



Walsall Council

Minutes of the **MEETING** of the Council of the Walsall Metropolitan Borough held on **Monday 18th November 2013 at 6.00 p.m.** at the Council House.

Present

Councillor M. Nazir (Mayor) in the Chair

Councillor P.E. Smith (Deputy Mayor)

“ Z. Ali
“ A.J.A. Andrew
“ R.E. Andrew
“ D.A. Anson
“ M. Arif
“ I. Azam
“ D.J. Barker
“ O.D. Bennett
“ M.A. Bird
“ C. Bott
“ P. Bott
“ R. Burley
“ B. Cassidy
“ K. Chambers
“ J. R. Cook
“ D. Coughlan
“ S.P. Coughlan
“ A. Ditta
“ B.A. Douglas-Maul
“ J. Fitzpatrick
“ S.F. Fitzpatrick
“ M. D. Flower
“ A.D. Harris
“ L.A. Harrison
“ E.F. Hughes
“ K. Hussain

Councillor G. Illmann-Walker

“ D. James
“ L.D. Jeavons
“ T.J. Jukes
“ P. Lane
“ M. Longhi
“ Ms. R.A. Martin
“ Mrs. B.V. McCracken
“ J. Murray
“ T.S. Oliver
“ G. Perry
“ K. Phillips
“ L.J. Rattigan
“ J. Rochelle
“ E.B. Russell
“ H.S. Sarohi
“ K. Sears
“ Mrs. D.A. Shires
“ I. Shires
“ R.M. Thomas
“ C.D.D. Towe
“ A. Underhill
“ S. Wade
“ F.J. Westley
“ V. Whyte
“ R.V. Worrall
“ A. Young

63. **Apologies**

Apologies for non-attendance were submitted on behalf of Councillors Clarke, Creaney, Turner and Woodruff.

64. **Minutes**

Resolved

That the minutes of the meeting held on 23rd September 2013 copies having been sent to each member of the Council, be approved as a correct record and signed.

65. **Declarations of interest**

There were no declarations of interest.

66. **Local Government (Access to information) Act 1985**

There were no items to be considered in private session.

67. **Mayor's announcements**

(1) **Death of Mrs. M. Westwood**

The Mayor referred to the recent death of Mrs. M. Westwood, Mayoress in 1985/86 and paid tribute to her services. It was **moved** by the Mayor, duly seconded and:

Resolved

That this Council expresses its regret at the death of Mrs. M. Westwood Mayoress of the Walsall Metropolitan Borough Council in 1985/86 and places on record their appreciation of her services to the borough and expresses its condolences to her family at this sad time.

(2) **Drinks**

As this was the last meeting of the year, the Mayor invited members to join him in the Mayor's Parlour for drinks. The Mayor said that this would be paid for out of his Mayoral allowance.

68. **Petitions**

The following petitions were submitted:

- (1) Councillor Bennett – parking situation on Clockmill Estate, Pelsall.
- (2) Councillor Jukes – Mirus Academy – petition for safer crossing.
- (3) Councillor Towe – problem tree at the top end of Chantrey Crescent.
- (4) Councillor Wade – Raven's Court and the former Warrener's Arms Pub.

69. **Questions from members of the Council**

(1) **Brush Garage**

Councillor Worrall asked the following question of Councillor Perry:

“With reference to the Notice of Motion passed at the last Council meeting concerning the Brush Garage, and, specifically, to the advice of the Council's legal officers set out in paragraph 4, that *‘Council has given full delegated powers to Planning Committee to determine planning applications, so that, if there were to be any decision to revisit enforcement issues, then this would need to be initiated, not by Full Council, but with the consent of the Chair of Planning Committee’*, may I now ask Cllr. Perry whether, (given the Ombudsman's finding of injustice arising from multiple instances of maladministration involving both elected members and officers) he is minded to consent to Planning Committee revisiting issues of enforcement in the case of the Brush Garage?”

Councillor Perry replied that at the next meeting of Planning Committee on Thursday 21st November he proposed to move a motion to request a report from officers on this matter.

Councillor Worrall asked the following supplementary question:

Would Councillor Perry confirm that in addition to himself, and in order to conserve the good names of members, the following members of the Planning Committee, Councillors Ali, R. Andrew, Arif and Douglas-Maul are not the three Conservative members identified in the Omubudman's report as Councillors Q, X Y?

Councillor Perry replied yes.

(2) **Discretionary housing payments (“bedroom tax”)**

Councillor Smith asked the following question of Councillor Towe:

“Would the Portfolio holder give me, this Council and the public a statement on how the 2013/14 budget allocation of £817,745 for Discretionary Housing Payment (to assist those most adversely affected by the so called “bedroom tax”) is being used, hopefully covering such issues as: the amount spent to date, any projected under-spend or over-spend by the end of the financial year, the number of requests received for DHP compared to the number granted, the average amount and other types of assistance provided and any associated costs to the Council for administering this policy such a staffing costs, adaptations to properties disabled people are downsizing to and for attending First Tier Tribunals regarding tenants appealing under-occupancy policy decisions?”

Councillor Towe replied that the Council had received a “discretionary housing payments (DHP)” grant of £590,745 from the Department of Work Pensions and an additional investment of £818,000 from the local authority.

He said that that for the period 1st April to 31st October 2013, a total of 1049 applications had been considered, with 926 being successful; of these 527 were for the bedroom tax. During this period the total amount spent was £227,000 which had been allocated in the budget. The average award was £293.54.

The household benefit cap was fully implemented at the end of September 2013 and the full impact of the demand on DHP had yet to be realised. Councillor Towe said that the help the service was giving to customers was detailed in the leaflet circulated around the Council Chamber.

Councillor Smith asked the following supplementary question:

Given the explanation, do you anticipate that the same amount will be put aside next year or will it to be more?

Councillor Towe said that he could not say, but the Council would deal with it when it was known.

(3) Street sweepers

Councillor Ditta asked the following question of Councillor A. Andrew:

“Could the portfolio holder for regeneration and transport please inform members as to how many vehicles such as street sweepers are or were owned by the Council; how many (if any) of these have been leased or sold to contractors such as Tarmac group; how many members of staff have been transferred to Tarmac; how many of these contractors are providing training schemes and apprenticeships for the young people of Walsall?”

Councillor Andrew replied that street sweepers were either owned by the Council or hired in through contract hire agreement with Dawson Rentals and operated by Clean and Green services. They did not form part of the service provided by Lafarge Tarmac.

He said that in May 2009 partnering arrangements commenced for the delivery of the highways maintenance service with what was known as Lafarge Tarmac. Three Council-owned vehicles were transferred to Lafarge Tarmac as part of the contractual arrangements. However, these vehicles which were also used to assist with the winter service, were returned to the Council and sold when new vehicles were acquired. Lafarge Tarmac currently operated ten vehicles which were procured by the Council of which five were owned by the Council and leased to the contractor and five were leased by the Council and sub leased to Lafarge Tarmac.

Councillor Andrew advised that a total of 44 Council employees were transferred to Lafarge Tarmac under TUPE as part of the contractual arrangements for the delivery of the highways maintenance service in May 2009.

Councillor Ditta asked the following supplementary question:

It has been brought to my attention that Walsall Council has purchased vehicles such as refuse collectors, street sweepers and road gritters then leased these vehicles to a leasing company then leased these vehicles back from the company to sub-lease to service providers such as Tarmac. This seems to be a very complex and expensive situation, could the portfolio holder please clarify this?

Councillor Andrew said that he would write to Councillor Ditta in response to his supplementary question.

(4) Council House forecourt

Councillor Worrall asked the following question of Councillor A. Andrew:

"Given the Council's professed policies of encouraging green travel and healthy lifestyles, can Cllr. Andrew explain why the cycle stands that were located prominently to the right hand side of the entrance to the Council House were removed in the course of the resurfacing of the forecourt, and whether they will be reinstated in that position?"

Councillor A. Andrew said that the stands had been reinstated just to the left of the entrance to the forecourt. Staff monitored the use of the cycle stands and at present they were not yet fully utilised.

Councillor Worrall referred to the cost of resurfacing the forecourt of the Council House and stated that he understood that the cost was around £30,000. He asked Councillor Andrew if he would explain why Brownhills Area Panel had been informed that the cost of setting out six parking spaces would be in the region of £42,000.

Councillor Andrew replied that he assumed that some of the cost for the parking spaces would include the costs of construction.

(5) **Palfrey Park**

Councillor Ditta asked the following question of Councillor Harris:

“Will the portfolio holder for leisure and culture please consider support from Walsall Council for the creation of an "outdoor gym" to supplement the facilities within Palfrey Park, which is well used by our local community for health and exercise, and, if so, outline what form this support would take?”

Councillor Harris replied that the provision of outdoor gyms in the borough's main parks, such as Palfrey Park, was an important priority in the green spaces strategy. There was no specific budget for providing outdoor gyms and so their installation was dependent on securing funding from relevant Council services, partners and external sources. This was done in conjunction with friends and user groups and other interested community organisations.

He said that the cost of an outdoor gym was £25,000 including site works. So far facilities had been installed at Willenhall Memorial Park, Reedswood Park and High Heath Park, Pelsall. Funding for these schemes came from several sources, including adult social care, green spaces, area partnerships, sport and leisure, friends groups and the landfill tax trust.

Councillor Harris said that Palfrey Park was a priority for an outdoor gym and the Palfrey Park Friends and Users Association had endorsed this. Officers were preparing designs and costs and work would continue in partnership with the friends group to secure funds for the project.

(6) **Rent arrears – “bedroom tax”**

Councillor Smith asked the following question of Councillor Towe:

“Would the Portfolio holder inform me, the Council and the public of the amount of rent arrears owed to Walsall's biggest social landlord, WHG, as a result of the introduction of the spare room subsidy legislation, more commonly known as the “bedroom tax” after the first 6 months of it being operational?”

Councillor Towe replied that WHG had stated that new debt of circa £300,000 could be directly attributed to the introduction of the “bedroom tax”.

Councillor Smith asked the following supplementary question:

Looks like that in a full year this would be £600,000?

Councillor Towe said that was a reasonable guess, the six monthly figure times two. This was a matter for WHG and he could not provide any further information.

(7) **“Bedroom tax” – size of spare bedrooms**

Councillor Smith asked the following question of Councillor Towe:

“Given that a recent ruling by Mr. Simon Collins, QC, acting as a judge in an appeal tribunal in Fyfe, Scotland, (Nelson v Fife Council) ruled that a room less than 50 square feet is not a bedroom and that a room measuring between 50 and 70 square feet is only suitable for children under 10 and given further that since the legislation underpinning the “bedroom tax” says nothing about room size, the judge thought it reasonable to be guided by the 1987 Housing Act (1985 in England & Wales, section 326) which states that an adult bedroom should be no smaller than 70 square feet, and guided also by Housing Benefit Circular A4/2012 which indicates that a room was only to be considered a “bedroom” for bedroom tax purposes if it could be occupied by an adult, do you think that in the light of this, Walsall Council’s Benefits section should now satisfy itself on the size of so called spare bedroom/s prior to making individual assessments on “bedroom tax” charge in order to avoid possible successful and potentially costly appeals?”

Councillor Towe replied that the Department of Work and Pensions has issued an urgent circular after the tribunal decision and confirmed the original policy intention that bedrooms were designated by the landlord and not by the Council’s benefits service.

He said that under the bedroom tax, social housing households with occupants of working age had their housing benefit reduced if they were deemed to have spare bedrooms. The Department for Work and Pensions had not defined a bedroom, saying it was up to landlords to “Accurately describe the property in line with the actual rent charged”.

Councils were responsible for awarding the housing benefit using information provided by the social landlord.

Councillor Towe said this tribunal decision would not set a legal precedent. This meant that the ruling would not have a direct impact on any other case in the borough.

His advice would be that if people disagreed with the number of bedrooms used in the housing benefit calculation they should take this issue up with their landlords and the Council’s housing benefit section.

Finally Councillor Towe said that since the introduction of the bedroom tax, the Council had had three appeals against the reduction in benefit. Only one applicant had decided to go forward with the appeal and this was waiting to be heard by the tribunal. The Council was working closely with tenants and housing associations to help.

70. Annual Audit letter 2012/13

The reports to Audit Committee on 11th November 2013 were submitted.

The following recommendation of the Audit Committee from its meeting held on 11 November 2013 was submitted:

“That the Annual Audit letter be referred to Council for consideration in accordance with the recommendations contained in the Annual Audit letter, at pages 5 and 6, and to decide on the relevant action required as a consequence.”

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

Resolved

- (1) That the recommendation as set out in the Annual Audit letter be noted and accepted.
- (2) That the identified actions being taken by the Council to address the recommendation be noted.
- (3) That oversight of these actions be delegated to the Audit Committee.

71. Recommendation of Brownhills, Pelsall, Rushall-Shelfield Area Panel – Co-opted members

It was **moved** by Councillor Cassidy and seconded by Councillor Worrall:

That the following individuals be appointed as co-opted members of the Brownhills, Pelsall, Rushall, Shelfield Area Panel for the remainder of the 2013/14 municipal year:

- Mr. Francis Hodgkinson
- Mrs. Janet Davies
- Mr. Simeou Mayou
- Mr. Gerald Bradley
- Mrs. Dawn Munday
- Mr. Douglas Birch MBE
- Mr. Barry Poxon
- Mr. Ron Carpenter
- Mrs. Victoria Murrell
- Mr. Ian Roberts
- Mr. Nasib Bassi

Amendment moved by Councillor Bird and seconded by Councillor Worrall:

That the recommendation be deferred until April 2014 when a review takes place and officers prepare a report to Cabinet.

On being put to the vote the amendment was declared lost – 15 members voting in favour and 26 against.

The motion was put to the vote and declared carried – 27 members voting in favour and none against and it was:

Resolved

That the following individuals be appointed as co-opted members of the Brownhills, Pelsall, Rushall, Shelfield Area Panel for the remainder of the 2013/14 municipal year:

- Mr. Francis Hodgkinson
- Mrs. Janet Davies
- Mr. Simeou Mayou
- Mr. Gerald Bradley
- Mrs. Dawn Munday
- Mr. Douglas Birch MBE
- Mr. Barry Poxon
- Mr. Ron Carpenter
- Mrs. Victoria Murrell
- Mr. Ian Roberts
- Mr. Nasib Bassi

72. Annual scrutiny report 2012/13

The report was submitted.

It was **moved** by Councillor S. Coughlan, seconded by Councillor Rochelle and:

Resolved

That the Annual Scrutiny report for 2012/13 be noted.

73. Protection of Freedom Act – Disclosure and Barring checks (formerly CRB checks)

The report to Standards Committee on 7th October 2013 was submitted.

Resolved

That the report of Standards Committee be noted.

74. Portfolio holder briefing

Councillor McCracken, portfolio holder for social care gave a presentation.

Members asked questions in relation to the presentation which were responded to by Councillor McCracken.

75. Notice of motion – Alternative budget

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

As there is no overall control of Walsall Council given the finely balanced political composition of Councillors, namely 28 Labour, 24 Conservatives, 5 Liberals, 2 Independents and 1 Democratic Labour and further given that all 3 main Parties feel that to produce a balanced budget, further cuts to Council services and jobs need to be made, this Council not only calls on the present Conservative/Liberal administration to present its budget proposals for 2014/15 to Council at a meeting in February 2014 but also strongly recommends that in the interests of openness and transparency, the Labour Opposition Group, being the Party with the most seats, also present their alternative budget at the same meeting, in order that it is open and transparent before any vote is taken, as to what would be the difference, if any, between the present administration and the Labour Opposition, with regard to their budget proposals for 2014/15.

This Council further reminds its members and the public that its most senior Council Officers are there to give equal assistance and the fullest cooperation to the Labour Group in order for it to be in a position to present its alternative budget at the same meeting in February 2014.

Amendment moved by Councillor S. Coughlan and duly seconded:

As there is no overall control of Walsall Council given the finely balanced political composition of Councillors, namely 28 Labour, 24 Conservatives, 5 Liberal Democrats, 2 Independents and 1 Democratic Labour and further given that all 3 main Parties feel that to produce a balanced budget, further cuts to Council services and jobs need to be made, this Council not only calls on the present Conservative/Liberal administration to present its budget proposals for 2014/15 to Council at a meeting in February 2014 but also strongly recommends that in the interests of openness and transparency, the Labour Opposition Group, being the Party with the most seats, also present their alternative budget at the same meeting, in order that it is open and transparent before any vote is taken, as to what would be the difference, if any, between the present administration and the Labour Opposition, with regard to their budget proposals for 2014/15.

This Council further reminds its members and the public that its most senior Council Officers are there to give equal assistance and the fullest cooperation to the Labour Group in order for it to be in a position to present its alternative budget at the same meeting in February 2014.

This Council further:

- condemns the policies of austerity of the current coalition Conservative and Liberal Democrat government which have impacted unfairly and disproportionately on local government and in particular on disadvantaged boroughs such as Walsall and the wider Black Country
- notes the catastrophic impact in the current circumstances of failing to set a legal and balanced budget – a course of action that has been and continues to be advocated on many occasions by Councillor Smith
- notes that the presentation of full and formal “alternative budgets” is very unusual in both national and local politics
- and in particulate that no “alternative budget” had been presented in Walsall in living political memory, including the periods of group leadership of Councillor Bird, Powell or Church
- notes that, as confirmed by the “Doncaster judgement” the budget in February in effect sets the Council tax cash limits for the following financial year and all other relevant revenue budget decisions can be changed under delegations through the Cabinet (Executive).

On being put to the vote the amendment was declared lost – 27 members voting in favour and 28 against.

Amendment moved by Councillor Jeavons and seconded by Councillor S. Coughlan:

As there is no overall control of Walsall Council given the finely balanced political composition of Councillors, namely 28 Labour, 24 Conservatives, 5 Liberal Democrats, 2 Independents and 1 Democratic Labour and further given that all 3 main Parties feel that to produce a balanced budget, further cuts to Council services and jobs need to be made, this Council not only calls on the present Conservative/Liberal administration to present its budget proposals for 2014/15 to Council at a meeting in February 2014 but also strongly recommends that in the interests of openness and transparency, the Labour Opposition Group, being the Party with the most seats, also present their alternative budget at the same meeting, in order that it is open and transparent before any vote is taken, as to what would be the difference, if any, between the present administration and the Labour Opposition, with regard to their budget proposals for 2014/15.

This Council further reminds its members and the public that its most senior Council Officers are there to give equal assistance and the fullest cooperation to the Labour Group in order for it to be in a position to present its alternative budget at the same meeting in February 2014.

This Council further notes that a future incoming Walsall Labour administration commits that it would:

- campaign against the iniquitous financial settlements imposed by current coalition Conservative and Liberal Democrat government, and in particular the fact that these policies impact unfairly and disproportionately on disadvantaged boroughs such as Walsall and wider Black Country
- work within a legal budget framework, acknowledging the difficulties and injustice imposed through the above imposed government financial policies
- instigate an immediate “zero budget” review of all Walsall Council expenditure
- develop proposals to review and reduce senior and middle management structures and costs so as to best protect frontline services
- strive within budget limits as imposed to prioritise and best protect vulnerable individuals, groups and communities wherever they exist within our borough
- develop more flexible and evolved ways of working which would be more responsive to the needs of our local neighbourhoods
- develop new and imaginative schemes of partnership working which would seek to mitigate the worst impact of government policies.

On being put to the vote the amendment was declared lost – 27 members voting in favour and 28 against.

On being put to the vote the motion was declared carried and it was:

Resolved

As there is no overall control of Walsall Council given the finely balanced political composition of Councillors, namely 28 Labour, 24 Conservatives, 5 Liberals, 2 Independents and 1 Democratic Labour and further given that all 3 main Parties feel that to produce a balanced budget, further cuts to Council services and jobs need to be made, this Council not only calls on the present Conservative/Liberal administration to present its budget proposals for 2014/15 to Council at a meeting in February 2014 but also strongly recommends that in the interests of openness and transparency, the Labour Opposition Group, being the Party with the most seats, also present their alternative budget at the same meeting, in order that it is open and transparent before any vote is taken, as to what would be the difference, if any, between the present administration and the Labour Opposition, with regard to their budget proposals for 2014/15.

This Council further reminds its members and the public that its most senior Council Officers are there to give equal assistance and the fullest cooperation to the Labour Group in order for it to be in a position to present its alternative budget at the same meeting in February 2014.

76. Notice of motion – Freedom of the Borough

The following motion, notice of which had been duly given was **moved** by Councillor Smith and seconded by Councillor P. Bott:

This Council resolves to give consideration, in principle, to conferring the honour of Freedom of the Borough of Walsall on Neville John Holder, better known as Noddy Holder, who was born in Caldmore, Walsall in 1946 moved to the Beechdale Estate, Walsall in the 1950s and later attended TP Riley School in Bloxwich before becoming famous locally, nationally and internationally as a singer-songwriter, musician, writer, broadcaster, actor and voice over artist spanning more than 40 years, most famously associated with the rock band, Slade.

At this point in the meeting it was **moved** by Councillor I. Shires, duly seconded and:

Resolved

That Council procedure rules be suspended to enable the business of the meeting to be completed.

Amendment moved by Councillor Oliver and duly seconded:

That the following be added to the motion:

- (2) This Council further resolves to instruct its officers to consult and develop a protocol in relation to any future nominations to confer the Freedom of the Borough of Walsall, to be presented for consideration at a meeting of this Council at the earliest opportunity.

The Mayor confirmed that Councillor Smith has accepted the inclusion of the amendment into the motion and accordingly it was:

Resolved

- (1) This Council resolves to give consideration, in principle, to conferring the honour of Freedom of the Borough of Walsall on Neville John Holder, better known as Noddy Holder, who was born in Caldmore, Walsall in 1946 moved to the Beechdale Estate, Walsall in the 1950s and later attended TP Riley School in Bloxwich before becoming famous locally, nationally and internationally as a singer-songwriter, musician, writer, broadcaster, actor and voice over artist spanning more than 40 years, most famously associated with the rock band, Slade.

- (2) This Council further resolves to instruct its officers to consult and develop a protocol in relation to any future nominations to confer the Freedom of the Borough of Walsall, to be presented for consideration at a meeting of this Council at the earliest opportunity.

77. Notice of motion – Community pubs

The following motion, notice of which had been duly given, was **moved** by Councillor I. Shires and seconded by Councillor Barker:

Council recognises the important role local pubs play in the life of our borough by providing a community hub for residents to meet, relax, debate and do business.

Council notes with regret the decline of community pubs in recent years, as the use of properties for other means has become more financially lucrative.

Council supports campaigns by CAMRA to reverse this decline and put local pubs back at the heart of our communities.

Council calls on the Cabinet to reflect the Council's commitment by:

- (i) supporting community groups who wish to register their local pubs as assets of community value;
- (ii) submitting a request to the Secretary of State for Communities and Local Government under the Sustainable Communities Act for full planning powers to be returned to the Council to allow it to prevent pubs from being converted to alternative uses; and
- (iii) amending Walsall's local planning policies to stipulate that no pub will be allowed to change use unless it is demonstrated that continued trading is not economically viable, the premises has been marketed as a pub unsuccessfully for a stipulated minimum period, and the change will not create a shortage of pubs within easy walking distance of the premises.

On being put to the vote the motion was declared carried with Councillors S. Fitzpatrick, Longhi, Hussain, P. Bott, Westley, Arif, Bird, Towe, Azam, and Rochelle abstaining and it was:

Resolved

Council recognises the important role local pubs play in the life of our borough by providing a community hub for residents to meet, relax, debate and do business.

Council notes with regret the decline of community pubs in recent years, as the use of properties for other means has become more financially lucrative.

Council supports campaigns by CAMRA to reverse this decline and put local pubs back at the heart of our communities.

Council calls on the Cabinet to reflect the Council's commitment by:

- (i) supporting community groups who wish to register their local pubs as assets of community value;
- (ii) submitting a request to the Secretary of State for Communities and Local Government under the Sustainable Communities Act for full planning powers to be returned to the Council to allow it to prevent pubs from being converted to alternative uses; and
- (iii) amending Walsall's local planning policies to stipulate that no pub will be allowed to change use unless it is demonstrated that continued trading is not economically viable, the premises has been marketed as a pub unsuccessfully for a stipulated minimum period, and the change will not create a shortage of pubs within easy walking distance of the premises.

The meeting terminated at 9.20 p.m.

Mayor:

Date: