

SUSTAINABLE COMMUNITIES OVERVIEW AND SCRUTINY COMMITTEE

Tuesday, 31 August 2010

<u>Present:</u>	Councillor	J Hale (Chair)	
	Councillors	B Kenny (In place of KJ Williams) T Harney (In place of R Wilkins) T Anderson A Brighthouse D McCubbin	AR McLachlan D Mitchell H Smith S Williams
<u>In attendance:</u>	Councillors	S Foulkes P Davies D Elderton	
<u>Apologies</u>	Councillors	R Wilkins K J Williams	

65 CHAIR'S OPENING REMARKS

The Chair welcomed members of the public to the meeting. He outlined the call-in procedure and introduced Councillor Steve Foulkes, lead signatory to the call-in notice, and Councillor David Elderton, Cabinet Member.

66 DECLARATIONS OF INTEREST/PARTY WHIP

Members were asked to consider whether they had personal or prejudicial interests in connection with any item(s) on this agenda and, if so, to declare them and state what they were.

Councillor D Mitchell declared a prejudicial interest in respect of the PACSPE Call-In, owing to his involvement in the working group, and left the meeting.

Members are reminded that they should also declare, pursuant to paragraph 18 of the Overview and Scrutiny Procedure Rules, whether they are subject to a party whip in connection with any item(s) to be considered and, if so, to declare it and state the nature of the whipping arrangement. No such declarations were made.

67 EXPLANATION OF CALL-IN BY THE LEAD SIGNATORY

Councillor Steve Foulkes, Leader of the Labour Group, outlined the reasons for his opposition to the privatisation of the Parks and Countryside Service (option 3), as set

out in the call-in notice, without proper consultation with the public, stakeholders, and the trade unions.

He urged Cabinet to reconsider its decision to rule out the in-house bid (option1), which based on the trade union's own financial projections, indicated that an initial investment of circa £200,000 could yield £1m of savings per year over the next 10 years. He pointed out that there were costs associated with the procurement exercise for option 3, in the order of £150,000, and potential risks in entering into a long term contract with an external provider based on a best case 7.5% saving, particularly at a time of severe local government cuts in resources which could reach 30 to 40%.

68 **EVIDENCE FROM CALL-IN WITNESSES**

Mr Geoff Bradfield, Branch Officer, Wirral Unison

He expressed his concerns regarding the level of consultation that had taken place on the business case options. Their recent survey of a range of stakeholders such as football clubs, bowling clubs, anglers etc, indicated that they had not been consulted on these proposals.

The trade union had received very short notice of the recommendations contained in the draft report to the 22 July Cabinet meeting regarding the preferred option 3, and was therefore playing catch-up in its response to the consultant's report detailing the arguments. Their plan would be to bring back the Highway Verges Contract which was due to end in December 2011 into the Parks Division and to do the work at no extra cost, saving the Council up to £1m per year. This would be achieved by an investment in new machinery and a revised more flexible staffing structure to fulfil the requirement of the Streetscene Contract, in addition to the main Parks Contract.

Mr Bradfield responded to questions from Members concerning the background to the PACSPE procurement exercise, consultative meetings held prior to the draft Cabinet report, costs associated with his alternative option and the implications on the projected level of savings.

Councillor David Elderton, Cabinet Member

He referred to the Cabinet's decision (minute 98 – 3/9/09) when the PACSPE Members' Group decision to use Capita Symons to provide a more detailed analysis of the three options was endorsed. Having paid for the specialist consultancy services, he had taken their advice that an in-house bid was not appropriate for the reasons stated in paragraph 7.5, and Cabinet had therefore approved option 3.

He stated that the proposed new contract would deliver increased service quality and a real opportunity for local people to influence the management of these valuable assets. There were also new opportunities for better staff training and development. He emphasised that contracts of employment for all staff who decide to move to a new employer would be transferred.

He responded to questions from Members regarding his interpretation of consultation, benefits in allowing the workforce to engage and produce an in-house

bid which could be used to assess the other options, transfer arrangements and TUPE.

He stated that discussions with the trade union would be part of the continuing process to develop the procurement programme and PACSPE would also form part of the wider Living in Wirral consultation. However, there had to be a measure of practicality in view of the need to make urgent savings.

David Green, Director of Technical Services

In response to questions from Members, he reported upon the aims and objectives of the PACSPE procurement process to maximise market potential and bring in innovation, the need for a contract with penalties and a specification to judge performance, benefits derived from similar large scale contracts, the experience of the consultants, and the viability of an in-house bid based on a price /quality bid. He also provided a summary of key decisions and consultative meetings with the trade union.

David Taylor-Smith, Deputy Director of Finance

He referred to paragraph 4.1 of the Cabinet report (22 July) comparing prospective savings benchmarked against comparable assumptions of comparable authorities, with a risk assessment for each option. He noted that the consultants had excluded any costs associated with TUPE matters including pensions benefits; such costs may fall to the Council.

In response to a question from Councillor Foulkes, he confirmed that trade union's re-structuring savings of up to £1m per year would equate to £10m over the ten year period of the contract. However, this would be subject to a number of caveats identified in the consultant's report.

Bill Norman, Director of Law, HR and Asset Management

He advised that there was no legal impediment to prevent an in-house bid, providing that there was a separation of duties between officers preparing the bid and officers analysing and advising on the bids received. However, as the Director of Technical Services had indicated, an in-house bid was unlikely to be successful based on the assessment criteria, and there were costs associated with putting the bid together.

He confirmed that all staff would transfer on existing terms and conditions which would include broadly comparable pension arrangements.

Chris Hyams, Head of HR and Organisational Development

In response to concerns regarding continuation of employment, she reported that the workforce had been advised that TUPE would apply to any new contract and there was potential to include this provision in the contract specification. These issues would be picked up should the procurement exercise go forward.

She reported that regular meetings had been held with the trade union prior to the draft Cabinet report and this would continue through future JCCs, and project meetings in order to provide an input into the specification.

(Councillor Phil Davies, mover of the call-in, was not called to give evidence).

69 EVIDENCE FROM CABINET MEMBER'S WITNESSES

Councillor Elderton stated that he had already questioned David Green and Chris Hyams and would not be calling them again. It was not necessary for him to question Jim Lester because David Green had taken responsibility for the Culture and Leisure portfolio.

Councillor Bob Moon

He explained that the PACSPE procurement exercise had been started in 2008 because savings could not be made by continuing with the status quo. He had given careful consideration to this matter and accepted the recommendations made by Capita and the officers that option 3 be approved, based on the detail in the reports indicating that although savings could be made in-house there was a significant difference between options 1 and 3, and he was therefore persuaded that option 3 was the best alternative.

In response to a specific question regarding the achievement of savings by a private contractor without any reduction in employees' conditions of service, he gave an assurance that TUPE would apply to any new contact. He referred to the Council's positive experience with similar larger scale contracts (HESPE and Biffa) which had been cited by the Local Government Association as good practice, and explained that a procurement process using the expertise of consultants would enable the Council to fulfil its obligations and choose the contractor best qualified to make the projected savings through effective management of the contract.

He commented on the practicality of a bid from the workforce and explained that a proposal to establish a Trust for Leisure and Cultural Services had previously been considered but it could not be pursued for financial reasons.

In response to questions from Members regarding the consultation process, he referred to consultation meetings which had taken place with the staff and trade unions on a regular basis and to the involvement with users through the Parks Forums. He commented that the Council was engaged in a procurement exercise and advice regarding the proposed stakeholder' event indicated that this should take place at the appropriate time after a decision was made on the procurement options.

Professor Robert Lee, Friends of Birkenhead Park

He referred to his role as Chair of the above group and to his considerable and longstanding involvement in Friends Groups in general.

He reported that the Friends Groups had been consulted on a number of occasions since the commencement of the procurement exercise in 2008, and presented a Position Paper which reflected the quality and depth of discussion relating to key policy issues;

- (i) PACSPE Process
- (ii) Consultation
- (iii) Maintenance Standards
- (iv) Partnership
- (v) The Contract
- (vi) Monitoring Standards
- (vii) Re-investment and Improvements
- (viii) Sites of Special Significance

He responded to questions from Members regarding the above.

70 **SUMMING UP BY MOVER OF THE CALL-IN**

Councillor Foulkes commented that the level of debate and questioning this evening had been very thorough.

He emphasised that this was not just about cost savings and that the workforce should be given the opportunity to put in a reasonable bid for these services. There was clear evidence that the projected savings from the workforce were sustainable and the experience of users indicated that the services were well received and represented good value for money. He also referred to the risks associated with a private contractor e.g. the Council's experience with Continental Landscapes which had resulted in the service being taken back in-house.

He expressed his reservation regarding the consultation process and the need for an improved communication strategy which was acknowledged in the Gateway Review by the 4ps Organisation. He suggested that this was an appropriate time for the Council to demonstrate its commitment to consult with staff, trade unions, service users, and the general public, and include PACSPE in the brief for the Living in Wirral Task Force.

He urged the Cabinet to reconsider its decision and to capture the enthusiasm and dedication of the workforce by allowing them to bid for this contract.

71 **SUMMING UP BY CABINET MEMBER**

Councillor Elderton said that he welcomed the call-in and the opportunity to debate the PACSPE process in detail. Having considered the detail of the reports he had concluded that option 3 was the only viable option in view of the projected savings, and other benefits in terms of value for money, improved standards and quality, and improved facilities and infrastructure. He was committed to staff being engaged in the

procurement process and gave them an assurance that TUPE would apply when they were transferred within the terms of the new contract.

He strongly believed that option 3 represented the most effective way forward and therefore asked the committee to endorse the Cabinet minute.

72 COMMITTEE DECISION

It was moved by Councillor Smith and seconded by Councillor McLachlan that:

The Committee refers minute 84 back to Cabinet and asks Cabinet to act in accordance with its own principles and suspend any decision on which option to choose until it has undertaken a proper consultation with all the relevant user groups, and with the wider public.

Committee further asks the Cabinet to undertake a proper consultation with the trade unions which shall include a detailed examination of their option to take back the Streetscene Ground Maintenance contract in-house at no extra cost, so producing matching savings to those projected in option three for consideration, while keeping all services in-house, which should then form part of a revised option one for consideration.

The Committee also asks Cabinet to lift any restriction on in-house bids, and to make it clear that there is no legal or technical barrier to in-house bids being lodged if the correct procedures are followed.

It was moved as an amendment by Councillor Hale and seconded by Councillor Williams that:

(1) That the recommendations contained in Cabinet minute 84 of 22 July, 2010 be endorsed by this committee.

(2) That officers ensure that during the period in which the tender document is prepared the widest consultation takes place with all stakeholders, in particular trade unions and user groups.

The amendment was put and carried (6:3)

Resolved (6:3) –

(1) That the recommendations contained in Cabinet minute 84 of 22 July, 2010 be endorsed by this committee.

(2) That officers ensure that during the period in which the tender document is prepared the widest consultation takes place with all stakeholders, in particular trade unions and user groups.