

**BRIGHTON & HOVE CITY COUNCIL**  
**OVERVIEW & SCRUTINY COMMISSION**

**3.00PM 22 JULY 2011**

**COMMITTEE ROOM 3, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Mitchell (Chair); Janio (Deputy Chair), Littman, K Norman, Rufus, Summers, A Norman, Lepper and Sykes

**PART ONE**

**27. PROCEDURAL BUSINESS**

**27a. Declarations of Substitutes**

27.1 Councillors Vanessa Brown, Matt Follett, Warren Morgan and Stephanie Powell, sent their apologies. Substitutions were as follows, Cllr Ann Norman for Cllr Vanessa Brown, Cllr Jeane Lepper for Cllr Warren Morgan and Cllr Ollie Sykes for Cllr Matt Follett.

**27b. Declarations of Interest**

27.2 Councillor Kitcat declared a prejudicial interest as his role as the Cabinet Member responsible for Finance and Central Services, and his involvement in taking the decision at Cabinet.

The Chair having taken legal advice declared a personal, non-prejudicial interest as a council nominated trustee on the Brighton and Hove Estates Conservation Trust where one of the other trustees works for Smith's Gore, the consultants who are currently contracted by the council to manage the Downland Estate.

**27c. Declarations of Party Whip**

27.3 There were none.

**27d. Exclusion from the Press and Public**

27.4 In accordance with section 100A(4) of the Local Government Act 1972, it was considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in section 100I (1) of the said Act.

**27.5 RESOLVED** – The press and public not be excluded from the meeting.

**28. CHAIR'S COMMUNICATIONS**

- 28.1 The Chair thanked everyone for attending the meeting at short notice and acknowledged that call-in meetings were very disruptive.

The Chair explained that a call-in means that a decision which had recently been taken by the Council's Executive was being challenged on the grounds of perceived flaws in the decision-making process.

Call-ins did not provide the Overview and Scrutiny Commission to substitute its own decision, but merely to refer the matter back to the decision-maker.

The decision maker could only be asked to reconsider any particular decision once.

In deciding whether or not to refer the decision back to Cabinet, Members were informed that they should be aware of the criteria set out in paragraphs 3.9 and 3.10 of the Commission report.

## **29. CALL IN OF PROVISION OF THE COMMERCIAL PORTFOLIO'S ESTATE MANAGEMENT CONSULTANCY CONTRACT**

- 29.1 Councillor Peltzer-Dunn introduced the call-in, informing the Committee that there was significant information missing from the Cabinet report with respect to the Downland Estate.
- 29.2 Cllr Peltzer Dunn clarified that it was only the Downland Estate element of the decision he was seeking to have reconsidered; the Urban Estate element he was not challenging.
- 29.3 Cllr Peltzer Dunn felt that the Cabinet report:
- did not detail what the additional costs were to the Council if the contract was taken in-house;
  - stipulated that it would be difficult to recruit specialist staff that was required to manage the contract, thereby presenting additional risk
  - stated that no budget had been allocated to address the additional costs, causing further financial pressure to the budget
  - that if the in-housing option was agreed, further work needed to be carried out to decide exactly how the new arrangements would operate to produce the most cost effective way to manage the service in-house
  - detailed no consultation feedback from the council's tenant farmers on views of the potential of the council taking direct management of the Estate
- 29.4 In responding to the call-in request Councillor J Kitcat told Commission Members that the management of the Downland Estate was central to the success of the wider Downland Initiative; something the Cabinet were anxious to prioritise. He advised that by directly managing the area it would be possible to link the Initiative to other council priorities such as in reducing the pollution levels, improving connects between the City and the South Downs National Park and in creating a Biosphere Reserve. Cllr J Kitcat felt the Cabinet report set out clear costs, and risk provisions had been taken into account in taking the decision.

In relation to the consultation with the tenant farmers, the Committee heard how this would be carried out in the future. (A meeting had taken place with Smiths Gore and two of the Cabinet Members prior to the cabinet meeting. The feedback received was limited).

- 29.5 In answer to a question on why the decision taken differed to the recommendations presented in the original report the Cabinet Member advised that Members had been presented with options but had decided that the in-house option best supported council priorities.
- 29.6 In response to a question on how the decision made fitted within the Intelligent Commissioning (IC) model, the Committee were informed that as the contract was of limited financial value it was not of a level to be prioritised within the IC model. The IC model was being used for larger strategic issues, not for every contract the council was seeking to let.
- 29.7 Commission Members queried the need to take the decision at this time, and were advised that the Urban Estate issue was more urgent than the Downland element. Members were told all decisions have an element of risk, that Cabinet accepted the risks involved with Downland Estate and that exact figures could not be estimated due to the unknown resource arrangements.
- 29.8 In response to questioning as to why the Cabinet took a decision that would require the commitment of additional council resources the Commission were informed that the Downland Initiative had to date lacked sufficient progress and it was therefore decided a different approach requiring more direct management was being taken which would it was hoped give the opportunity to apply for different external funding sources.
- 29.9 A Member commented on the lack of consultation information within the Cabinet report and how could a decision be made by the Cabinet on such vague information. Members were advised that Smiths Gore had undertaken some consultation with tenant farmers but this was currently a confidential document.
- 29.10 In answer as to who the stakeholders and cross departmental working group were in respect to the consultation, Members were advised this related to an officer group focusing on issues such as procurement and legal implications.
- 29.11 In answer to a question on what savings could be made through bringing the service in-house, the Committee were advised that through working holistically across departments and dovetailing the Downland Estate management with existing council services would provide efficiencies.
- 29.12 Comments were made that there was sufficient financial information provided in the report and that Senior Managers had reported that there would be little risk that the costs would be any greater.
- 29.13 Following Member questioning Cllr Kitcat and Cllr West left the room. Commission Members debated whether or not to refer the decision back to Cabinet.

29.14 The Strategic Director, Resources clarified that the consultation document compiled by Smiths Gore and referred to in the discussions was a routine consultation carried out by Smiths Gore towards the end of a contract to gauge client satisfaction and was not a consultation as to whether the service should be brought back in-house. The document was therefore the property of Smiths Gore.

29.15 **RESOLVED-** the Commission noted :

- (a) The decision taken by Cabinet on the 14 July 2011 in relation to the Provision of the Commercial Portfolio's Estate Management Consultancy Contract
- (b) The subsequent Call-In request
- (c) Additional information supplied by the Strategic Director, Resources.

Members voted to refer the decision on Downland Estate Management back to Cabinet for reconsideration on the grounds:

- There was inadequate consultation carried out prior to the decision being taken
- The financial implications of the decision had not been properly assessed

Additionally Members recommended that any subsequent report to Cabinet should clearly set out:

- Council objectives regarding its new proposals for the Downland Initiative with costings
- What alternative options have been explored for Downland Management
- What implications each of the options would have on key stakeholders
- The financial implications of each of the options, detailing what the risks are and a breakdown of any additional costs of the council
- Stakeholder Consultation feedback, particularly in relation to the council's tenant farmers
- The timetable for consultation and reporting back to Cabinet.

In agreeing to refer the decision back Commission Members made clear that the Urban Estate Management element was not being called-in.

The meeting concluded at 5.30pm

Signed

Chair

Dated this

day of