

## **EAST DEVON DISTRICT COUNCIL**

### **Minutes of the meeting of Cabinet held at Online via the Zoom app. on 21 July 2020**

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

The meeting started at 5.00 pm and ended at 8.40 pm

#### 176 **Public speaking**

There were no members of the public who had registered to speak.

#### 177 **Minutes of the previous meeting**

The minutes of Cabinet held on 18 June 2020 were confirmed as a true record.

#### 178 **Declarations of interest**

Minute 183 Minutes of Overview Committee held on 27 February 2020.

Councillor Andrew Moulding, Personal, Patron of ARC an organisation in Axminster that supports people tackling bereavement and mental health.

Minute 183 Minutes of Overview Committee held on 27 February 2020.

Councillor Ian Hall, Personal, Vice-chairman of ARC, a Devon County Councillor and a mental health champion for DCC.

Minute 189 Pavement Licences - Business and Planning Act 2020.

Councillor Steve Gazzard, Personal, has booked an event in the Strand, Exmouth in September 2020.

Minute 191 Panels, Forums, Joint Bodies and Outside Bodies.

Councillor Steve Gazzard, Personal, is the Mayor of Exmouth.

Minute 193 Newton Poppleford & Harpford Neighbourhood Plan Submission.

Councillor Paul Hayward, Personal, is the clerk to Newton Poppleford and Harpford parish council and has been involved with the creation of this plan.

#### 179 **Matters of urgency**

None

#### 180 **Confidential/exempt item(s)**

There were no items that officers recommended should be dealt with in this way.

#### 181 **Forward Plan**

Members agreed the contents of the Forward Plan for key decisions for the period 1 August to 30 November 2020.

#### 182 **Minutes of Arts and Culture Forum held on 26 February 2020**

Members received and noted the Minutes of Arts and Culture Forum held on 26 February 2020.

183 **Minutes of Overview Committee held on 27 February 2020**

Members received and noted the Minutes of Overview Committee held on 27 February 2020.

**RESOLVED that the following recommendations be agreed:**

**Minute 57 Motions referred to Overview under Procedural Rule 10.4**

1. Cabinet recognises the importance of mental health and healthy weight but considers that the Overview Committee should consider the matter further having fully scoped the issues (including areas of responsibility, relevant powers, resourcing and funding) and on the basis of officer reports before making further recommendations to Cabinet.
2. The Democracy and Transparency Portfolio Holder to review the role of Lead Members / Member Champions which should include consideration of a role in relation to mental health.

184 **Minutes of Scrutiny Committee held on 5 March 2020**

Members received and noted the Minutes of Scrutiny Committee held on 5 March 2020.

There was a discussion on Queen's Drive Exmouth and it was agreed a report would be sent to Cabinet in October to update and reflect the present position and how to move forward due to the change of circumstances surrounding the COVID-19 situation.

185 **Minutes from Strata Joint Executive Committee held on 16 June 2020**

Members received and noted the Minutes from Strata Joint Executive Committee held on 16 June 2020.

**RESOLVED that the following be RECOMMENDED TO COUNCIL:**

**Minute 21 Strata Business Plan 2020/21 and beyond**

the three councils formally ratify the Strata Business Plan 2020/21 and beyond.

186 **Programme of meetings September 2020 to May 2021- DRAFT**

The Cabinet considered the proposed timetable of meetings for the next Council year. The Portfolio Holder Democracy and Transparency wished for it to be noted that the principle of meetings should not be held in the school holidays with regular breaks for councillors.

Councillor Steve Gazzard; supported whole-heartedly by the Chairman and rest of the Members, wished to show their gratitude and thanks to all staff of the Council for the extraordinary amount of work they were doing and had been since March, in these unique and difficult times.

**RESOLVED**

that the meeting programme be followed and also forwarded to Council for it to note and agree.

## 187 **Financial implications of COVID-19 on the Council's budget**

The Strategic Lead Finance presented the report that followed on from the briefing note issued to all members in April on the financial implications of Covid-19.

An update to that position provided including consideration of the Government's recent announcement of additional funding to local authorities.

The Chairman thanked Simon Davey and Councillor Jack Rowland for their hard efforts in working together to get to this improved financial position.

The Portfolio Holder Finance stated the Council's income stream had improved sooner than expected with additional funding from Government to cover lost income as well as income from car parks and green waste collections.

Discussions included the following:

- A £1m deficit was still a big gap in the budget to fill
- Suez was working hard to cover extra workloads with StreetScene providing all services and more
- More toilets needed to be open to assist in the recovery of businesses in the area

### **RESOLVED that Cabinet:**

1. note the updated position on the Council's finances
2. note a further report will be brought to Cabinet in September with recommendations to address the current year budget deficit, reflect on any priority spend changes by the new administration and consider the financial shortfall in the Council's Medium Term Financial Plan.

### **REASON:**

The Council has an overspend in 2020/21 due to the implications of Covid-19. Members had to understand the position and consider actions needed to address the issue.

## 188 **New Feniton Flood Alleviation Scheme**

The Strategic Lead Housing, Health and Environment presented the report which set out to confirm the delay of the implementation of Phase 3 until a possession window is available in 2021. Although this risks further delay to the project, it gave time to get all funding signed off and other cost savings investigated. The aim then was to have a fully funded project before committing significant funds towards a part completion.

Councillor Susie Bond wished to thank Tom Buxton-Smith for his tenacity in seeing this through to the end as well as Councillor Geoff Jung for his support in this matter.

### **RESOLVED that Cabinet:**

1. confirm the decision to postpone the delivery of Phase 3 of the flood alleviation scheme (being the newly proposed October 2020 undertrack crossing) until the whole project including phase 4 is fully funded, on the basis of an emerging cost basis contract subject to the Environment Agency confirming the availability of the additional funding as detailed in the report,

2. delegate authority to the Strategic Lead (Housing, Health and Environment) in consultation with the Strategic Lead (Governance and Licensing) to negotiate and enter into the emerging costs basis contract with Network Rail and its contractor to deliver Phase 3 once additional funding has been secured,
3. agree that Phase 4 of the flood alleviation scheme (being the linking up and completing the project) be scheduled for delivery in 2021/22, to allow sufficient time to apply for further Government grants and plan and procure the project for a summer construction. A further report would detail the precise delivery date,
4. a section of phase 4 could be built this autumn to reduce some flood risk to Feniton; should the plan be viable and not incur significant additional project cost or risk.

### **REASON:**

As it stands, the project budget was only sufficient to complete Phase 3 (under track crossing) but insufficient to complete Phase 4, without further applications for Central Government grant money. The application for the additional funds to realise Phase 4 would not be submitted or approved prior to the last mobilisation date (03 July 2020) for Network Rail to deliver the Phase 3 under track crossing this year (and thus EDDC be committing to completing phase 4, should it complete phase 3). Indications from the Environment Agency have been positive that more funding should be available to allow Phase 4 to proceed.

Much time and effort had gone into securing the May 2020 under track crossing, however this was postponed due to the unknowns surrounding the Covid-19 pandemic. It was understood there were no further possession windows planned in 2020, however Network Rail recently identified an October 2020 possession. This possession window would not delay our project and still allow for a 2021 construction of Phase 4. Network Rail had advised they had no further planned possessions in financial year 2020/21 so we would be looking at financial year 2021/22 for the next available date. There was a good chance this would likely lead to a significant delay to Phase 4.

The project would benefit more than 70 properties in Feniton as well as providing relief from the anxiety of the ever present flood risk. It was understood that the project was eligible for further Central Government Grant money, however this was not yet formally signed off. The risk to EDDC was that Phase 3 was built and if Phase 4 was not funded, the project had wasted £770k for an unconnected culvert under the railway and offering no flood risk reduction to Feniton. Or alternately EDDC would therefore need to find another £1.5m to complete the project. The top section of Phase 4, an attenuation pond could be built in advance of Phase 3 to offer a small reduction of flood risk to Feniton, whilst waiting for full funding to be agreed however this comes with various risks.

## **189 Pavement Licences - Business and Planning Act 2020**

The Strategic Lead Governance and Licensing informed Members of the changes to the issuing of pavement licences that would be brought in as part of Business and Planning Act 2020 (when enacted) as part of the Government's economic recovery and growth agenda in response to the COVID-19 Pandemic. The Act would pass the responsibility of consulting and issuing pavement licences on the public highway to District Councils in England requiring a decision within a very tight timeframe (14 days from application to decision). The Council needed to put in place authority for dealing with these applications.

Members were informed that it looked like the Act would prevent this from being the responsibility of the Cabinet, which wasn't the case when the report was written. Members were therefore asked to resolve an alternative position in case it needed to be considered by the Licensing & Enforcement Committee. In addition there were amendments to conditions in Appendix 1 to include Devon County Council in No.9 and that revocation of a licence would not benefit from any refund in No.30.

Councillor Joe Whibley wished to commend officers for their hard work over the last week as it had not been easy for all concerned in a licensing issue in Exmouth.

**RESOLVED that Cabinet:  
Recommendation A**

That in the event the issuing of a pavement licence is an Executive Function then Cabinet;

1. Notes the content of the report, in particular the process that District Councils will have to adopt in issuing pavement licences to businesses within the District, which is 14 days (10 working days) to include the statutory consultation period and the granting or rejection of the licence application.
2. Agrees the application process that East Devon will follow to determine these applications including the consultations that will take place and the local conditions (Appendix 1 with Conditions 9 & 30 amended as detailed) that will be imposed on any grant.
3. Gives delegated authority to the Strategic Lead (Governance and Licensing) to determine pavement licence applications under the Business and Planning Act 2020 together with imposing such additional conditions as may be deemed necessary as well as to take enforcement action including revocation of licences where considered appropriate to do so.
4. Agrees that the Council will charge the maximum fee of £100 for the consideration of each application for a licence.
5. Agrees the recruitment of a Grade 5 post on a fixed term (6 month) basis to support the administration of this new service.
6. Gives authority to the Strategic Lead (Governance and Licensing) in consultation with the Portfolio Holder for Coast, County and Environment to make any necessary amendments to the process and local conditions which arise.

**Recommendation B**

That in the event the Act precludes the issuing of a pavement licence from being an Executive Function then Cabinet;

1. Notes the content of the report, in particular the process that District Councils will have to adopt in issuing pavement licences to businesses within the District, which is 14 days (10 working days) to include the statutory consultation period and the granting or rejection of the licence application.

recommends to the Licensing & Enforcement Committee to;

2. Agree the application process that East Devon will follow to determine these applications including the consultations that will take place and the local conditions (Appendix 1 with Conditions 9 & 30 amended as detailed) that will be imposed on any grant.
3. Give delegated authority to the Strategic Lead (Governance and Licensing) to determine pavement licence applications under the Business and Planning Act 2020 together with imposing such additional conditions as may be deemed necessary as well as to take enforcement action including revocation of licences where considered appropriate to do so.

4. Agree that the Council will charge the maximum fee of £100 for the consideration of each application for a licence.
5. Agree the recruitment of a Grade 5 post on a fixed term (6 month) basis to support the administration of this new service.
6. Give authority to the Strategic Lead (Governance and Licensing) in consultation with the Chairman of the Licensing & Enforcement Committee and the Portfolio Holder for Coast, County and Environment to make any necessary amendments to the process and local conditions which arise.

**REASON:**

Efficient and time critical administration of a new service which a District Council must provide.

190 **Sitting-out licences**

The Service Lead, Place Assets & Commercialisation informed Members that as part of the Business and Planning Act 2020 which was expected to be enacted towards the end of July, the Council would take on responsibility for administering Pavement Licences to allow hospitality businesses to place tables and chairs and other furniture on the highway adjacent to their premises. Members had considered a separate report outlining the proposed processes.

**RESOLVED that Cabinet agree to:**

1. the approach to requests for sitting-out licences on Council owned land follow the same broad process to that for pavement licences,
2. the fee for such licences would be £100, and
3. Streetscene administer these licences using the standard form licence provided by Legal Services.

**REASON:**

To ensure an efficient and consistent approach to applications for use of outdoor space which would allow businesses to continue trading whilst complying with government guidance.

191 **Panels, Forums, Joint Bodies and Outside Bodies**

The Monitoring Officer advised that following the Extraordinary General Meeting of Council on 24 June 2020 and the related decisions taken at the meeting. The next stage of the appointments process was to nominate and appoint to the Panels, Forums, Joint Bodies and Outside Bodies.

There were a few amendments to these appointments;

- The CIL working group's Chairman was now the Vice-chairman of the Strategic Planning Committee.
- The Finance Panel had its name changed to the Budget Setting and Capital Allocations Panel.
- The East Devon Traveller Forum the Vice-chairman of the Planning Committee was not an automatic member but rather this be an elected position.
- In the Exmouth Queen's Drive Delivery Group to remove the Sustainable Homes and Communities portfolio holder and increase the ward member representation for Littleham Ward and Town Ward from one to two.
- The South East Devon Habitats Regulations Executive Committee to change the portfolio holder from Strategic Planning to the Portfolio Holder Coast, Country and

Environment. The substitute now being the Vice-chairman of Strategic Planning Committee.

**RESOLVED that Cabinet;**

1. agree the proposed makeup of Panels, Forums and Joint Bodies (Appendix 1) and Outside Bodies (Appendix 2) and, where relevant, recommend them to Council to agree,
2. confirm Cllr Ledger and Cllr Armstrong continuing as the Chairs of the Housing Company TaFF and Poverty Working Panel and to grant delegated authority to the Monitoring Officer to agree the membership of the TaFF and Panel to, as far as reasonably practicable, reflect the political balance of the Council.

**REASON:**

This would ensure that the makeup of the bodies that had been set up by the Cabinet were agreed ahead of Council agreeing the makeup and making the appointments. It also enables the Housing Company TaFF and Poverty Working Panel which Cabinet established to be re-set to reflect the current political makeup of the Council.

192 **Otterton Neighbourhood Plan Referendum**

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

There was a discussion concerning the possible delay for a date for the referendum. The Service Lead Planning Strategy and Development Management assured members that the Plan still carried significant weight in the decision-making process.

**RESOLVED that Cabinet;**

1. Members endorse the Examiner's recommendations on the Otterton Neighbourhood Plan (the Plan),
2. Members agree that a 'referendum version' of the Plan (incorporating the Examiner's modifications) should proceed to referendum and a decision notice to this effect be published,
3. Members congratulated the Neighbourhood Plan Steering Group on their hard work.

**REASON:**

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

193 **Newton Poppleford & Harpford Neighbourhood Plan Submission**

The report was produced to formally agree the response by the Council to the Regulation 16 submission consultation for the Newton Poppleford & Harpford Neighbourhood Plan.

**RESOLVED that Cabinet;**

1. Members note the formal submission of the Newton Poppleford & Harpford Neighbourhood Plan and congratulate the producers of the plan on the dedicated hard work and commitment in producing the document,

2. make the proposed representation set out at paragraph 5.2 in the report in response to the consultation.

**REASON:**

To ensure that the view of the Council was recorded and informed the consideration of the Neighbourhood Plan by the independent Examiner.

194 **Exemption from Standing Orders - Future Place and Garden Communities programme**

The Service Lead Growth, Development and Prosperity notified Members of the use of an Exemption from Standing Orders to enable the appointment of a team comprising LDA, Hilton Barnfield and David Hawes Urban Design to undertake a visioning exercise for future strategic development in the north-west quadrant of the District in conjunction with the Garden Communities programme.

**RESOLVED that Cabinet;**

note the use of an Exemption from Standing Orders to enable the appointment of the LDA/Hilton Barnfield/David Hawes Urban Design team.

**REASON:**

To enable the appointment of the LDA/Hilton Barnfield/David Hawes Urban Design team in conjunction with support from the Garden Communities programme.

195 **Re-opening High Streets Safely Programme**

The Service Lead Place, Assets & Commercialisation presented the report which provided further information to members on the Re-opening High Streets Safely Fund (RHSS) programme that had recently been announced by central Government. The report also included the responses that had been received from Town and Parish Councils to questionnaires that were issued.

**RESOLVED that Cabinet;**

approves option 2 (hybrid approach) Subject to the Council entering into a grant funding agreement with the Reopening High Streets Safely Fund for the activities to be claimed:

1. Service Level Agreements were entered into with Town and Parishes as delivery partners in the project where relevant and as required by the funding where they were seeking to recover costs already incurred,
2. to engage with those towns that had responded and had requested assistance,
3. to engage with those remaining towns that had not responded but where East Devon District Council's own risk assessments had identified areas for action.
4. That a small element of the funding (£10,000 in the first instance) was retained by East Devon District Council to lead on the measures identified as needed from the risk assessments (signage and stencilling), working alongside the towns and parishes that had responded,
5. where possible and with the support of the Town or Parish, elements of delivery (signage and stencilling) were undertaken by East Devon District Council using the funding allowance retained by East Devon District Council,
6. activities focus upon temporary public realm changes to ensure that reopening of local economies could be managed successfully and safely,
7. in consultation with the towns and parishes seek to identify if there was a need for business-facing awareness raising activities to ensure that reopening of local

economies could be managed successfully and safely and small scale public facing safety messaging in the Action Plan areas, and

8. if further activities were identified that the Council could usefully implement that would take expenditure in excess of £10,000, that delegated authority was given to the Service Lead for Place, Assets and Commercialisation in consultation with the Strategic Lead for Finance and the Portfolio Holder for Economy and Assets to approve such an uplift.

**REASON:**

Following the responses received from a number of towns and parishes and the Council's own town risk assessments, there was an emerging programme of works. The Council could put in place the necessary formalities required to facilitate the processing of financial claims, publicity requirements and record keeping to support those towns and parishes that were progressing with works.

The Council could offer assistance to those towns that had requested this and approach those remaining towns that had not responded to the questionnaire and offer assistance. Where issues had been identified work with towns and parishes to implement small scale measures (signage and stencilling) that East Devon District Council could claim directly for (without the need for formal Service Level Agreements).

Local Authorities in receipt of RHSS funding allocations (East Devon District Council) must have financial management and control procedures put in place for the RHSS Fund activity together with a process that any Delivery Partners (potentially other tier authorities) must also follow.

**Attendance List**

**Present:**

**Portfolio Holders**

M Armstrong	Portfolio Holder Sustainable Homes and Communities
P Arnott	Leader
P Hayward	Deputy Leader and Portfolio Holder Economy and Assets
J Bailey	Portfolio Holder Corporate Services and COVID-19 Response and Recovery
G Jung	Portfolio Holder Coast, Country and Environment
D Ledger	Portfolio Holder Strategic Planning
P Millar	Portfolio Holder Democracy and Transparency
M Rixson	Portfolio Holder Climate Action
J Rowland	Portfolio Holder Finance
J Loudoun	Portfolio Holder Policy Co-ordination and Regional Engagement

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

Councillor Kevin Blakey  
Councillor Kim Bloxham  
Councillor Susie Bond  
Councillor Bruce De Saram  
Councillor Alan Dent

Councillor Peter Faithfull  
Councillor Steve Gazzard  
Councillor Ian Hall  
Councillor Sam Hawkins  
Councillor Nick Hookway  
Councillor Mike Howe  
Councillor Ben Ingham  
Councillor Sarah Jackson  
Councillor Paul Jarvis  
Councillor Vicky Johns  
Councillor Fabian King  
Councillor Tony McCollum  
Councillor Kathy McLauchlan  
Councillor Andrew Moulding  
Councillor Helen Parr  
Councillor Geoff Pook  
Councillor Val Ranger  
Councillor Eleanor Rylance  
Councillor Ian Thomas  
Councillor Joe Whibley  
Councillor Eileen Wragg  
Councillor Tom Wright

**Also present:**

**Officers:**

Amanda Coombes, Democratic Services Officer  
Tim Child, Service Lead - Place, Assets & Commercialisation  
Simon Davey, Strategic Lead Finance  
Ed Freeman, Service Lead Strategic Planning and Development Management  
John Golding, Strategic Lead Housing, Health and Environment  
Henry Gordon Lennox, Strategic Lead Governance and Licensing  
Andrew Hancock, Service Lead StreetScene  
Susan Howl, Democratic Services Manager  
Anita Williams, Principal Solicitor (and Deputy Monitoring Officer)  
Mark Williams, Chief Executive  
Andrew Wood, Service Lead - Growth Development and Prosperity  
Linda Perry, Regeneration Officer

Chairman .....

Date: .....