

At a meeting of the Overview and Scrutiny Committee held in Council Chamber - Allerdale House, Workington on Thursday 17 January 2019 at 9.30 am

Members

Councillor Alan Pitcher (Chair)
Councillor John Cook
Councillor Malcolm Grainger
Councillor Billy Miskelly
Councillor Bill Pegram

Councillor Janet Farebrother (Co-Chair)
Councillor Joseph Cowell
Councillor Hilary Harrington
Councillor Jim Osborn
Councillor Martin Wood

Apologies for absence were received from Councillor Joe Holliday and Councillor Frank Johnston

Staff Present

A FitzGerald, I Hinde, L Jardine and A Seekings

Also Present

Councillor A Smith (Executive Member: Leader of the Council)

305. Minutes

The minutes of the meeting held 6th December 2018 were signed as a correct record.

306. Declaration of Interests

6. Portfolio Presentation by the Leader.
Andrew Seekings; Other Registrable Interest; Treasurer of the Affinity Credit Union.
6. Portfolio Presentation by the Leader.
Councillor Alan Smith; Other Registrable Interest; Chairman of the Allerdale Investment Partnership.
6. Portfolio Presentation by the Leader.
Ian Hinde; Other Registrable Interest; Member of the Affinity Credit Union.

307. Questions

Mr P Nicholson submitted the following question,

“What public and restricted evidence was provided to the Overview and Scrutiny Committee so that it could be assured that the Executive was not carrying out policies that are a breach of procurement law in the competitive tender process that resulted in Allerdale Borough Council forming a partnership with Lucent Allerdale Partnership SARL?”

Councillor Pitcher responded

“The Allerdale Investment Partnership (AIP) – agreed to establish a Joint Venture Partnership and associated delegated powers report was considered by the Executive on 5 February 2014. Paragraph 9 entitled Procurement Considerations is included with the open part of the report. The decision was called-in by Scrutiny who considered the report on the 24th February 2014. Following consideration of all the information Members were reassured that the work carried out and advice received was sufficient to ensure that risks to the Council were managed. Members were happy to support the Executives decision made on 5 February 2014”.

Mr P Nicholson then asked this follow up question,

“Is there a justification for restricting any such evidence about AIP to the public and to councillors, especially when the Information Commissioner has ruled in ‘Peterborough Investment Partnership freedom of Information ruling 2017’, an almost identical partnership with Lucent, paragraph 54: ‘the commissioner finds that the council has failed to demonstrate that disclosing the information would prejudice its commercial interest and that the exemption is not, therefore, engaged?’”

Councillor Pitcher responded,

“We are withholding the legal advice in relation to procurement since we consider that the exemption provided by Section 42 of the Freedom of Information Act applies. Section 42(i) provides an exemption on the disclosure of information in respect of which a claim of legal professional privilege (LPP) could be maintained in legal proceedings.

“ICO guidance states that, ‘The clients ability to speak freely and frankly with his or her legal adviser (including in-house lawyers) in order to obtain appropriate legal advice is a fundamental requirement of the English Legal System. The concept of LPP protects the confidentiality of communications between a lawyer and client. This helps to ensure complete fairness in legal proceedings”.

“The ‘advice privilege’ applies where no litigation is in progress or contemplated. It covers confidential communications between client and lawyer, made for the dominant (main) purpose of seeking or giving legal advice. A communication under this exemption includes letters, reports, emails, notes of conversations etc”.

“The dominant purpose of the communication was to seek legal advice. Disclosure of the documentation may affect future frankness between lawyer and client, and is therefore likely to prejudice discussions. It is important to note that this information has not been made public previously and therefore LPP has not been lost or waived already”.

“Whilst Allerdale Borough Council would wish to be as transparent as possible we consider that the public interest in this case is best served by engaging the exemption and by not disclosing the information”.

“The Information Commissioners decision in respect of Peterborough’ decision to withhold legal advice states that ‘the public interest in disclosing the information in this case does not outweigh the public interest in maintaining the exemption’. The legal advice was not disclosed under FOI”.

308. Public Participation

None Received

309. Portfolio Presentation by the Leader

a) Portfolio Remit Summary

Leader of the Council, Councillor Alan Smith provided an overview of his portfolio, advising members of the structure of his executive, performance of the council and external factors such as Brexit and the Moorside development.

Councillor Smith took questions from members in relation to nuclear and renewable energy, advising that the Council continues to work with partners to drive forward future nuclear and sustainable projects.

Members also asked the Leader about potential implications from Brexit, supported by Corporate Executive the Leader advised that plans are in place and that the Council has been preparing as required, advising members of the collaborative working ongoing with the Cumbria Resilience Partnership.

b) Update of the Affinity credit union investment

The Affinity Credit Union has been rebranded and has seen an increase in lending by 21%, along with increased membership, a new retail shop in Workington Town Centre and 2 new jobs.

Councillor Alan Smith then went through the benefits of the Affinity credit union for customers, advising that it provides affordable lending as an alternative to loan sharks.

The Corporate Director then clarified to members how Affinity Credit Union works and its approach to becoming sustainable.

c) Update on Allerdale Investment Partnership

Members were advised that their partner in the Allerdale Investment Partnership is now IAG group and the structure of the AIP was explained.

Updates were given in relation to Land at Church Street, which now has planning permission and construction should start in February 2019, with the development creating 50 jobs. Phase 1 at Ashfield Road is sold and work has started by Mandale Homes, a new entrant to the Allerdale area. For Phase 2 the sale of land at Ashfield Road is in final price negotiations, and this land will see the creation of further new homes.

Members asked questions in relation to the AIP on income, garden villages and the future of AIP. Councillor Smith confirmed that the AIP will soon start to make payments to Allerdale Borough Council, the first payment being approx. £250,000. It was also clarified to members that Allerdale has an agreed internal process to dispose of sites, and only after that does it have to discuss whether it is something that could be moved forward as an AIP project. For any project to be agreed it needs agreement from both parties.

The Corporate Director then clarified that all disposals to the AIP of Council land is done through an independent valuation. Of the four current sites, for three of the sites, the Council received a higher value from the independent valuation, than the sites were valued at internally.

The Corporate Director offered to do political group briefings on the AIP and further updates for Overview and Scrutiny as appropriate.

Councillor Martin Wood left the meeting

310. Forward Plan

Members discussed the forward plan and in particular the new housing company, the proposed stadium and the AIP.

Members wanted clarification on the new housing company and an update on the proposed stadium, the Scrutiny and Policy Officer will add these onto the agenda of a future Overview and Scrutiny Committee meeting.

Members then noted the plan of Key and Non Key Decisions.

311. Task and Finish Group Updates

Councillor Farebrother provided some updates from the Budget Working Group, advising that they were unable to attend the Star Chamber but that the group was looking to be proactive in relation to the upcoming budget.

Discussions ensued in relation to the success of recent task and finish groups, such as the member development and refuse/recycling task and finish groups. The Officer and Chair agreed that the task and finish groups may need to be reviewed.

312. Work Programme

Members noted that Executive Members Councillor Ellis and Councillor Hansen are attending the next meeting of the Overview and Scrutiny Committee to deliver presentations and to take questions regarding their respective portfolios.

The meeting closed at 11.35 am

