Plan Performance Tracker, attached at Appendix 2; the Key Performance Indicator set, attached at Appendix 3; Revenue Budget Summary Statement, attached at Appendix 4; the Capital Monitoring Statement attached at Appendix 5; and the Revenues Position Summary which was attached to the report at Appendix 6. The Chairman of the Overview and Scrutiny Committee explained that his Committee was becoming much more challenging now which he felt was encouraging.

- 64.3 In offering an overview of the Committee's discussion, the Overview and Scrutiny Committee Chairman advised that progress on Council performance over the past quarter was generally good with some key areas of excellent performance such as the new leisure centre and the processing times for benefits applications. Given the level of detail, and range of performance reported, Members were also made aware of areas that were not progressing as planned. A Member had noted from the performance report that waste to landfill had increased and, in response, the Deputy Chief Executive had explained that recycling was becoming increasingly contaminated which could result in it not being accepted at the Materials Recovery Facility (MRF). Members had also been informed that a recent food waste campaign had resulted in a 20 percent increase in food waste recycling. In terms of an update on agreeing an approach and programme of work for the Community Infrastructure Levy (CIL), the Deputy Chief Executive explained that a Preliminary Draft Charging Schedule (PDCS) had been out to consultation in the summer. 30 responses had been received from developers and the next big step was to decide on whether to charge for strategic allocations. In terms of delivery, until the outcome of the JCS examination was known, it was very difficult to make any decisions in relation to CIL charges. The Deputy Chief Executive was hopeful that a future report would give a clear direction for Officers to move onto the next stage of consultation in respect of the CIL. In terms of the reduction in the number of homeless applications, the Committee had recognised the hard work which had been carried out to achieve this. With regard to the average number of sickness absences, the Committee was delighted to note the improvement. The Chief Executive had also made Members aware of a new Development Management team staff structure which it was hoped would address the problems with resources in that area. In terms of Overview and Scrutiny generally, the Chairman was keen to ensure its ongoing effectiveness. To support this, the Corporate team had developed a quarterly newsletter for all Members which would provide a range of information on Overview and Scrutiny matters, including what the Committee had been working on, as well as what was happening in Committees across the County and beyond. The Chairman advised that he had also asked Democratic Services to book a speed reading course for all Members, which would take place on 2 February. This would be extremely helpful, given the length of some of the Committee reports Members were asked to read. There would also be a workshop for Overview and Scrutiny Committee Members coming soon, which would allow them to give their views on how the Committee was working. This would be especially useful given the majority of the Committee was made up of new Members and they could perhaps offer ideas on how the Council could scrutinise more effectively.
- 64.4 During the discussion which ensued, a Member referred to Page No. 34, Review customer feedback systems in service areas to ensure there is a consistent and appropriate approach, and questioned why there was no indication of the progress made to date. In response, the Corporate Services Group Manager indicated that this had been a recommendation from the Peer Challenge Team but it had not yet commenced as a project; it was anticipated that it would commence this quarter but was also part of the new Customer Care Standards which were currently being worked up. In reference to Page No. 45, Work in partnership with Citizens' Advice Bureau to provide better outcomes for our residents, a Member expressed concern that the figures provided were 'skewed' as some areas were split down into

specific areas and some were not. She also noted that reference was made to 'Cleeve St Johns' and advised that this should read 'Churchdown St Johns'; she explained that she had asked for this to be amended on a number of occasions. In response, the Deputy Chief Executive indicated that the information within the report was an analysis of the information provided by the Citizens' Advice Bureau and, as such, needed to be addressed by Officers. In respect of the Bureau in Winchcombe, a Member noted that it used to be operated as a drop-in but now residents needed to make an appointment, he questioned whether this was the case across the Borough or just in Winchcombe. The Deputy Chief Executive undertook to investigate. A Member indicated that the Council used to have a representative on the Gloucester and District Citizens' Advice Bureau and he questioned whether this was still the case. The Borough Solicitor advised that it remained the case and she would advise who the representative was after the meeting. The Chairman of the Overview and Scrutiny Committee advised that his Committee would receive its annual report from the Citizens Advice Bureau at its meeting on 23 February and he invited any Members that wished to hear that to come along to the meeting. Attention was also drawn to Page No. 28 and a Member requested an update on the Community Infrastructure Levy. In response, the Deputy Chief Executive advised that the report which had been commissioned had now been received and was being reviewed by Officers. It made recommendations on the application of the CIL and the best way to get the maximum income from it. There was some national consultation currently ongoing on how effective it was and the Council's Member Working Group would meet in the next few weeks to discuss this; there would then be an all Member seminar on the subject with a report to Council prior to the Joint Core Strategy process being concluded. There were no exact timescales available at this time.

64.5 Having considered the information provided, it was

RESOLVED: That the Overview and Scrutiny Committee's comments on the Performance Management Report for Quarter Two of 2015/16 be **NOTED**.

EX.65 GRANT TO ALDERTON PARISH COUNCIL

65.1 The report of the Finance and Asset Management Group Manager, circulated at Pages No. 73-83, set out the situation regarding a grant provided to Alderton Parish Council a number of years ago. Members were asked to consider the situation and approve the extension of the grant offer to Alderton Parish Council until 31 August 2016 to allow the delivery of the project; and, in the event of the project not commencing by 31 August 2016, to approve the transfer of the £35,000 capital balance to the Grants Working Group for redistribution.

65.2 The Finance and Asset Management Group Manager explained that, in November 2000, the Executive Committee had awarded a grant to Alderton Parish Council of £20,250 for the development of a sports pavilion. In November 2004 a further grant of £14,750 had been agreed by the Strategy and Resources Committee which gave a total in grant funding of £35,000 from the Borough Council towards the project. Following the award, the Parish Council had hoped to secure additional funding from other providers and to commence the works in early 2005. The Parish Council had established a Community Trust to take the project forward, and to secure additional funding, and, whilst that Trust had been successfully awarded £10,000 from Entrust, it had struggled to attract the additional financing required. In December 2009, the Executive Committee had formed a Grants Working Group to administer the grants process on behalf of the Council and part of the remit of that Working Group was to review the progress of grants awarded and, if necessary, to withdraw the grant offer if progress was not being made.

65.3 In respect of the current position, the Finance and Asset Management Group Manager explained that, at its meeting in September 2015, the Grants Working Group had considered the latest position of the sports pavilion and, whilst support for the overall project aim remained, it was felt that holding the grant available for nearly 11 years, and nearly 15 years in the case of the original grant, was more than sufficient to allow the project to be delivered. With this in mind the Working Group had felt that the current grant offer should be withdrawn and the Parish Council encouraged to reapply when it was in a position to deliver the project. Whilst the Working Group had authority within the Scheme to withdraw grants that it had awarded this did not extend to grants that were awarded prior to its commencement. The Alderton grant clearly pre-dated the existence of the Working Group and therefore the matter was referred to the Executive Committee for a decision. Further information had been provided by the Parish Council, which was now proposing a smaller project, and this had been attached to the report for information at Appendix A. The availability of Section 106 funding to support the project had now greatly changed the likelihood of the project being delivered; with over £50,000 being available following recent development in the village. There now appeared to be a renewed impetus behind the group formed to deliver the project which would, when delivered, provide a much needed recreational facility within the village. With this in mind, Officers had gone back to the Grants Working Group and it had been felt that the grant offer should be extended to 31 August 2016 to allow the works to commence. If the works had not commenced by that date then the grant would be withdrawn and returned to the grants balances for redistribution.

65.4 During the brief discussion which ensued, a Member expressed a hope that the Committee would support the recommendation on the paper. He explained that there were many problems for smaller communities in trying to get a project like this up and running. The big issue in this case was that the Council had provided a grant and following that Alderton had applied to Sport England which had been where the real problems had begun. Sport England had wanted to see something much grander than the Parish really required and had insisted on a scheme like that being developed before it would offer a grant. Sport England now seemed to understand a 'one size fits all' approach was not appropriate in all cases and the village was able to build the pavilion it wanted. There was a team in place now which was dedicated to building the pavilion and he hoped Members could support them in their efforts as this really was a facility that was very much needed in the area. Another Member agreed that he would like to see the project going forward. He understood that it had been a long time in the making but it had been beset by difficulties and he felt that, to allow it to move forward, would justify the original decision which had been made many years ago. He was encouraged to see mention of the Grants Officer who he felt had been doing excellent work since the creation of her post.

65.5 Having considered the information provided, it was

RESOLVED:

1. That, to allow the project to be delivered, the grant offer previously made to Alderton Parish Council be extended until 31 August 2016.
2. That, should the project not commence by 31 August 2016, the grant offer will be withdrawn and the £35,000 capital balance will be transferred to the Grants Working Group for redistribution.

EX.66 PROCUREMENT OF ENERGY

66.1 The report of the Finance and Asset Management Group Manager, circulated at

Pages No. 84-88, detailed options for the Council in terms of its energy contract and Members were asked to agree the entering into of a new three year contract for energy supplies with West Mercia Energy, with the option to extend for a further two years; and to agree that Tewkesbury Borough Council should become the lead authority within a partnership arrangement with Gloucester City Council.

66.2 The Committee was advised that the Council's current Contract Procedure Rules required that all contract awards over the European Union threshold were approved by the Executive Committee. The contract with West Mercia Energy offered the Council a product that enabled it to purchase gas and electricity on the wholesale market with the ability to purchase and sell energy throughout the contract term which ensured best value for the purchase price of energy; the contract was within current budgets. The Council's current contract was with West Mercia Energy but was due to expire on 31 March 2016. West Mercia Energy was a local purchasing organisation which had been established under Section 101 of the Local Government Act 1972 and comprised four constituent authorities. It was a framework agreement and had Official Journal of the European Union (OJEU) notices for the contracts it had with energy companies. In order to access that framework agreement, a purchaser had to have a certain size of energy requirements; on its own Tewkesbury Borough did not have the necessary energy requirements and so a partnership arrangement with Gloucester City, Forest of Dean District and Cotswold District Councils had been entered into previously. Forest of Dean and Cotswold District Councils had both previously opted to leave the consortium and follow other opportunities; however, they were now both reassessing that decision. Together, Tewkesbury Borough and Gloucester City Councils had energy demands which were still of a sufficient size to gain access to the framework. With this in mind it was suggested that a three year contract, with the possible extension of a further two years, was entered into. In addition, given the Council's expertise with energy contracts, and that particular framework, it was suggested that Tewkesbury became the lead authority for the consortium. This would simply mean that Tewkesbury was the specific point of contact for the framework operators on behalf of the consortium rather than there being any financial liability placed upon it.

66.3 Particular attention was drawn to the table set out at Paragraph 1.5 of the report which compared the prices paid over the last four years in terms of the baseline, market average and review point. The Finance and Asset Management Group Manager explained that all of the comparisons except one were green which meant there were savings on the contract in excess of what the market price would be. In response to a query regarding the Government's debate on the price of electricity, the Finance and Asset Management Group Manager indicated that the contract would ensure as much flexibility as possible.

66.4 Accordingly, it was

RESOLVED:

1. That the Council enters into a new three year contract for energy supplies, with the option to extend for a further two years, with West Mercia Energy.
2. That Tewkesbury Borough Council becomes the lead authority within the partnership arrangement with Gloucester City Council.

EX.67 CONTRACT PROCEDURE RULES

67.1 The report of the Finance and Asset Management Group Manager, circulated at Pages No. 89-116, set out revised Contract Procedure Rules and Members were

asked to recommend to Council that the revised Rules were approved.

- 67.2 Members were advised that the Council's Contract Procedure Rules had last been fully updated in December 2006; although authority was given to the Borough Solicitor to approve minor amendments, the Contract Procedure Rules were now nearly ten years old and in need of revision to reflect the latest EU Directive and Public Contracts Regulations 2015 as well as the increased value of purchases. The Council was required to adopt Contract Rules in order to comply with Section 135 of the Local Government Act 1972 which required all local authorities to make standing orders with respect to the making of contracts by them or their behalf.
- 67.3 Attention was drawn to the revised Rules, attached to the report at Appendix A, and Members were advised that best practice had been sought when informing their development. The main changes recommended against the current Rules included: increased thresholds for low, intermediate and high value procurement; a legal requirement for any contract with a 'whole life' value in excess of £25,000 to be advertised on the Government's contract finder website; a requirement to keep a contracts register of all contracts over £5,000 in line with the Local Authorities Transparency Code 2015; a legal requirement for electronic tendering; and an open tender process to be used from 1 January 2016 for all procurements under the EU threshold of £164,176.00. If the revised Rules were approved by Council on 26 January 2016 it was intended that they would become active for all procurement activities with effect from 1 February 2016. A revised procurement toolkit would be issued to Officers and training would also be provided.
- 67.4 A Member questioned whether the Public Contracts Regulations 2015 applied to all bodies of Local Government and, in response, the Finance and Asset Management Group Manager explained that he would need to look at the Regulations and advise the Councillor following the meeting. A Member suggested that better communication was required throughout the Council when contracts were considered, in response; he was advised that the Contract Procedure Rules would not address this but Officers were aware that this needed to be looked at corporately; particularly where IT systems were concerned. The Chief Executive advised that the Council was reviewing its corporate governance arrangements at management levels in terms of IT procurement as this had been one of the recommendations from the recent IT review. It was understood that consideration needed to be given to all contracts, not just IT, and a Member suggested that Group Managers, as well as the Corporate Leadership Team, should be involved in this.
- 67.5 Accordingly, it was

RESOLVED: That it be **RECOMMENDED TO COUNCIL** that the updated Contract Procedure Rules, as appended to the report, be **APPROVED**.

EX.68 PLACE PROGRAMME

- 68.1 The report of the Deputy Chief Executive, circulated at Pages No. 123-130, set out the approach taken within the pilot that had been ongoing in the east of the Borough and asked that Members endorse the place programme approach and its implementation across the whole Borough.
- 68.2 The Deputy Chief Executive explained that the place programme had been a concept for a while and was part of the 'culture of people' strand of the Council's transformation programme to make it a more effective organisation. The Council, in common with the whole of the public sector, faced reduced funding over coming years and it was felt that there was a need to build capacity and resilience within

communities to support them in an age of those continuing reductions. The place programme was really an internal change project which would broaden Officers' understanding of the communities in the Borough as well as enhancing support to Councillors in their community leadership roles. It was felt that the Council had many resources to offer communities such as skills, capacity, information etc. and these could be better provided to enable community action.

68.3 The pilot in the east of the Borough had shown a different way of thinking; Officer meetings, across service areas, were held to discuss projects, problems, planning applications etc. in the area and also Member meetings were held on a quarterly basis to share information and raise relevant concerns. There had been a lot of positive feedback received from the Members engaged to date. Officers had also spoken to the Council's partners about the approach and many had expressed a wish to participate; it was intended that the approach would become 'business as usual' at some point but this was a change in culture amongst the workforce which may take some time to embed across the whole authority. Members were asked to endorse the approach so that it could be rolled out across the Borough.

68.4 During the discussion which ensued, Members offered their congratulations on the way the project had worked so far. They indicated that the pilot had done a lot of excellent work and they were looking forward to the roll out so that the rest of the Borough could benefit. One Member expressed the view that people from outside of the Council did not seem to know what the place programme approach was and he felt that there was work to do with Parishes in that regard. In response, the Deputy Chief Executive explained that this was an internal approach to how the Council could do things differently. It was hoped that people outside of the Council would see a difference but it was not something that had necessarily been 'advertised'. Presentations had been made to Parishes at the Parish Seminars/Clerks events and more could be done if it was felt necessary. The three Community Development Officers had been working within the Parishes in each of their areas to build links and this would be further strengthened once the place programme approach was rolled out. Other Members confirmed that this was what had happened in the east area where the Community Development Officer was well known to the Parishes she worked with. They reiterated that the project had been excellent and they felt that all of the initiatives introduced, i.e. Member meetings; local working; community support etc., had been fantastic.

68.5 Accordingly, it was

RESOLVED: That the full implementation of the Place Programme across the Borough be **ENDORSED**.

EX.69 SEPARATE BUSINESS

69.1 The Chairman proposed, and it was

RESOLVED That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

EX.70 INVESTIGATION INTO HEALTH AND SAFETY ACCIDENT AT WM MORRISON PLC TEWKESBURY

(Exempt – Paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to any action taken or to be taken in connection with the

prevention, investigation or prosecution of crime)

- 70.1 The Committee considered the financial costs and resources anticipated to be incurred as a result of a health and safety investigation and agreed to the expenditure as requested.

EX.71 IRRECOVERABLE DEBTS FOR WRITE OFF

(Exempt –Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 –Information relating to the financial or business affairs of any particular person (including the authority holding that information))

- 71.1 Members considered the report, and the debts as identified in the schedule appended to it, and approved the write-offs as requested.

The meeting closed at 3:50 pm