

## Council

14 April 2015

### Public Questions (6)

1.	<b>Question from Mary Nelson to the Leader of the Council, Councillor Jordan</b>
	<p>Just one week before this Extraordinary Decision meeting, taxpayers are informed in the Echo that CBC are about to make “<b><i>the most important decision in a century</i></b>”. (Therefore a vital <b>Key Decision</b>.) Yet the core detail of this decision i.e. the name, location and purchase price of the intended new building and the current valuation of the Municipal Offices are not available to the public – all these essential details are classified as ‘exempt information’.</p> <p>Using the government’s rules for Council Executive decisions and in particular the definitions of Exempt information (numbered 1 to 7) together with qualifying clauses A to C in Annexe A (electronic link provided here): <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207528/Your_councils_cabinet_-_going_to_its_meetings_seeing_how_it_works.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207528/Your_councils_cabinet_-_going_to_its_meetings_seeing_how_it_works.pdf</a></p> <p><b>Can the Leader confirm that Clause A is not applicable, but most importantly can he fully justify and explain why Clause C does not apply i.e. why the public interest does not outweigh any of the listed exemptions, and is he confident that CBC’s reasoning for dismissing Clause C would stand up to a legal challenge?</b></p> <p>For ease of councillor understanding Clauses A and C are as follows (my emboldening in C):</p> <p><b>A.</b> Information falling within number 3 above is not exempt information by virtue of that paragraph if it is required to be registered under-- the Companies Acts as defined in section 2 of the Companies Act 2006; the Friendly Societies Act 1974; the Friendly Societies Act 1992; the Co-operative and Community Benefit Societies and Credit Unions Acts 1965 to 1978; the Building Societies Act 1986</p> <p><b>C.</b> Information which - falls within any of numbers 1 to 7 above; and is not prevented from being exempt by virtue of number A or B above, is exempt information <b>if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</b></p>
	<b>Response from the Leader of the Council</b>

	<p>I can confirm that Clause A is not applicable; the vendor organisation is not obliged to register information relating to negotiations for the sale of property in their ownership. With regard to Clause C, this is a matter of judgement for the Council. We have taken the view that to disclose the exempt commercially sensitive information could prejudice the Council's ability to satisfactorily complete the negotiations for the property transaction. This is a standard approach which the Council follows when negotiating contracts on the basis that it is not in the wider public interest for such commercially sensitive negotiations to be prejudiced by general public knowledge of the detail of those negotiations, including who it is negotiating with and the price being discussed. I am confident that this approach is the right one to take in this case and that we have a sound legal basis for taking it.</p>
<p><b>2.</b></p>	<p><b>Question from Mary Nelson to the Leader of the Council, Councillor Jordan</b></p>
	<p>There are so many questions which come to mind regarding this huge and risky Council business proposition but there is no time for the public to ask them, or even for the public to be properly informed.</p> <p><b>Therefore do you not consider that you are acting with too much haste, in too much secrecy, and that the public will be justified in having little confidence in this complex business plan, requiring the rushed acquisition of a building which, just like the Municipal Offices, has almost double the space it actually requires, especially in view of the LibDem Cabinet's past track record which has presided over the loss of £2 million in the failed Laird High Court prosecution, more millions in the Icelandic banks, and most recently a £1 million overspend on the new Museum and Art Gallery due to poor and inadequate project management?</b></p>
	<p><b>Response from the Leader of the Council</b></p>
	<p>The Council has spent many years considering the possibility of moving offices, over 30 in fact and has not made any secret of the fact. There has been much press coverage of proposals over the years.</p> <p>In considering the current range of options, we have tried to be as open as possible by putting the report, supporting business case and most of the financial modelling of options in the public domain. The potential building we are considering purchasing has been subject to long and complex confidential negotiations with the owner and head lessee, neither of which wants any publicity or their financial affairs disclosed. As such, the financial transaction is confidential and has therefore been restricted as such at this stage.</p> <p>However, the financial impact of this option is summarised in the public papers for comparison purposes and as you will see it is the best option for the council and the taxpayers of Cheltenham. The alternatives, including staying in the Municipal Offices, would require more expenditure which would have to be funded from cuts elsewhere.</p> <p>Whilst the building is bigger than we need, it includes lettable space which will bring in income and allow for cost sharing with partners e.g. Cheltenham Borough Homes or other public sector bodies. This is something we have not been able to achieve with the Municipal Offices due to its limitations.</p> <p>I could quarrel with Mrs Nelson's version of recent history, especially her apparent</p>

	<p>belief that the Icelandic deposits were invested under a Liberal Democrat Cabinet. However, there is a more serious point to be made here. The current administration, with officers, has worked hard to face the challenge of shrinking resources in local government following the economic crisis in 2008. Since 2009 around £7 million of savings a year have been found in the Council's budgets with minimal impact on front-line services and without increasing the burden on the council tax payer. This is the real "track record" and it is a good one. It is a record of successful organisational change of which relocating the council offices is the next important step.</p>
<b>3.</b>	<p><b>Question from Ken Pollock to Cabinet Member Finance, Councillor Rawson</b></p>
	<p>Considering the following near-certainties:</p> <p>(1) It will never be viable to close Boots Corner to general traffic, because Cheltenham simply cannot dispense with its <u>sole</u> ring road, the vital Inner Ring, which is the unavoidably essential hub of the town's distributor road network. Therefore there is no possible land-grab (of a made-redundant Royal Well Road) for a deep re-development extension at the rear of the Municipal Offices.</p> <p>(2) There is no possible creation of an enlarged "public square" at Boots Corner because the necessary bus-lane <u>intersection</u> (on the site of the current pedestrian crossing) has not met the required safety/Equality duty, (the TRO Committee did not take into account the fact that the new east-west bus-lane would require the crossing to be removed). Therefore there is no major 'public realm' gain at Boots Corner to offset the dire impact of crippling Cheltenham's general traffic network.</p> <p>(3) It will <u>not</u> be possible to attach a cheap concrete structure (i.e. the inevitable 'budget hotel') onto the rear of a Grade 2-<u>star</u> Listed Building, the Municipal Offices (Harward's Buidlings by G.A Underwood, 1823).</p> <p>(4) Any resolution of an acceptable conversion of the Municipal Offices needs open exploration and is <u>years</u> away, by which time staff could either be added to Cheltenham (from partner Councils), or more likely CBC could be abolished for a unitary North Gloucestershire authority,</p> <p>Considering the above uncertainties of there being any 'bonanza' from the Municipal Offices "redevelopment", will you admit there is huge <u>Risk</u> that this hastily half-disclosed proposal to purchase a further building will prove to be another too expensive "investment", a duplication of floorspace and of running costs?</p>
	<p><b>Response from Cabinet Member Finance</b></p>
	<p>I would answer item by item as follows:</p> <p>(1) The accommodation strategy report makes it clear that the modelling and business case for the current proposal does not assume that the Cheltenham Transport Plan will go ahead.</p> <p>(2) The Council has a commitment to provide funding for public realm improvements if the Cheltenham Transport Plan goes ahead. All I am proposing is that £2 million of capital should be held in reserve against that commitment.</p>

- (3) Of course it would not be possible to attach a cheap concrete structure to the back of the Municipal Offices, for a whole series of reasons, not least among them that residents and councillors would not want it to happen. On the other hand, you would need to be a fairly dyed in the wool traditionalist to believe that the rear of the Municipal Offices block cannot be improved. It is one of the ugliest sights in the centre of Cheltenham.
- (4) I agree entirely that an acceptable conversion of the Municipal Offices needs open exploration and is years away. The beauty of the current proposal is that it gives us time to do this, together with the confidence that we have an alternative office to move to. Another benefit is that the proposed new location is modern, purpose-built office accommodation that is designed to be sub-let. At any given time in the future, we can adjust our accommodation needs by adjusting the amount of floorspace we sub-let.

As I make clear in my answer to Cllr Lillywhite, this will be Grade A office accommodation in the centre of Cheltenham – precisely the kind of accommodation the consultant Athey said is needed in the town. Therefore the element of risk is modest, especially when compared with the certainty of heavy additional costs if we continue to have our headquarters in the Municipal Offices or the uncertainties involved in new build.

In a supplementary question, Mr Pollock said the Cabinet Member claimed not to be assuming the implementation of the "Cheltenham Transport Plan" (i.e. closing Boots Corner), but the largest (i.e. most 'Impactful') Risk, the only one coloured Red (maximum) in the Risk Assessment for this purchase, is precisely that, the non-delivery of a closed Boots Corner (and thereby a 'low traffic' Royal Well Road).

In view of this glaring inconsistency, is it not transparently clear that you are eyeing some Municipal Offices 'bonanza' (albeit more likely to be illusory) ?

In response the Cabinet Member advised that the risk referred to was speculative rather than implicit. It was highlighting that in the worst case scenario would render the return from the proposed development marginal. Modest returns had been included in the financial estimates because they make no assumptions that the Cheltenham Transport Plan will go ahead.

**4. Question from Ken Pollock to Cabinet Member Finance, Councillor Rawson**

Just as you had to abort Full Council from making these 'Key' investment and "capital strategy" decisions in haste on 30th March, so now (just two weeks later) the decisions still cannot proceed because they fail the 28-day notification period for releasing the relevant documents, both to councillors and to the public.

When you do abort/postpone these decisions, will you agree to expand the publicly available documentation, and explain fully why the identity and therefore the characteristics of the specific building have been kept 'Exempt' ?

	<p>As soon as it is no longer concealed, residents need to be entitled to ask Public Questions about the suitability of the specific building, and its complex leasings.</p>
	<p><b>Response from Cabinet Member Finance</b></p>
	<p>I have agreed the release to the public domain of as much information as possible on this proposed property transaction and this should be apparent from the substantial amount of information on 'white papers' before Members of the Council. These papers were properly published in accordance with the statutory requirements of five clear days' notice; the twenty eight day period referred to does not apply to Council decisions. The Leader has already addressed, in his response to an earlier question, why the commercially sensitive information regarding the proposed property transaction is on 'pink papers'.</p> <p>I think most fair-minded people would understand and accept that property owners (including the potential vendor and head lessee) do not wish to bandy commercially sensitive figures in public. In fact premature disclosure of certain details would undoubtedly cause the negotiation to collapse. That is the only reason why some of the details of the transaction are exempt. However, I have been keen to ensure that everything that is not commercially sensitive is disclosed on white paper, including the business case behind the current proposal.</p> <p>In a supplementary question Mr Pollock said that it appeared to be the Cabinet Member's wish, by hastening now into this transaction, to close the door on any reconsideration of a sensitive refurbishment and part-retention of the Municipal Offices.</p> <p>What evidence was there that the Option of using the North Place funds for a sensitive refurbishment has continued to be properly explored and consulted upon?</p> <p>In response the Cabinet Member said that the report covered all the options being considered. Clearly the options for the use of this building had been considered in depth over a period of time including the option of subletting. The Municipal Offices, being as it is essentially a row of houses with limited parking, has limited use as modern office accommodation. It would also require a heavy level of investment over the next 20 years. Personally he felt very strongly about the building and that was why he was recommending the proposals which would bring new life and new investment to it.</p>
<p><b>5.</b></p>	<p><b>Question from Anne Brookes to Cabinet Member Finance, Councillor John Rawson</b></p>
	<p>In view of the stated square footage of this building being well above the stated 30,000 sq foot current requirement for new offices, and changes in local government are unlikely to result in a need for more space, how can this proposal for premises far too large be justified when this will require the council making investments and speculating in the commercial property market now when there may be an opportunity to move within a sensible timescale to premises that are a better 'fit', by new build or the</p>

	<p>purchase of an existing building, without the complexity and obvious pitfalls of this proposal?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>The proposed acquisition is modern, purpose built office accommodation, smaller in size than the existing Municipal Offices and – very importantly – designed to allow sub-letting and equipped with a substantial amount of on-site parking. . It has been carefully assessed against the alternatives and is clearly the best option financially.</p> <p>It is a specific part of the strategy to sub-let part of the new building in the long-term in order to generate an income for the Council. The recent review of our asset management strategy by a team from the Chartered Institute of Public Finance and Accountancy (CIPFA) specifically recommended that we should invest in income generating property.</p> <p>Investing in Grade A, purpose built office accommodation at the heart of Cheltenham is hardly speculative. In fact it is investing in precisely the kind of office accommodation that the consultant Athey says is needed.</p> <p>Also the structure of the likely agreement is such that we will have time to find a new use for the Municipal Offices and move out on a sensible timescale – i.e. not so quickly that the current offices are left empty for any significant length of time.</p> <p>In a supplementary question, Mrs Brooks asked whether the aspirations for office buildings which are energy efficient and environmentally sound were being thrown out in order to secure income from additional office space.</p> <p>In response the Cabinet Member indicated that Council had agreed the brief for the Accommodation Strategy in March 2014 which set out the requirements for any potential new building. These included energy efficiency and location. A solution was now being proposed which met that brief and most importantly it was delivering on the central location and accessibility.</p>
<p><b>6.</b></p>	<p><b>Question from Anne Brookes to Cabinet Member Finance, Councillor John Rawson</b></p>
	<p>This council has a poor record for identifying and managing risk, and this has cost the town £millions. How can councillors properly make a decision and assess the risks, when no ratings have been included for the risks for this proposal?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>I disagree. We have robust risk management processes which compares favourably with other organisations. This was confirmed by a recent peer review of the Council by external assessors, which commented that our risk management processes were sound.</p> <p>Whist the risk summary in the covering report at appendix 1 describes the risks of this complex programme of activity at a high level without scores, the detailed programme risk assessment is attached at Appendix 4 of the report and it does include scores.</p>

I would also add that it is a mistake to believe that doing something creates a risk but doing nothing creates no risk. One of the pressing issues is the risk to the Council's finances and therefore to front-line council services if we do not take action.

In a supplementary question, Mrs Brooks asked why the risk designated as red and scoring 16 was not on the corporate risk register.

In response the Cabinet Member asked for input from officers. The Director of Resources, Mark Sheldon, advised that the risk register for the accommodation strategy had been updated for these council reports and the red risk now identified would be going on the council's corporate risk register.