

APPENDIX B

Meeting of Somerset County Council held in the Council Chamber, Shire Hall, Taunton on
Wednesday 26 April 2017 at 10.00am

Agenda Item 4 - Public Question Time

Details of the questions / statements and petitions referred to in Minute AK275 and responses given at the meeting are given below.

Public Questions / Statements / Public Petitions (under 5000 signatures)

1. The Future of the recently Transferred Learning Disability Provider Service (LDPS) to Dimensions UK Ltd (Discovery)

From Nigel Behan

Please find enclosed some further questions arising from the responses recently provided to our County Council questions (15th February 2017) and Cabinet questions (15th March 2017). I would like to thank Councillor William Wallace for the supply of the Key Performance Indicators for the outsourcing contract of LDPS to Dimensions UK Ltd.

Q1 For comparison can these KPIs be completed for the final 3 months of the In House Service (January- March 2017) so that we can see (a baseline) what better, worse or similar performance looks like after transfer of the service to Dimensions UK Ltd?

Q2 Can the final versions of the pre-transfer Risk Register and Issues Log be also supplied (for the period up to 31st March 2017)?

Q3 What are the "specific circumstances" for terminating the contract with Dimensions UK Ltd?

Q4 What mitigating plans and actions have been considered between SCC and Dimensions UK Ltd (Discovery) to address the recruitment and retention (of staff) problem?

Q5 The Cabinet papers (7th July 2016) for Item 5 contained Appendices C and D which contained exempt information "and...therefore marked as Confidential". Will the Appendices to that paper now be released so the part published Business Case can be put in context?

Q6 i) How much is SCC "investing" (as indicated in the written responses) in Dimensions UK Ltd (compared to the Financial Forecasts and projected expenditure of the In –House service) for each year of the contract?

ii) Is the financial savings estimate (forecast) after 6 years still (cost if SCC ran the service directly £195m compared to Dimensions UK Ltd cost of £191m) approximately £4m?

These questions were sent in after the deadline for the 15th March Cabinet meeting but are in response to the SCC press release, which appeared in the public domain after midday on Friday 10th March.

<https://somesetnewsroom.com/2017/03/10/cabinet-to-consider-compensation-boost/>

Q7 i) One of the main 'fresh' points is that the sudden appearance of a, previously unknown, compensation fund raises more questions than it answers, e.g. SCC subsidising Dimensions' plans?

ii) Why was this fund deemed necessary in 2016 and why has this remained hidden until less than 3 weeks before the proposed transfer? Why is it being kept a secret from staff until after the proposed transfer date? Were Councillors told about the Compensation Fund and if so at which meeting?

Q8 Does the proposal about a Compensation Fund conform to TUPE and procurement legislation? Please demonstrate how this is met.

Q9 Has this extra funding been factored into the business plan/financial case?

Q10 How can using money that government has set aside for social care be used for compensation and not have a detrimental impact on remaining services & Service Users?

Response from Cllr William Wallace – Cabinet Member for Adult Social Care

Thank you for your questions raised at Full Council on the 26th April - please find below a written response to your questions.

Question 1

We will work to provide this comparison, however this will only be possible where the current KPI and future KPI indicators are either the same or broadly similar.

Question 2

As stated in previous responses, this is not a document that is appropriate to release.

Question 3

These circumstances are expressed as clauses within the contracts and are commercially confidential. In broad terms they cover normal and prudent provisions relating to changes to legislation and provider performance etc.

Question 4

Somerset County Council and Dimensions have listened to staff and trade unions during consultation leading up to transfer. One change that was made, as a result of this, was to ensure that relief workers were engaged on the same terms after transfer as they had before. We have been meeting with Discovery regularly both prior to and now that the transfer has taken place, with recruitment and retention a key part of those conversations. We are well aware of issues around staffing generally, in health and social care, and these are a major consideration within our work on the Sustainability and Transformation Plan for Somerset.

Question 5

All information, beyond the detailed breakdown of commercially confidential financial information that was summarised in the public version of the paper, has been released and is therefore already available to put the business case in to context.

In terms of the appendices you have directly referred to:

Appendix C provided an end to end narrative of the procurement process undertaken in order to provide assurance to Cabinet and Scrutiny that the process undertaken was compliant with the Public Procurement Regulations (2015). It contains commercially confidential information about all the organisations that participated in the process and therefore is, and will remain, confidential. For clarity both the production and confidentiality of this document is normal practice in any procurement process undertaken by SCC.

Appendix D provided a detailed breakdown of financial information relating to the contract in addition to the summary provided within the Cabinet paper itself. As such it is commercially confidential and I refer you to the response given to the question that you submitted in July 2016 that stated "Where we have not shared information it relates either to commercial aspects of the Dimensions bid and/or approach to bidding that could adversely affect either the new social enterprise or Dimension's ability to retain or compete for future work locally and/or nationally given the competitive nature of the market for these services. Included within this commercially confidential information is the detailed cost comparison between the new social enterprise and continuing to provide these services in house as, while we have stated the overall difference, the detailed information would immediately give the new social enterprise's competitors an advantage in this highly competitive market." This appendix therefore will remain confidential.

Question 6

As previously stated it is inappropriate to term this as SCC investment and the release of this detailed information would immediately give the new social enterprise's competitors an advantage in this highly competitive market. Therefore it is, and will remain, commercially confidential.

The estimated total cost has increased following increased pension contributions and further National Living Wage increases. This increase would affect SCC if the service stayed in house so the cost of SCC running the service would also increase. The comparison is therefore still valid.

Question 7

It is misleading to suggest that SCC is “subsidising Dimensions’ plans”. The funding referred to relates to the funding of the actual costs of the organisational transformation that is required to meet SCC’s requirements of the new social enterprise.

The “fund” referred to formed part of overall bid that Dimensions submitted. Details of this aspect of the bid were contained within the confidential papers that were considered by both Cabinet and Scrutiny.

Question 8

In terms of procurement, as previously stated the “compensation fund” referred to formed part of overall bid that Dimensions submitted and is therefore compliant with the procurement regulations. The actions undertaken by the Council meets its TUPE responsibility.

Question 9

The “fund” referred to formed part of overall bid that Dimensions submitted. Details of this aspect of the bid were contained within the confidential papers that were considered by both Cabinet and Scrutiny.

Question 10

As previously stated this relates to the funding of the actual costs of the organisational transformation that is required to meet SCC’s requirements of the new social enterprise. None of the recently allocated additional funding has been used in this process.

2. County Farms

From Sue Osborne

Good morning Councillors and thank you for permitting me to speak to you today.

My name is Sue Osborne. I am the wife of the tenant of Oxenford Farm, one of the farms named in the emergency sales order referred to in your papers. I am also a sitting Conservative SSDC Councillor.

We started our farming career at Lower Sea Farm in 1996 and moved to Oxenford Farm in 2003 on the last 16 year progression tenancy.

In August 2012 John Osman, Leader of SCC, told stakeholders, in response to a question, at a West Somerset Economic Development meeting, that there would be no more farms sold while he was the leader. Further enquiry revealed that this meant specifically no more sales of land on the quantocks.

This year the sale of County Farms is in the news again, making the front page of Farmers Guardian, a national farming newspaper. Why did this happen? I believe it is because that thanks to a change in Government policy, local authorities may use capital receipts to prop up revenue deficits. This authority decided to do more than consider an assets sales drive. It put a tenant on a retained farm on a notice to quit, despite there being no change in policy, as confirmed by your officer at the March 21st Scrutiny meeting; it put four farms under an emergency sales notice, including one whose tenancy was not due to expire till 2018 and those whose tenancies expired in 2018 were handed their notices in Autumn 2016 as opposed to the usual practice of serving notice in the March the year before expiry.

In total some eight farms are due to be disposed of by the end of the 2018/19 financial year. These farms, added to the land and farms already sold, will take the estate dangerously close to the loss of critical mass.

SCC had the Farms re-valued in October 2016, despite having no legal requirement to do so, with dramatic results for those tenants who had intended to buy, making the farms unaffordable.

As a tenant who has been trying to buy part of our farm since 2011, we have been pushed to the back of the queue as FBT tenants were not considered a priority. We have now been put under intense pressure to do a deal, subject to more onerous terms than previous tenant purchasers and having been made subject to this emergency order.

We feel that we are being punished for having been put to the back of the queue and now having to be dealt with in haste; punished for being one of the few remaining full time dairy tenants; punished for investing in the holding to build up a business that the banks will support to purchase the farm,(an aspiration we have had since 2010 when the farm was put on the 'cull' list, as a way of giving us a more secure future) and finally, punished for trying to do the right thing.

In 2013, I went to see the leader, accompanied by Cllr. Mike Lewis, to try and persuade SCC to adopt a more flexible approach to the end of tenancies and avoid this inhumane cliff edge scenario for our tenant farmers. Our efforts were unsuccessful and I felt that we had wasted our time.

How does putting farm tenants in a position where they will lose their homes, businesses and way of life, square with a Conservative manifesto pledge to promote and protect the rural way of life?

At the next scrutiny meeting a paper is being presented about this A List B List policy as retained Farms and land have been sold as well as those on the sell list.

What is needed is a root and branch, member led, cross party, Task and Finish review of the whole County Farms Estate and its Governance, which currently leaves a lot to be desired. No information should be withheld from members, unlike the Feb 2014 scrutiny Task and Finish where information was considered 'too sensitive' for members eyes. Outside bodies and interested stakeholders, e.g. NFU, TFA, CLB, YFC, should be consulted. Examples should be sought of best practice from other successful authorities,

e.g., Cambridge County Council and Dorset CC to name but two. Above all, there is need to gather evidence from a wider stakeholder group, including tenants, not just officers.

Councillors, this could be your last opportunity to save this estate. Once an asset is sold it can never be replaced and when you have no farms left to sell, what then?

The procedure of ending tenancies is this way, with no flexibility whatsoever, is no longer fit for purpose, and is a breach of our human rights.

Thank you for your time and for listening to me.

Response from Cllr Harvey Siggs – Cabinet Member for Resources

The approach to the County Farm estate is in line with the policy of this County Council. That is to dispose of our holdings in a managed way that delivers best commercial value to the County Council and the taxpayers of Somerset. The policy was last refreshed in 2010. This included the identification of holdings for immediate disposal and holdings that would be retained future sale, typically where they were strategically located for example in potential development areas. Since this Administration took power in 2009 we have generated capital receipts of over £35m and at the same time enabled sixteen tenants to buy some or all of their farms.

The farms have been valued to ensure the sales reflect market value. Over time there will be fluctuations in prices, reflecting a number of external and market factors. Most significantly has been a general increase in land values in recent years. We will continue to make sure our valuations are up to date and reflect the market so we can maximise the financial return the County Council. Similarly in relation to tenancy notices, we ensure at all times that as landlord we act with the prevailing legislation.

The rule change that has allowed Councils to use capital receipts for a wider range of purposes was welcomed by this Administration, but has not changed our overall strategy towards County Farms. We are not on an asset sales drive, but we do continue to generate capital receipts on surplus land and property to support our capital investment programme and more recently to invest in transformation initiatives.

In regard to your suggestion about a review of the County Farm policy, that will be a matter for the new Administration so I am unable to make any commitment on their behalf.