

BRIGHTON & HOVE CITY COUNCIL

CABINET

4.00PM 1 SEPTEMBER 2011

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Kennedy (Chair), Bowden, Jarrett, J Kitcat, Shanks, Wakefield and West

Also in attendance: Councillors G Theobald (Opposition Spokesperson) and Mitchell (Opposition Spokesperson)

Other Members present: Councillors Jones, MacCafferty, A Norman, Peltzer Dunn, Summers and Wealls

Apologies: Councillors Randall, Davey, Duncan

PART ONE

50. PROCEDURAL BUSINESS

50a Declarations of Interest

50a.1 Councillors Mitchell and West declared personal, but non-prejudicial interests in the single item before the Cabinet, as they were both members of the Brighton & Hove Estates Conservation Trust and other members of the Trust included an employee of Smiths Gore, the council's managing agent for the downland estate portfolio.

50b Exclusion of Press and Public

50b.1 In accordance with section 100A of the Local Government Act 1972 ('the Act'), it was considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I(1) of the Act).

50b.2 **RESOLVED** – That the press and public be not excluded from the meeting.

51. CHAIR'S COMMUNICATIONS

- 51.1 The Chair noted that the meeting would be webcast.
- 51.2 The Chair explained that the special meeting had been called following the call-in by the Overview & Scrutiny Commission (OSC) of the Cabinet decision on 14 July 2011 to bring the estate management of the council's downland estate portfolio in-house. OSC considered the call-in request on 22 July 2011 and decided to refer the decision back to the Cabinet on the basis of insufficient consultation and financial implications.
- 51.3 The Chair that OSC had raised other issues and that additional information had been provided to address these matters and was present in the agenda before the Cabinet.

52. PROVISION OF THE COMMERCIAL PORTFOLIO (AGRICULTURAL) ESTATE MANAGEMENT

- 52.1 The Cabinet considered a report of the Strategic Director, Resources concerning a call-in by the Overview & Scrutiny Commission of the Cabinet's decision of 14 July 2011 to bring the estate management of the council's Downland Estate portfolio in-house.
- 52.2 Councillor J Kitcat thanked OSC for their thorough consideration of the decision and noted that all of the issues raised had been responded to in the report before the Cabinet. He stated that the information in the original 14 July report had been sufficient for the Cabinet to come to the decision that was made; specifically, consultation had taken place and the financial implications were explained. He noted that the decision in question concerned the procurement of a contract to manage the downland estate and that a review of the Downland Initiative would be considered at a later date.
- 52.3 Councillor A Norman explained that she was concerned that neither the original report, nor the report before the Cabinet contained sufficient information for a decision to bring the service in-house to be made. She noted that none of the tenant farmers questioned were supportive of the move and questioned why such a decision had been taken given the progress made by Smiths Gore and the significant financial and implications, particularly in light on the challenging economic conditions.
- 52.4 Councillor Peltzer Dunn asked the Cabinet to consider why the tenant farmers felt that the council would not be able to provide the necessary level of support they required. He stated that the report detailed several areas of concern including the challenge of recruiting a sufficiently experienced surveyor the need for access to highly specialised technical information, both of which were currently provided by Smiths Gore. He stated that report before the Cabinet served to further question the decision made on 14 July and did not provide sufficient information for the Cabinet to affirm their previous decision.
- 52.5 In response to a question from Councillor Peltzer Dunn, the Director of Finance advised that some high level costings for the provision of the in-house service had been drafted and were detailed in the report, but that no further details had been prepared.
- 52.6 Councillor G Theobald stated that the report contained a number of uncertainties; he noted that bringing the service in-house would cost significantly more and asked what budget the expenditure would come from and what reductions would be made to finance it. He advised the Cabinet to listen to the views of the tenant farmers and questioned

how bringing the service in-house would build on the progress achieved by Smiths Gore. He raised concerns about the probability of filling the surveyor position quickly within the budget allocated, the risk and implications of missed rent reviews and the need for access to considerable specialist technical knowledge. He urged the Cabinet to test the market before proceeding with the decision.

- 52.7 Councillor Mitchell advised that scrutiny of the Cabinet's original decision had enabled additional information to be brought to the fore, but that the report before the Cabinet still did not detail any direct consultation with the tenant farmers or clear financial and resource implications. She stated that the report did not demonstrate how the estate management contract for the downland estate was integral to taking the Downland Initiative forward or provide any related costs. She advised the Cabinet to instruct officers to prepare an in-house bid for the contract to enable a proper procurement process to be undertaken.
- 52.8 In response to a question from Councillor G Theobald concerning TUPE implications, the Strategic Director, Resources explained that it was likely that one and bit employees would transfer across to the council, but that a TUPE review would not take place until the decision to bring the service in-house had been confirmed.
- 52.9 In response to questions and comments from opposition councillors, Councillor J Kitcat gave the following responses:
- Smiths Gore had made some progress, but a more direct relationship with tenant farmers would enable further improvements to be made.
 - The council had consulted with tenant farmers via Smiths Gore; direct consultation had not taken place on previous occasions when the contract had been considered. Details of the consultation were not published in the original Cabinet report because Smiths Gore had deemed them to be confidential at that time.
 - There was no intention to make any council staff redundant; it was likely that additional staff would be employed.
 - The Downland Initiative was not the main reason for bringing the service in-house; information had been provided at the request of OSC, but it was not appropriate to present policy ideas when dealing with the procurement issue.
 - The new surveyor would become part of a team and access to external advice would be available if considered necessary.
- 52.10 Councillor J Kitcat acknowledged that the proposed approach would be challenging, but that the council's legal and financial officers were satisfied. The Administration was confident that significant progress could be made by bringing the service in house.
- 52.11 **RESOLVED** - That, having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendations:
- (1) That Cabinet, in accordance with Part 6, paragraph 16.10 of the Council's constitution, and having considered the resolution of the Overview and Scrutiny Commission on 22nd July and the additional information provided to OSC and in this paper, confirms its decision of 14 July 2011 in relation to the Downland Estate Management Contract.

The meeting concluded at 5.00pm

Signed

Chair

Dated this

day of