

## **EAST DEVON DISTRICT COUNCIL**

### **Minutes of the meeting of Cabinet held at Knowle, Sidmouth on 14 June 2017**

#### **Attendance list at end of document**

The meeting started at 5.30pm and ended at 6.08pm

#### **\*1 Public Speaking**

David Everett wished to speak on item 16 relating to the Chardstock Neighbourhood Plan; the Cabinet agreed to bring the item forward to enable Mr Everett to depart for another meeting.

#### **\*2 Minutes**

The minutes of the Cabinet meeting held on 10 May 2017 were confirmed and signed as a true record.

#### **\*3 Declarations**

Councillor G Pook – Minute 5; Interest: Personal; Reason: Involved in construction industry.

#### **\*4 Matters of urgency**

##### **a) Planning Obligations SPD**

An urgent report seeking the adoption of the Planning Obligations Supplementary Planning Document (SPD), for reason of requirement in place to inform pending appeal statements, was agreed to be considered.

The Planning Obligations SPD had already undergone one consultation exercise in November 2016, following which the Strategic Planning Committee requested a subsequent 4 week consultation. Their resolution included putting the document before Cabinet for adoption if no substantive comments were received in response to that subsequent consultation. Of the responses received to the subsequent consultation, none were substantive, and the majority of objections relate to viability issues which will be addressed through means of redrafted guidance notes.

Councillor Allen raised concern on two elements of the document: timing of provision affordable housing delivery in new developments; and how section 106 funding could be released in larger phased developments.

In response, the Chief Executive reassured the Cabinet that the issue of affordable housing provision was dealt with in the overarching policies of the adopted Local Plan. He did accept that some councillors had concerns about phased developments, and highlighted paragraph 7.2 of the SPD, specifically “There are established trigger points which are suitable for S106 agreements and triggers selected in each case will be based upon the nature of the obligation and the stage at which the mitigation is required.” Officers would need to be mindful of councillor concerns for such projects. In conclusion, he assured the Cabinet that there was sufficient protection in the document presented before them.

#### **RESOLVED:**

that the Planning Obligations Supplementary Planning Document be adopted.

#### **REASON:**

The Planning Obligations SPD will form a material consideration in the determination of planning applications.

**b) Phase 2 of Recycling and Waste Contract**

Portfolio Holder for Environment reported early statistics on increased recycling following the start of phase two of the contract that had begun that week. He expressed his thanks to the officers and contractors involved for their hard work.

**c) Letter to the Health and Adult Care Scrutiny Committee**

In response to a question about the recent motion at Annual Council regarding the NEW Devon CCG Sustainability and transformation plan, the Chief Executive confirmed that a letter setting out the concerns raised by councillors had been sent to the Chairman of the Health and Adult Care Scrutiny Committee. Cllr Diviani confirmed that he would be sitting on the Committee as the District Councils Network representative and he would be making sure that this Councils views, echoed by other District Councils, would be put to the Committee.

**\*5 Matters referred to the Cabinet**

There were no matters referred to the Cabinet by the Overview and Scrutiny Committees.

**\*6 Exclusion of the public**

There was one confidential item that officers recommended should be dealt with in this way.

**\*7 Forward Plan**

Members noted the contents of the forward plan for key decisions for the period 1 July 2017 to 31 October 2017. The review of public toilets was now delayed following a postponement of the Asset Management Forum meeting. Cllr Pook explained that this delay was due to further working being progressed before reporting to the AMF.

**\*8 Minutes of Scrutiny Committee held on 9 May 2017**

Members received the Minutes of the Scrutiny Committee held on 9 May 2017. The comments and recommendations made relating to the Manor Pavilion car park would be taken on board as part of the statutory consultation.

**RESOLVED that the following recommendations be noted**

**Minute 56 Manor Pavilion Car Park**

1. The Manor Pavilion Car Park fee-paying charges only apply up to 6pm
2. Endorse the maximum stay for the car park at four hours
3. Officers be reminded that there must be early consultation with the local ward member(s) and the relevant town or parish council for any significant service change that affected a local community.

**\*9 Chardstock Neighbourhood Plan Examiner's Report**

David Everett, a Chardstock parish councillor, spoke about the process of producing a neighbourhood plan. He gave specific thanks to the support from the Council, including officers Claire Rodway and Tim Spurway. He had been provided with two possible dates for a referendum on the plan and expressed a preference for the 20 July 2017.

In response, the Chief Executive expressed his willingness to try to accommodate the date requested.

The report provided feedback and set out proposed changes following the examination of the Chardstock Neighbourhood Plan. Chardstock Parish Council had agreed with the

recommendations made by the Examiner, and a new version of the Plan is now ready to be submitted to referendum.

**RESOLVED:**

1. that the examiner's recommendations on the Chardstock Neighbourhood Plan, be endorsed,
2. that a 'referendum version' of the Neighbourhood Plan (incorporating the examiner's modifications) should proceed to referendum and a decision notice to this effect be published, be agreed and,
3. that the Neighbourhood Plan group be congratulated on their hard work.

**REASON:**

The legislation required a decision notice to be produced at this stage in the process. The Neighbourhood Plan was the product of extensive local consultation and had been recommended to proceed to referendum by the Examiner subject to modifications, which, subject to additional changes, were accepted by the Parish Council.

\*10

**Revenue and Capital Outturn Report 2016/17**

The Strategic Lead – Finance presented his report. During 2016/17, monthly budget monitoring reports had informed members of budget variations and the anticipated year-end financial position. The Council had maintained its net spending within overall approved budget levels.

The report outlined:

- The General Fund position – closing balance as at 31/3/2017 stood at £4.206m. As this was above the adopted range previously agreed by the Council, £0.0606m is transferred into the Council's Capital Reserve;
- Housing Revenue Account – closing balance as at 1/3/2017 stood at £7.070m. The report proposed the introduction of a maximum level for the HRA balance, in line with the principle applied to the General Fund Balance; this maximum level of £3.1m still leaves the HRA balance significantly high, and therefore the report proposed a transfer of £3.970m into a new fund to be used to provide additional dwellings, and to match fund one to one replacement capital receipts. This new fund would be called the Future Housing Development Fund. The HRA Business Plan Volatility Reserve still held a balance of £4.4m and had not been required in the past year; a review of the purpose of this fund would be undertaken once the HRA Business Plan had been refreshed alongside an updated stock condition survey;
- Capital Budget – 2016/17 totalled net expenditure of £19.039m in the budget, but the Outturn position is lower at £16.242m, mainly due to scheme slippage and a need to re-profile expenditure into 2017/18 or later years. The future capital funding position will be debated further with the presentation of the Financial Plan (2018-2023) to Cabinet in early autumn.

The Portfolio Holder for Finance commended the proposals to the Cabinet.

**RESOLVED:**

1. that the Cabinet outturn position for 2016/17 be agreed, and
2. that the level of Reserves detailed in the report and the transfers/use as recommended, namely:
  - a) the transfer of £0.606m from the General Fund as one off savings in 2016/17 to the Capital Reserve to help fund future capital programme commitments;

- b) the transfer of £0.294m from the Business Rates Volatility Fund into the General Fund to meet the shortfall on business rates income against budget in 2016/17;
- c) that an adopted range was determined for the HRA Balance to be held off between £2.1m and £3.1m, and that £3.970m held above this level was transferred to a new Reserve "Future Housing Development Fund";
- d) that £2.8m was transferred from the HRA Business Plan Volatility Fund into the Future Housing Development Fund; and
- e) the Transfers to other earmarked reserves for specific projects (as outlined in the Outturn Booklet 2016/17), where funding contributions had been made in advance of spend and monies were held at year end to fund this work in future years, be agreed.

**REASON:**

To report the Outturn position for the Council's approved budgets for the General Fund, Housing Revenue Account and Capital Expenditure. The final position would be presented in the Council's Statement of Accounts.

\*11 **Monthly Performance reports – April 2017**

The report set out performance information for April 2017. This allows Cabinet to monitor progress with selected performance measures and identify any service areas where improvement is necessary.

There were two indicators that were showing excellent performance:

- Percentage of Non-domestic Rates Collected;
- Working days lost due to sickness absence.

There were two performance indicator showing as concern:

- Percentage of planning appeal decisions allowed against the authority's decision to refuse;
- Days taken to process Housing Benefit / Council Tax Benefit new claims and change events.

**RESOLVED:**

that the progress and proposed improvement action for performance measures for the 2016/17 financial year for April 2017 be noted.

**REASON:**

The performance reports highlighted progress using a monthly snapshot report; SPAR report on monthly performance indicators and system thinking measures in key service areas including Development Management, Housing and Revenues and Benefits.

\*12 **Axmouth Harbour Quay improvement**

The Chief Executive presented the report, to lead the application for funding of improved fish landing facilities at Axmouth Harbour and to contribute £17,000 towards the project.

The Council own the harbour, which is leased in part to the East Devon Fishermen's Association (EDFA). The EDFA wish to work with the Council to submit a bid to secure

funding for construction of a concrete apron adjacent to the harbour wall. The £17,000 Council contribution would only be provided if the funding application succeeded.

**RESOLVED:**

That Streetscene Engineers assist the East Devon Fishermen's Association in obtaining funding for improved fish landing facilities at Axmouth Harbour, and that £17,000 of capital funding is allocated towards the project in the 2017/18 financial year.

**REASON:**

To improve facilities for local fishermen operating from Axmouth Harbour, improve the viability of their continued operation, and ensure continued income to the Council from leaseholders of the harbour.

\*13 **New Feniton Flood Alleviation Scheme**

Feniton Flood Alleviation Scheme is an ongoing project with approved capital funding. The report sought approval to change the parties involved in some aspects of the project in order to mitigate financial risk to the Council. Specifically, approval was sought to agree the proposed procurement in order to progress Phase 3 (the undertrack crossing) and Phase 4 (remainder of relief culvert) of the scheme.

The Chief Executive reminded members of the original level of risk the Council had been asked to take in their previous contractual arrangements. Following work undertaken by members, representatives, local MPs and officers, a revised scheme was now ready to pursue with Network Rail which reduced the level of risk significantly.

Cllr Susie Bond expressed her gratitude to all involved in helping to progress this scheme.

**RESOLVED:**

1. that the exemptions to contract standing orders for appointment of WSP PB and Network Rail to design and carry out the Feniton UTX respectively be approved; and
2. that delegated authority be granted to the Strategic Lead - Housing, Health and Environment in consultation with the Strategic Lead - Governance and Licensing to enter into contracts for the completion of the Feniton Flood Alleviation Scheme (including Phase 4 following a tender process subject to this being within budget) and the Basic Asset Protection Agreements with Network Rail.

**REASON:**

To progress Phase 3 (the undertrack crossing) and Phase 4 (the remainder of the relief culvert) of Flood Alleviation Scheme for Feniton to reduce the risk of flooding to 72 homes including 63 properties, which were currently considered at very significant risk.

\*14 **Whimble Flood Alleviation Scheme**

DEFRA funding (Flood Defence Grant in Aid) will result in the flood alleviation scheme for Whimble being 100% funded. Consequently, the £30,000 earmarked in the Capital Programme for 2017/18 is proposed to be set aside as a Council contribution to a total contingency of £460,000. The report sought approval to delegate authority to enter into contracts with the successful tenderer to provide the scheme.

**RESOLVED:**

that delegated authority be granted to the Strategic Lead - Housing, Health and Environment in consultation with the Strategic Lead - Governance and Licensing to enter

into contracts for the completion of the Whimble Flood Alleviation Scheme and the Basic Asset Protection Agreements with Network Rail following completion of the tender exercise.

**REASON:**

To progress a Flood Alleviation Scheme for Whimble to reduce the risk of flooding to 53 homes including 19 properties, which are currently considered at very significant risk.

**\*15 Access to information 2016/17**

The summarised requests received under the Freedom of Information Act (and Environmental Information Regulations) between 1 April 2016 and 31 March 2017. The report also looked at steps taken during the last 12 months to improve the accessibility of information.

**RESOLVED:**

that the number and type of requests received under the Freedom of Information Act and the steps being taken to improve access to information be noted.

**REASON:**

To continue to improve the way the Council dealt with requests for information.

**\*16 Leader's annual report on urgent executive decisions**

Under regulation 19 of the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations, there is a requirement to submit a report containing details of each executive decision which was agreed as urgent under Regulation 11 (cases of special urgency) where less than 5 days' notice could be given.

**RESOLVED:**

That the annual report on urgent executive decisions be noted.

**\*17 Yarcombe with Marsh Neighbourhood Plan Examiner's Report**

The report provided feedback and set out proposed changes following the examination of the Yarcombe with Marsh Neighbourhood Plan.

**RESOLVED:**

1. that the examiner's recommendations on the Yarcombe with Marsh Neighbourhood Plan, be endorsed;
2. that a 'referendum version' of the Neighbourhood Plan (incorporating the examiner's modifications) should proceed to referendum and a decision notice to this effect be published, be agreed; and
3. that the Neighbourhood Plan group be congratulated on their hard work.

**REASON:**

The legislation required a decision notice to be produced at this stage in the process. The Neighbourhood Plan was the product of extensive local consultation and had been recommended to proceed to referendum by the Examiner subject to modifications, which, subject to additional changes, were accepted by the Parish Council.

**\*18 Appointment of Inspector to examine the Dunkeswell Neighbourhood Plan - exemption to standing orders**

This report advised that exemption to standing orders had been applied in order to appoint an independent examiner to examine the Dunkeswell Neighbourhood Plan. Early adoption

of the Neighbourhood Plan would help with establish a positive planning policy framework for the parish to inform determination of planning applications in Dunkeswell.

**RESOLVED:**

that the exemption to Contract Standing Order to enable the appointment of Mary O'Rourke to undertake the Examination of the Dunkeswell Neighbourhood Plan, be noted.

**REASON:**

To ensure that an independent examiner was in place and appointed.

**\*19 Exclusion of the public**

that under Section 100(A) (4) of the Local Government Act 1972 and in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the public (including the press) be excluded from the meeting as exempt and private information (as set out against each Part B agenda item), is likely to be disclosed and on balance the public interest is in discussing the items in private session (Part B).

**\*20 Branscombe Beach Public Conveniences**

To seek approval to make minor amendments to the recommendations resolved by Cabinet on 7 October 2015.

**RESOLVED:**

that the recommended minor variations to Cabinet's previous resolution as set out in the report be agreed.

**REASON:**

To enable the surrender of the Council's leasehold interest in the land at Branscombe Car Park together with the associated public convenience building.

**Attendance list**

**Present:**

Paul Diviani                      Leader

**Portfolio Holders:**

Jill Elson                      Sustainable Homes and Communities

Ian Thomas                      Finance

Tom Wright                      Environment

Marcus Hartnell              Deputy Portfolio Holder Environment

**Cabinet Members without Portfolio:**

Geoff Pook

Eileen Wragg

**Cabinet apologies:**

Iain Chubb                      Corporate Services

Phil Twiss                      Deputy Leader/Strategic Planning and Developments

Phil Skinner                      Economy

**Non-Cabinet apologies:**

Rob Longhurst  
Mark Williamson  
Ian Hall  
Matt Booth  
Graham Godbeer  
Maddy Chapman  
Darryl Nicholas  
John O’Leary  
Alan Dent

**Also present (for some or all of the meeting)**

**Councillors:**

Megan Armstrong  
Brian Bailey  
Colin Brown  
Jenny Brown  
Bruce de Saram  
John Dyson  
Peter Faithfull  
Steve Gazzard  
Roger Giles  
Steve Hall  
Geoff Jung  
Pauline Stott  
Mike Howe  
Cherry Nicholas  
Mike Allen  
Brenda Taylor  
Dawn Manley  
David Barratt  
Susie Bond  
Andrew Moulding

**Also present:**

**Officers:**

Mark Williams, Chief Executive  
Simon Davey, Strategic Lead – Finance  
Henry Gordon Lennox - Strategic Lead - Governance and Licensing  
John Golding. Strategic Lead – Housing, Health and Environment  
Karen Jenkins, Strategic Lead – Organisational Development and Transformation  
Dave Turner, Engineering Projects Manager  
Debbie Meakin, Democratic Services Officer

Chairman ..... Date.....