

OVERVIEW AND SCRUTINY COMMITTEE

MINUTES

Thursday 16 May 2019

PRESENT: Councillors: Blacker (Chair), Anjum, Ball, Burke, Conlan, Costigan, D. Crawford, Dhadwal, Driscoll, *Manro* (Substitute for Rooney), Rice, Shaw, A. Stafford (Vice-Chair), Woodroffe and Young

Other Councillors Present:

Joanna Dabrowska - Conservatives
Mik Sabiers - Cabinet Member for Environment and Highways

Officers Present:

Gillian Marston - Director of Environment
Earl McKenzie - Assistant Director of Street Services
Christopher Neale - Head of Accountancy
Anna-Marie Rattray - Scrutiny Review Officer
Tim Smith - Head of Commercial Hub
Lee Teasdale - Democratic Services Officer
Rukhee Thobhani - Commercial Manager

1. Apologies for Absence
(Agenda Item 1)

Apologies were received from Councillor Rooney who was substituted at the meeting by Councillor Manro.

2. Urgent Matters
(Agenda Item 2)

There were none.

3. Declarations of Interest
(Agenda Item 3)

There were none.

4. Matters to be Considered in Private
(Agenda Item 4)

Item 7 contained information that was exempt from disclosure by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

5. Minutes of Meetings (21.03.19) & (11.04.19)
(Agenda Item 5)

Resolved: That the minutes of the meetings of 21 March 2019 and 11 April 2019 be approved as true and correct records of the meetings.

6. Crossrail Developments in the Borough
(Agenda Item 6)

The Committee were advised that due to the unavailability of Network Rail representatives, the Crossrail item would be postponed until the meeting of 6 June 2019.

Resolved: That the item be postponed until the meeting of 6 June 2019.

7. Call-in – Environmental Services Local Authority Company
(Agenda Item 7)

It was advised that Councillor Joanna Dabrowska would present the Conservative Group Call-in and Councillor Sabiers would respond on behalf of the Administration.

Councillor Joanna Dabrowska stated that the call-in had been made in relation to the recommendations agreed as part of the 23 April 2019 Cabinet report 'Environmental Services Local Authority Company', which stated:

That Cabinet:

- i) approves the creation of a new capital budget to the value of £14.1m, named Waste Services Vehicle and Plant acquisition, to be funded from Mainstream Borrowing (or equivalent) with all associated revenue costs being met from the LATCo including relevant temporary financing costs.*
- ii) delegates authority to the Director of Environment, following consultation with the Director of Legal and Democratic Services and Chief Finance Officer, to consider the options set out in paragraph 3 and proceed with the optimum solution for maintenance of the Fleet (referred to in i) above) including to procure via full tender should this be considered the preferred route.*
- iii) delegates authority to the Chief Finance Officer, following consultation with the Director of Legal and Democratic Services and Director of Environment to call off a contract from a suitable framework either by way of mini-competition or direct award for the Council's purchase of the fuel for the Fleet.*
- iv) authorises the Council's purchase/hire of the Plant set out in Appendix 2 of the report by way of mini competition or direct awards from the Procurement Partnership Ltd Framework, other suitable framework or via a shared service arrangement with another Local Authority.*
- v) authorises the Director of Environment entering into contractual arrangements, in consultation with the Chief Finance Officer, in order to finance the leasing of the Fleet and Plant referred to in i) and iv) above from £13.2m current budget and the £2.6m to be delivered through MTFs savings as advised in the July 2018 report and highlighted in section 4 of this report. All other set up costs will be funded from previously agreed one-off funding of £0.736m as per the July report.*

- vi) *delegates authority to the Director of Environment and the Chief Finance Officer for the Council's hire of light commercial fleet set out in Appendix 3 of the report.*
- vii) *authorises the Council's purchase of the Supplies and Equipment set out in Appendix 4 of the report, by way of mini competition or direct awards from a suitable framework and enter into the relevant contracts which will include the ability to novate the contracts to the LATCo in future.*
- viii) *authorises the variations to relevant contracts to enable provision of pensions and Payroll services to the LATCo.*
- ix) *authorises the Director of Environment to either conduct a mini competition or direct award from either the ESPO framework or CCS framework for Occupational Health Services and Drug and Alcohol Testing and award the contracts which will either include the ability to novate the contract to the LATCo or entered into directly by the LATCo.*
- x) *authorises the Director of Environment to enter into negotiations with local suppliers regarding provision of agency worker support.*
- xi) *authorises the Director of ICT to make variations to Council ICT contracts where access by the LATCo is required.*
- xii) *delegates authority to Director of Environment to finalise the optimum solutions for delivery of ICT services (software, applications etc) for the LATCo*
- xiii) *delegates authority to the Director of Environment to procure contracts for insurance to support the requirements of the LATCo.*
- xiv) *authorises the Director of Environment to take all necessary steps to incorporate the LATCo as a Company Limited by Shares for the reasons set out in confidential Appendix 8 of the report.*
- xv) *notes that a further report will be brought back to Cabinet at a future date to agree the company business plan and specification of services.*

Councillor Joanna Dabrowska stated that the Conservative Group had called in the decision as they sought a clearer understanding of the decision to proceed with the proposed creation of a LATCo. She stated that there were many elements to consider that had not been made clear in the reports to date, including concerns around vehicle costs, consideration of lease schemes for vehicles, the viability of a zero-emission fleet, benchmarking against other authorities and consideration of the use of other depots such as Harrow. Concern was also expressed about the TUPE transfers of staff contracts, had the HR and pension costs and the risks around these been fully considered. Concern was also expressed about costs and whether they had been underestimated, would the LATCo have services level agreements, and who would any additional costs be funded by? There also needed to be clarity around who the shareholders would be and the benefits to them.

In response, Councillor Sabiers stated that a lot of the answers to the points raised were already contained within the report. This was part of a long-term project that would impact upon every single household in the borough, and the report reflected this with a detailed report that had been developed over a long period of time, having made a full evaluation of the three options available to the Council. This included a massive amount of detail on the procurement exercise for vehicles, and the maximum potential costs involved. Committee Members were reminded that this report was specifically covering the procurement elements of the process, and that the wider ranging full report was due at the September 2019 Cabinet meeting.

Questions

Councillor Young noted that the waste vehicle count had risen from 47 to 53. Why had this increase happened? Would it not be reasonable to expect a need for fewer spare vehicles with a more reliable fleet?

It was advised that specific legislation was in place around the servicing of vehicles, and that this had to take place every six to eight weeks. The service had to be kept 'on the road' at all times, so spare vehicles were vital to ensure a consistency of service. Officers had been gathering an increasing amount of information from the current contractors Amey, and as more accurate information had become available, reconsideration had been given to the number of vehicles required.

Councillor Costigan noted the use of agency workers. Did the Council have plans around reducing the number of agency staff, and were arrangements in place for working with local suppliers?

It was confirmed that local suppliers would be a priority. It was hoped that the use of agency staff would be limited and that a pool of permanent staff would be in place, but a backup would still need to be in place and this would be agency based. It was also noted that there would be salary increases which it was felt would aid staff retention.

Councillor Costigan referred to vehicle maintenance. Was there a timeline in place for this and would there be sufficient time for additional market testing?

It was advised that the Hounslow and Harrow options were being considered. It was known that there was not a plethora of servicers available within the current maintenance offer, so the preference would be to use a neighbouring facility.

Councillor Alex Stafford noted that in reference to the variation in capital cost of vehicles, it was stated "food waste vehicles are a larger type, allowing use in support of other services". What were these other services?

It was advised that this meant they could also be used for one-off events, such as festivals like the Hanwell Hootie. These would not result in any impact upon the general waste recycling services they were used for on a day-to-day basis.

Councillor Alex Stafford spoke about electrification. There had recently been cuts to government grants for personal use. Would this have an impact? And would Ealing have sufficient infrastructure for an electric fleet in future?

It was advised that progressing with electrification would depend upon a lot of factors, such as market conditions, grants available, and the best offers at the time. Efforts were being made to electrify the council fleet where possible, and the infrastructure of charging points was building alongside this. There were now 200 charging points in place across the borough.

Councillor Manro sought confirmation that the costs indicated in the report were set as the maximum, so may in fact come in at a lower cost.

It was advised that the report did assume the maximum prices. However, it was advised that there was information still been sought from Amey. Due to the market, prices could change and end up being higher, but this would never change the overall comparator costs between the options.

Councillor Rice asked about how far away the current technology was from being able to introduce fully electric fleets. She also noted that random drug and alcohol testing took place amongst staff – why was this being done?

It was advised that the resource management company Veolia were going to be testing two retrofitted refuse collection vehicles (that would use green energy derived from collected waste) for the next two years before deciding if they were to be viable in future. Considering this, it would be some time before technology would be in a place to allow for a full electric fleet. It was advised that random drug and alcohol checks were very common in the professional driving industry.

Councillor Burke stated that developments around electric vehicles were consistently moving forward. With such an expedited rate of change, would it be wise to get tied up into a long contract with fleet suppliers?

Officers agreed that technological changes were moving fast, however there was still a need to test and ensure the long-term reliability which would take many years. The costs of such products also remained prohibitively expensive at the present time. Taking these factors into account, the current lease terms made sense. A cost analysis had also been undertaken which showed that if a scenario arose in the near future where an electric fleet did become a viable option, then buying out of the lease would be the most cost effective approach.

Councillor Young expressed concern that a 50% increase in the price of vehicles had taken place in one year?

Councillor Sabiers stated that this related to maximum costs. The commercial market was very different to the domestic market in cost fluctuations, and officers were trying to make sure that the report presented the latest up to date cost figures.

Councillor Young felt that this meant the figures presented in the 2018 Cabinet report should now be considered as unreliable.

Councillor Sabiers reiterated that procuring further information from Amey was helping to provide a much fuller picture of what would be required to run the service.

Councillor Shaw noted that there was little detail in the section on insurance requirements. How was this process proceeding at the present stage?

It was advised that officers were working to align the process with other insurance policies as was recommended. The Council's brokers were currently exploring the options available. It was advised that any required policy could be ready at short notice when it was needed, as it would not require an extended procurement process.

The Committee then took a vote to go into a confidential discussion as per the terms of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, to allow for discussion of confidential appendices attached to the report. All public attendees briefly left the meeting at this point.

Upon returning to the public facing discussion, Councillor Young enquired as to what would happen should the lead officer on the LATCo leave the Council before it was fully operational?

It was advised that the Council was working with consultants who had experience in setting up many LATCos.

Councillor Manro referenced future service level agreements (SLA). Stating that he felt the LATCo would benefit from not being too prescriptive, as there needed to be flexibility to alter the service if circumstances changed.

It was advised that an agreed proper contract needed to be in place, but there would be moves towards an output-based approach that would allow for flexibility in keeping streets clean in best appropriate way possible.

The Chair then invited both sides to sum-up their arguments.

Councillor Joanna Dabrowska stated that she remained concerned that the costs and risks had not been fully addressed. What proposals were the Council considering for mitigating costs? What was the plan b for delays in vehicle delivery? And were options being considered for if an in-house option becomes more affordable?

Councillor Sabiers stated that the finances were challenging but essentially sound. Nothing was being hidden, and the full reality of the situation was being presented within the report, hence the reason for presenting the full maximum costs rather than trying to use alternative figures.

Debate

Councillor Ball stated that the call-in had made for an interesting discussion, but it had essentially been a series of general questions rather than anything concrete that could be referred back to the Cabinet. He stated that he agreed with Councillor Manro that there needed to be avoidance of scenarios where an overly prescriptive SLA could lead to a protracted argument. Disciplinary measures can be taken if the job was not being done correctly, so there was no need for a hugely complicated SLA.

Councillor Young remained concerned about the 50% cost change between 2018 and 2019. This was huge and would not be sustainable if the increases continued. Concern was also expressed about the relative lack of in-house experience in running a LATCo should key staff depart from the Council.

Councillor Burke stated that the next report due to Cabinet later in year would need to provide clarity on the definition of the Council's relationship with the LATCo. Scrutiny would be very important going forwards.

Councillor Manro reaffirmed his concerns around a prescriptive SLA. The founding of a LATCo would be a chance to remove some layers of red tape and to make the business plan focussed around outputs.

Councillor Shaw stated that in terms of human resource risks, this would be people working under better conditions with better incentives and should be seen as a positive move.

Councillor Daniel Crawford felt that the call-in had been made purely for the opposition to frustrate the process – many of the points raised through the call-in were procedural matters that could have been raised elsewhere. He stated that the discussion had left him even more persuaded that proceeding with a LATCo was the correct option to pursue. It would 'unleash the talents' of many officers who were presently 'reduced to chasing around a contract' rather than shaping and developing a fit for purpose 21st century service.

Councillor Costigan stated that she could not see the rationale behind the call-in, and felt it was purely made due to a pro-privatisation agenda.

Councillor Alex Stafford stated that some members of the Committee were allowing ideology to take away from the core of the argument, which was that the procurement process raised serious concerns about potentially spiralling costs. It was not fully understood where the costs had come from, as they were not sufficiently explained at present.

Councillor Woodroffe stated that he was confused by the purpose of the call-in, as it would not be reasonable to expect that officers could provide a total understanding of every element at this stage in the process.

The Chair then closed the discussion, with members asking to go to a vote. The vote found the Committee in favour of upholding the Cabinet's decision.

Resolved: That decision of the Cabinet on the item 'Environmental Services Local Authority Company: Procurement and Contract Related Matters' be upheld by the Committee.

8. The Work of the Panels (Agenda Item 8)

Further updates on the work of the Panels would be given at the following meeting of the Committee.

9. OSC Terms of Reference and Work Programme
(Agenda Item 9)

The Committee were advised that the Ministry of Housing, Communities and Local Government had released the Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities. This would be considered at the next meeting of the Committee as it contained information to which the Committee must have regard, including guidance on call-in's. It was requested that electronic copies of the guidance be forwarded to Committee Members.

It was confirmed that the item on Crossrail would now be considered at the June meeting of the Committee.

It was advised that the Parking team were busy with contract issues and had asked to delay the parking report. Following discussion, it was agreed that the item could come to the August meeting, if the meeting was held due to a call-in. If there was no call-in to the August meeting, the report would be considered in retrospect.

The Committee agreed to the terms of reference for the 2019-2020 Council year.

10. Date of Next Meeting
(Agenda Item 10)

The next meeting of the Committee would be held on Thursday 6 June 2019.

Councillor Josh Blacker, Chair.

The meeting ended at 8:20pm.
