

COTSWOLD DISTRICT COUNCIL

COUNCIL MEETING

13TH MAY 2014

Present:

Councillor Sir Edward Horsfall - Chairman
Councillor Clive Bennett - Vice-Chairman

Councillors -

Mark F Annett	RL Hughes
Julian Beale	Mrs. Sheila Jeffery
JGK Birch	Mrs. SL Jepson
DC Broad	Ms JM Layton
Sandra Carter	AJ Lichnowski
Sue Coakley	DJ Nash
PCB Coleman	Mrs. Carolyn Nicolle
DE Collier	Jim Parsons
BS Dare (until 12.10 p.m.)	NJW Parsons
RW Dutton	David Penman
David Fowles	Mrs. M Phillips
BD Gibbs	Mrs. MS Rickman
C Hancock	Lee Searles
JA Harris	GM Selwyn
Mrs. DE Hicks	Lynden Stowe
Mrs. JL Hincks	R Theodoulou
SG Hirst	Mrs. CH Topple
PR Hodgkinson	M Wardle
RP Hooper	LR Wilkins
JP Hughes	

Apologies:

John Burgess	EGJ Jenkins
Mrs. VB Crosbie Dawson	

CL.77 DECLARATIONS OF INTEREST

Councillor AJ Lichnowski declared an 'other' interest in respect of Agenda Item (11) (Notice of Motions - Motion 3/2014) because he was one of the organisers of the Cirencester March Hare Festival.

Councillor DJ Nash later declared an 'other' interest in respect of Agenda Item (11) (Notice of Motions - Motion 3/2014) because he was the Treasurer of the Cirencester Community Development Trust.

Councillor David Fowles later declared an 'other' interest in respect of Agenda Item (11) (Notice of Motions - Motion 3/2014) because he was a Trustee of the Cirencester Community Development Trust.

There were no declarations of interest by Officers.

CL.78 MINUTES

RESOLVED that, subject to the deletion of the word ‘what’ and its substitution by the word ‘why’ in line 8 of the final paragraph of Minute CL.62(8), the Minutes of the Meeting of the Council held on 27th February 2014 be approved as a correct record.

Record of Voting - for 34, against 0, abstentions 7, absent 3.

CL.79 ANNOUNCEMENTS FROM THE CHAIRMAN, LEADER OR HEAD OF PAID SERVICE

(i) Gloucestershire Young Carers - the Chairman thanked Members for supporting a recent event in aid of the Gloucestershire Young Carers, one of the Chairman’s Charities. The event had raised over £1,500, which would help the charity continue its important work. The charity had around 1,000 young carers in the county.

(ii) Chairman’s Charities - the Chairman thanked Members for their support for his two chosen charities during his term of office.

(iii) Chairman’s Remarks - the Chairman stated that it had been his privilege and pleasure to serve the Council as its Chairman for two years. During his term of office he had attended over 80 functions and he felt that he had been fortunate that the period had covered the Olympic Games, and the Queen’s Diamond Jubilee in 2012. The Chairman thanked his Vice-Chairman, and all the Officers, who had assisted him with his official duties.

(iv) Order of Business - the Chairman advised that he had decided to vary the order of business so as to allow the consideration of the Motions after the Petitions item.

(v) Debate - the Chairman stated that, without wishing to stifle debate, he was mindful of the Annual Meeting of the Council which would follow later in the day and, to that end, the Chairman requested that Members keep their contributions succinct and to the point.

CL.80 PUBLIC QUESTIONS

In accordance with Council Procedure Rule 10, the following questions had been submitted, and responses provided, as follows:-

(1) From Dr. C Watson of Colesbourne, to Councillor Lynden Stowe, Leader of the Council

“1. Is there a regular programme of roadside litter clearance commissioned by Cotswold District Council, and if so, with what frequency; and how much Council expenditure was devoted to roadside litter clearance during the last financial year 2013-14?

2. What is the Council policy about the provision and emptying of litter bins at bus-stops and lay-bys (as my observation of the A435 would suggest that this is at best haphazard); and which roads does

the Council regard as its responsibility to maintain free of litter (I understand that dual carriageways are the responsibility of the Highways Agency)?”

The following response had been provided by Councillor Stowe:

“I am grateful to the work of Dr. Watson and all the volunteer litter pickers who participate in community clean up campaigns and help to keep the Cotswold clean. I am saddened that it is the action of a relative small number of inconsiderate individuals dropping litter that requires us to spend so much time, money and effort trying to keep the Cotswolds a clean and beautiful place.

Turning to your specific questions:-

1. Yes, the Council has obligations under the Environmental Protection Act 1990 for carrying out litter clearance; and taking into account the size of the District (456 sq. miles) and limited financial resources, Cotswold District Council has planned its cleansing activities carefully so as to have maximum effect.

Each area of the District is split into one of five cleansing zones, which are cleaned as per the schedule below:

Zone 1 - Cleaned every day manually and cleaned once a week using a mechanical sweeper;

Zone 2 - Cleaned once a month using a mechanical sweeper;

Zone 3 - Cleaned twice a year using a mechanical sweeper;

Zones 6 and 7 - Litter picked on an ad hoc basis dependent on need.

In order to explain the classifications:

Zones 1 - 3 are Town Centres, just outside the Town Centres and the Villages - these areas have a significantly higher level of footfall and use by people, so therefore the proportion of litter and detritus regularly present, is higher, which means that they require a greater level of cleansing;

Zones 6 and 7 are predominantly the arterial roads which have significantly fewer or no dwellings and therefore require a lower frequency of cleansing;

The Council's total street cleansing expenditure for 2013/14 is currently £801,870.

2. The Council will replace any damaged or vandalised litter bins free of charge and will provide, install and service litter bins when requested and paid for by Town and Parish Councils.

The Council specifies that all bins should be emptied at a frequency to prevent overflowing. In response to this question an instruction has

been given for the A435 bins to be inspected over the next month and the emptying frequency adjusted accordingly (if required).

The Council has the responsibility for all adopted public highways within the district with the exception of the A417 Trunk Road which comes under the responsibility of the Highways Agency. However, the Zone 6 and 7 roads are assessed as detailed above and in these areas the target is 'predominantly free of litter' rather than 'free of litter'."

Dr. Watson thanked the Leader for his reply and asked the following Supplementary Question:

"1. I note that in Zones 6 and 7 including arterial roads such as the A435, litter is removed on an ad hoc basis. Does this mean that there are no regular inspections and nothing is done until a complaint from a resident is received?"

2. Councillor Stowe describes a fragmentary policy with regard to litter bins whereby each Town and Parish Council has to initiate and pay for the provision, installation and servicing of litter bins while Cotswold District Council only pays for the replacement of any damaged or vandalised bins. This seems to be a recipe for the inadequate and haphazard provision which exists. As there is good evidence that littering increases where litter is already present, would the Council consider adopting a more proactive approach and increase its limited budget expenditure to cover the provision, installation and servicing of new litter bins at all lay-bys and bus stops inscribed with an appeal to 'Keep the Cotswolds Clean'?"

In response, Councillor Stowe informed Dr. Watson that, as a former Cabinet Member for Environment, he was aware that the Council was now receiving far fewer complaints about litter than in previous years previously, but accepted that the definition of 'ad hoc' required clarification by Officers. With regard to the provision of litter bins, it was important to recognise the role played by Parish and Town Councils, in that they paid for new bins to be installed. This Council would replace old and damaged bins, and newly-installed bins would be added to the collection rounds. The Leader felt that such arrangement was fair and generally worked well. As such, he was not minded to make any amendments, but would encourage all Parish and Town Councils, and their residents, to bring any future problems to the attention of the Council.

It was also pointed out that the Council's total street cleansing expenditure for 2013/14 currently exceeded £800,000.

(2) From Ms J Forde of Bagendon to Councillor Lynden Stowe, Leader of the Council

"Why is it that our schools have to fund separate collections for their waste when other lorries drive past the schools doors during their domestic rounds? These collections cost our schools thousands of pounds in lost frontline education funding. As Governor of North Cerney Primary School, I, alongside with my fellow Governors and the school's management team, work extremely hard to ensure our

children receive the best possible educational experience. And with the Government stating it wants funding intended for education to reach frontline teaching; surely we could achieve some efficiencies in this matter?

Will you please look into what can be done to help more of our money go towards our children's education and not 'in the bin'?"

The following response had been provided by Councillor Stowe:

"Thank you for your question regarding the collection of waste from primary schools.

The question is similar to one raised by Councillor Hodgkinson last September, when I explained that this Council, along with Gloucestershire County Council, Cheltenham Borough Council and Forest of Dean District Council, are part of the Gloucestershire Joint Waste Committee (GJWC) and Joint Waste Team. Decisions on strategic policy and service provision are developed jointly by the waste collection and disposal authorities and all of the Councils involved have devolved their waste powers to the Joint Waste Committee.

The question of waste collection for schools was passed to the GJWC for investigation and they submitted a response in April which I understand will be discussed in a forthcoming meeting between yourself, Council Members, Officers and the Cabinet Member, Councillor David Fowles.

I do have sympathy with the economic situation faced by Schools but would point out that they make provision in their budgets for waste collection services along with many other services. Schools have to fund separate collection and disposal of their waste as they are not entitled to 'free' domestic waste collection and disposal. It is too simplistic to suggest that the domestic waste lorries can simply collect and then dispose of schools waste as this would have operational, legal, and financial implications. Although schools have devolved budgets for these support services, the County Council has arranged contracts with the private sector providers to pick up and dispose of recycling and waste from schools, with the aim of providing the service to schools as cost-effectively as possible. Individual schools are at liberty to buy into this or make their own arrangements. Having checked with the County Council Facilities Support Team, I understand that the relevant contracts are due for renewal in 2016 and exposing the services to the market at that time will provide a further opportunity to ensure value for money on behalf of the schools.

At this stage, I think that we can do no more than await the outcome of your forthcoming meeting, and for the matter to be considered alongside the related Motion on the subject which, I understand, will be referred to the Cabinet for determination."

Ms Forde asked the following Supplementary Question:

“I’m sure you’re aware of how stretched small rural schools are when it comes to managing their budgets not just financially but in terms of personnel. The majority of schools in the Cotswolds are small, they don’t have finance offices and teams of professionals managing their budgets in the way that other ‘businesses’ might do. They are public sector services often struggling to make a little go an increasingly long way. Of the 22 schools I’ve spoken to they’ve told me they would save valuable time and money by removing this significant area of cost as a percentage of their school’s budget. Freeing up more money for raising standards and giving children a fair start in life. I’m sure that it would have “operational, legal and financial implications” to look into waste lorries collecting waste at the same time as domestic but making the assumption that Cotswold schools could save £40,000k a year+ can you assure me of not only your sympathy but your continued support in ensuring that the maximum amount from small school budgets goes into the education of our children and not in the bin?”

In response, Councillor Stowe stated that the schools concerned had his sympathy, but suggested that this was not the right forum for the question to be answered and debated, given that the budgets of small schools remained a matter for Gloucestershire County Council. The matter was not by any means straight-forward, either operationally or financially. The Leader suggested that the detail was likely to be considered as a result of one of the Motions that appeared elsewhere on the Council agenda, and subsequent cabinet debate. Furthermore, the impact on the County Council would need to be investigated, as there was a possibility that, overall, the proposal could end up costing more money.

CL.81 MEMBER QUESTIONS

In accordance with Council Procedure Rule 11, questions had been submitted, and responses provided, as follows:-

(1) From Councillor PR Hodgkinson to Councillor Lynden Stowe, Leader of the Council

“In July 2011 this Council voted by 41 to 2 votes to move to one Member Wards across the whole District as part of a cut in Councillor numbers. You proposed a motion calling for all wards to have one Member and voted for this proposal.

Why have you ignored the Council’s decision by recommending a two-Member Ward for Chipping Campden as part of the Conservative Group’s proposal to the Boundary Commission”

The following response had been provided by Councillor Stowe:

“The proposals put forward by the Conservative Group did not represent an ignorance of the Council’s decision or a disregard of it - but a pragmatic approach in seeking a solution that met insofar as possible the agreed Council aim whilst balanced against the statutory criteria to be applied by the Local Government Boundary Commission

for England in terms of (i) elector equality; (ii) reflecting community identities; and (iii) providing for effective and convenient government.

Our starting point was, indeed, to devise a scheme which satisfied all of those criteria and provided for a uniform pattern of single-member wards. We were also mindful of the tolerances that could be applied with regard to elector equality figures across any proposed new wards, i.e. that these should, ideally, not exceed 10%. However, as I am sure that you and your own Group will have found, this was not an easy task, particularly in respect of our major towns and, also, in those areas which abut our District boundary where options are more limited. Indeed, due to the difficulties faced, our final proposals even provided for a pattern of Wards which would have 34 Members, rather than the Commission's consultation figure of 35 - a conclusion which was also reached by your Group.

We explored a number of options for this part of the District.

While Chipping Campden could have stood as a single-Member Ward in its own right, the combined electorate of the remaining Parishes would exceed the single-Member Ward 10% threshold figure quite significantly, by 275 or some 13 % (i.e. 23% over the average). Whilst our proposals did contain Wards with electorates outside the threshold figures, none were to the extent as would have been the case here.

Similarly, whilst a combination of Mickleton and adjoining Ebrington would 'work', there was no natural solution for the remaining Vale Parishes other than by way of a forced combination with part of Chipping Campden which, in itself, would have led to an artificial Parish Warding and consequent negative effects on neighbouring Parishes, and the scheme as a whole.

The more rural Parishes have natural synergies and strong community links and, together, form the southern limit of the Vale which lies between the Cotswolds and Evesham. All Parishes are accessed by the B4362, which runs through the proposed Ward. In addition, they all have close, strong and long-standing ties with Chipping Campden.

As such, we asked the Commission to accept this proposed ward as a one-off exception to the single-Member Ward principle. We believed that such a solution would be supported locally, and was the most appropriate manner in which to meet all of the review criteria in this part of the District.

However, if the introduction of a two-Member Ward is not acceptable to the Commission, we put forward a single-Member Ward alternative, which mirrored the proposal from your Group.

In so doing, we were also mindful that the Commission had proposed a similar arrangement in another of its reviews, with one two-Member Ward in an otherwise single-Member Ward scheme.

Whilst we would have preferred to achieve uniformity across the District, this was not considered possible. It is also clear that the Commission would not have accepted such a high level of elector

inequality - indeed, it was not even supportive of an agreed approach in respect of Lechlade which provided for an electorate figure of 15% above the average, preferring instead to sub-divide Lechlade Parish.”

By way of a Supplementary Question, Councillor Hodgkinson asked why Councillor Stowe had not come back to the Council to explain why his Group had gone against a Council decision.

In response, Councillor Stowe stated that anybody was entitled to put a representation to the Boundary Commission, and the final decision was one for the Boundary Commission. Up to the point that the Council had made its decision, there had been a clear view in support of single-Member Wards. All Members had been invited to the Boundary Commission’s subsequent presentation on the review and had heard the guidance on elector equality. The Leader stated that, having listened to that guidance, it had been very clear that the Boundary Commission would not entertain the idea of creating a new Ward with a variance in elector numbers of over 20%, and it was for this reason that an alternative proposal had been put forward.

(2) From Councillor PR Hodgkinson to Councillor Lynden Stowe, Leader of the Council

“At the last Council meeting you stated that ‘Cirencester needs to get its confidence back’. Given that a third of Cotswolds residents live, work and shop in the town, what justification can you make for this statement”

The following response had been provided by Councillor Stowe:

“You have taken the phrase out of context. The context is properly reported in Minute CL.64 on page 88 of today’s agenda papers.”

Councillor Hodgkinson reiterated his view that the Leader had used such words, which had been heard by other Members, and expressed the view that the Leader and his administration had done more to damage the confidence of Cirencester over the past seven years than any other factor. In this connection, he asked what the Leader was going to do in respect of that record.

In response, Councillor Stowe stated that the context of the comment in the Minutes was quite positive, and he believed that the Council had done many good things for Cirencester. The point he had been making was that for many years there had been little change in car parking charges - many had been left unchanged, some had been cut, but only one car park had seen its charges increased. The town had seen a good deal of positive development and the Council had facilitated some of the development plans. It was the Leader’s view that Cirencester had changed for the better in recent years, and that it had not suffered in the same way as other towns during the wider economic down-turn.

(3) From Councillor JA Harris to Councillor BD Gibbs, Cabinet Member for Customer Services

“Can you please tell me the total income received from car parking charges and the total spent on car parking related services and costs in each financial year from 2003 to the present day?”

The following response had been provided by Councillor Gibbs:

“Time doesn’t permit Officers to retrieve figures from the archives back to 2003, but we are able to give you figures from 2006, a span long enough to give a comprehensive picture of this activity.

Period	Income £000's	Expenditure £000s
2006/7	1805	660
2007/8	1809	687
2008/9	1990	744
2009/10	2140	759
2010/11	2263	758
2011/12	2338	820
2012/13	2289	817

We do not yet have the ratified end of year figures for 2013/14.

You will see that the ratio of surplus to income has remained constant throughout that period.

Figures do not include capital items amounting to some £85,000 and we have planned expenditure for replacing and re-signing all Pay and Display with solar and card enabled system as at the Brewery, re-designing the Forum Car Park, followed by similar re-designs on all other Cirencester car parks.”

Councillor Harris stated that the figures were staggering, and was very disappointed that only £5million of the total £15million income from car parking charges had been reinvested into the car parks. By way of a Supplementary Question, Councillor Harris asked how the Cabinet Member could justify the level of charges when any surplus was supposed to go back into the Car Parks concerned.

In response, Councillor Gibbs stated that Councillor Harris should be aware that whilst County Councils had restrictions on how they could spend any surpluses from on-street parking charges, District Councils were not so restricted in respect of off-street income. The ratio of surplus to income had remained consistent over the seven year period and the Council had consistently decided to use the income to provide other services across the District, as it was permitted to do.

(4) From Councillor JA Harris to Councillor NJW Parsons, Deputy Leader and Cabinet Member for Forward Planning

“Cllr Parsons, many residents in Cirencester have said to me that they have heard nothing from Cotswold District Council about the plans for

over 2000 homes on the land south of Chesterton. What is the Council doing to raise awareness and engage with local residents about this issue?"

The following response had been provided by Councillor Parsons:

"The Chesterton site was included in the Core Strategy Second Issues and Options consultation that ran for 3 months Dec 2010 to March 2011. This consultation was accompanied by 10 public exhibitions and 10 evening meetings and workshops held across the District. The consultation and events were advertised in local newspapers and posters were distributed to all Town and Parish Councils.

The Local Plan has featured heavily in the Council's Cotswold News, distributed to every household in the District, with instructions on how to get involved.

The Council published the Cotswold District Preferred Development Strategy for public consultation last year and it attracted well over 2,000 comments. The site south of Chesterton was identified as a key component in helping to deliver the objectively assessed housing needs for the District to the year 2031. A number of engagement events accompanied the launch of the Strategy, a couple of which were held in Chesterton.

Comments and responses to those comments are available on-line at:

http://consult.cotswold.gov.uk/portal/fp/local_plan_2011-2031/development_strategy

A leaflet and map relating to Chesterton was published and circulated and remains available here:

<http://www.cotswold.gov.uk/media/346512/future-growth-in-cirencester-leaflet.pdf>

The Timetable for the emerging Local Plan is available here:

<http://www.cotswold.gov.uk/residents/planning-building/planning-policy/emerging-local-plan/#>

A Briefing Note was circulated to all Members on 2nd April 2014, and I hope that Members, as community leaders, have forwarded the Note within their communities as they deemed appropriate.

The next stage of the process will be the publication of the full draft Local Plan, which will have taken into account representations received on the Preferred Strategy. The draft Local Plan is expected to be available for consultation in the autumn of 2014.

A community planning event is taking place on 9th and 10th May 2014, which has been organised and advertised by JTP on behalf of the Chesterton site's owners. Also Notices for this event were circulated to all Members and, again, I hope that Members have forwarded the Notices within their communities."

Councillor Harris stated that people felt let down, especially with regard to Chesterton, and he felt that every resident should have been told of the consultation in a variety of ways, rather than being expected to go online for information. By way of a Supplementary Question, Councillor Harris asked why the Council had not made use of new social media or written to every resident, even by way of a letter in the same envelope as the Council Tax demand. Councillor Harris also asked what budget the Council had allocated to consultation events and activities.

In response Councillor Parsons acknowledged that the preparation of the Local Plan was an important matter and one that needed to be publicised through many channels. He felt that consultation had been extensive, and produced a document listing 24 different items of consultation on the Local Plan since December 2010, which included two editions of Cotswold News, which had been delivered to every household in the District.

(5) From Councillor GM Selwyn to Councillor BD Gibbs, Cabinet Member for Customer Services

"In the car parks in Cirencester which are free on Sundays, the pay machines will still accept money even if paid in error. How much money, for each car park, is paid into these machines unnecessarily on a Sunday?"

The following response had been provided by Councillor Gibbs:

"Parking Machines are programmed to allow payments to be made in the evenings to cover the following day - for example buying 2 hours at 7pm will produce a ticket for the next day up to 10am (charges start at 8am). This facility is used by residents who live in town and those on a night out who want to get a taxi home and return the following morning. As the charges start at 8am many people want the flexibility to choose what time the following morning they need to return to the car. In order to allow for the above, the machines are programmed for the clock to go straight from 6pm to 8 am. Any payments made after 6pm show as being paid at 8am. Paying after 6pm on a Saturday will show as 8am the following Monday morning.

It is therefore not possible to distinguish between a person who has parked and paid Saturday after 6pm, Sunday or parked and paid on Monday at 8am.

Above every machine, the times for which parking fees apply are clearly marked."

Councillor Selwyn thanked the Cabinet Member for his response and asked the following Supplementary Question:

"I'm sorry you can't give a figure. Especially because all payments registered after 6pm Saturday are recorded. Of course a percentage of drivers may pay for the following day - though it hadn't previously occurred to me that this facility existed - I suggest that this is a very small percentage of the money paid into these machines on a Sunday...probably in error.

I walk through the Forum car park several times every Sunday. I regularly point out to people about to pay - or who are desperately scanning the small written instructions to check the charges - that it's free. Not once has anyone ever said to me - "that's OK...I'm buying some time on Monday morning..."

The signs on the payment machines are small and not user-friendly - to promote Cirencester's free Sunday car parking and to be honest with people paying in error, do you not agree that appropriate marketing of this free Sunday parking should be undertaken? Perhaps by clear signs advertising that Sunday parking is free on entry to, and within, the car parks in Cirencester? Isn't there more this Council can do to promote this service?"

In response, it was stated that 36 ticket machines would need to be analysed every Monday morning. Councillor Gibbs did not believe that the time and resultant cost was proportionate to the number of complaints received.

(6) From Councillor PR Hodgkinson to Councillor BD Gibbs, Cabinet Member for Customer Services

"The latest visitor numbers for the excellent Corinium Museum show that since it has been run by a private company the number of people visiting it has fallen for two successive quarters. What are you doing to reverse this very worrying trend?"

The following response had been provided by Councillor Gibbs:

"As with most museums, footfall is affected by weather. The comparison between the two quarters you refer to is that, in 2012, we were in the middle of a particularly wet summer, which pushed up visitor numbers, whereas, conversely, last year, we enjoyed a good summer and autumn which reduced footfall.

The 4th quarter of this last financial year showed an increase of 9% over the third quarter. For the full year, the Museum achieved a footfall of 40,096, down some 5,000 against the previous year for the reasons I have outlined, but still ahead of the 40,000 target that SLM had identified in the first year of their operation.

We have regular meetings with SLM over performance and I have been impressed by their immediate attention to any area, which fails to meet their footfall targets."

Councillor Hodgkinson stated that the company which had taken over the Corinium Museum had a self-confessed lack of experience in managing museum facilities, so he was not convinced by the argument that the weather was the cause of falling numbers. By way of a Supplementary Question, he asked why the company had been set a lower target than that which the Council had set for itself when it ran the Museum, when the purpose of outsourcing was to pursue a better service.

In response, Councillor Gibbs reiterated that the weather was a very significant factor; in good weather people wanted to do different activities to

what they did at other times and this had always been the case. SLM had never made a secret of the fact that it had no experience running museums, and good operators were not common-place given that Museums were a very specialised business. Councillor Gibbs stated that the 2013 visitor numbers were very similar to those from 2012. SLM was able to make use of its considerable marketing experience with schools to promote the Museum, and school visits had increased by 16%, achieving another of the targets set for SLM, which was encouraging in itself. In the last Half Term, the courses available had been fully booked. Other initiatives were being pursued, and SLM was also applying for lottery funding for a new discovery project, to allow the Museum to bring out part of the Collection not usually on display. In conclusion, Councillor Gibbs stated that a lot was happening at the Museum and he and his colleagues were happy that SLM was learning and able to contribute to its future.

(7) From Councillor Ms JM Layton to Councillor Lynden Stowe, Leader of the Council

“Since I was elected to this Council three years ago a regular gripe amongst residents is how breaches in planning applications are enforced. People see these breaches as wrong and it leaves them and me very frustrated at the lack of willingness to deal robustly with these situations. Does the Leader share their view and what is he going to do to address the real concerns people have?”

The following response had been provided by Councillor Stowe:

“The issue of planning enforcement has been the subject of various debates in recent years. Indeed, following a review of the service in 2012, a temporary Planning and Enforcement Officer was appointed, and this post has now been made permanent.

Regulatory authorities are required to produce Enforcement Policies to inform the public and businesses about the principles which underpin their approach to enforcement and, in late 2012, the Cabinet approved a framework and over-arching policy for the following service areas:

- Public Protection;
- Development Control;
- Environmental Services;
- Benefits and Fraud.

The Enforcement Policy, which took effect on 1st January 2013 and is subject to review every three years, sets out the enforcement principles that the Council will apply to its enforcement activities. A separate, but complementary, Enforcement Plan has been produced for Development Control, setting out more detailed relevant service-specific procedures and a prioritisation methodology. These documents are available on the Council's website.

The Cabinet Member for Planning and Housing is of the view that the Council does take a robust approach to planning enforcement. Although the Council largely relies on information received from Ward Members, Town and Parish Councils and the public in respect of

enforcement issues, it is felt that this system works well and provides a realistic approach, particularly as evidence suggests that no breaches are identified in approximately 60% of enforcement cases. However, I would encourage people to notify Officers of any suspected enforcement breaches.”

Councillor Ms Layton thanked the Leader for his response and asked the following Supplementary Question:

“I thank the Leader for his reminder about the procedures regarding our Enforcement Policy and I am glad to hear that he and the Cabinet Member for Planning and Housing are confident in the robust application of Planning Enforcement. I do understand that it is expected that the Ward Members and the public report to the relevant Officers their concerns about breaches which come to notice, but I understand less well why we deem to be breaches are often not considered to be breaches by Officers.

My question therefore is that I would like clarification on examples which have been reported by the Parish, members of the public and Ward Members to our Planning and Enforcement Officer.

There is an old sore running through the Planning Portal and that is the continued confusion regarding Lake 31; a long and troubled history of applications, breaches, retrospective applications, continued breaches and withdrawn applications. This is not a definitive list. Finally, we come to March 2014 and it is reported to CDC that work is commencing without planning permission at the Lake. An Enforcement Officer recommends to the developer that a retrospective planning application is submitted. The work is completed, money is going through the developer’s tills but there is still no sign of an application in CDC’s Planning Portal. Why is this not a breach, why does this not require enforcement?

Another example is that of Perrott’s Brook; some dumped material in a field with stabling has been there for seven months - the Applicant was forced to submit a retrospective planning application for a change of use in the stabling to an office and this was then refused. Despite this, Officers will not act to remove the unsightly rubble in the AONB, ‘as the Applicant intends to Appeal’ which could then also take months.

These are just two of many.

Do the Leader, the Cabinet Member and the Planning Committee seriously consider that CDC is robust in dealing with such breaches in planning? Should we not take more seriously the blatant manipulation of procedure by dealing effectively with breaches?”

In response, Councillor Stowe stated that the two examples referred to by Councillor Ms Layton appeared worthy of investigation by the Cabinet Member responsible for Planning. He hoped that the Council was robust, but it was sometimes limited by statute and therein lay many of the problems. The Leader stated that most representations related to short-term

enforcement issue, rather than long-standing ones. He did, however, urge residents and local councils to continue reporting potential breaches.

CL.82 PETITIONS

No petitions had been received.

CL.83 NOTICES OF MOTION

In accordance with Council Procedure Rule 12, the following Motions had been received.

(i) Motion 2/2014

Proposed by Councillor PR Hodgkinson, seconded by Councillor DJ Nash:

“This Council notes the savings which the waste company UBICO will be making over the next 5 years of £5 million.

It therefore commits to ask UBICO to use a very small part of those savings to collect residual and recyclable waste from all Cotswold district primary schools as part of the domestic collections.

This will save those schools an average of £5,000 over 5 years in the waste collection costs they currently have to pay to private rubbish companies - money which can instead go directly to children's education.”

The Chairman of the Council stated that, in accordance with Council Procedure Rule 12, once Proposed and Seconded, the Motion would stand referred to the Cabinet for consideration.

In Proposing the Motion, Councillor Hodgkinson explained that he had first been made aware of the problem when approached by the Chair of Governors for Chedworth School, who regularly watched UBICO lorries drive past the School to collect waste from neighbouring houses. The School's waste was roughly the same as that produced by a large household, with the reality for small rural schools being a charge of around £1,000 per year, for a lorry to make a special journey. This was inefficient, and bad for the environment, whereas the alternative solution being proposed would mean that money could stay within the School to be spent on education. Given the circumstances, a letter had been sent to all of the small Primary Schools in the District and, thus far, twenty had come forward to support the request. It had been disappointing that the idea had not been investigated fully but he was pleased that the Council was now going to speak to the Schools. Councillor Hodgkinson stated that he was asking the Council to consider how it could help the District's excellent Primary Schools. In many cases, the extra collection would cost nothing extra, because the route for many waste vehicles already took them past the Schools concerned. It would also improve the Council's collection rate.

Councillor Nash formally Seconded the Motion. Councillor Nash stated that he was sure there could be very little argument against the suggestion, and felt that there would be little or no revenue cost to the Council and a proportionately significant saving for the schools. UBICO had been making

considerable gains and could easily cover the cost. The cost of waste collection had been a concern for schools over many years, and he urged the Council to consider the request sympathetically.

At this juncture, the Motion stood referred to the Cabinet for consideration, it being noted that the Proposer and Seconder would be invited to present their Motion to the Cabinet in due course.

(ii) Motion 3/2014

Proposed by Councillor PCB Coleman, seconded by Councillor JA Harris:

“This Council congratulates those responsible for the concept and implementation of the Cirencester March Hare Festival and recognises the boost it has given to the town's vibrant and commercial heart.”

The Chairman of the Council stated that, in accordance with Council Procedure Rule 12, he intended to allow the Motion to be debated at the Council Meeting.

In Proposing the Motion, Councillor Coleman explained that he had been struck by what a success the March Hare Festival had been in attracting a number of people, across the generations, to the town and how it had been in tune with the new spirit of the town.

Councillor Harris formally Seconded the Motion. Councillor Harris stated that the Festival had been an excellent idea, and had been a fun activity for the whole family.

Councillor AJ Lichnowski reminded the Council that he had declared an ‘other’ interest as the Chairman of the Cirencester Community Development Trust and would abstain from any vote. However, he wished to congratulate the team responsible for the Festival, including its patrons and sponsor; the local schools who had embraced the Festival; the talented artists who had created the fantasy hares; and the media partners who had helped promote the Festival. He explained that the funds raised from the Festival would be used to help raise the £50,000 needed for Gloucestershire Wildlife Trust to begin to develop the Green Hare Way around the River Churn in Cirencester. This new trail project would involve schools and community groups and would have lasting benefits for residents and visitors alike.

Councillor Lichnowski also stated that particular thanks were owed to the Festival Organiser, Florence Beetlestone, whose idea it had been. By the end of May, there would be around 50 hares on display, and a definitive map would be produced. The Festival would continue until the middle of September.

All Members supported the Motion.

RESOLVED that the Motion be supported.

Record of Voting - for 34, against 0, abstentions 0, absent 7, interest declared 3.

(iii) Motion 4/2014

Proposed by Councillor M Wardle, seconded by Councillor SG Hirst:

“This Council notes and welcomes the release of the latest Five Year Housing Supply report which shows that CDC can now demonstrate a five year supply including the 20% buffer required by recent Planning Inspectorate decisions.

Council notes that the Five Year Housing Supply report is a material consideration in planning matters.

Council further notes that the decision of the Planning Committee to overturn their original decision relating to the London Road, Fairford application (ref. 13/03793/OUT) at their February 2014 meeting was taken against a background of advice that CDC could not demonstrate a Five Year Housing Supply and in the light of Planning Inspectorate comments thereon.

Council believes it is appropriate for the Planning Committee to reconsider the application prior to formal completion of the S106 agreement and prior to the issue of any decision notice.”

The Chairman of the Council stated that, in accordance with Council Procedure Rule 12, he considered that it would be appropriate for the Motion to be debated by the Council at the Meeting. However, he reminded the Council that it was not a discussion on the merits of the planning application concerned, but the constitutional matter of whether the application should be referred back to the Planning Committee for further consideration.

In Proposing the Motion, Councillor Wardle explained that, if the Council agreed with his proposal, the Planning Committee would be asked to revisit the application, and he felt that the decision to revisit the application, or not, was one which should be determined by elected Members and not by Officers. The application had first been considered by the Planning Committee on 15th January 2014, when it had been refused on grounds relating to sustainability and sewerage capacity. Subsequent to that decision, an Appeal Decision relating to a site on Bourton-on-the-Water had been issued by the Planning Inspectorate and, on 12th February 2014, the Planning Committee had considered the application for a second time. The Committee's first vote had been tied, and had only been approved following the Chairman's use of his casting vote, after saying he would use that vote "in view of the Government's direction in relation to the determination of applications for housing".

Councillor Wardle stated that the changing situation regarding the Council's five-year supply of housing land was a relevant consideration; there was already a precedent in that the application had been referred back to the Committee; Officers had expressed a number of reasons for refusal, even in view of the situation with the five-year housing land supply, but he was of the view that such opinion should be tested at Committee by elected Members; and the legality of such referral had already been referred to Counsel, with the advice that there was nothing to stop a decision being re-visited (if the

Decision Notice had not been issued) and, dependent upon circumstances, to do so might in fact be desirable and/or required.

Councillor Wardle felt that reconsideration would also be good for public confidence in the Council's planning system. He stated that while wishing to make absolutely no suggestion of wrong-doing, it was common knowledge in Fairford that the agent for the application had met with representatives of the Town Council and was a Cabinet Member for West Oxfordshire District Council. The issue of perception was very real. Councillor Wardle acknowledged the risk that delay or refusal could lead to an Appeal by the Applicant, but failure to consider changing material considerations carried its own risk. The Applicants had offered an ex-gratia payment to Fairford Town Council, but time constraints had prevented formal consideration by that Council. However, Councillor Wardle was aware that the Town Council had twice voted to send strong objections to this Council, so he felt it might be reasonable to assume that the Council would be willing to forego that money in preference to being allocated a speculative housing development.

Councillor Wardle stated that there was a simple mechanism for review of similarly affected applications in that, under the Council's Scheme of Delegation, Officers could review individual cases and request delegated authority to proceed as per the original resolutions if seen fit. It would be for Ward Members to agree, as was usually the case, or disagree. This would overcome any issues of uncertainty in respect of other applications and, if anything, could actually strengthen the five-year housing land supply figures.

Councillor Wardle concluded by stating that there was a degree of disillusionment in Fairford which, it should not be forgotten, had been largely supportive of the housing targets for the town in the draft Local Plan.

Councillor Hirst formally Seconded the Motion. Councillor Hirst stated that he was not seeking for the full Council to make a decision on the application, but to decide whether a significant material change had occurred since the original decision that would have affected the Planning Committee's decision; and he felt that the application should be re-examined to test the validity of the decision to permit. Councillor Hirst stated that this did not mean to say that he agreed fully with Councillor Wardle's submission, or that he did not fear the consequences of a re-examination. He stated that his over-riding reason for Seconding the Motion was one of allowing a Member to speak on what he considered to be a most important subject for his Ward, given that Councillors were all elected to represent their respective electorates. Councillor Hirst concluded by stating that democracy was often in question in the Cotswolds and he therefore felt it vital that Councillor Wardle be allowed to ask for his Motion to be considered.

Councillor NJW Parsons, the Deputy Leader and the Cabinet Member for Forward Planning, acknowledged that the matter was clearly exercising not only Councillor Wardle's mind but those of other Fairford residents, because Councillor Parsons had received around a dozen e-mails on the subject. However, Councillor Parsons felt that he had to correct something, in that there was a presumption in favour of development in the National Planning Policy Framework, but not in the Housing Land Supply. The decision by the Planning Committee had not been made behind closed doors, but in a meeting open to the public. Councillor Wardle had referred to the possibility of Appeal and to other legal remedies, but Councillor Parsons did not feel that this was the case either. The time for Judicial Review had now passed and

longer-serving Members might remember a former District Councillor who had requested Judicial Review of the Planning Committee's decision to approve a supermarket in Stow-on-the-Wold. The correct analysis, Councillor Parsons stated, was that the information from a Planning Inspector had been a matter of clarification of the law, not a change, and the Inspector had specifically stated that the clarification was not in itself a reason for refusal of planning permission. Also, the clarification had not been new, it had simply been a reminder and the purpose was to remind Members in time for the Meeting of the Planning Committee in February. The current position was that the Committee had made a valid decision. If Members did not agree with that decision, they could request a Judicial Review if they supported refusal, or they could support the Applicant if such refusal went to Appeal. Councillor Parsons felt that it would be neither appropriate nor transparent for the Council to refer the application back to the Committee. In the light of the circumstances, and advice obtained, Councillor Parsons would not support the Motion.

In the ensuing debate, some Members expressed the views that as the Decision Notice had not been issued, it was perfectly proper to reconsider the application in the light of a change of situation; the time for Judicial Review had not expired, as it started from the date on the decision notice, rather than the date of the Committee Meeting; the population of Fairford could not sustain an increasing number of housing without a corresponding increase in infrastructure and services; Officers appeared to be making important planning decisions, rather than Members; Members had previously been told that the absence of a Five Year Housing Land Supply was a vitally important planning issue, but now that the Council did have that supply, it was obviously a significant change; it was immaterial whether a change of decision had adverse implications for other sites; it was important to discuss the matter now, as the Council's response had been to schedule an Agenda item on Constitutional matters that could prevent Members from considering such applications again; and the Planning Committee Chairman's use of his casting vote indicated the difficulty of the original decision and it was right for the Council, with its greater numbers, to consider whether the application should be referred back.

Other Members stated that reconsideration and refusal could put the Council at risk of appeals by other applicants whose plans for sites in Fairford and elsewhere had recently been refused; the Government had made it clear that it was looking for increasing Housing development and the Planning Inspectorate was allowing many appeals against refusal; the inference that 'something was wrong' was not correct; the original Planning Officer's recommendation and report considered by the Committee in February was 12 pages long and the issue of Housing Land Supply was referred to on only one of those pages; similarly, the Minute of the Committee's decision covered two and a half pages, within which were only a few lines on Housing Land Supply; together, those facts appeared to show that the Committee's decision had been made on a wider range of issues than just Housing Land Supply; and if Officers did not consider that a change to their recommendation was justified, then there was absolutely no reason to refer the decision back to the Planning Committee.

Summing up, Councillor Wardle stated that some references to his Motion had implied that he was using process as a means to an end, but the advice that the Council now had a Five Year Housing Land Supply had only come

out in an email on 15th April, so this Meeting was the first opportunity the Council had to consider his proposal to refer the application back to the Committee. Also, with regard to the suggestion that a change of decision by the Planning Committee might jeopardise an appeal at another site, he believed that the grounds of that decision were entirely different, as in a large part they related to the effect of the application on the setting of a Listed Building. Councillor Wardle stated that the Barristers representing the Appellants would thoroughly examine the soundness of the Council's Five Year Housing Land Supply. The outcome would result in similar decisions being reconsidered and Councillor Wardle felt that this would make the Five Year Housing Land Supply more secure. In conclusion, Councillor Wardle urged the Council to win back the confidence of its people and vote in favour of the Motion.

In response to a Member's question, the Chief Executive confirmed that the Agent for the application concerned was a Cabinet Member for West Oxfordshire District Council.

Upon being put to the vote, the Motion was LOST, with the record of voting being - for 13, against 23, abstentions 5, absent 3.

RESOLVED that the Motion not be supported.

CL.84 CONSTITUTIONAL MATTERS

The Council was requested to consider a number of Constitution-related matters, following the annual review of operational arrangements to ensure that they were fit for purpose and represented good practice. The issues related to formal questions; Motions on notice; and Cabinet Member decisions.

It was Proposed, and duly Seconded, that this item be deferred, pending initial consideration of the proposals by the Audit and Scrutiny Committee. On being put to the Vote, the Proposition was LOST, with the record of voting being - for 17, against 22, abstentions 2, absent 3.

With regard to formal questions, the views of the Council were sought on whether it would be more appropriate for formal questions to be directed to the Cabinet Members accountable for the subject areas concerned, rather than to the Leader. Attention was drawn to a number of occasions over the past year when formal questions had been directed to the Leader of the Council, rather than the relevant Cabinet Member; and some instances where the Leader had asked the relevant Cabinet Member to respond either to the initial question, or supplementary, or both.

Some Members expressed a view that, under the 'Strong Leader' model of Council governance, the Leader should be held to account for any aspect of Council business.

The Leader felt that it was appropriate for Cabinet Members to respond to questions on matters for which they were accountable.

A Cabinet Member stated that he had held two portfolios under the Leader and had, at times, found it frustrating when he had not been given the opportunity to respond to Member and/or the public questions relating to

matters within his remit. In addition, the Cabinet Member was often also best placed to provide the most comprehensive answers.

Possible amendments had also been identified in relation to the submission of Motions on Notice, as clarification was considered beneficial in the light of recent experience and the potential for Motions to be used to seek to overturn previously-made decisions. While some Members supported the changes being suggested, as they considered the proposals to be about dealing with business efficiently, without any loss in democracy, others felt that the proposals merited more detailed consideration given that they had wider-reaching implications.

A Member expressed the view that, if the suggested prohibition on reconsidering and rescinding a decision were to be in place, it would make no difference to some planning decisions, as it had been established that a planning decision was not considered to have been made until the date that the Decision Notice was issued, which could be many months after the date of the original Committee Meeting. In response, the Chief Executive and the Head of Legal and Property Services stated that it did not require a Motion for a matter to be re-considered, as Officers could refer a decision back to the Committee concerned if the circumstances leading to that decision had changed and it was likely that the Committee would come to a different conclusion.

In response to a suggestion that the decision should be deferred in order to obtain specialist legal advice, Officers explained that such advice had already been obtained on a related matter, and the proposals reflected such advice.

The revised arrangements in relation to Cabinet Member Decisions were generally supported.

RESOLVED that:

- (a) formal questions be directed to the relevant Cabinet Member;**
- (b) consideration of possible changes to the arrangements in respect of Motions on Notice be deferred to a future Meeting;**
- (c) the revised arrangements in respect of Cabinet Member decisions, as set out in paragraph 4 of the circulated report, be implemented with effect from the 2014/15 Municipal Year;**
- (d) the Head of Democratic Services be authorised to make the relevant changes to the Council's Constitution arising from the decisions of Council.**

Record of Voting - for 24, against 13, abstentions 0, absent 7.

CL.85 OTHER ISSUES ARISING FROM THE CABINET

There were no other issues arising from the Cabinet.

CL.86 ISSUES/REPORTS ARISING FROM AUDIT AND SCRUTINY

There were no issues/reports arising from Audit and Scrutiny.

CL.87 SEALING OF DOCUMENTS

RESOLVED that the **Common Seal of the Council** be affixed to all **contracts, conveyances and any other documents necessary for carrying into effect all resolutions passed by the Council.**

Record of Voting - for 37, against 0, abstentions 0, absent 7.

CL.88 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED that the **public and Press** be excluded from the Meeting for the following item of business on the grounds that it involves likely disclosure of exempt information as defined in paragraph (3) of Part I of Schedule 12A to the said Act (Information relating to financial or business affairs) and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information concerned.

Record of Voting - for 37, against 0, abstentions 0, absent 7.

CL.89 PROPERTY REVIEW - CIRENCESTER

The Deputy Leader of the Council presented the report and recommendations of the Cabinet relating to the proposed disposal of a property in its ownership in Cirencester, which was surplus to requirements. Such recommendations were duly seconded.

The Deputy Leader of the Council amplified the reasons behind the proposed disposal, and the circulated report provided detailed background information and also set out options for future use, including risks associated with each; disposal options; financial implications and valuation advice; and details of an interest received for a local community organisation which was looking to relocate to larger premises within the town.

With particular regard to the interest expressed by the community organisation, it was explained that the Council's Acquisition and Disposal Policy did allow for disposal by private treaty for social benefit, and also the transfer of under-used land and buildings into community ownership and management to deliver long-term benefits which might not otherwise be achieved. The Council could agree to disposal if there were other benefits, namely, social, environmental or economic. Officers amplified various aspects and responded to questions from Members.

A number of Members made reference to the community and social benefits that could be expected from a sale to the community organisation. In this connection, an AMENDMENT was Proposed and duly Seconded so as to allow discussions with the interested community-based organisation for a possible sale by private treaty, with a final decision to be made by the Council at its Meeting to be held on 23rd September 2014.

The implications of such an Amendment were explained and explored. Upon being put to the vote, the AMENDMENT was LOST.

In the absence of further amendments, the recommendations of the Cabinet were then put to the vote.

RESOLVED that:

- (a) disposal of the site be by way of auction, as detailed in the circulated report;**
- (b) the Strategic Director (Corporate Resources), in consultation with the Leader of Council, the Deputy Leader of the Council and the Joint Head of Legal and Property Services and Monitoring Officer, be authorised to agree the auction reserve; final terms for the disposal; to withdraw from auction should there be a lack of interest; or to agree alternative marketing disposal solutions should an auction approach fail to result in asset disposal;**
- (c) the receipt from the disposal be reinvested in commercial property or a property fund;**
- (d) a sum of £15,000 be allocated from the Council's priorities fund for surveys etc. and other costs etc. in connection with the disposal of the site.**

Record of Voting - for 22, against 12, abstentions 4, absent 6.

Note:

In accordance with the Council Procedure Rule 16.6, a request was made for a Recorded Vote to be taken in respect of the Amendment, which was supported by the requisite number of Members. The Record of Voting was as follows:-

For: - Councillors Sue Coakley, PCB Coleman, JA Harris, SG Hirst, JP Hughes, Ms JM Layton, AJ Lichnowski, DJ Nash, Mrs. MS Rickman, Lee Searles, GM Selwyn and M Wardle - Total: 12;

Against: - Councillors Mark F Annett, Julian Beale, Clive Bennett, JGK Birch, DC Broad, Sandra Carter, DE Collier, BS Dare, RW Dutton, David Fowles, BD Gibbs, Mrs. DE Hicks, RP Hooper, RL Hughes, Mrs. Sheila Jeffery, Mrs. SL Jepson, Jim Parsons, NJW Parsons, David Penman, Mrs. M Phillips, Lynden Stowe and R Theodoulou - Total: 22;

Abstentions: - Councillors C Hancock, PR Hodgkinson, Sir Edward Horsfall and Mrs. CH Toppie - Total: 4;

Absent: - Councillors John Burgess, Mrs. VB Crosbie Dawson, Mrs. JL Hincks, EGJ Jenkins, Mrs. Carolyn Nicolle and LR Wilkins - Total: 6.

The Meeting commenced at 10.00 a.m., adjourned between 12.25 p.m. and 12.30 p.m., and closed at 1.19 p.m.

Chairman

(END)