

Time started: 6:00pm
Time finished: 7:03pm

SPECIAL MEETING OF THE COMMUNITY COMMISSION 3 FEBRUARY 2009

Present: Councillor Nath (Chair)
Councillors Bayliss, Chera, R Khan, Leeming, Lowe,
Redfern and Richards

In attendance: Councillors Carr, Hickson and Troup

65/08 Apologies for Absence

Apologies for absence were received from Councillor Banwait.

66/08 Late Items introduced by the Chair

Two late reports were admitted by the Chair as an aid to the agenda items:

- Regarding minute 68/08, a list of Key Points from a site visit made on 2 February by the Chair and Councillor Lowe
- Regarding the Housing Rents and Service Charges, the minute extract of the Commission's earlier consideration of the issue on 20 January 2009

67/08 Declarations of Interest

Councillor Bayliss, Nath and Redfern declared personal interests in Item 69/08 as they were appointed by Council to the Derby Homes Board.

68/08 Call-In

Municipal Golf Contract

In accordance with Overview and Scrutiny Procedure Rule OS36, the Monitoring Officer had called in for scrutiny a decision in respect of the Municipal Golf Contract (minute number 181/08) made by Council Cabinet at its meeting on 13 January 2009.

The request for call-in had been made by Councillors Willoughby, Wood and Jennings.

The Commission was provided with copies of the report considered by the Council Cabinet on 13 January 2009, the letter requesting the call in, an extract of the Council Cabinet minute 181/08, the Protocol on call-in of Executive Decisions plus documentation from a 2002 scrutiny review of the golf courses. In addition, a supplementary report was provided to the

Commission that listed key points from a site visit to both golf courses undertaken the previous day by the Chair and Councillor Lowe. Photographs taken during the visits were displayed in the meeting room.

The call-in letter stated that in taking decision the Council Cabinet had breached the following principles of decision making as set out in Rule OS33 of the Constitution:

- a – proportionality;
 - d – presumption in favour of openness;
- and where relevant issues did not appear to have been taken into consideration.

In accordance with the Protocol, Councillors Willoughby, Wood and Jennings were invited to, but did not, attend the meeting. With the consent of the Chair and the Commission, Councillor Hickson presented the case for the call-in.

Councillor Hickson stated that the proposals had come as a surprise to himself and the signatories. There had been no consultation with ward councillors affected, which for Allestree included him and Councillor Willoughby. Neither had there been any user or public consultation nor had the matter been raised at the Neighbourhood Board. It was felt that the proposal was significant because it could lead to the privatisation of the golf courses.

The Cabinet Member for Direct and Internal Services responded to the points outlined by Councillor Hickson.

Councillor Carr stated that while one of the signatories' concerns was about proportionality, because public access would not be guaranteed, he informed the Commission that the report had made clear that continued public access was absolutely guaranteed. On the issue of consultation, it was reported that the playing golfers were well aware of the proposals. A wider consultation had not been appropriate because this initial stage was only testing the market. If the responses to the OJEU advert meant moving into further stages with developed proposals, that would be the time for wider consultation. The exercise was for the purpose of getting private investment into the courses to improve the facilities for users.

Members of the commission asked questions of the signatories and the Cabinet Member relating to the decision.

Councillor Leeming described the inadequate facilities at both courses, for example that Sinfin had no showers. He suggested that it may require £2m to £3m investment to bring the courses up to standard.

In response to Councillor Bayliss, Paul Robinson said that the Cabinet decision was only to place the advert in OJEU. Depending on the response it may not actually go any further. If it did go further that would be the time for formal consultation. Steve Medlock said the user consultation had been at the golf manager's regular meetings with the club representatives, they

always wanted to know what was being done to improve facilities. Steve Medlock confirmed that there had not been consultation with non users; but that with the users it had been meaningful but not formal.

Councillor Redfern referred to the Council's robust standards of decision making, involving widespread consultation, including with the neighbourhood boards. She felt that the threat to continued public access was reason in itself to consult.

Councillor Carr responded that both public access and public ownership would continue. The Chair informed the Commission that during his site visit the previous day the manager, Mr Dews, had said public access was not an issue.

Councillor Hickson made a further statement to the commission followed by a statement from the Cabinet Member for Direct and Internal Services.

Councillor Hickson said that the Council's consultation process should have been properly followed. Paul Robinson said that notifying the ward councillors should have been done. However, the proposals meant the courses would remain available to the public. He said that if good bids were received, the choice would be relatively higher fees producing more facilities or relatively lower fees but having relatively fewer facilities.

After hearing the submissions from Councillor Hickson and the Cabinet Member for Direct and Internal Services the Commission considered whether the decision of the Council Cabinet had breached any of the principles set out in Rule OS33 of the Constitution.

Resolved

a) to uphold the Call-In of Council Cabinet minute No 181/08 in respect of:

- **Principle d) presumption in favour of openness and**
- **that other relevant issues had not been taken into consideration**

and b) to refer the matter back to Council Cabinet for reconsideration.

Reasons [the following wording was agreed by the Chair and Vice Chair subsequent to the meeting]:

- a) the Cabinet Member and Corporate Director sought to reassure the Commission that the decision was only for the single step of agreeing an OJEU advert to test out market interest. As it may not proceed beyond that it was not necessary or appropriate to have wider public consultation. They said that if it did proceed further formal consultation would then occur. However, even on that**

basis it had been conceded that this first stage should have involved the ward members affected. Had that occurred the concerns expressed about continued public access could have been avoided.

- b) although the Cabinet Member and Corporate Director both said this was a single stage that might not proceed further, the decision read:**

‘To advertise the opportunity for golf operators to submit competitive tenders under OJEU rules for the operation of the Sinfyn and Allestree golf courses. The selected tenderer would be offered a minimum 25 year lease and would be required to undertake an agreed investment programme and maintain public access to the golf facilities’

The wording could be interpreted as the start of a conveyor belt process that will result in a long term lease being awarded. On that interpretation the decision should have been preceded with full, formal consultation with ward councillors, the golf course users, and the wider public.

Item for Discussion

69/08 Housing Rents and Service Charges 2009/10 Consultation

The Commission further considered a report from the Corporate Director of Corporate and Adult Services on Housing Rents and Service Charges 2009/10 Consultation. The minute setting out the Commission’s earlier consideration of the issue on 20 January 2009 was tabled.

The officer reported to the Commission that the consultation through the City Housing Consultation Group had now taken place. The consultation had been based on the information contained in the draft Housing Revenue Account subsidy determinations for 2009/10 with a convergence date of 2024/25. This had the effect of increasing the overall average increase to £3.64 or 6.33%. The rent increase could be maintained at £3.42 or 5.95% with little detrimental effect on the HRA and continuing to move towards convergence. It was noted that this had been explained to the leaseholders and an increase of 5.95% was accepted by them as the preferred option.

The Commission were informed that service charges and garage rents would continue to be reviewed so that their proper economic cost could be determined. It was reported that a restriction imposed by the Government on un-pooled service charges limited the increase allowed to RPI plus 0.5% except where the council had no control over rising costs, such as increased charges for energy, or for new services. It was therefore proposed that existing unchanged service charges for 2009/10 should be increased by RPI

plus 0.5% plus an adjustment for increased energy costs where necessary. At the first phase, the consultation proposed that there would be new charges for smoke alarms – flats/bungalows/houses and burglar alarms and a revised charge for energy supplies – sheltered schemes. The target implementation date for these new and revised services was to be 6 April 2009, but this would now be put back to a future date to allow for more consultation on the impact of the separation of service charges from the rent and to determine the position with regard to Housing benefit on such charges.

Members raised concern that there was still further clarity required on the position for service charges relating to smoke alarms and burglar alarms. These issues would need to be clarified further and more consultation would be required with the leaseholders before such charges were introduced.

Resolved to note the proposals for Housing Rents and Service Charges and the Shelton Lock Mobile Homes Park Rents for 2009/10.

MINUTES END