

## **Cabinet**

**11 JANUARY 2016**

**PRESENT:** Councillor N Blake (Leader); Councillors J Blake, A Macpherson, H Mordue, C Paternoster and Sir Beville Stanier Bt

**IN ATTENDANCE:** Councillors M Rand

**APOLOGIES:** Councillors S Bowles

### **1. MINUTES**

RESOLVED –

That the Minutes of 15 December, 2015, be approved as a correct record.

### **2. VAHT - ARTICLES OF ASSOCIATION**

Cabinet was advised that AVDC's representation on the Vale of Aylesbury Housing Trust (VAHT) Board had been discussed several times over the past few years. On 17 January, 2012, Cabinet had considered a request to give consent under the Housing Stock Transfer Agreement to a reduction in the Council's membership of the Board from five Members to three, and a reduction in the tenants' representation from five to four. The request was to enable VAHT to comply with the National Housing Federation's Code of Governance, which recommended that housing associations should have a maximum of twelve Board members. Cabinet had decided that:-

- The request from VAHT to reduce the size of its Board from 15 to 12 should be supported.
- The relevant Director, after consultation with the (then) Cabinet Member for Community matters, should be authorised to enter into discussions with VAHT to identify how the reduction in Board membership might be achieved.
- A further report be brought back to Cabinet when the discussions referred to in (2) above had been concluded.

Having been advised subsequently of the outcome of the discussions, Cabinet had agreed to the proposed reductions in the VAHT Board membership.

It was reported that the Cabinet Member for Leisure, Community Matters and Civic Amenities and the relevant Director had continued to meet with VAHT's Chairman and Chief Executive Officer regarding this issue, hence this report.

When changes to the Board membership had been discussed previously, Members had been concerned about the effects on the Council of reductions in Board membership and this was explained as follows:-

Company membership rights were related to the general strategic direction of the Trust. AVDC had a "golden share" as defined in Article 17(3) of the Articles of Association. "Golden share" was a term used by VAHT's solicitors to refer to weighted voting which might apply when a general meeting of the Trust was called. The "golden share" was only invoked when a member attending the said general meeting requested a poll. A poll could be called by the Chairman, two members acting together or a Council Member. When a poll was called, the vote awarded to each member (Council,

Independent and Tenant Member) was 33%, therefore giving each member the same power.

The “golden share” held by AVDC only applied at member meetings, not to Board meetings and the changes proposed in the report submitted would not alter this arrangement. Once the “golden share” was invoked, the Council Member, or any other member acting alone could block a special resolution. A special resolution was required to change the Articles.

It was not proposed to change the “golden share”, but if such a change was ever proposed, not only would this require AVDC’s agreement, but additional protection was provided in the Stock Transfer Agreement at Schedule 7, Part 2. The company had agreed that the actual percentage ratios of membership of the Board of Management would not be amended without the Council’s consent, thus giving additional control over and above the “golden share” provision.

Board membership voting rights were related to the everyday operational running of the Trust (which was where the impact the change referred to in the Cabinet report would take effect). Most decisions at Board meetings were taken by a show of hands and the “golden share” or any other type of weighted voting did not apply. The Chairman had the casting vote (so essentially two votes). The exception to the simple majority used to pass a resolution was referred to in Article 34(6) which required at least three quarters of the remaining voting members to pass a resolution to remove a Board member. This referred to the removal of a particular person, not the general post. It was emphasised that any Council Member appointed to the Board must act in the interests of the company rather than in their capacity as an AVDC Member.

As a Registered Provider (RP), VAHT was bound to comply with the standards set by the Regulation Committee of the Homes and Communities Agency. One of the expectations of this Regulator was that an RP should adopt an appropriate Code of Governance and should comply with the terms of the adopted Code. VAHT, like most RPs had adopted the National Federation’s Code of Governance 2015, which recommended that:-

- It must be up to each organisation to decide on the Board composition that was best for it.
- Boards should have at least five members and no more than twelve.
- Boards must ensure on a continuing basis that those selected or to be elected to Board membership brought the skills and expertise considered relevant to its needs.

VAHT, had submitted a formal request that AVDC remove the requirement for the “appointment” of three Board members, in order to allow the Board to fully select its membership, and not be constrained by its Articles. In effect, AVDC would still be able to nominate three Members to the Board but it would be for the Board to make the formal appointments. There were precedents where local authorities that had sponsored large scale voluntary transfers, had reduced their level of influence at Board level as the organisation matured. Two local examples were Chiltern and South Bucks Councils. Neither of those two Councils had any representation at the relevant RPs.

It was now approaching ten years since the large scale voluntary transfer had taken place and VAHT had performed well against the Offer Promises. The only outstanding promise was the completion of the redevelopment of Walton Court, although this was in the final stages. The proposed level of AVDC’s membership of VAHT’s Board would

enable the Trust to respond positively to the advice and guidance it had received from the Homes and Communities Agency and the National Housing Federation.

Officers had recently re-investigated the guidance provided by the relevant bodies, such as the National Housing Federation and the following were extracts taken from the National Housing Federation's Code of Governance – "Promoting Board Excellence for Housing Associations (2015 Edition)":-

- B4 – Board members who were executive staff must be in a minority. Boards should have at least five members and no more than twelve, including any co-optees and any executive Board members.
- D – Main Requirement – recruitment to Board vacancies must be open and transparent and based on the Board's considered view of the skills and attributes required to discharge its functions. The Board must select or appoint new members objectively on merit and must undertake regular appraisals of its members and of the Board as a whole.
- D7 – Where the organisation's constitution provided for one or more Board members to be nominated or directly elected, the organisation must ensure that those coming forward brought the skills and experience that met the needs of the Board, and that they were fully aware in advance of the responsibilities that they would undertake. New Board members must not be appointed without undergoing a due selection and assessment process to establish their suitability.

RESOLVED –

That approval be given to the removal of the requirement for the Council to appoint three Council Board Members to VAHT's Board, and instead nominate three representatives, thus enabling the VAHT Board to make appointments in accordance with the advice of the National Housing Federation's Code of Governance.

NOTE: As one of the Council's representatives, Councillor Mrs Macpherson declared a prejudicial interest in the above item and left the meeting whilst this matter was discussed.

### **3. PUBLIC SECTOR EQUALITY DUTY**

Cabinet considered a report, also submitted to the Finance and Services Scrutiny Committee on 17 December, 2015, and summarised in the Minutes of that meeting, giving an assessment of the Council's performance against the Public Sector Equality Duty, and the requirements of Regulation 2 of the Equalities Act 2010 (Specific Duties) Regulations, 2011.

The Scrutiny Committee had commented that while the report included information on equality performance and objectives relating to Council staff and residents/customers, there was no mention of the duty or objectives that the Council had relating to equality duties towards Councillors.

Cabinet was however advised that the four equality objectives that had been updated for 2016 – 2020 applied to all people that the Council dealt with. Therefore it was not necessary to update it to specifically mention Councillors. The Council's Equality Strategy was due to be updated in 2016 and Members were advised that if they had any concerns, or wished to include information in the Strategy that was specific to Councillors, then the Scrutiny Committee would be consulted at that stage.

RESOLVED –

- (1) That the contents of AVDC's Equality Report for 2014-2015 be noted and that approval be given to its publication in order to meet the Council's statutory duty.
- (2) That the Equality Objectives for 2016-2020 be approved and published.

#### **4. BUDGET PLANNING 2016/17 AND BEYOND**

Cabinet had considered its initial budget proposals on 15 December, 2015, after which they had been passed for consideration by the Finance and Services Scrutiny Committee on 17 December, 2015. The purpose of the report now before Members was to enable them to review the initial proposals in the light of the Scrutiny Committee's views and the Government's provisional grant allocations following the spending review statement made on 25 November, 2015.

The previous report had highlighted that the overriding issue was the uncertainty surrounding the Government's proposed reforms to the local government finance system and the implications arising therefrom.

The expected late publication of the proposed Grant numbers had severely reduced the Council's ability to plan for any significant changes beyond that assumed within the initial projections. This had resulted in the Council relying on the use of, or a contribution to balances as the only realistic way of reacting to the numbers in the short window between their announcement and the date for publishing these final proposals. The initial proposals had recognised this, together with the uncertainties surrounding retained business rates and the potential changes to the funding received from the New Homes Bonus.

In the few weeks since the initial proposals had been considered, work had continued on refining the budget assumptions contained within the earlier report. In practice however, little had materially changed at a service level and so the significant elements of the final budget proposals were around the impact of the proposed Government Grant numbers and changes to other elements of centrally funded support. The revised and final recommended budget was submitted as Appendix 1 to the Cabinet report. A summary of the changes, savings and pressures which had been used to arrive at the summary position were submitted as Appendices A2, C and D, respectively.

#### **Spending Review and Proposed Government Grant Allocations**

The Chancellor had announced his spending review on 25 November, 2015. This had set out the Government's funding intentions for the life of the current Parliament. On the whole, the news for local government was less bad than had been feared, but the messages had been confused and the detail had largely been missing, so the true extent of the impact could only be determined once the Government had published its consultation on Grant numbers later in December. Despite this, it had been reasonable to assume that local government would still experience some of the greatest cuts of any of the Government's main spending departments.

From the perspective of a lower tier council, there had also been the announcement that the Government intended to redistribute within the tiers of local government in order to direct resources towards adult social care. This had the capacity to significantly compound the impact of cuts and was potentially of greater concern than the expected reduction in core funding.

The spending review had also contained announcements around other changes in the areas of housing, employment and planning which were likely to have implications for

the Council and its delivery of services. However, the content of these was still being considered and potentially relied on detailed legislation.

The Government had also proposed an apprenticeship levy equal to 0.5% of the wage bill of all organisations where wage bills were in excess of £3 million. This was to be offset by an allowance of £15,000 for each apprentice on the organisation's books. This would be introduced from April, 2017.

The Chancellor had also announced that he would extend Small Business Rate Relief from 31 March, 2016 for a further year, but had signalled the end to some of the additional reliefs which had been introduced during last year's budget.

### **Government Grant Update**

The Government had announced the Grant settlement for councils on 17 December, 2015.

The headline figures indicated that the Authority's pessimism had been warranted as Grant had been reduced in line with expectations. The allocation for 2016/17 had been fractionally more (£18,700), than had been assumed within the initial budget planning proposals. The final number was therefore a reduction for 2016/17 in excess of £1.1 million, representing a loss of 17.5% of the Council's core Grant.

The size of this difference between the initial estimate and the proposed allocation belied a significant shift in the way Government intended to calculate entitlement to Grant in future. Under the consultation proposals the Government was planning to take the whole of a council's core income into account (this included Grant, Business Rates and Council Tax) when applying the cut, rather than salami slicing RSG as had happened in previous years. The Government's aim was to ensure that all councils saw an equally proportionate reduction in their resources each year as opposed to councils which had the greatest reliance on Grant being impacted to the greatest extent. This should represent good news for those councils with a greater Grant reliance.

Unexpectedly, the Government had also offered, to those councils that wanted them, settlement numbers through to 2019/20 (4 years in total). In order to qualify, the Government was indicating that it required councils to produce and publish an efficiency plan. The mechanism for accepting the offer had not been made clear within the consultation paper, but it might require a formal resolution of Council. The detail around the content of this was missing at present and would need to be carefully considered and understood.

Similarly, the consequences of not accepting the offer were also unclear, but it was assumed that this left the Council open to the vagaries of the annual grant allocation process, with the potential to receive either more or less than indicated. At face value, the certainty that a four year settlement provided would be useful in financial planning terms.

The numbers for Aylesbury Vale still showed large reductions year on year, but were not as severe as had been feared and had the impact of reducing the savings required across the remainder of the Medium Term Financial Plan (MTFP). As a consequence, the savings which still needed to be identified over the life of MTFP were now just under £5 million instead of just over £7 million.

The numbers continued to show AVDC losing Revenue Support Grant at much the same rate as had been predicted until 2018/19 when the Council would effectively become Grant free. At that point it would only have Retained Business Rates, which the Government considered to be local resources.

In recent years the Council's financial planning had been constructed on the basis that the Government would not leave those councils who exited grant, alone. It further anticipated that it would continue to need those councils which no longer received Grant to contribute towards its savings agenda nationally in order to spread the impact evenly. Consistent with this prediction, the consultation had included a statement along the lines that it followed that some councils with less Revenue Support Grant in later years would need to contribute funding from other elements of their settlement core funding in order to meet the overall reductions to local government funding set in the spending review.

Simplified, this meant that even after Aylesbury Vale exited the Grant regime, it would still be required to contribute from local resources (Business Rates or Council Tax) towards the national savings target. In essence, the Government was introducing a negative Grant settlement. The numbers indicated that Aylesbury vale would start to pay a Tariff Adjustment (Negative Grant) in 2018/19, initially at a very low level, increasing progressively thereafter.

The announcement had also included the rolling in of existing, separate, Grant streams. Notably for Aylesbury Vale, this included the 2015 Council Tax Freeze grant. This was equal to £82,100 and would need to be accounted for in the final budget proposals.

Overall, as indicated previously, the Grant numbers for 2016/17 varied by much less than had been feared given the considerable uncertainty over how the Government would choose to introduce its policy initiatives. The final variation was sufficiently close to that used in the initial planning proposals as to have no significant impact on the budget planning process and the resultant variance, together with other minor adjustments to the final numbers, could be accommodated by a small use of balances (£90,900) in the 2016/17 budget plan. The use of balances would be added to the savings target in 2017/18, which had also now improved as a consequence of the Grant settlement numbers for that year being marginally higher than had been expected.

The following table was submitted which set out an analysis of the Grants settlement, comparing the proposed numbers with those from last year:-

	<b>Actual 2015/16 £</b>	<b>Actual 2016/17 £</b>	<b>Change £</b>	<b>%</b>
Core Grant (RSG + NNDR)	6,320,400	5,214,600	1,105,800	
Council Tax Freeze Grant	82,100	0	82,100	
<b>Total Grant</b>	<b>6,402,500</b>	<b>5,214,600</b>	<b>-1,187,900</b>	<b>-18.6%</b>

By way of comparison, the reduction in Government Grant recognised in last year's budget planning had been £1,195,712. Any straight comparison with 2010/2011 (when the reductions in Support Grant had begun) remained difficult because of changes to various grant schemes, in particular Council Tax Benefit funding. However, using the best like for like comparison, the reduction in Government Grant over this timeframe was now £7.8 million, or 60%.

## **New Homes Bonus**

The announcement that New Homes Bonus (NHB) would be paid in 2016/17 had been made on the same day as the Grant settlement. It was intended to retain the existing basis for distribution in 2016/17, but a consultation document had been issued alongside the settlement proposing possible future changes. Although the Chancellor had signalled his intention to review the operation and distribution of NHB within his spending review, the confirmation of the award for 2016/17 had been welcome news. This would enable the Council to continue to fund its Waterside North development in the manner proposed within the Capital Programme. AVDC would receive £8,281,102, an amount which was fractionally higher than that anticipated.

The consultation proposed both a reduction in the benefit, by reducing the time it was payable, and a sharpening of the scheme's focus. Views had been sought on the following:-

- Limiting the benefit from six to four years.
- Reducing or removing the bonus on developments initially rejected by councils.
- Reducing or removing the bonus from those councils without a local plan.
- Setting an element of targeted growth.
- Transitional protection for those councils impacted by the greatest amounts.

The Government's intention was to reduce the amount of bonus payable and so, as the District receiving the greatest benefit, all of the proposals would have a proportionately greater impact on this Council. Modelling of allocations into future years showed that the awards to this Council would drop away significantly from current levels. A response to the Government's consultation was being formulated.

In its initial budget proposals, Cabinet had advocated not increasing the contribution from NHB into the revenue budget, given the uncertainty surrounding its future. Whilst the award had now been confirmed for 2016/17, Cabinet felt that the original stance should be maintained as increasing dependency on the Bonus would be imprudent at this time.

With the uncertainty hanging over future awards under the NHB scheme, Cabinet appreciated that it would need to review its NHB policy going forward. For example should the same amounts continue to be taken into the revenue budget and should the same amount be allocated to Parishes. This review could not however take place until the Government had published its final consultation response. Responses were being sought by 10 March.

This Council's award had been based upon the delivery of 6,284 new dwellings over the past six years, together with 189 long term empty properties being brought back into use.

Whilst Cabinet continued to support the allocation of a proportion of NHB resources to Parishes to help them meet the costs of infrastructure provision arising from housing growth, Members appreciated that it was highly probable that this arrangement would need to be reviewed in the light of the results of the Government's consultation on the future of NHB.

## **Measure of Spending power**

Alongside the Grant settlement, the Government had published its Spending Power measure. This showed Aylesbury Vale's position as having increased from £22.7 million to £24.1 million (an increase of 6%). Crucially, the calculation of this number included the allocation of New Homes Bonus. As previously mentioned, £8.28 million of the £24.1 million represented the Council's New Homes Bonus award.

The Council had gained under the NHB scheme by virtue of the large amounts of housing growth that had taken place within the Vale (the largest growth of any District since NHB had begun). The increase in Bonus derived from housing growth was, therefore greater than the loss of core Grant. As a consequence, it showed Aylesbury Vale as still having a net increase in resources.

However, for the Council to be better off as indicated by the spending power measure, all of the NHB money would need to be put into the revenue budget and not just the proportion set out within the NHB policy agreed by the Council. The Council had consistently maintained that this would make it increasingly dependent on NHB for the provision of core services, which it had previously been recognised represented a high risk strategy. However, it would also mean that the Council would be unable to deliver much of the infrastructure investment associated with housing growth. The proposed changes to the scheme had vindicated the Council's caution in terms of using the Bonus in the revenue budget.

If NHB were removed from the equation, the impact for Aylesbury Vale would be reversed. This would show the Council losing 3.7% of its spending power in 2016/17 (comparatively 6.2% in 2015/16).

## **Business Rates Pooling**

Cabinet had been advised in December, 2015 that an application had been submitted to create a business rates pool, naming Bucks County Council, South Bucks District Council, Chiltern District Council, AVDC and the Bucks Fire and rescue Authority even though the Government had not invited any applications. The pooling selection had been on the basis of those districts where it was felt the maximum gain could be generated in 2016/17.

Given that the Government had not invited applications, the designation had come as something of a surprise and the officers of the respective councils had reviewed the position and had validated the key assumptions. Such an application would therefore be progressed.

## **Fees and Charges**

In line with the precedent created last year, the review of fees and charges had been consolidated into a single list. These were contained in a schedule submitted with the Cabinet report. These numbers would, as last year, be taken into the overall budget calculations for 2016/17 and beyond.

There had been no substantive comments from the Finance and Services Scrutiny Committee on this particular aspect.

## **Implications for Council Tax Strategy**

The initial budget proposals had recommended increasing Council tax by the assumed maximum amount of 1.99%. In the absence of the Government publishing its Council Tax policy for 2016/17 this had been considered to be the likely position given the



indications in the spending review. It had also been considered that it was unlikely that the Government would offer a freeze grant in 2016/17 because of the announcement of higher permissible increases for adult social care authorities and for police authorities.

The Grant consultation had confirmed these limits and had gone further by offering a higher potential increase for district councils whose current Council Tax was in the lower quartile. The additional increase equated to £5 or 2%, whichever was the higher.

The Government's measure of Council Tax included Special Expenses charges for those councils which had them. The blended Council Tax for Aylesbury Vale District Council, including the Aylesbury Special Expenses, was £148.12, whilst the lower quartile cut-off point was £144.59. As a consequence, the Council narrowly missed out on the opportunity.

The report to Cabinet in December had justified the proposed increase of 1.99% as a means to partially mitigate the reductions in Government Grant and thereby protect services valued by residents and businesses in the Vale. The value of Government Grant lost in 2016/17 was nearly £18 for a Band D property, whilst a Council Tax increase of 1.99% recouped only £2.71 of this loss.

The Government's new total locally combined resources approach to allocating Grant reductions assumed that councils would increase resources by the maximum allowable for those given the extra Council tax increase headroom. Reductions for these councils had been calculated on the increased additional resources available to them, thereby effectively penalising them if they chose not to exercise that freedom. This represented a significant shift for the Government in terms of Council Tax strategy, from discouraging to effectively encouraging maximum increases. For this Council, a Council Tax increase of 1.99% would generate £188,500 per annum and would represent an annual increase of £2.71 at Band D, equivalent to five pence per week.

### **Impact on Budget Proposals**

The initial budget proposals presented to Cabinet in December had considered the options for balancing the budget in the event that the final budget numbers differed from those contained in the initial proposals.

The numbers announced in the Grant consultation in December, 2015, were fractionally different from those that had been assumed in the initial proposals. However, the variance was sufficiently small that it could be accommodated by the use of balances equal to £90,000 in 2016/17, in line with the proposed strategy. This figure would then be added to the savings requirement for 2017/18.

As previously referred to in this Minute, beyond 2016/17 the Grant numbers showed reductions in funding at a slower rate than had been predicted and this would impact upon the savings totals still to be found by the Council over the life of the Medium Term Financial Plan (assuming that the Council accepted and qualified for the Government's four year settlement offer).

Instead of a figure in excess of £7 million still to be found, the revised figure was now just below £5 million. The detailed budget figures were appended to the Cabinet report. This still represented a significant challenge and did not alter either the imperative or the Council's proposed response to dealing with savings in future years. To this end, the only substantive change to the draft budget proposal formulated in December, 2015, was the change in Government Grant, necessitating a small use of balances, as referred to above.

## **Finance and Services Scrutiny Committee**

Cabinet received an extract from the Minutes of the Scrutiny Committee held on 17 December, 2015, which summarised the Committee's deliberations. The Committee Chairman attended the meeting and elaborated upon those deliberations where appropriate. Overall, the Committee had been supportive of Cabinet's initial budget proposals and did not suggest any changes.

### **Special Expenses**

No changes were recommended to the earlier proposals for Special Expenses, the budget details of which were also circulated as part of the Cabinet report.

RESOLVED –

- (1) That the comments of the Finance and Services Scrutiny Committee be noted and the Committee thanked for its input to the budget planning process.
- (2) That in relation to Council Tax, Council be recommended to approve an increase of 1.99% (the maximum allowable for lower tier councils).
- (3) That Council be recommended to approve the budget for 2016/17 and the Medium Term Financial Plan as set out in summary form in Appendix A to the Cabinet report.
- (4) That Council be recommended to approve Aylesbury Special Expenditure totalling £846,600, supported by a precept of £45, represented a Council Tax freeze for Special Expenses (as detailed in Appendix F to the Cabinet report).
- (5) That the fees and charges (taken into the final calculations) be approved as submitted.
- (6) That Council be recommended to ring fence the sum of £600,000 from General Working Balances to fund the AVDC change programme, and to give delegated authority to the Director with responsibility for finance, after consultation with the Cabinet Member for Finance, Resources and Compliance to approve the budgetary framework and allocations from within this sum.