

## **CABINET**

**WEDNESDAY, 26 JUNE 2013**

PRESENT:- Councillors David Renard (Chair), Brian Mattock (Vice-Chair), Mike Bawden, Fionuala Foley, Claire Ellis, Dale Heenan, Richard Hurley and Garry Perkins.

Apologies for absence were received from Councillors Russell Holland and Keith Williams.

Councillor Des Moffatt attended the meeting in respect of Minutes 21 and 22.  
Councillor Robert (Bob) Wright attended the meeting in respect of Minutes 21 and 22.  
Councillor Stan Pajak attended the meeting in respect of Minute 21  
Councillor Junab Ali attended the meeting in respect of Minute 22.

### **17. Declarations of Interest**

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting.

Councillor Fionuala Foley made a personal declaration of interest in respect of Agenda Item 6 (Strategic Review of Swindon Commercial Services Ltd.) as she was a Council appointed Non-Executive Director of Thamesdown Transport Ltd.

### **18. Minutes**

Resolved – That the minutes of the meeting held on 12<sup>th</sup> June 2013, be confirmed and signed as a correct record.

### **19. Public Question Time**

The following questions were asked in accordance with Standing Order 28 –

#### Questioner

Mr. Des Morgan, Caraway Drive, Swindon.

On 9 December 2009 the Final Business Plan for the decoupling of Swindon Commercial Services Ltd. from Swindon Borough Council was set out by the then Leader of the Council, the Chief Executive and the Director Finance.

The report stated: The proposal was a significant part of the Borough's transformation as an organisation, it (meaning the establishment of SCS as an 'arms length company) would make Swindon Commercial Services "fit for purpose" and "safe for the future". 'The decision would place Swindon Commercial Services in a much stronger market position and would protect jobs'.

Question 1 - As Swindon Commercial Services Ltd (SCS) subsides into what in conventional circumstances might be termed a voluntary liquidation and sheds 70 staff – will the Council concede the decision to 'float' Swindon Commercial Services

as an 'arms length company' was a step too far and at the wrong time?

As a key SCS Business Plan Assumption it was stated that Swindon Commercial Service Ltd would be funded by a 'loan' in the region of £2-£4m from Swindon Borough Council.

Question 2 - Did Swindon Borough Council (SBC) make any loan to SCS and if so how much?

Question 3 - If a loan was made, how much remains outstanding and what plans are in hand or envisaged for securing repayment of the loan?

On 10 June 2009 Cabinet was advised that an initial investment of £690k was required to set up SCS as an 'arms length company'. There was a stated assumption that this would be repaid over 3 years.

Question 4 - Please confirm whether the £690k was repaid at the anniversary date of 1 January 2013 or any subsequent date.

Question 5 - If the amount or any part remains outstanding what plans are in hand or envisaged for securing repayment of the amount?

On 9 December 2009 it was stated that SBC would transfer the owned assets currently employed in the business to Swindon Commercial Service Ltd on 1 January 2010.

Question 6 - Please confirm the value of the assets transferred to SCS.

Question 7- What value of assets are envisaged to be returned to SBC?

According to the report before Cabinet tonight, officers appear anxious to point out the (SWOT) analysis that accompanied the original SCS business identified the strengths and opportunities were largely in public sector works. An accompanying risk identified was that public sector funding could reduce significantly in the period 2011/12 and beyond

However, it is also the case that the Final Business Plan, against which the decision was made to move SCS to an 'arms length company' - stated that "The impact of this reduction on our forecast revenues from non SBC work is not material given the size of the target markets at regional level"

Question 8 - Would Cabinet accept that if the key SCS Business Plan Assumptions stated the known 2011 spending fall was not material then it is unreasonable to now attempt to use it as a reason for management failures?

According to the report before Cabinet tonight, officers state "Since 2009, there has been a significant turndown in the global and national economic prospects. The fiscal responsibility programme introduced by the Coalition Government in 2010 has significantly reduced the funding available for almost all public bodies, which were primarily the target market for SCS".

Question 9 - The SCS Business Plan is quite explicit in stating "The impact of this

reduction on our forecast revenues from non SBC work is not material given the size of the target markets at regional level". Would Cabinet accept that at the end of 2009 the state of the national economy was a matter of public record and as such the actions of the Coalition Government in reducing funding for public bodies could hardly claim to have been unexpected?

#### Response

The Chair thanked Mr Morgan for his questions. He explained that he had submitted public questions on Swindon Commercial Services Ltd and that a written response had been prepared and circulated at the meeting.

Mr Morgan asked a supplementary question further to the questions he submitted earlier. Stuart McKellar, Board Director Resources, Councillors Fiona Foley and Mike Bawden responded at the meeting to the questions.

### **20. Exempt Items - Exclusion of Press and Public**

Resolved – That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred to in Agenda Item No. 7 of the Notice of the Meeting on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information concerned. (Minute 22 refers).

### **21. Strategic Review of Swindon Commercial Services Ltd**

The Cabinet Member for Strategic Projects and Transformation, and the Chief Executive submitted a joint report outlining a number of considerations relating to Swindon Commercial Services Ltd's (SCS) future direction and subsequent financial benefit to the Council.

Councillor Mike Bawden, Cabinet Member for Strategic Projects and Transformation referred to the on-going difficulties being experienced across local government, including Swindon, as a result of the current economic climate. He emphasised that the Chancellor's ten per cent savings statement confirmed another twelve months of cost savings would be required. Councillor Bawden moved an additional recommendation to note that he would be creating a Cabinet Member Advisory Group to assist him through the transition process.

Councillor Fiona Foley welcomed the report and in particular drew Members' attention to the timescale and structure of staff reabsorption into the Council.

Councillor Bob Wright, Central Ward Councillor, supported Councillor Fiona Foley's comments but reminded the meeting of his concerns regarding the initial set up of Swindon Commercial Services Ltd as an arm's length organisation in 2009 given the economic environment that was becoming evident. He referred to the impact the proposals set out in the report would have on staffing levels and the ability to properly monitor work being undertaken by contractors employed on the Council's behalf.

In response, Councillor Mike Bawden, Cabinet Member for Strategic Projects and Transformation confirmed that the report was primarily concerned with identifying resources available to Swindon Borough Council and returning to a direct labour force style of operation designed to deliver the best quality of service at the best cost to the community within the current economic constraints.

Councillor Stan Pajak, Leader of the Council's Minority Opposition Group, expressed his support for the proposal but referred to the brevity of the report and its lack of detail regarding the structure of Swindon Commercial Service Ltd's future profile and viability. He welcomed the proposal to establish a cross-party Cabinet Member Advisory Group and the opportunity to restructure SCS to improve areas currently giving concern and to encourage greater locality involvement.

Councillor Des Moffatt, Western Ward Councillor, expressed his support for the report and suggested it was in the best interest of Swindon Commercial Services Ltd's staff and the people of Swindon. He suggested that the structure of the organisation should be designed to allow it to tender competitively for contracts against the private sector and referred to the benefits of utilising the Refuse Derived Fuel facility.

Councillor Brian Mattock, Deputy Leader, Vice Chair of Cabinet and Cabinet Member for Health and Adult Social Care, expressed his support for the report and emphasised the positive aspects of agreeing to the recommendations of this report.

Resolved – (1) The Council, or its Special Committee, be recommended that:

(a) Swindon Commercial Services Ltd (SCS), as the Council's wholly owned company, re-focus on Waste Treatment and Disposal, PV installations including large-scale arrays and activities of the DW Dunn brand, with a view to generating profitable external income in a small range of emerging opportunity areas where returns, if realised, will significantly outweigh the effort and cost of securing them and provide a financial return to the Council as shareholder.

(b) The remainder of the services Swindon Commercial Services Ltd provided to the Council, including the staff and infrastructure involved ('the undertaking'), be transferred back to the Council in accordance with the high-level timetable set out in Appendix 2 of the report, enabling a significant reduction in the back office costs (overheads) associated with operating a large external company as detailed in table 1 of the report;

(c) Following the transfer of the undertaking back to the Council, the current "rebate" arrangement be removed;

(d) Following the transfer of the undertaking back to the Council, the Board Director, Service Delivery carries out a detailed examination of the individual services provided currently by Swindon Commercial Services Ltd to Swindon Borough Council, with a view to streamlining and integrating processes operating both within services and between client and contractor to further reduce costs;

(e) Following the transfer of the undertaking back to the Council, robust specifications be developed for all services currently provided by SCS that meet Members' requirements, in order to enable services to be tendered in a planned way where it makes sense to do so. This to allow for the possibility that Members may determine, following a detailed market comparison, that some in-house services represent value for money that includes cost, quality and social value;

(f) The Director of Law and Democratic Services and the Head of People and Development, the Board Director Resources, in consultation with the Cabinet

Member for Transformation and Strategic Projects, be authorised to progress the legal, human resources and financial steps necessary, to ensure a successful transfer of SCS staff, assets and property to the Council;

(g) The Director of Law and Democratic Services, in consultation with the Cabinet Member for Transformation and Strategic Projects and the Board Director, Resources be authorised to complete any necessary legal documentation in relation to the transfer of the undertaking on such terms as he considers appropriate to protect the Council's interests.

(2) The Council, or its Special Committee, be recommended to note that:

a) In the event of the transfer of the undertaking proceeding, the tender timeline for services provided by SCS, previously agreed by Cabinet in June 2011 (Cabinet Minute 10, 2011/12 refers), to be reviewed.

(b) With regard to (e) above, a report to be submitted to Cabinet with a revised proposal later in this Municipal Year.

(c) Work would be continuing to implement the Cabinet decision from October 2011 (Cabinet Minute 53, 2011/12 refers) around Strategic Commissioning Partnership Agreements for non-housing related building construction and refurbishment works and that this is unaffected by the decisions in this report.

(d) The Cabinet for Strategic Projects and Transformation to set up a cross-party Cabinet Member Advisory Group to assist him in monitoring the transition, reviewing the governance arrangements, and on-going performance of SCS.

(Councillor Fionaula Foley made a personal declaration of interest of the above item as she was a Council appointed Non-Executive Director of Thamesdown Transport Ltd.)

The reasons for the decision and alternative options are as set out in the report to the meeting.

## **22. Kimmerfields (Union Square) - Future Investment and Financial Implications**

The Cabinet Member for Economy, Regeneration and Culture and the Board Director Commissioning submitted a joint report concerning the future development of Kimmerfields (Union Square) and the financial aspects of the project.

Councillor Garry Perkins, Cabinet Member for Economy, Regeneration and Culture, referred to the report and its structure and outlined the recommendations, timeline and processes of the report.

Councillor Des Moffatt, Western Ward Councillor expressed his concern regarding the future funding of this project and the impact on service provision in other areas as a result of this long term commitment.

Councillor Robert (Bob) Wright, Central Ward Councillor, referred to the reasons for the urgent submission for consideration of this report as the project had been on-going for some time. The Chair explained that the shortened timescale for the approval of this report was due to an impending negotiation deadline related to securing LEP funding.

Councillor Robert (Bob) Wright, Central Ward Councillor, commented on road and thoroughfare issues affecting local residents that would result from the

new development proposal. He further commented on public safety implications with the plan as it stands and on car parking running costs. The Chair confirmed that a report regarding car parking would be submitted at the 24<sup>th</sup> July 2013 meeting.

Councillor Dale Heenan, Cabinet Member for Strategic Planning and Sustainability, expressed his concerns regarding the viability of the project as contained within the report. Councillor Garry Perkins, Cabinet Member for Economy, Regeneration and Culture, responded by stating that participants to the developments were in agreement and wanted the project to proceed.

Councillor Brian Mattock, Deputy Leader, Vice Chair of Cabinet and Cabinet Member for Health and Adult Social Care, referred to the opportunities presented by the regeneration including the investment and the creation of jobs this project would generate and endorsed the report.

Councillor Junab Ali, Central Ward Councillor, expressed his concerns regarding the financial implications for the Council and queried what input the Development Partner had brought to the project considering the Council's financial investment to date. Paddy Bradley, Head of Commissioning, Economy / Attainment, explained the process being undertaken by the Development Partner was primarily project management and securing customer take-up on the new properties built.

Resolved – (1) That the capital expenditure for the Kimmerfields Project, as detailed in the report, be approved.

(2) That, subject to a formal resolution by Cabinet to make a Compulsory Purchase Order, the Council use compulsory purchase powers to secure all necessary land and property interests within the area subject to the Kimmerfields Development Agreement to secure redevelopment of the area.

(3) That, capital expenditure, as detailed in Section 5 of this report, by the Council towards the cost of the construction of a new bus station (within the Kimmerfields development) be approved

(4) That legal arrangements be entered into with the bus operating companies that secures their relocation to the new facility once constructed, noting that this will represent an on-going commitment against the Council's future years' revenue budgets of additional expenditure to fund the additional running and borrowing costs associated with this expenditure.

(5) That variations to the Kimmerfields Development Agreement, as tabled at the meeting, be approved.

(6) That the Director of Law and Democratic Services, in consultation with the Board Director, Resources and the Cabinet Member for Economy, Regeneration and Culture, be authorised to enter into any necessary legal agreements and documentation to implement the decisions in paragraphs 1 to 4 above, on such terms as he deems appropriate to protect the Council's interests.

(Councillor Dale Heenan, Cabinet Member for Strategic Planning and Sustainability requested that it be recorded that he had abstained from voting on the above decision.)

The reasons for the decision and alternative options are as set out in the report to the meeting.