

**OVERVIEW AND SCRUTINY COMMITTEE (PERFORMANCE AND CORPORATE SERVICES)**



**MEETING HELD AT THE TOWN HALL, BOOTLE  
ON TUESDAY 19TH JANUARY, 2010**

**PRESENT:** Councillor D Hardy (in the Chair);  
Councillor Byrom (Vice-Chair);  
Councillors Bigley, Byrne, Fenton, Howe, Roberts  
(Substitute Member for Councillor Papworth), Storey  
and Weavers and Roberts.

**Also Present:** Councillors Maher, Parry, Porter, Robertson, Shaw  
and Sumner.

**46. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors McGinnity and Papworth; and also from Councillor Hands, one of the three Councillors who had requested the 'call-in' of the Cabinet decision of 17 December 2009, on Southport Indoor Market.

**47. DECLARATIONS OF INTEREST**

The following declaration of interest was received:

<b>Member</b>	<b>Minute</b>	<b>Reason</b>	<b>Action</b>
Councillor Robertson	No. 49 – 'Called-in Item – Southport Indoor Market	Personal – Employed by HM Revenue and Customs, which is referred to in the report.	– Remained in the room during consideration of the item.

**48. MINUTES**

**RESOLVED:**

That the Minutes of the meeting held on 15 December 2009 be confirmed as a correct record.

**49. 'CALLED-IN' ITEM - SOUTHPORT INDOOR MARKET**

The Committee considered (A) the report of the Legal Director; (B) the report of the Strategic Director of Regeneration and Environmental (C) Minute No. 237 of the meeting of the Cabinet held on 17 December 2009 in respect of the Southport Indoor Market; and (D) a copy of the "call-in" form,

OVERVIEW AND SCRUTINY COMMITTEE (PERFORMANCE AND CORPORATE SERVICES) - TUESDAY 19TH JANUARY, 2010

The Cabinet had resolved that:

- “(1) approval be given to the further development of the Indoor Market Refurbishment Scheme to enable Officers to invite tenders for the scheme;*
- (2) the comments from the Market Consultant on the development of the design in the Business Case for the project be noted;*
- (3) the project be phased to enable traders to continue trading during the period of the refurbishment works; and*
- (4) the Legal Director be authorised to negotiate the termination of existing licences and negotiate new licences for the improved facility”.*

Councillor Robertson, Leader of the Council explained the Cabinet's decision in further detail.

The Chair invited Councillors Shaw and Sumner to address the Committee on the decision made by the Cabinet.

Councillors Shaw outlined the reasons for 'calling in' the item, namely:-

1. The decision of the Cabinet appeared not to have been taken in accordance with correct principles, as specified in article 13.02 of the Constitution, in particular:
  - (a) proportionality (i.e. the action must proportionate to the outcome);
  - (e) clarity of aims and desired outcomes;
  - (f) take account of relevant matters.
2. The proposed £3.2 million scheme was unaffordable and speculative, particularly in the current economic climate. To quote from the Risk Assessment in the report to the 17 December 2009 Cabinet meeting: “These issues coupled with the present economic conditions and the resulting volatility in the retail sector meant that there was still substantial risk retained in this project”.

A more modest refurbishment scheme, costing under £1 million, would be more appropriate.
3. The issue of VAT and whether the Council would “opt to tax” in respect of the Market had been raised repeatedly by officers in reports to Cabinet, but from the Minutes there was

## OVERVIEW AND SCRUTINY COMMITTEE (PERFORMANCE AND CORPORATE SERVICES) - TUESDAY 19TH JANUARY, 2010

no evidence that the Cabinet had yet made a clear decision on this issue. This uncertainty was unhelpful, particularly for any smaller market traders or prospective market traders who might not be VAT-registered, and for whom a decision to “opt to tax” would impose a significant additional cost burden.

It also constituted a risk to the Council; to quote again from the Risk Assessment in the most recent report: “Additionally the Finance Department had identified a risk relating to the Council’s wider VAT liability that would be potentially triggered by the project”.

4. The Cabinet had previously agreed to seek an external partner – in Minute 299 (4) of the meeting of 19 March 2009, the Cabinet resolved: “officers be authorised to explore options for external partner funding and support”.

More recent reports and Minutes failed to mention an external partner; the lack of which must cast serious doubt on the financial viability of this project as currently proposed.

5. It was reported (in paragraph 2.5 of the report to the 17 December 2009 Cabinet meeting) that there would be significant increases in rents (+20%, or +41% for non-VAT-registered traders, if the Council opted to tax as referred to in 3. above). Such increases were likely to be unaffordable for many current market traders or prospective market traders.
6. “Public Realm” works had previously been identified as a crucial part of the overall scheme. However, it appeared that they had now been substantially cut. The report to the 17 December 2009 Cabinet meeting stated (in paragraph 4.4) that the costs of Market works were higher than originally estimated, and that the net impact was that the scope of the public realm improvements would need to be substantially reduced accordingly.

This suggested that there was a serious lack of “clarity of aims and desired outcomes” ((e) in the list of Principles for Decision Making in Article 13.02 of the Constitution).

In considering the report and the concerns expressed by Councillors Shaw and Sumner, Members of the Committee discussed the following issues:

- potential risks;
- involvement of private sector partners for capital and expertise;
- VAT charges -whether the Council would “opt to tax”;
- market trader rent charges;
- the refurbishment plans;
- public realm improvements and associated budget; and

## OVERVIEW AND SCRUTINY COMMITTEE (PERFORMANCE AND CORPORATE SERVICES) - TUESDAY 19TH JANUARY, 2010

- potential impact / benefits for the town of Southport.

Officers representing the Leisure and Tourism Department and also the Finance Department responded to the issues raised, as did Councillors Maher, Porter and Parry, the respective Cabinet Members for Regeneration, Communities and Corporate Services.

In concluding its discussions the Committee commented that:

- a. the position regarding the option to tax should be resolved as soon as possible; and
- b. the Authority is encouraged to find a private sector partner and that the final reporting back process should set out the steps taken to find a partner and, if unsuccessful, to set out the reasons/difficulties encountered.

RESOLVED:

That the Cabinet be advised that this Committee considers that the report and decision of the Cabinet of 17 December 2009 in respect of Southport Indoor Market be endorsed and not be referred back to the Cabinet for further consideration.

### **50. TRANSFORMATION UPDATE**

The Transformation Director provided a verbal update on the Transformation Programme and answered questions thereon.

RESOLVED:

That the progress made in developing the Transformation Programme be received.

### **51. REVENUE AND CAPITAL EXPENDITURE MONITORING TO 30 SEPTEMBER 2009 - CORPORATE SERVICES**

Further to Minute No. 84 of the meeting of the Cabinet Member – Corporate Services of 13 January 2010, the Committee considered the joint report of the Chief Executive, the Finance and Information Services Director, the Head of Technical Services, the Legal Director and the Personnel Director, providing details of the quarterly forecast position, based on information as at 24 July 2009, in relation to the Portfolio's 2009/10 Revenue Budget and indicating that a decision on this matter was required to comply with the corporate performance management process.

It was noted that a proposal had been submitted to the Overview and Scrutiny Management Board for consideration of changing the current format of the budget monitoring report. Any amendments agreed would be reflected in future budget monitoring reports.

## OVERVIEW AND SCRUTINY COMMITTEE (PERFORMANCE AND CORPORATE SERVICES) - TUESDAY 19TH JANUARY, 2010

The report provided information on the budget pressures facing the departments falling within the Corporate Services remit and indicated that where budget pressures had been identified, the Service Directors had reviewed their departmental budgets for compensating savings. Departments had also been asked whether or not all other budgets could be contained within the resources allocated by the Council for 2010.

Details of the portfolio's Revenue budgets that were monitored and reported on a risk assessed basis, together with appropriate comments from Service Directors were indicated in various Annexes of the report.

The report also highlighted the following risk areas in terms of the forecast outturn variances to the end of September 2009:

### Finance and Information Services:

- Employee costs
- Housing Benefits Net Transfer Payments (£100k)
- Capital Financing Costs
- Specialist Transport Unit

### Legal Department:

- Employee costs
- Commercial Contract Fees / Land Search Fees

### Chief Executive's Department

- Civic and Mayoral Services

The report concluded by providing information about the portfolio's Capital Programme, E-Government Priority Service Outcomes and Disaster Recovery, Business Continuity and Civil Contingencies.

### RESOLVED:

That the report be received and no comments be made at present to the Cabinet regarding the overall performance of the revenue budget and the schemes within the capital programme.

## **52. CABINET MEMBER REPORTS**

In order to keep Overview and Scrutiny Committee Members informed the Overview and Scrutiny Management Board had agreed that relevant Cabinet Member Reports should be submitted to future meetings of Overview and Scrutiny Committees.

Accordingly, the Committee received the latest reports from the Cabinet Members for Communities, Corporate Services and Performance and Governance.

Arising from discussions, about the Cabinet Member - Communities Report, the Committee welcomed the news that the Sefton Equalities

OVERVIEW AND SCRUTINY COMMITTEE (PERFORMANCE AND CORPORATE SERVICES) - TUESDAY 19TH JANUARY, 2010

Partnership and NHS Sefton had been praised at the Health Service Journal Awards – a prestigious national awards ceremony for introducing The Transgender Volunteer Programme, an innovative scheme that was tackling discrimination whilst improving access to health services.

RESOLVED: That

- (1) the Cabinet Member reports be received; and
- (2) a letter be sent from this Committee to the Chief Executive of NHS Sefton commending the Health Service Journal Award for the introduction of the Transgender Volunteer Programme.

**53. WORK PROGRAMME KEY DECISION FORWARD PLAN - 1 JANUARY 2010 TO 30 APRIL 2010**

The Committee considered the report of the Legal Director attaching the latest Key Decision Forward Plan that contained all the Key Decisions that the Executive was anticipated to take during the above period. The Committee was advised of its right to pre-scrutinise any Key Decision which fell under its remit.

Discussion took place about both the Perceptions of Crime and the Equalities Working Groups which had been unable to meet recently due to Members' illness and work commitments.

RESOLVED: That

- (1) the contents of the Forward Plan for the period 1 January to 30 April 2010, be accepted; and
- (2) the progress and actions of the Working Groups to date be received.

**54. DATE OF NEXT MEETING**

RESOLVED:

That the date of the next meeting scheduled to take place at **6.30 p.m. on Tuesday, 16 February 2010, at Southport Town Hall**, be noted.