

EAST DEVON DISTRICT COUNCIL

Minutes of the consultative Extraordinary meeting of Council held Online via the Zoom App on 3 May 2022

Attendance list at end of document

The meeting started at 6.00 pm and ended at 7.35 pm

88 Public speaking

The Chair welcomed members of the public and Councillors to the meeting and explained that all participants were taking part remotely and the meeting was also being viewed online and recorded.

He outlined that based on the decision at the Council meeting on 8 December, when Members voted in favour of the continuation of virtual meetings until 11 May 2022, the Council had delegated much of its decision taking power to Senior Officers, due to continuing concerns related to COVID risk in this area. Consequently, the meeting was being held on a consultative basis only, and the normal procedural rules as detailed in the Council's Constitution, would continue to be closely adhered to.

Accordingly, where the meeting would have normally decided a matter, it will now make a recommendation to a Senior Officer. The Officer will then take that recommendation into account, when making their decision.

The Chair then started the meeting by doing a roll call of those present, and confirmed that the meeting was quorate.

During the meeting the public would be able to participate if they had pre-registered to speak.

No members of the public had pre-registered to speak at this meeting.

89 Declarations of interest

There were no Declarations of interest given.

90 Report - Temporary continuation of virtual meetings

The Chair invited the Monitoring Officer, Henry Gordon Lennox to address his report.

He commenced by saying that he would go through the recommendations. Effectively Council was being asked to decide between two options. Option one was to continue the existing arrangements until 31st October. Option two was moving to a hybrid model consisting of decision makers in the room with everyone else being able to attend remotely, and that would be contingent on having in place an appropriate IT solution, so continuing with virtual working until that solution is in place.

Both options have the backstop date of 31st October, but in the case of a hybrid model of potentially bringing forward the termination of existing arrangements when the IT solution is in place.

If option two was selected, it would necessitate a budget and an amount of £40k has been suggested, providing an upper limit in terms of procuring the IT solution which would facilitate that.

In relation to the other options, the rest of the recommendations effectively detailed the arrangements that have been in place for several months. He wished to bring it to the attention of members that the deadline would be curtailed in option two if it was possible to bring in the solution earlier. Finally it should be noted when the virtual meeting arrangements do not apply, such as to Annual Council, and situations when there may be a particularly sensitive or contentious item which may not be appropriate for a decision by officers. In these cases there would be an ability to call a meeting to deal with those items on a case by case basis.

In terms of the hybrid solution as and when it was in place, then the precautionary measures that are currently being operated such as hand sanitisers and advising the use of facemasks, would continue to apply. It was up to Council to decide which of the two options it would prefer to take forward.

The Chair invited comments from Members.

Cllr Caygill wanted clarification that the options being put forward did not apply to Exmouth Town Hall as well as Blackdown House which was confirmed. However it was suggested that if Members wanted to propose that they did, they could do so and agree a budget for doing so. Cllr Caygill said that although the Town Council were tenants of EDDC and paid to receive a service accordingly, it was not currently able to do so due to the continued operation of COVID restrictions.

In response, the Chief Executive informed members that Tim Childs and he had had a meeting with the Exmouth Town Clerk today and discussed a number of options. As a result, the Clerk was updating the Statement of Needs for Exmouth Town Council to work out of Exmouth Town Hall.

Cllr Ranger said that she intended to vote for option one for all the benefits laid out in paragraph 5 of the report. Voting for a hybrid model meant returning to rules set up in 1972 which were 50 years out of date.

In her view, hybrid working skewed the whole voting system and favoured an older demographic of people who were free to attend meetings night and day. It also favoured those living near Honiton rather than those with longer journeys across the district. Accordingly it breaches equality in the sense that only certain people can vote at those meetings if they can attend. There were very good COVID reasons to be careful, but COVID aside it was time for Councils to take a stand and lobby for proper remote hybrid meetings with voting available whether one can attend in person or not. There had been much better attendance from the public and Cllrs working virtually, and the meetings were recorded so they could be viewed at any point. There was no equality in hybrid meetings.

Cllr Bailey agreed that EDDC needed to carry on with remote meetings if it wanted to be inclusive and equitable, making it easy for members to attend. It was difficult being forced to be restrictive and difficult for people with childcare commitments to be bound by having to go into Blackdown House when it was much better to be remote. EDDC should be lobbying for change and pressing for remote meetings which were more democratic and enable more people to attend. It was not really a hybrid if one cannot vote so she intended to vote for option one.

Comments made during the debate included the following;

- Option one was a much greener option allowing EDDC to reduce travelling and travel expenses. Developing a hybrid model involved spending £40k which could be better spent on helping communities in various ways and with all the benefits of operating virtual meetings being clear, this should become the 'new normal'.

- Some Cllrs were currently attending parish Council meetings in small halls in person and choosing to look after their own safety by wearing masks or not.
- It was noted that Torbay put out a press release two weeks ago because they were considering going ahead with a hybrid model for running meetings. The Chair and Monitoring Officer confirmed that the model being considered by Torbay was reflective of what was being proposed by EDDC under Option two.
- It was time to get back to face to face meetings with Cllrs making decisions and not delegating them to others.
- Cllrs had the option of proposing an amendment in the form of a third option which was to go back in the room, but the reason it did not feature in the papers for the meeting reflected the views expressed at the consultative meeting between Cllrs recently. Following an open discussion between Cllrs there was very little favour for that alternative, hence its exclusion as an option at the meeting today.

Cllr Gazzard wanted to propose that Council returned to face to face meetings, and Cllr Brown seconded that.

The Chair confirmed that the meeting would now focus on a third alternative and amendment.

Cllr Brown stated that the Conservative Group felt strongly that Council should return to the Chamber to meet face to face, and that the front desk should be re-opened in Exmouth Town Hall and at Honiton. EDDC was out of step with other Councils across Devon returning to face to face meetings, and it should not be suggesting that £40k should be spent to continue virtual meetings to allow Cllrs to work from home when many have returned to the office. He said that COVID cases had been going down across the district, and if the decision was not made to do so, it would assist him in drafting his election leaflet with this included in it.

He requested a recorded vote on the options.

The Chair reminded members that at this point the meeting needed to hear from speakers on an amendment to introduce a third option which was to go back in the room on a pre-COVID basis.

Cllr Millar said that he could not keep up with the Conservative position on this issue. At the consultative meeting for Cllrs recently the consensus from the Conservative Group was that Council would move to a hybrid model, and at this meeting they had completely changed their mind and wanted to go back in what would be a retrograde step with everyone crowding into a room again. He considered that Cllr Brown was making this a political issue rather than a conscience issue. He intended to vote for Option two because it was necessary to move to a form of face to face meeting which would not present a difficulty for any meeting, except Council itself, because all committee members who attend meetings would be able to vote.

Comments made during the debate on the amendment included the following;

- Planning meetings in the Chamber using the previous hybrid model were a complete waste of time. Cllrs spent their time looking at a computer screen anyway and so being face to face was a waste of time. More members of the public had attended virtual meetings and less had been spent on travel claims, less travelling which had helped the Council to lower its carbon footprint. Face to face meetings were archaic.
- Cllrs needed to have proper hybrid meetings where a voting member can be either in the room or attending remotely, and the public could also choose to attend in person or whilst being remote, but with the actual vote on a decision being taken. No to hybrid meetings as they stood presently.
- In relation to the Council moving on, it had moved on by using 21st century technology that was around in 2020. There was no going back to what was normal

pre-COVID, and impossible to turn the clock back given that everyone was more health conscious, aware of their contacts and wearing face masks if necessary, and with people still dying from COVID. Virtual meetings cut the Council's footprint enormously and there was no appetite to crowd back into a room with other Cllrs just because central government could not be bothered to extend the legislation which enabled Cllrs to meet virtually.

- EDDC should be commended as a Council in setting an example which should be flagged up to the LGA, as a Council which had taken the decision to continue working effectively virtually and it would be a big help if the government would enable EDDC to do so.
- The amendment could not be supported because EDDC had found a better way of running meetings which was greener, more inclusive, more efficient and facilitated greater engagement. It should stick to using modern technology as it currently was.
- It was not possible to go back to holding Full Council meetings in Blackdown House because the Chamber was not big enough.

Cllr Howe asked that the amendment be put to the vote.

The Chair reminded those present that the proposal from Cllr Gazzard was that a third alternative was included as an option, which was a full return to a pre-COVID situation with meetings taking place in the room.

The Chair invited members to vote on the third alternative being added to the options. Following a vote the Chair confirmed that the amendment to include the third alternative as an option was defeated.

The Chair then invited comments on the main proposals.

Comments made during the debate on the proposals included the following;

- Voting for option two means not operating as many other Councils do currently and it was unlikely that government will have changed legislation by October.
- There appears to be a fundamental difference of opinion between the conservative and progressives. Cllr Brown does not want meetings available to the public but debates in the House of Commons have been televised since the 1990's. Whilst it was appreciated that EDDC are bending current legislation, staff matter as well as Cllrs. The Chief Executive has a plan for staff to return to the office and so Cllrs must find a way to do so as well, and option two is a way of doing so.
- Cllr Arnott referred to the fact that Cllr Ranger and Cllr Bailey raised the crucial key issues in this debate and Cllr Bonetta had also reiterated that this Council was a progressive one. The Conservative Group was not. The government made promises of reform to Local Government in pre-COVID days which came to nothing. The LGA has lobbied hard for assistance which made no difference. Approaching local MPs also proved unsuccessful.
- One of the silver linings of the pandemic had been to increase equality and engagement with the work of the Council. For those Cllrs who consider that they are not making decisions, this was exactly what they were doing in the meeting today. The Conservatives were about to present themselves as democrats when they actually wanted to take a step back. The Council was not yet ready to operate a proper Hybrid and so should continue to operate virtually until it is.
- This debate was more than the pandemic but about having learnt how the Council as an organisation can operate in the 21st century. It had been functioning well through virtual meetings, and had seen huge benefits in terms of democratic engagement and participation. Using a hybrid at present would prevent those who

wanted to, potentially get to meetings in person at the other end of the district. Livestreaming would not allow people to dial in and speak. To operate this way would be discriminatory against many groups of people who included those who are working, have child care commitments or similar. So the cost proposed for developing a proper hybrid technology should be offset by improving democratic engagement and being a champion to equal opportunities and future proofing for when government does catch up. Businesses and MPs have been using such technology for a long time already.

- Cllr Loudoun addressed the fallacy of the Council not acting democratically. Cllrs meet every day and have meetings where issues are debated and decisions are effectively being made by Cllrs, who then ask officers to implement them and put them into operation on their behalf. This was democracy in practice.
- Cllr Chris Wright posed the question that if Cllrs had not made decisions over recent months, how many recommendations had not been enacted? The answer was none, and showed that this was a step forward, so EDDC should continue to move forward as a progressive Council. The days of everyone having to sit in small rooms had gone and whilst EDDC may be on the Jurassic coast Cllrs do not have to be dinosaurs.
- Planning legislation already states that the senior planning officer would make decisions in consultation with the Chair of Committee so this is effectively what had been happening.
- Going back to face to face meetings or an ineffective hybrid model would create a two-tier system because there would be people who could not attend in person.
- The Local Government Act of 1972 was enacted many years before some Cllrs were born and before the introduction of the internet, so the Council should move on as other sectors have already done.
- North Yorkshire County Council are still meeting virtually and is a Conservative led Council.
- It needs to be borne in mind that broadband speeds are different in different areas, which needed to be taken into account when voting for hybrid models.

Cllr Rowland proposed moving to a vote.

Cllr Brown proposed and Cllr Parr requested a recorded vote.

The Chair clarified that following the proposal put forward by Cllr Howe and seconded by Cllr Millar, members were being invited to vote for the adoption of option two, with recommendation two and three. If that failed the meeting would then move forward to deal with option one.

The proposal, to move to a hybrid solution as printed in paragraph 1b) of the report (option 2) with the budget in Recommendation 2 and with current arrangements detailed in Recommendation 3, was put to the vote and failed.

Recorded vote:

Councillors Paul Arnott, Jess Bailey, Denise Bickley, Fred Caygill, Sarah Chamberlain, Olly Davey, Cathy Gardner, Steve Gazzard, Nick Hookway, Sarah Jackson, Vicky Johns, Geoff Jung, Jamie Kemp, Dan Ledger, John Loudoun, Dawn Manley, Val Ranger, Marianne Rixson, Jack Rowland, Eleanor Rylance, Brenda Taylor, Joe Whibley, Tony Woodward, Eileen Wragg, Chris Wright - voted against – 25.

Councillors Kevin Blakey Jake Bonetta, Colin Brown, Alasdair Bruce, Maddy Chapman, Alan Dent, Peter Faithfull, Marcus Hartnell, Sam Hawkins, Mike Howe, Stuart Hughes,

Paul Jarvis, Tony McCollum, Paul Millar, Andrew Moulding, Helen Parr, Geoff Pook, Tom Wright - voted in favour – 18.

Councillor Ian Thomas abstained – 1.

Following the recorded vote the Chair confirmed that the proposal to move to option two had failed.

He then moved that the proposal to continue with virtual meetings as printed in paragraph 1a) of the report (option 1) as per the current arrangements detailed in Recommendation 3 until 31st October 2022, was put to the vote.

Following a vote the Chair confirmed that the proposal was adopted and the recommendation would be passed to senior officers.

Recommendation:

1. Continue with virtual meetings as per the current arrangements detailed in Recommendation 3 below until 31st October 2022 (Option 1), and
3. That whichever of Option 1 or Option 2 is agreed the following shall apply;
 - a) Save as provided for in paragraph c) below, that either until 23:59 on 31st October 2022 or such earlier period as may be decided by subsequent decision (including a decision by the Strategic Lead Governance & Licensing where Option 2 is agreed);
 - i) all meetings of the Council and its committees (but not sub-committees), panels and forums and the Cabinet shall be held virtually using available technology but shall be on the basis of being consultative only other than where specific legislation permits decision making at virtual meetings.
 - ii) decisions (including all executive and regulatory matters) that would have been taken by those meetings if the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 had continued in force shall be delegated to the Chief Executive or relevant Senior Officer in consultation with those meetings.
 - iii) In taking decisions under paragraph a) ii), the Chief Executive or relevant Senior Officer shall have heard all of the debate having been at the consultative meeting or seen the recording of it.
 - b) Until 23:59 on 31st October 2022 (or such earlier period as may be decided by subsequent decision including a decision by the Strategic Lead Governance & Licensing where Option 2 is agreed) the Constitution shall be treated as having been amended to give effect to the above and shall be interpreted purposively on that basis with the final decision on its interpretation to rest with the Chair of Council (having regard to the advice of the Monitoring Officer and / or Head Paid of Service) in accordance with Part 1, Article 5.1.2 of the Constitution.
 - c) Paragraph a) above is not intended to apply to any of the following;
 - i) the May 2022 Annual Council which will be held in person with arrangements to be agreed in consultation with the Chair, and

- ii) any sub-committee for quasi-judicial purposes (e.g. Standards Hearing Sub Committee or Licensing Sub Committee when considering taxi licensing matters) where the Chief Executive or the Monitoring Officer shall give specific consideration to what are the most suitable arrangements to use at the relevant time and determine the appropriate way to hold the meeting,
- iii) decisions that legislation already permits as ones that can be made by virtual meetings (e.g. Licensing Act 2003).
- iv) where in the opinion of the Chief Executive or the Monitoring Officer either the matter should be decided by Members or it would otherwise be inappropriate for the Chief Executive or a Senior Officer to decide the matter, in which case the Chief Executive or the Monitoring Officer shall give specific consideration to what are the most suitable arrangements to use at the relevant time and determine the appropriate way to hold the meeting.

At this point the Chair thanked everyone including members of the public for attending and declared the meeting had come to an end.

The meeting ended at 7.35pm.

Decision:

The Recommendations were approved by a Senior Officer. The Senior Officer Decision Notice is listed above under Additional Documents.

Attendance List

Councillors present:

J Kemp	J Rowland	M Howe
V Ranger (Vice-Chair)	J Loudoun	G Jung
P Jarvis	D Bickley	H Parr
S Jackson	J Bailey	G Pook
S Chamberlain	P Hayward	M Rixson
P Arnott	S Hawkins	E Rylance
K Blakey	A Moulding	B De Saram
F Caygill	D Key	B Taylor
P Millar	C Gardner	I Thomas (Chair)
T Woodward	D Manley	P Twiss
N Hookway	C Brown	E Wragg
C Wright	M Chapman	T Wright
O Davey	I Chubb	S Hughes
J Whibley	A Dent	A Bruce
T McCollum	P Faithfull	J Bonetta
V Johns	S Gazzard	
D Ledger	M Hartnell	

Officers in attendance:

Mark Williams, Chief Executive
John Golding, Strategic Lead Housing, Health and Environment
Simon Davey, Strategic Lead Finance
Henry Gordon Lennox, Strategic Lead Governance and Licensing (and Monitoring Officer)
Susan Howl, Democratic Services Manager
Sarah Jenkins, Democratic Services Officer
Andrew Hopkins, Communications Consultant

Councillor apologies:

- M Armstrong
- K Bloxham
- R Lawrence
- D Barrow
- I Hall
- B Ingham
- G Pratt
- P Skinner

Chair

Date: