

Policy Development Scrutiny Committee



Date	16 March 2010
Venue	Town Hall, St Annes
Committee members	Councillor Fabian Craig-Wilson (Chairman) Councillor Kiran Mulholland (Vice-Chairman) Brenda Ackers, Ben Aitken, George Caldwell, David Chedd, Leonard Davies, John Davies, Patricia Fieldhouse, Richard Fulford-Brown, Craig Halewood, Elizabeth Oades, Dawn Prestwich, Elaine Silverwood, Heather Speak
Other Councillors	Barbara Pagett, Maxine Chew
Officers	Clare Platt, Paul Walker, Ian Curtis, Gary Sams, Annie Womack, Neil Graham
Others	Representatives of the Lytham & District Wildfowlers Association

Before the start of the meeting, the Chairman asked for a minute's silence in remembrance of Councillor Lindsay Greening, who had recently passed away.

1. Declarations of interest

Members were reminded that any personal/prejudicial interests should be declared as required by the Council's Code of Conduct adopted in accordance with the Local Government Act 2000.

Cllrs Elizabeth Oades and Elaine Silverwood declared a personal interest in item 7 on the agenda, as members of Kirkham Town Council.

2. Substitute members

There were no substitutes reported.

3. Request for Call-in – Economic Wellbeing Reserve

Ten members of the council had invoked the recovery and call-in procedure to question an individual cabinet member decision made on 4 March 2010 relating to the virement of up to £40,000 from the Economic Wellbeing Reserve on the basis of assumptions set out in the original report. This decision was made by Cllr Roger Small, the Portfolio Holder for Finance and Resources. Members of the committee were required to consider whether the decision was not in the interests of the inhabitants of the borough and ought to be reconsidered.

The Chairman invited the lead signatory, Councillor Elaine Silverwood, to explain why she felt that the decision was not in the interests of the inhabitants of the borough and ought to be reconsidered.

Cllr Silverwood covered the recent background regarding the discussions which had taken place about the reserve and the purpose for which it was intended, at the NNDR meeting which representatives of the three Chambers of Trade had attended. Cllr Small had attended this meeting, as had Cllr Albert Pounder, Portfolio Holder for Economic Wellbeing.

She reported that at this meeting, Cllr Small raised the subject of the reserve and stated that it was intended that the issue would go to full council to make a decision on how the £50,000 in the reserve should be spent but that the intention was that it should be spent on the three main town centres to help them through the recession. He had also stated that Cllr Pounder would attend meetings of the three Chambers of Trade to discuss ideas about how the money could best be used to assist economic recovery for the three town centres, and Cllr Pounder agreed. Cllr Silverwood stated that no visit had been made to Kirkham Chamber of Trade meetings, and as far as she knew, not to Lytham Chamber either.

She told the committee that at full council a unanimous vote was taken based on the premise that she had just outlined. The first she had heard about money from the economic wellbeing reserve being used to fund the Battle of Britain and Proms events was when the individual Portfolio Holder decision was published.

She expressed her opinion that these events would not benefit the town centres, and went on to enquire whether the funding for the Proms was being made available to underwrite the risk in case tickets were not sold. She also queried whether the £18,000 to be spent on the Battle of Britain was of any benefit to the residents either of the Borough as a whole, or specifically of the three town centres.

Cllr Silverwood also queried whether these large-scale events would be in breach of the terms of the Clifton gift, and if so how that would affect the Council's public liability insurance.

In summing up, she said that deplored the way in which the decision to use the reserve had been made, and felt that the three Chambers of Trade, and full Council, had been misled. She said that this call-in was not about whether these events should take place, but about transparency of decision-making. She hoped that the balance of the money might now be made available for Kirkham Town Centre.

The Chairman asked Councillor Roger Small, Portfolio Holder for Finance and Resources, to respond.

He said that the decision to spend the money in this way was in line with the policy set out to Cabinet and full Council. He pointed out that papers included with the agenda showed that Cabinet had resolved on 18 November 2009 to recommend to Council the amendment of the Medium Term Financial Strategy by the inclusion of an economic wellbeing reserve of £50,000 and that the allocation of any expenditure from this reserve be subject to the agreement of the Portfolio Holder for Finance & Resources. On 23 November 2009 Council resolved to agree to the creation of a reserve of £50,000 in 2009/10 from the General Fund Reserves balances to aid economic promotion and recovery in the borough. Therefore, Cllr Small said that the allocation of this money was entirely consistent with those resolutions.

He agreed with Cllr Silverwood's assertion that he had said at the meeting with the three Chambers of trade that it could be used for some town centre projects, but had also stated that it could be used for other projects, the key being that it should stimulate the economic recovery and activities. The Fylde economy rested on four main areas - the visitor and tourist trade; manufacturing; retail; and the public and service economy and any spend must impact on one or more of those four areas.

Cllr Small said that these events would generate spending in the Borough, were relevant to the whole of the Borough, and that they would gain publicity and raise public awareness of the region. There may be spin-offs in terms of spending on accommodation, car-parking income etc. There was optimism that any successful event would lead on to others.

If any proposal for an event or activity had been made by any town centre, that led to economic recovery through additional visitors and spending, and raising the profile of the Borough, then Cllr Small said they could be considered, but to date no scheme had been put forward. He accepted that perhaps at the outset the criteria were not clear, but believed that they were now and hoped that this meeting would lead to ideas being submitted.

Members had several questions and comments for Cllr Small. They included:

- Whether the insurance aspect for the events had been fully explored
- Whether the financial risks of the events had been evaluated
- A statement that there had not been transparency in the decision on how to spend the reserve, with the result that the Chambers of Trade have

been waiting to hear how money will be spent in their town centres, to their benefit

- Why funds could not be directed towards assisting individual small businesses in the town centres
- How could members be certain that it would benefit town centres, and the residents of the borough, rather than the organisers and traders of the events
- Had Cllr Small considered parking issues
- A comment that the members of the Chambers of Trade had not been consulted on the way that the reserve was to be spent despite the promise that they had received.

Cllr Small responded, and said that there was still £12,000 left and he would encourage the towns to bring schemes forward. However, he reiterated that it was to be used for promoting economic activity and was not for painting empty shops and planting flower beds.

He advised the committee that checks had been made on the insurance but that he would ensure that the areas of concern expressed by members would be subject to further checks to ensure that the council was appropriately covered.

It was difficult to say what tangible advantages there would be for local small businesses and the town centres but Cllr Small said we would be putting on events in our Borough that would have regional and possibly national significance and would attract visitors and stimulate the local economy.

He appreciated the different needs of local residents and visitors in terms of parking and would take that into account, but said that the borough would do its best to maximise parking opportunities both during the day and the evening, as it would bring in revenue for us.

He accepted that these events perhaps initially had limited value for Kirkham and St Annes, but hoped this would be the start of a series of events which would put this Borough on the map, enhance its reputation and stimulate economic activity to the benefit of the whole of the Borough.

He did not believe that he had agreed with the Chambers of Trade to underwrite works exclusively for town centres, but reiterated that there was money for schemes that could be used for town centres, as long as they were schemes which would bring in people who will spend money in the area.

During the subsequent debate it was suggested that a survey should be conducted after the events had taken place to see if in fact trade had increased in the town centres.

After a full debate, and following a recorded vote the committee RESOLVED:

That the decision of the Portfolio Holder should not be called in, on the grounds that the decision was not against the interests of the residents of the Borough.

Votes for a call-in (7) Cllrs Caldwell, J Davies, Henshaw, Chedd, Oades, Silverwood, Speak

Votes against a call-in (8) Cllrs Ackers, Aitken, Fieldhouse, Fulford-Brown, D Prestwich, L Davies, Mulholland, Craig-Wilson

Abstentions (0)

Members of the committee had asked for a caveat to be appended to the resolution, which was approved by a show of hands and was:

That Cabinet should be made aware that the committee believed that it had not been made clear at the Council meeting how this money would be spent, and that in future there should be transparency and full and accurate information made available to all members.

4. Request for Call-in – Disposal of Land at Pier Hole

Ten members of the council had invoked the recovery and call-in procedure to question an individual cabinet member decision made on 2 March 2010 relating to the sale of land at Pier Hole, Lytham, in the terms outlined in the report, which had been appended to the committee agenda papers. This decision was made by Cllr Albert Pounder, the Portfolio Holder for Finance and Resources. Members of the committee were required to consider whether the decision was not in the interests of the inhabitants of the borough and ought to be reconsidered.

The Chairman invited the lead signatory, Councillor Barbara Pagett, to explain why she felt that the decision was not in the interests of the inhabitants of the borough and ought to be reconsidered.

Cllr Pagett began by saying that she appreciated that Lytham Wildfowlers Association, who wished to purchase the land at Pier Hole, was a responsible body who had actively managed the adjacent land with due regard to nature conservation. However, she still believed that it was a mistake to allow the land at Pier Hole pass out of the ownership Council's hands.

She said that this was land that FBC controls on behalf of the people of Fylde, and felt that wider consultation should take place, and consideration be given to what long-term benefits would be derived from any disposal of council-owned land.

Cllr Pagett expressed the opinion that this disposal was contrary to the interests of the residents of the Fylde, and that the land should not be

disposed of without the consent of the full council. She reminded the committee that the land was sensitive from an environmental point of view as well. She referred to letters, included in the agenda, from the RSPB. The letters made reference to the fact that the land was SSSI and the fact that it supported significant numbers of bird species.

She explained that the Ribble Estuary was the top estuary in the UK and the 2nd most important wetland site, and significant numbers of rare bird species use the area. Pier Hole was not normally visited by people because of accessibility restrictions, which was one reason for its importance to feeding and nesting birds. However, she said, it was easily observed from the promenade.

If the council were to retain this land, it would demonstrate a commitment by the council to biodiversity. Cllr Pagett said that we have a reputation for providing environmental leadership through our involvement in the Ribble Discovery Centre, and could further enhance our reputation by seeking to maintain Pier Hole as an important wildlife sanctuary within the Special Protection Area of the Ribble Estuary.

With reference to the wildfowlers seeking permission to shoot on the land at some time in the future, Cllr Pagett said that although shooting could be managed in a satisfactory manner, it would affect wildlife at Pier Hole. Also, the enjoyment for those people who came with cameras and binoculars to view the birds from the promenade would be adversely affected.

Cllr Pagett referred to the amount of £5,000 which was the proposed sum for the sale (with an ultimate maximum of £14,600 should shooting rights be granted in the future) and queried whether this was the best terms obtainable. She also queried who would be responsible for payment of the legal fees. She asked whether leasing had been considered, so as to provide income from rent.

She concluded by saying that she thought that the decision was not in the interests of the resident of the Borough, and that no sale of land should be left to the decision of an individual Portfolio Holder, but should be debated by full council.

Cllr Pagett offered an alternative proposal, which was that the disposal of the land and its attendant environmental issues should be debated more fully in the wider arena of the council chamber, and that full financial details such as the legal fees, and the effects of inflation on the profit expected should be made available before a final decision is made.

The Chairman asked Councillor Albert Pounder, Portfolio Holder for Economic Wellbeing, to respond.

He told the committee that this decision had been under consideration for some time. The council had been approached 4 years ago by the wildfowlers association to sell an area of land on edge of the Ribble Estuary. He said that

at around the same time a member Task and Finish Group was reviewing the council's assets and how they could be better used and managed. One of the assets under review was Pier Hole. The conclusion of the review was that members were minded to dispose of the land to the wildfowlers, but that officers should consult with Natural England and RSPB to discuss the implications for the site, and what their views would be on disposal for wildfowling.

Cllr Pounder reported that consultations and discussions had taken place with both organisations, and had only recently reached the stage at which a decision could be made.

He explained that Pier Hole is an area of tidal mud flats which is of no real value to the council and which represents a potential liability in management terms. Lytham & District Wildfowlers Association propose to manage the site, which abuts land which they already own. Pier Hole is only accessible on foot, through the wildfowlers' land. Initially the land would be maintained as a wildlife sanctuary, though they would eventually like to introduce shooting on the eastern part of the land. But shooting could only take place in the future if the consent of Natural England and the Environment Agency was obtained.

Natural England have no objection in principle to the sale. They have worked with the Wildfowlers Association for a number of years and consider them to be a reputable body. Cllr Pounder said that the RSPB take the view that they would prefer the council to retain ownership of the land and create, manage and maintain a sanctuary at Pier Hole. However, it is considered that Lytham Wildfowlers are better placed to meet their aspirations for conservation.

In conclusion, Councillor Pounder said that members had had enough opportunity over the last three or four years to have input and influence this decision.

Members asked what exactly the Lytham and District Wildfowlers do, and the Chairman invited Andrew Cash, who is the Chairman of the association and who was present, to give some background information and history about the association, which he did.

Other questions centred around the council's liabilities and future cost implications as outlined in the report, and the legal fees associated with the sale.

It was explained that leaving the land minimally managed as it has largely been in the past unless there was a specific problem or isolated incident, was not an option because RSPB now wanted it to be actively managed, which would additionally require an environmental study to be undertaken. The council either actively manages the land, which has a cost in terms of staffing and resources, or sells it. Each party to the sale would pay their own legal costs.

The question was asked as to whether there had been any problems with the wildfowlers management and conservation of their land, and whether any would be expected if they took on this extra land, and the answer was that there had not, and there was no reason to suppose that there would be in future.

In the subsequent debate it was reiterated that Natural England considered them to be responsible partners in conservation, and members were reminded that to commence shooting on this land, which is SSSI, would require the consent of the proper authorities and was not a foregone conclusion.

The opinion was voiced that this land was a buffer zone between the amenity part of the beach and the land on which shooting currently takes place, and a wish was expressed that it could be sold with a covenant that it should not be used for shooting.

Mr Gary Sams, Principal Estates Surveyor, advised the committee that such a covenant would make it a different transaction and said it would have to be established whether under those circumstances the wildfowlers association would wish to proceed with the purchase; members should also consider whether the council was the competent body to make such a decision, or whether it should be left to the proper authorities.

After a full debate, and following a recorded vote the committee RESOLVED:

That the decision of the Portfolio Holder should not be called in, on the grounds that the decision was not against the interests of the residents of the Borough.

Votes for a call-in (6) Cllrs J Davies, Henshaw, Chedd, Oades, Silverwood, Speak

Votes against a call-in (8) Cllrs Ackers, Aitken, Fieldhouse, Fulford-Brown, D Prestwich, L Davies, Mulholland, Craig-Wilson

Abstentions (1) Cllr Caldwell

5. Late item – Beach Activity Management Scheme (feedback report)

The Chairman provided the following rationale for permitting a late item to be heard by the committee:

“After the working group meeting for Beach Activities, which took place on 26 Feb, the officer preparing the report made a later request for the matter to go to the 25 March meeting. This being the case, the agenda for the Policy Development Scrutiny Committee on 25 March would contain only that one item, other items having been deferred.

Therefore, for the following reasons, I have decided that the report relating to the feedback from the task & finish group which was established by the committee to consider the re-introduction of wind-sport and wheeled-sport activities on the beach at St Annes, should be added to the agenda of tonight's scrutiny committee's meeting (16 March):

- *An earlier consideration of this matter will allow the feedback to be provided to the Portfolio Holder so that other necessary actions can be undertaken, which potentially will permit the re-introduction of beach activities in time for this summer, by the granting of a licence;*
- *There are still H&S assessments to be conducted, as proposed by the working group and as noted in the report, before the Portfolio holder can potentially approve the granting of a licence*
- *Also as noted in the report, there are still some planning issues to address before the portfolio holder can potentially approve the granting of a licence.*
- *Delaying the matter of scrutiny endorsement of the working group's recommendations to the Portfolio Holder until the next scheduled meeting on 20 May is therefore not an option.*
- *And finally, this will make the most efficient use of resources in preparing for and administering meetings and in making the most effective use of councillors' time."*

Clare Platt, Director for Community Services introduced the report

Ms Platt explained that this was a follow-up to the full report which came to the last Policy Development Scrutiny Committee. At that meeting the members had recommended the formation of a working group to undertake a site visit, meeting with representatives from Trax, and to consider what actions they would want to see undertaken by the proprietors prior to any recommendation that a temporary licence be granted by the Portfolio Holder to resume wind and wheel activities on the beach.

The site visit and meeting of the working group and others had taken place soon after.

She explained that the health and safety of the public was of primary importance, and outlined the conclusion of the working group which was that they would wish to see third party health and safety accreditation, and an undertaking by Trax to bear the cost of these measures and subsequent monitoring.

Concerns were expressed by Cllr Silverwood that there may be other costs arising, not solely due to health and safety issues, and she asked the committee to consider whether their recommendation should be that Trax should also bear all costs over and above those that would normally be borne by the council in providing a service to monitor all beach activities.

After the debate the committee RESOLVED:

1. To recommend to the Portfolio Holder that a licence (limited in scope and duration) should be considered for Trax Windsports to operate wind and wheel sports on the beach, with the following proviso:

- That any licence should specify that Trax Windsports must obtain third party health and safety accreditation (from an appropriately recognised body) with a particular emphasis on the audit of control measures in place to reduce the risk to members of the public; and
- Any costs incurred by the Council for any reason associated with the granting of the license, including health and safety monitoring of these activities, should be met by Trax Windsports and the company must provide all reasonable assistance to the Council to facilitate monitoring of the control measures in place so that the Council can fulfil its health and safety responsibilities.

The Chairman indicated that she was satisfied that the matter was not controversial and no useful purpose would be served by taking a recorded vote on it.
