



Walsall Council

Minutes of the **MEETING** of the Council of the Walsall Metropolitan Borough held on **Monday 9 November, 2009, at 6.00 p.m.** at the Council House.

Present

Councillor J.G. O'Hare (Mayor) in the Chair

Councillor J.G. O'Hare (Mayor)

" A.G. Clarke (Deputy Mayor)
" A.J.A. Andrew
" T.G. Ansell
" D.A. Anson
" M. Arif
" C.M. Ault
" J.M. Barton
" L.A. Beeley
" M.A. Bird
" C. Bott
" P. Bott
" R. Carpenter
" B. Cassidy
" J. R. Cook
" S.P. Coughlan
" C.U. Creaney
" B.A. Douglas-Maul
" M. D. Flower
" A.E. Griffiths
" A.D. Harris
" L.A. Harrison
" E.F. Hughes
" P.F. Hughes
" H. Khan
" M. Longhi
" S.W. Madeley

Councillor Ms. R.A. Martin

" Mrs. B.V. McCracken
" M. Munir
" M. Nazir
" T.S. Oliver
" A.J. Paul
" G. Perry
" K. Phillips
" D.J. Pitt
" M.G. Pitt
" I.C. Robertson
" J. Rochelle
" B. Sanders
" H.S. Sarohi
" K. Sears
" Mrs. D.A. Shires
" I. Shires
" P.E. Smith
" C.D.D. Towe
" D.J. Turner
" W.T. Tweddle
" A. Underhill
" R.A. Walker
" G. Wilkes
" M. Yasin
" P.A. Young
" Zahid Ali

49. **Apologies**

Apologies for non attendance were submitted on behalf of Councillors Aftab, Chambers, Johnson, Nazir, Mrs. Pitt and Woodruff

50. **Minutes**

Resolved

That the minutes of the meeting held on 14th September, 2009, copies having been sent to each member of the Council, be approved as a correct record and signed.

51. **Declarations of interest**

Councillor Twedde declared a personal and prejudicial interest in Items 8(2), (3) and (4) – recommendations of Licensing and Safety Committee with regard to street trading review and policy.

52. **Mayor's Announcements**

(1) **West Midlands Member Development Charter**

The Mayor congratulated the Member Development Working Group on retaining the Member Development Charter award for the continued development of elected members.

(2) **Drinks**

As this was the last ordinary meeting of the year, the Mayor invited members to join him for drinks in the Mayor's Parlour at the conclusion of the meeting.

53 **Question from members of the Council**

(1) **External legal advice**

Councillor Robertson asked the following question of Councillor Towe:

What has been the cost of seeking external legal advice from barristers in the last 12 months split into costs relating to planning advice, those relating to employment matters and those relating to other areas?

Councillor Towe replied that when the demand for legal advice exceeded internal capacity or where advice was needed on a subject matter where there was no in-house expertise, then with the client's agreement Counsel may be engaged on a case by case basis to ensure that the Counsel with the right kind and level of experience was engaged.

He said that in the last 12 months the Council had spent £56,361.79 on planning, £90,284.79 on social care, predominantly in relation to child protection matters and £356,004.14 on litigation of which £345,756.64 was on employment law. Employment law advice covered both proactive and reactive advice on areas such as equal pay and other employment matters.

Councillor Robertson asked the following supplementary question:

What was the budget provision for the next 12 months?

Councillor Towe said that this was in part an influenced led service and claims were being received all the time therefore it was difficult to estimate costs. He went to say that he was looking at extra capacity and the budget would be produced in the next few days.

(2) Disabled Facilities Grant

Councillor Smith asked the following question of Councillor Andrew:

Given that the response to a question I asked at the last Council meeting (14/9/09) revealed that in Walsall the budget for Disabled Facilities Grants has, as a result of cuts by this Council, been reduced from £ 5.6m in 2006/7 to £ 2.2 m in 2009/10 (a cut of £ 3.4 m) and given that DFGs are mandatory which means that the Council has a statutory duty to process them and that there is a condition of the grant that the eligible works are carried out within 12 months from the date of approval of the application, can you give me, this Council and the public:

- (a) an assurance that Walsall Council is fulfilling its legal responsibilities both in terms of approving all valid applications and processing them within the prescribed time frame, and
- (b) an explanation as to how the Council manages to fulfil its mandatory and statutory obligations with regard to DFG's whilst it has simultaneously made cuts to the DFG budget of approximately £ 3.4 millions over the last three years?

Councillor Andrew replied that the Council was fulfilling its legal responsibilities both in terms of processing and approving all valid disability facility applications within the prescribed government time frames. The Government provided Councils with a 6 month period to consider valid applications. Grants that were approved then had a 12 month valid period i.e. the time for the works to be completed. He said that this time can be extended at the discretion of the Council, for example where there were major works being undertaken or where a resident had been hospitalised and works had been delayed.

Councillor Andrew said that each of the enquirers was advised of their options in writing. For example, they were provided with the opportunity to be considered for the Council's discretionary agency service or to progress their own enquiry. In addition residents were advised of the Walsall Adopted Housing Services which provided valuable support to help people to move into already adapted properties.

As previously explained, Councillor Andrew said from 2006 to the current year the Council had spent £10,388,460 of its own budget on DFG and related aids and adaptations works supported by £2,650,000 of Government grants.

54. **Recommendations of Licensing and Safety Committee**

(1) **Street trading review – criteria for shop displays and advertisements on the highway**

The report to Licensing and Safety Committee on 9th September 2009 was submitted:

It was **moved** by Councillor Sears, duly seconded and:

Resolved

That the Council approve the following:

- (a) the fees outlined at Appendix 1;
- (b) the criteria for shop displays as detailed at Appendix 2;
- (c) the criteria for licensed advertisements on the highway as detailed in Appendix 4;
- (d) that a 3 month consultation period be undertaken prior to final approval by Council and implementation from 1st April, 2010;
- (e) that Licensing and Safety Committee determine applications when representations are received and not subsequently withdrawn.

(2) **Street trading review – change of designation to consent streets**

The report to Licensing and Safety Committee on 9th September 2009 was submitted.

It was **moved** by Councillor Sears, seconded by Councillor Bird and:

Resolved

- (a) That the Council approve the proposals in pursuance of the powers conferred by virtue of Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act, 1982.
- (b) That the Council authorises the commencement of the procedure under Schedule 4 Paragraph 2 of the Local Government (Miscellaneous Provisions) Act 1982 to designate all streets currently designated as licensed for the purposes of street trading as consent streets, other than those designated sites identified in (d) below that are to remain as licensed sites. Such designation coming into force on a date to be determined by Council and that the Head of Public Protection be authorised to make the necessary statutory advertisements (a list of all streets currently designated as licensed streets is attached as Appendix 1 of the report).
- (c) That a further three month consultation period be undertaken before final approval by Council and implementation from 1st April 2010.
- (d) That in re-designating the streets from licence to consent, for existing licence holders, the licensing service will not propose any changes to the permit held during its lifetime (including renewals) without the agreement of the permit holder. There are only five current license holders and these are detailed below:

Name	Location
F. Smith	Walsall Town Centre
C. Baxter	Walsall Town Centre
B. Singh	Walsall Town Centre
W. Tweddle	Walsall Town Centre
P. Smith	Bloxwich Cemetery

(3) Street trading policy

The report to Licensing and Safety Committee on 9th September 2009 was submitted.

It was **moved** by Councillor Sears, duly seconded and:

Resolved

- (a) That the statement of Street Trading Policy detailed at Appendix 3 be approved, subject to paragraph 13 of the policy being amended by the deletion of the words 'three to five years free of such offences' and replaced with the words 'five to eight years free of offences' and the deletion in the last sentence of that paragraph of the words 'at least five years' and replacement with the words 'a minimum of 10 years'.

- (b) That the statement of street trading policy be reviewed on a regular basis, at intervals not exceeding two years.
- (c) That a two tier consent system be established as detailed in the statement of street trading policy at Appendix 3.
- (d) That authority be delegated to the Licensing and Safety Committee to:
 - (i) determine applications when representation are received and not subsequently withdrawn;
 - (ii) to revoke a consent for street trading or other street activity;
 - (iii) to add, remove or amend conditions attached to street trading and other street activity consents;
 - (iv) to set annual fees for street trading and other street activity consents.
- (e) That officers be delegated authority to:
 - (i) amend the application process as may be set out from time to time in the Council's Street Trading Policy;
 - (ii) issue a consent if an application is properly made out and no representations are received from consultees, or representations have been received but subsequently withdrawn;
 - (iii) amend the Street Trading Policy in accordance with future requirements of the EU Services Directive 2006/123/EC and report those changes to Licensing and Safety committee.
- (f) That in accordance with the resolution of Licensing and Safety Committee on 19th March 2008, the Trading Standards Manager be delegated the authority to devise specifications for vehicles/units but in the event of disagreement on the suitability of a particular unit, the matter be referred to the Licensing and Safety Committee for consideration.

(4) **Street trading review – designated street trader sites**

The report to Licensing and Safety Committee on 21st October 2009 was submitted:

It was **moved** by Councillor Sears, duly seconded and:

Resolved

- (a) That the following proposals be approved in pursuance of the powers conferred by virtue of Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act, 1982:

- (i) That the Council hereby designates the whole of Walsall Town Centre as prohibited for the purpose of street trading except for certain sites listed within Appendix 4 and detailed in the plans 20 to 44A (excluding 23, 25 and 32) of the attached Appendix 5 which sites be designated consent streets (street being defined as part of a street) for the purposes of street trading, such designations coming into force on a date to be determined by Council and that the Head of Public Protection be authorised to make the necessary statutory advertisements (this proposal being subject to the temporary relocation of Walsall Market);
- (ii) That in re-designating the streets from licence to consent, for existing licence holders, the licensing service will not propose any changes to the permit held during its lifetime (including renewals) without the agreement of the permit holder. There are only five current licence holders and these are detailed below:

Name	Location
F. Smith	Walsall Town Centre
C. Baxter	Walsall Town Centre
B. Singh	Walsall Town Centre
W. Tweddle	Walsall Town Centre
P. Smith	Bloxwich Cemetery

- (iii) That the Council designates the streets listed at Appendix 6 as prohibited for the purpose of street trading except for certain sites identified at plans 1 to 5, 8 to 16 and 18, of the attached Appendix 5, which sites be designated consent streets (street being defined as part of a street) for the purposes of street trading, such designation coming into force on a date to be determined by Council and that the Head of Public Protection be authorised to make the necessary statutory advertisements;
- (iv) That the Council hereby designates the sites identified at plans 6, 7 and 17 of the attached Appendix 5 as designated sites within a consent street;
- (v) That the establishment of designated sites for other street activity as detailed at paragraphs 9.3 c and 9.4 of the report approved.
- (b) That the list of designated sites for street trading in the districts be reviewed on a regular basis at intervals not exceeding two years and in the case of Walsall Town Centre on the permanent siting of Walsall market and thereafter at intervals not exceeding two years.
- (c) That a further three month consultation period be undertaken prior to final approval by Council and implementation from 1 April, 2010.
- (d) That the fees outlined at Appendix 1 to the report be approved.

(5) **Gambling Act 2005 – revision of statement of principles**

The report to Licensing and Safety Committee on 21st October 2009 was submitted.

Resolved

That approval be given to the proposed revised statement of principles contained in Appendix 2 to the report now submitted.

55. **Local Admission Forum**

The report was submitted.

It was **moved** by Councillor Bird, seconded by Councillor Walker:

Resolved

- (1) That approval be given to a new constitution for the membership of the Admission Forum as set out in paragraphs 3.13, 3.5 and 3.7 of the report and that members be appointed for a four year term of office.
- (2) That the existing representation of two elected members on the Admission Forum be retained and that Councillors Carpenter and Walker be appointed to the Admission Forum.
- (3) That a further report be submitted in January 2010 following receipt of nominations.
- (4) That members of the current Admission Forum be thanked for their work on admissions matters.

At this point in the meeting for the following item, the Council sat as charitable trustees where the normal Council procedure rules do not apply.

56. **Cannock Chase and Pelsall District Miners Charity (Oak Park)**

The report was submitted.

It was **moved** by Councillor Towe, duly seconded and:

Resolved

- (1) That the Council note the Charity Commission order and direction that a land swap of the Council land indicated on Plan A with Charity land marked on Plan B be undertaken by no later than the 21 May 2010.

- (2) That the Trustees authorise the land swap as detailed above in paragraph (1) above.
- (3) That the Trustees authorise the Assistant Director of Legal and Constitutional Services to execute the necessary contractual documentation on behalf of the trust.

57. Notice of motion – Review of the Constitution

The following motion, notice of which had been duly given was **moved** by Councillor Oliver and seconded by Councillor Coughlan:

This Council resolves to establish a cross-party working group to review the constitution in relation to meetings of the full Council, to report in time for recommendations to be considered at the next Annual Council Meeting (2010).

We believe that “the full Council meeting should be a showcase for what the Council is doing in its area, and for discussions about the issues and challenges it faces. Councillors are elected as individuals to represent wards, but also as a group to speak for the area and to hold its decision makers to account”. (*** Ian Briggs and Andrew Coulson in “C’Illr”, July 2009*).

Unfortunately we do not believe that this is achieved under current arrangements, and a brief review indicates that the majority of our Council statutory agendas would provide very short meetings and little or no opportunity for interaction and accountability for the Cabinet executive.

We would therefore request that the proposed working party include consideration of the following policy options, in no particular order of priority :

- That Council meetings should revert to (at least) the previous six weekly frequency.
- That individual Cabinet portfolio holders present a report on their work to full Council on a rota basis, to include questions and debate.
- That Scrutiny Panel reports be presented to full Council by the relevant Chairs, to include questions and debate.
- That consideration be given to a period at each Council meeting of open questions (without notice) to portfolio and other holders of formal position (as in Birmingham City Council).
- That consideration be given to the role of chairing the Council (as separate from the Mayoralty).

- That consideration be given to a fairer and more even distribution of the appointment of Chairs of Scrutiny Panels.
- That there be a more formal and better process of response to public petitions presented to Council.
- That there be a more structured full debate as to the “state of Walsall”, as outlined within the constitution : that the state of Walsall debate (at least) include contributions from other major partners across the Borough, as reflected in the Walsall Partnership (LSP), and the opportunity for all Councillors to contribute.
- That political groups be given additional research facilities / support to foster more informed discussion and policy.
- That an overview of meetings of the Council be factually reported on the Council’s intranet - which at current viewing gives no indication or reference to our “democratic process”.

It is clearly recognised that the above policy proposals are designed to hold the Cabinet and the decision-making process to greater account, and to make the process more relevant to the people of Walsall.

On being put to the vote the motion was declared lost – 18 members voting in favour and 33 against.

The meeting terminated at 6.44 p.m.