

**Agenda for Cabinet
Wednesday, 17th March, 2021, 6.00 pm**

Members of Cabinet

Councillors M Armstrong, P Arnott (Chair), P Hayward (Vice-Chair), G Jung, D Ledger, M Rixson, J Rowland, J Loudoun, S Jackson and N Hookway

Venue: Online via the Zoom app.

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(or group number 01395 517546)
Tuesday 16 March 2021



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Public speakers are now required to register to speak – for more information please use the following link: <https://eastdevon.gov.uk/council-and-democracy/have-your-say-at-meetings/all-other-virtual-public-meetings/#article-content>

1 Public speaking

Information on [public speaking is available online](#)

2 Minutes of the previous meeting (Pages 3 - 13)

3 Apologies

4 Declarations of interest

Guidance is available online to Councillors and co-opted members on making [declarations of interest](#)

5 Matters of urgency (Pages 14 - 22)

Information on [matters of urgency](#) is available online

There are two late reports that officers agree should be dealt with in this way.

1. Impropriety in relation to three Cabinet decisions

To report, under S.5 of the Housing and Local Government Act 1989, that certain decisions that have been taken were not in accordance with legal requirements and the Constitution. One of those decisions is being returned to Cabinet for it to appropriately recommend the matter to Council for decision.

2. Council Plan 2021-2023

This report provides the first draft of the new Council Plan for 2021-2023

6 Confidential/exempt item(s)

To agree any items to be dealt with after the public (including the Press) have been excluded. There are no items which officers recommend should be dealt with in this way.

Matters for Decision

7 Electric Vehicle charging in public car parks (Pages 23 - 28)

To consider proposals for introducing electric vehicle charging infrastructure into the Council's public car parks this year.

[Decision making and equalities](#)

For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

EAST DEVON DISTRICT COUNCIL**Minutes of the meeting of Cabinet held at Online via the Zoom app. on 3 March 2021****Attendance list at end of document**

The meeting started at 6.00 pm and ended at 8.21 pm

332 Public speaking

There were no members of the public wishing to speak.

333 Minutes of the previous meeting

The minutes of Cabinet held on 3 February 2021 were confirmed as a true record.

334 Declarations of interest

Min 335. Matters of urgency.

Councillor Jack Rowland, Personal, Council appointed Shareholder of Exeter Science Park Ltd.

Min 335. Matters of urgency.

Councillor Paul Hayward, Personal, Council appointed Director of Exeter Science Park Ltd.

Min 339. Minutes of Strata Joint Executive Committee held on 25 January 2021.

Councillor Paul Arnott, Personal, Chair of the Strata Joint Executive Committee.

Min 340. Minutes of Exmouth Queen's Drive Delivery Group held on 25 January 2021.

Councillor Paul Arnott, Personal, Chair of the Exmouth Queen's Drive Delivery Group.

Min 341. Minutes of Community Grant Panel held on 26 January 2021.

Councillor Paul Hayward, Personal, Treasurer to Newton Poppleford Playing Field Foundation.

Min343. Minutes of Car Parking TaFF held on 2 February 2021.

Councillor Paul Hayward, Personal, Clerk to Newton Poppleford and Harpford parish council that has a free of use car park.

Min 346. Cranbrook Town Council - Community Governance Review.

Councillor Megan Armstrong, Personal, Has family members who live in Cranbrook who could benefit or be affected.

Min 346. Cranbrook Town Council - Community Governance Review.

Councillor Paul Hayward, Personal, Has family members who live in Cranbrook who could benefit or be affected.

Min 347. Cranbrook Sports Pavilion delivery.

Councillor Megan Armstrong, Personal, Has family members who live in Cranbrook who could benefit or be affected.

Min 347. Cranbrook Sports Pavilion delivery.

Councillor Paul Hayward, Personal, Has family members who live in Cranbrook who could benefit or be affected.

Min 349. Sidmouth and East Beach BMP Exemption to standing orders.
Councillor John Loudoun, Personal, Member of the advisory group and a Sidmouth ward member.

Min 349. Sidmouth and East Beach BMP Exemption to standing orders.
Councillor Marianne Rixson, Personal, Town and District councillor for Sidmouth.

335 **Matters of urgency**

Exeter Science Park Ltd (ESPL) - Letter of comfort/support

The Strategic Lead Finance stated that the council had been asked along with all shareholders to provide ESPL with a letter of comfort/support. A template letter had been provided given with a request that this is returned to the Company by the 5 March in order for the accounts to be filed for year ending 31st March 2020 as a going concern and to demonstrate the commitment of shareholders.

RESOLVED:

That Cabinet agreed that as a Shareholder of ESPL the letter as detailed in the report is sent on behalf of the council to acknowledge the continued support of the Company for the next 12 months.

REASON:

To provide support to ESPL who play a key part in the economic objectives of the council.

336 **Confidential/exempt item(s)**

None

337 **Proposed Independent Review of Council Management Structure**

At the December 2020 Cabinet meeting the Leader announced that he wished to initiate an independent review of the Council Management Structure and the Chief Executive was instructed to prepare a report. Accordingly the report set out the procurement considerations for Cabinet and Council to consider.

Discussions included the following:

- Why now? This was not the right time, the past 12 months staff had seen their workloads significantly increased due to the pandemic
- The Country as a whole had changed and adapted its working methods, the future was still uncertain so the review should be delayed
- How can we change structures and processes when we don't know what the new working requirements would be?
- Staff were extraordinarily stressed so to progress with a management review at his time was simply wrong
- The council needed support, stability and unity at this time not a review
- Reviews related to changes an organisation was trying to achieve, with clear objectives, aspirations and ambitions. Any management restructure needed consultation and clear priorities to what was wanted from its management team
- Once the vision and plan of the council was agreed then this was the time to look at its skills-base

- The council plan must be produced and considered first, followed by staff second and then take into account the staff you have to deliver the plan
- What was the evolution of the management review? Was the Chair's handling of the review affecting staff morale?
- Will we use data collected from other councils' reviews and what is the time frame of the review?
- Agree that presently staff were working in unnatural conditions with further pressures added to them outside of work. We were emerging into the 'new normal' so required concurrent planning to produce a good plan to work with new conditions; therefore needing an independent review to be undertaken of the present situation
- Reassure the management team this was to support them and acknowledge the pressures that they have been under
- In economic terms this was exactly the right time to act in order to continue to deliver exceptional services to the residents of East Devon
- We owe this to SMT as professional and responsible employees to do this review

The Portfolio Holder Council and Corporate Co-ordination stated there was never a right time to conduct a management review. This was a review of the senior management structure. The council had moved from Sidmouth to Honiton, invested in technology to develop services, establish remote working and working from home as well as coming out of a pandemic. All this had led to an opportunity to look into the different ways of working and how the staff had responded to this, as well as the stresses and strains this had put onto the organisation. Cabinet was looking to be positive, proactive and engaging to the needs of the organisation. This was the time to take stock and look forward to the needs of the organisation and adapt only if there was evidence of a need to do so. This review was not driven by the need or intention to save money and was looking for an outcome that was not pre-determined. The review would look at the future management structure as the council emerged from the pandemic and build on the positives that had been seen though the way the organisation had worked over the past 12 months.

The Chair explained that the council had lost two members of its SMT over the last year so therefore had lost the benefit that these roles provided, this in his opinion was causing stress and strain across the whole organisation. He stated the Country was emerging out of the pandemic so felt that this was the appropriate time for the review to be conducted. He wished to ensure staff the review was not intended to de-stabilise the council and its staff, nor reduce staff numbers.

RESOLVED:

1. that the contents of this report are noted and endorsed,
2. that delegated authority be granted to the Monitoring Officer to establish a politically balanced member working group comprising of 7 members, to oversee and input into this project. That it also be noted that the working group would include representatives from the Devon Procurement Service, DCC HR Services, Unison and the LGA,
3. that the CEO take all necessary steps to progress this project in consultation with the working group.

RECOMMENDED to Council:

4. that a budget of circa £25k to be allocated to this project.

REASON:

To take forward the Leader's request.

338 **Forward Plan**

Members agreed the contents of the Forward Plan for key decisions for the period 1 March to 30 June 2021.

339 **Minutes of Strata Joint Executive Committee held on 25 January 2021**

Members received and noted the Minutes of Strata Joint Executive Committee held on 25 January 2021.

RESOLVED (1) that the following recommendation be agreed:

Minute 6 Strata Business Plan 2020/21 and beyond

that East Devon District Council, Exeter City Council and Teignbridge District Council approve the Strata Business Plan 2020/21 and beyond including;

- (1)The 21/22 Proposed Savings;
- (2)Hardware budgets being returned to East Devon District Council and Teignbridge District Council;
- (3)Appointment of a Data Analyst post;
- (4)Benchmarking to be undertaken by SOCITM; and
- (5)The mechanism for work prioritisation.

340 **Minutes of Exmouth Queen's Drive Delivery Group held on 25 January 2021**

Members received and noted the Minutes of Exmouth Queen's Drive Delivery Group held on 25 January 2021.

Discussions included the following:

- the car park should stay
- more green space to allow for a change of use
- this was always going to be a temporary car park
- this should be used for leisure facilities
- if used as an area for a beach volleyball club there would be no need to re-grass the area

RESOLVED (1) that the following recommendations be agreed:

Minute 21 Queen's Drive temporary uses

A. That a temporary planning application be submitted for up to 2 years on the former car park site to enable the area to be grassed (seed or turf) and used for fitness uses as per the report.

B. That the temporary use on the main Queen's Drive Space for the 2021 season progress as detailed in the report (paragraphs 3.1-3.8) in respect of arrangements for the bar, the traders, events and replacement of the seating areas.

C. That the former car park site be laid to grass prior to planning permission for change of use being granted.

D. That a request be made to Devon County Council to improve highways signage to alternative car parks and that locality funding towards the cost of the signage be requested from Exmouth County Councillors.

RESOLVED (2) that Cabinet recommends the following to Council:

Minute 22 Queen's Drive resourcing

That up to £200,000 be made available from the Business Rates Pilot Reserve for a Development Surveyor and an Engagement / Project Officer for a term of 2 years, dedicated to moving forward a suite of place & prosperity based projects in Exmouth and to include Queen's Drive.

341 Minutes of Community Grant Panel held on 26 January 2021

Members received and noted the Minutes of Community Grant Panel held on 26 January 2021.

RESOLVED (1) that the following recommendations be agreed:

Minute 47 Current rules of the Community Building Fund

1. That Members defer subject to further discussion which will include data that needs to be obtained, including a timetable to then ensure that any details are considered into any budgetary considerations for 2022/2023.

2. That Members defer the question about whether to include community pubs in the current rules of the fund subject to further discussion and research.

342 Minutes of LED Monitoring Forum held on 27 January 2021

Members received and noted the Minutes of LED Monitoring Forum held on 27 January 2021.

343 Minutes of Car Parking TaFF held on 2 February 2021

Members received and noted the Minutes of Car Parking TaFF held on 2 February 2021.

RESOLVED (1) that the following recommendations be returned to the Car Parking TaFF to consider as part of developing the Car Parking Strategy:

Minute 46 A revised policy for motorhomes and campervans in EDDC pay and display car parks

That the Service Lead - Environmental Health and Car Parks prepare a report with

recommendations for consideration by the Car Park Task and Finish Forum Members at a future meeting in March 2021.

Minute 47 A review of options (including possible asset transfer) for managing all car parks that do not generate any revenue income or operate at a net cost to EDDC

That the Service Lead - Environmental Health and Car Parks prepare a report detailing the costings for each car park on the category 2 list and which do not currently generate any revenue, with a range of possible options for each one, which may include introducing charges or asset transfer amongst others, for the Task and Finish Forum Members to consider at a future meeting.

Minute 48 Consideration of the introduction of evening charges in car parks where we currently do not charge for parking between 18:00 and 08:00 on the following day

To propose the introduction of an evening parking charge of £1 to be reviewed after 1 year.

Minute 49 Consideration of the introduction of Sunday charges for car parking in our inland car parks. (We already charge for car parking on Sundays in the car parks in our coastal towns).

To propose the introduction of a Sunday car parking charge to be reviewed after 1 year.

344 **Minutes of Car Parking TaFF held on 11 February 2021**

Members received and noted the Minutes of Car Parking TaFF held on 11 February 2021.

RESOLVED (1) that the following recommendations be agreed:

Minute 59 The EDDC climate emergency declaration and action plan and the role of our car parking strategy in tackling this (with specific reference to investment in electric vehicle charging infrastructure and appropriate charging tariffs)

1. that the Car Parking Task and Finish Forum endorses the ongoing work with DELETTI phases 1 and 2.
2. that the Service Lead – Environmental Health and Car Parks present a report to Cabinet as a matter of urgency seeking authority to participate in the Innovate UK funded Exeter Rapid Charging project to install and operate up to 30 rapid charging units in EDDC's public car parks this year.
3. that Cabinet also approve that EDDC should investigate the options for providing electric bike charging points and the provision of an ebike rental scheme.

Minute 61 Alternative sources of revenue (events, advertising, private sector management options)

that the Service Lead – Environment Health and Car Parks, Portfolio Holder Economy and Events Officer investigate alternative sources of revenue through the use of car parks in East Devon.

RESOLVED (2) that Cabinet recommends the following to Council:

Minute 60 The use of cash and incentives to use alternative payment methods

1. that in order to encourage the use of cashless payments in car parks a trial be undertaken in a car park with multiple payment machines, making just one machine available for cash use.
2. that the signage in car parks be reviewed by officers in order to simplify it, with revised wording being brought back to the TaFF.
3. that more prominent messaging be added to car park signage notifying East Devon residents of the annual permit available online.
4. that for the time being the same tariff be used for all payment methods.

345 **Minutes of Scrutiny Committee held on 4 February 2021**

Members received and noted the Minutes of Scrutiny Committee held on 4 February 2021.

346 **Cranbrook Town Council - Community Governance Review**

The CEO explained that a request has been received from Cranbrook Town Council requesting that the Council undertake a community governance review under section 80 of the Local Government and Public Involvement in Health Act 2007. The purpose of the review would be to assess whether the current boundaries of the town should be expanded in anticipation of further planning approvals for housing and related development in the neighbouring parish areas but adjacent to Cranbrook itself. The report asked for the authorisation of Council to carry out the review.

During discussion there was a concern raised that presently there were no ward members for the wards of Whimple and Rockbeare.

RECOMMENDED to Council:

- That the Council undertake a Community Governance Review of the current Cranbrook Town Council area with a view to establishing whether expansion of the current town boundaries is considered to be appropriate
- That the Terms of Reference be agreed, including the timetable and arrangements for public consultation.
- That further reports will be brought to Cabinet in order that decisions may be made in respect of draft proposals and final recommendations of the Review.
- That a budget of £5000 be made available for administrative costs associated with the Community Governance Review.

REASON:

- a) In accordance with the provisions of Part 4 of the Local Government and Public Involvement in Health Act 2007; the principal legal framework within which councils must undertake these reviews.
- b) **Alternative Options**
To not take any action and continue with current boundaries
- c) **Risk Considerations**
That objections are raised to the principle of expanding the existing town boundaries
- d) **Policy and Budgetary Considerations**
To be dealt with within current budgets
- e) **Date for Review of Decision**
N/A.

347 **Cranbrook Sports Pavilion delivery**

At the Cabinet meeting of 6 January 2021, Members resolved to require the New Community partners (Cranbrook consortium of developers) to deliver the sports changing rooms secured under the current s106 agreement and for the land and building along with other specific negotiated s106 monies to be paid to Cranbrook Town Council.

Cranbrook Town Council now requested a financial sum to be paid to them in lieu of direct delivery of the changing rooms by the New Community partners. Along with the other monies previously identified, this would enable the Town Council to procure the design and build of a Pavilion as a single entity. The New Community partners had confirmed that the sum they were willing to pay in lieu of direct delivery of the changing rooms was £600,000 which Cranbrook Town Council had indicated it is satisfied with.

While following the resolution on the 6 January the responsibility for transfer of the land and delivery passed back to the New Community Partners and the Town Council respectively, the request from the Town Council would move responsibility for land transfer and building procurement further, so that it rested solely with the Town Council. The arrangement did not involve this Council in any way other than through its normal planning function and the need to agree a deed of variation to the existing Section 106 to capture the arrangement.

The Portfolio Holder Strategic Planning wished to congratulate Cranbrook Town Council for securing this project and delivering these new facilities for their town.

RESOLVED:

That the update report now be considered within the standard terms of the Council's planning function; more specifically through a Deed of variation to the existing Section 106 agreement which would facilitate the transfer of land and monies to Cranbrook Town Council to deliver the Cranbrook Sport pavilion and changing room for the Ingrams site, be noted.

REASON:

The delivery of the enhanced pavilion in one construction exercise, so that it was designed to meet the needs of Cranbrook Town Council and the sporting body

requirements, would ensure that there were no abortive costs. Members had previously accepted that they were satisfied that the Town Council were best placed to deliver the project and that they had appropriate resources to enable them to do so.

348 **Housing Options team staffing requirement**

The Strategic Lead Housing, Health and Environment addressed a staffing requirement within the Housing Options team.

RECOMMENDED to Council:

that the requested change to the current staffing arrangement be noted and to agree the upgrading of a part time post to a full time post and the additional budget required for this.

REASON:

To ensure the Housing Options team are better equipped to tackle the level of pressure on the homelessness service.

349 **Sidmouth and East Beach BMP Exemption to standing orders**

The Portfolio Holder Coast, Country and Environment notified Cabinet of the standing orders exemption used for the new additional work required on the Sidmouth and East Beach BMP. This was keeping the existing consultant to update the Outline Business Case (OBC) to match new government funding rules, which have been updated since the previous OBC was completed.

RESOLVED:

To note that a Standing Order Exemption has been used to continue work on the Sidmouth and East Beach BMP to the value of £62,514.50

REASON:

1. Central Government updated their spending rules making them more favourable, and the current OBC no longer matches these rules and would not be accepted.
2. Keeping the existing consultant to update their own figures and documents is both quicker and cheaper than procuring another consultant to start from scratch. The consultant's price breakdown is similar to their original competitive tender for like for like activities.

350 **Appointment of Surveying/Valuation Consultant Exemption to standing orders**

The Service Lead Planning and Development Management informed members of the appointment of Lambert Smith Hampton as Surveying / Valuation Consultants to undertake the valuation and negotiations of land parcels within Cranbrook town centre, to support EDDC in pursuing the option of purchasing one or more of the Cranbrook town centre parcels from the East Devon New Community Partners, as set out in the revised memorandum of understanding (MOU).

RESOLVED:

that the attached Request for Exemption to Standing Orders Report in respect of the appointment of Lambert Smith Hampton as Surveying / Valuation Consultants to undertake the necessary Valuation and Negotiations of parcels of land to enable EDDC to purchase one or more parcels of land, in or around Cranbrook Centre, be noted.

REASON:

To provide Surveying / valuation and Negotiation Services to the Planning Department. This independent work was urgently required to review the various expectations set out in the MOU before the MOU can be signed.

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 |
| G Jung | Portfolio Holder Coast, Country and Environment |
| D Ledger | Portfolio Holder Strategic Planning |
| M Rixson | Portfolio Holder Climate Action and Emergencies |
| J Rowland | Portfolio Holder Finance |
| J Loudoun | Portfolio Holder Council and Corporate Co-ordination |
| S Jackson | Portfolio Holder Democracy and Transparency |
| N Hookway | Portfolio Holder Culture, Tourism, Leisure and Sport |

Also present (for some or all the meeting)

Councillor Kevin Blakey
Councillor Kim Bloxham
Councillor Susie Bond
Councillor Fred Caygill
Councillor Sarah Chamberlain
Councillor Maddy Chapman
Councillor Bruce De Saram
Councillor Peter Faithfull
Councillor Steve Gazzard
Councillor Marcus Hartnell
Councillor Sam Hawkins
Councillor Ben Ingham
Councillor Vicky Johns
Councillor Fabian King
Councillor Dawn Manley
Councillor Andrew Moulding
Councillor Helen Parr
Councillor Geoff Pook
Councillor Eleanor Rylance
Councillor Philip Skinner
Councillor Brenda Taylor
Councillor Joe Whibley
Councillor Tom Wright
Councillor Jess Bailey
Councillor Eileen Wragg

Also present:

Officers:

Tim Child, Service Lead - Place, Assets & Commercialisation

Amanda Coombes, Democratic Services Officer

Simon Davey, Strategic Lead Finance

Ed Freeman, Service Lead Planning Strategy and Development Management

John Golding, Strategic Lead Housing, Health and Environment

Henry Gordon Lennox, Strategic Lead Governance and Licensing

Susan Howl, Democratic Services Manager

Anita Williams, Principal Solicitor (and Deputy Monitoring Officer)

Mark Williams, Chief Executive

Chair

Date:



Report to: **Cabinet**

Date of Meeting 17 March 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Impropriety in relation to three Cabinet decisions

Report summary:

To report, under S.5 of the Housing and Local Government Act 1989, that certain decisions that have been taken were not in accordance with legal requirements and the Constitution. One of those decisions is being returned to Cabinet for it to appropriately recommend the matter to Council for decision.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

1. That Cabinet;
 - a. accept the content of the report in relation to the issues identified and remedial actions being taken to prevent a reoccurrence, and
 - b. review their decision in relation to Hayne Lane (Minute 328 of 3rd February 2021 meeting) and recommend the required funding (Resolutions 1 & 2) to Council for approval.
2. That Cabinet recommend to Council the recruitment of an additional lawyer (Grade 9) to support the work of the Monitoring Officer.

Reason for recommendation:

So that members are appraised of three decisions that were ultra vires and to take steps to ensure that one of those decisions is rectified.

Officer: Henry Gordon Lennox, Monitoring Officer

Portfolio(s) (check which apply):

- Climate Action and Emergencies
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Culture, Tourism, Leisure and Sport
- Democracy and Transparency
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Equalities impact Low Impact

Climate change Low Impact

Risk: Medium Risk;

Clearly decisions which are *ultra vires* place the Council at risk in terms of judicial review challenge. In these specific instances there is minimal risk given the historic nature of two of the decisions and given that the more recent one is capable of being corrected. The risk is identified as medium due to the fact that it has happened a number of times and because of the possible consequences of *ultra vires* decisions.

Links to background information

[Cabinet – 3rd February 2021](#)

[Standards – 19th January 2021](#)

[Cabinet – 25th November 2020](#)

[Cabinet – 6th March 2019](#)

[Cabinet – 5th September 2018](#)

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
- Outstanding Homes and Communities
- Outstanding Economic Growth, Productivity, and Prosperity
- Outstanding Council and Council Services

Background

1. This report has been written by the Monitoring Officer and is issued pursuant to s.5 Local Government and Housing Act 1989. That section imposes a duty on the Monitoring Officer to prepare a report where they believe that any proposal, decision or omission by the Council (acting through the Executive or any other committee or indeed the Council itself), has given rise to or would give rise to a contravention by the Council of ‘any enactment or rule of law’. Such a report is to be considered within 21 days of circulation to members and the decision to which the report relates is effectively suspended pending conclusion of consideration of the report.

Reason for Section 5 report

2. The Cabinet (the Executive) is precluded from taking decisions which are contrary to the Policy Framework and / or which are contrary to (or not wholly in accordance with) the Budget. This is set out in law within The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Schedule 4, and further detailed in the Constitution – see for example Article 4.02 and Part 4.3 (Budget and Policy Framework Procedure Rules) paragraph 3.
3. What this means in simple terms is that Cabinet must recommend any decision which would be contrary to or not in accordance with the Policy Framework or the Budget to Council for decision. If it were to take the decision itself (i.e. resolve the matter) then this would be *ultra vires* (outside its powers) as it would contravene the above mentioned regulations and our Constitution.
4. In terms of ‘the Budget’ this includes ‘*the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council’s borrowing requirement, control of investments, the control of its capital expenditure, and the setting of virement limits*’.

5. A budget gives the financial resources required to deliver / pay for a service or a project. If something to be done has a cost then it is necessary to have a budget to pay for it and Council allocates a budget to do that. The Council requires Reserves and Balances whether as contingency against the unknown or as a way of funding specific activities and Council approve the creation, the value and when they can be used. However, Reserves and Balances are not specific budgets. When a budget is agreed it might result in money being taken from a specific Reserve or Balance.
6. This is confirmed in the Financial Regulations (Part D paragraph 1.1 - Principles) which confirms that '*the Council's approval of revenue estimates constitutes authority to incur expenditure*', thereby endorsing that expenditure may only be incurred where budgetary provision is available.
7. It has been brought to the attention of the Monitoring Officer that there are a small number of decisions that have been taken (resolved) by the Cabinet that should have been recommendations to Council because they were outside of the Budget. This is because there was no revenue budget available but rather they erroneously relied on a contingency / reserve, namely the Transformation Fund in two cases and the Business Rate Pool Reserve Fund in the other.
8. The three decisions that have been identified are;

- (1) A resolution by Cabinet on 5th September 2018 in relation to supporting Crowdfunding the relevant part of the decision being recorded as follows;

Minute 58

Resolved

...

2. that £50,000 of the Transformation Fund be spent on community projects using the scheme with funding to be awarded on the basis of the criteria set out in Appendix A.

This was seen as an 'invest to save' approach hence why it was considered appropriate to use the Transformation Fund. However, there was no approved budget for the £50,000 spend out of the Fund.

- (2) A resolution by Cabinet on 6th March 2019 in relation to the funding for mobile phones for Streetscene frontline staff the relevant part of the decision being recorded as follows;

Minute 177

RESOLVED:

...

2. that a request to use £34,000 of the Transformation Fund to replace 95 Streetscene frontline staff mobile phones, be agreed.

This was seen as an 'invest to save' approach hence why it was considered appropriate to use the Transformation Fund. However, there was no approved budget for the £34,000 spend out of the Fund.

- (3) A resolution by Cabinet on 3rd February 2021 in relation to a masterplan exercise at Hayne Lane the relevant part of the decision being recorded as follows;

Minute 328

RESOLVED:

1. that the Business Rates Pool Reserve Fund was utilised to provide 50% of the funding for a sum of up to £20,000, for the commissioning of a masterplan study for the Hayne Lane site in Honiton be approved,
2. that delegated authority be granted to the Service Lead for Place Assets & Commercialisation in consultation with the Portfolio Holder for Economy and Assets and the Strategic Lead for Finance to agree to additional funding towards the cost of the masterplan, if required, so that the total contribution would be up to £40,000.

...

There was no approved budget for the initial £20,000 (Resolution 1) nor the additional £20,000 (Resolution 2) spend out of the Business Rates Pool Reserve Fund.

9. All three decisions, as they were unbudgeted, should have been recommendations to Council.

Impact and status

10. Thankfully the impact of these errors has been negligible. Firstly, in relation to the Crowdfunding decision (£50k), this money has not been spent as funding was secured from more efficient alternative sources (both existing budgets and external funding). Secondly, in relation to the mobile phones for Streetscene, this approval was not required as funding was ultimately secured from within existing budgets (Streetscene equipment budget) within the year. These decisions are effectively spent and therefore are no longer capable of being implemented.
11. In relation to Hayne Lane, this has not yet been actioned and no money has been spent. In accordance with the legal position identified above the decision is suspended pending consideration of this report. Given the foregoing, the suggested approach to remedying this is for Cabinet to acknowledge that their previous decision was impermissible and to recommend (what were recorded as) Resolutions 1 & 2 in Minute 328 to Council for it to approve.

Remedial steps

12. Members will no doubt appreciate the process that reports go through before appearing on agendas. Report writers write the report and it is then provided to the Legal and Finance Teams for legal and finance observations to be included. There is a collective responsibility for the report writers and those commenting on reports to ensure that the recommendations are framed accurately and appropriately. It has been impressed on report writers the need for clarity on what is being asked for and who is being asked to do it to seek to ensure that recommendations come through to Legal and Finance in the correct way. Legal and Finance should double check the framing to ensure compliance with legal and financial requirements. There is also a need as a collective responsibility to ensure minutes of meetings reflect the intended treatment. In the three instances identified above the process did not pick up that the recommendation should have been a recommendation to Council.
13. As a consequence of this issue being highlighted, the report template has been revised to include a section that requires report writers to ask the question whether what is proposed is in accordance with the budget and / or policy framework (see top of this report). There is then informative text that helps report writers consider how the recommendations should be framed with an express reminder that if they have ticked 'no' in relation to whether the decision is in accordance with the budget and / or policy framework then this must be a recommendation to Council.

14. The Monitoring Officer has emailed SMT+ and all report writers to remind them of their responsibilities in terms of framing recommendations correctly and also has organised a meeting with Legal and Finance teams to reiterate the key importance of double checking recommendations and challenging if there is any doubt about who the appropriate decision maker is.
15. The Monitoring Officer is also going to undertake greater scrutiny of reports to all the various committees going forward to seek to improve further the reporting approach generally but also increase the sample checking of reports.

Resourcing for the Monitoring Officer

16. It has been identified in a report to Cabinet on 25th November 2020 (which sought an additional Democratic Services officer) that there has been an increase in the number of meetings that are being held which has had an impact on the work of Democratic Services. This has also necessitated additional work for the Monitoring Officer and the Legal Team (amongst others). It should also be noted that the work of the Monitoring Officer has increased in terms of general governance / compliance work since May 2019 as a consequence of the evolving / changing political circumstances. Even small changes – such as having to comment on proposal forms for Overview and Scrutiny committees for example – have an increased burden in terms of workload. In addition, there is an increasing amount of standards work currently and there is also likely to be a change to the standards process that will necessarily increase the work of the Monitoring Officer in dealing with Code of Conduct complaints – see report to Standards Committee of 19th January 2021.
17. In order to deal with this and to ensure that the Monitoring Officer is able to carry out the responsibilities of the post, there is a request for an additional lawyer to be recruited to the Legal team. By recruiting an additional post, it will free up the Deputy Monitoring Officer to spend more time assisting with the governance and standards related work. The exact scope of the additional post and areas of responsibility (in terms of work areas) will be left to the Strategic Lead (Governance and Licensing) and Principal Solicitor to determine. However, an additional lawyer will also provide further resilience in terms of assisting with resourcing meetings and dealing with reports in addition to dealing with their specific areas of responsibility.
18. It should be noted that the Council is under a legal obligation '*to provide [the Monitoring Officer] with such staff, accommodation and other resources as are, in his opinion, sufficient*' for the performance of his duties. It is the opinion of the Monitoring Officer that this additional post is required to enable continued performance of his duties going forward. Should the Standards Committee subsequently resolve to amend the complaints procedure, there would be no need for a further recommendation in relation to staffing. Even if there isn't a recommendation to change the process, the current level of standards work in conjunction with the governance work continues to justify the post.

Apology

19. On behalf of officers the Monitoring Officer would like to apologise to Members for not correctly identifying the need for an onward recommendation to Council in the cases identified.

Consultation with Head of Paid Service and S.151 Officer

20. It is a requirement that the Head of Paid Service and the S.151 Officer are consulted prior to the issue of a S.5 report. This has been done and they are both content with the content of the report.

Financial implications:

The report sets out important principles relating to Governance. The financial implications of the incorrect decisions are identified in the report, they have not led to material areas of concern but clearly highlight improvements in process is required as detailed in the report. There is a budget request asking Cabinet to recommend to Council a new post of a Grade 9 Solicitor with a budget required of between £49,252 at the bottom of the grade to £54,445 at the top of grade (including on costs). From a financial perspective this ongoing cost adds to the Council's Medium Term Financial Plan budget gap that will be required to be found in future budget proposals. In the current year, if approved, this will be met from the General Fund Balance.

Legal implications:

The legal implications are identified in the report.

Report to: Cabinet



Date of Meeting 17 March 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Council Plan 2021 - 2023

Report summary:

This report provides the first draft of the new Council Plan for 2021-2023

Recommendation:

That the Cabinet consider this first draft of the new council Plan 2021-2023 and provide feedback on it including that of the priorities and actions.

That Cabinet recommend to Council with regard to the workshops that a budget of £5,000 is agreed to obtain external support to facilitate the process.

Reason for recommendation:

To assist with the ongoing development of our new Council Plan

Officer: Mark Williams, Chief Executive – mwilliams@eastdevon.gov.uk

Portfolio(s) (check which apply):

- Climate Action and Emergencies
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Culture, Tourism, Leisure and Sport
- Democracy and Transparency
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Financial implications:

The report is suggesting external facilitation to aid the process, a budget will be required of up to £5k for this purpose.

Legal implications:

There are no direct legal implications requiring comment.

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk; A failure to have a robust Council Plan would impact on the strategic planning for our services

Links to background information:

- [Appendix A – Draft Council Plan 2021](#)
- [Council Statement of Intent](#)

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
 - Outstanding Homes and Communities
 - Outstanding Economic Growth, Productivity, and Prosperity
 - Outstanding Council and Council Services
-

Report in full

The council plan sets out the strategic direction of the council over the next few years. The plan looks at our priorities and actions to guide the effective use of all council resources.

Cabinet will note the proposal for a series of member workshops and public engagement in the preparation process for the new Council Plan. This is considered to be an extremely important part of the process as underlying the Council Plan and necessarily informing the likelihood of the priorities and actions being achieved is the financial position facing the Council. Broadly speaking the future financial shortfall is circa £3m and consequently there will need to be an informed understanding from members and the public about what the Council is able to prioritise and realistically achieve over the proposed lifespan of this reiteration of the Council Plan.

It is presently proposed that there will be a series of evening workshops for members where the focus will be on agreeing what areas and actions the Council is to prioritise. This will be followed by a short period of public consultation to ascertain relevant views.

The four priority areas contained in the plan are as follows:

- A Greener East Devon, which prioritises climate change and our natural environment.
- Better Homes and Communities for all with a priority on the importance of good quality, affordable housing suitable in size and location. Poverty caused by the loss of employment, illness or disability is an increasing issue and will be a high priority for EDDC to tackle through all means available to us.
- A Resilient Economy bringing prosperity to the district notwithstanding the current challenging circumstances.
- Services that matter to all of us

The priorities and actions have been set out in the council [Statement of Intent](#) published in December.

More detail about the priorities and the actions contained within the first draft of the Council plan at [appendix A](#).

Political process for adoption of the new Council Plan:

| Step | Start | Finish |
|--|---------------|---------------|
| Statement of Intent | November 2020 | December 2020 |
| First Draft Council Plan | January 2021 | |
| Cabinet/SMT+ Consideration | February 2021 | March 2021 |
| Member Workshops and Public Engagement | March 2021 | May 2021 |
| Overview/Scrutiny Committee | June 2021 | |
| Cabinet adoption | June 2021 | |
| Council adoption | July 2021 | |
| Final Version of Plan Published | July 2021 | |



Report to: Cabinet

Date of Meeting 17 March 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Electric Vehicle charging in public car parks

Report summary:

To consider proposals for introducing electric vehicle charging infrastructure into this Council's public car parks this year.

Recommendation:

To recommend to Council to delegate authority to the Strategic Lead Housing & Environment, Housing, Health & Environment in consultation with the Portfolio Holder for Property and Assets to agree and enter into legal documents to facilitate participation in the Innovate UK funded Exeter Rapid Charge Project including a lease(s) with the contractor to install and operate up to 30 rapid charging units in public car parks within the District.

Reason for recommendation:

To introduce significant electric vehicle charging infrastructure via the Innovate UK funded Rapid Charge project.

Officer: Andrew Ennis, Service Lead, Environmental Health & Car Parks
aennis@eastdevon.gov.uk

Portfolio(s) (check which apply):

- Climate Action and Emergencies
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Culture, Tourism, Leisure and Sport
- Democracy and Transparency
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Financial implications:

The financial details and risks are outlined in the report. As detailed the main objective will be not be a financial return; if parking charges are not applied to vehicles whilst charging then the income returned from our percentage of the electricity revenue will be less than the car park charge in most cases. However, this is only true if the car park is at capacity and these spaces would have been used. There are however other objectives being achieved as outlined.

Legal implications:

Full details of the Exeter Rapid Charge Project are to be provided by Service Lead Environmental Health & Car Parks to Legal Services and Service Lead Place, Assets & Commercialism. The appropriate legal documentation to enable participation in the Project together with the Lease(s) to be agreed between Legal Services and the Place, Assets & Commercialism department.

Equalities impact Low Impact

Climate change Medium Impact

This will have a small but positive “nudge” effect making the use of electric vehicles locally easier and creating an environment in which residents gain the necessary confidence to move away from ownership of a petrol or diesel car. There will be a net improvement in both local air quality and our overall indirect carbon footprint for our area should reduce.

Risk: Low Risk; The risks associated with the decision to lease car parking spaces to a charge point operator for a period of ten (DELETTI) or fifteen (Gamma Energy) years are assessed as being low. The arrangements effectively impose a constraint on how the Council can use its land during the life of the leases. Hypothetically, for example if the Council wished to develop a car park site for an alternative use then under the terms of the lease, compensation may become payable in respect of the designated bays. It is also the case that these parking spaces being leased to a charge point operator will then not be available for use by non-qualifying vehicles with the consequent loss of revenue if those drivers are forced to find alternative parking because the car park is already full. Clearly the intention is to encourage the adoption of qualifying vehicles and in total we are only contemplating designating a maximum of seventy such spaces from our portfolio total of over 5,100 available spaces.

Links to background information

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
- Outstanding Homes and Communities
- Outstanding Economic Growth, Productivity, and Prosperity
- Outstanding Council and Council Services

Report in full

1.0 Introduction

This Council has now stated its commitment to tackling climate change and our priorities have been set out in our Climate Change [Strategy](#) and [Action plan](#). Within our detailed 5-year plan we have said that we will:

“...Encourage the development of a transport infrastructure that supports more low carbon travel options for people in East Devon. Reduce energy use and ‘embodied energy’ in the transport infrastructure. Encourage non-car travel for all sectors of the population, through targeted advice, incentives and enforcement. Support car share initiatives and low emission pool cars for essential business activities. Install electric car charging points in all car parks and explore the opportunities for charging points in other public spaces, street furniture etc. Campaign to reduce the air pollution from vehicles...”

For around 3 years now the Council has been working with other district council partners in a collaboration lead by Devon County Council to deliver appropriate infrastructure across the region to underpin and encourage the use of electric and plug in hybrid vehicles locally.

We have found that decision making has been difficult throughout this period due to a developing and often fast moving landscape with ongoing product innovation and subsidy opportunities from both EU initially and UK sources.

Alongside these projects our Streetscene fleet management colleagues and Service Managers are already working hard to deliver another action plan objective, to:

“Actively investigate and switch to low carbon council operated fleet and equipment, taking into account increased costs of such fleet and installing appropriate charging infrastructure. May take up to 2030 depending on the speed of development of commercial vehicles.”

We are now changing over to electric vehicles as leases expire wherever this is possible and we are actively developing our own network of chargers within depots and at Blackdown House. However because of the relatively limited range of electric vehicles there is within our fleet management plan, there is a clear need to add top-up charging opportunities within all of our towns so these public car parks proposals will be complementary.

1.1 Technical Considerations

In simple terms, we have seen the electric vehicle industry developing quickly over the last few years and in summary, the options for electric vehicle charging can be summarised in three approximate categories:

- Slow charging – typically 7kW AC charge units suitable for overnight charging of most vehicle types
- Fast charging – typically 22kW AC charge units suitable for some vehicles to provide a useful top up charge in typically 2 or more hours (also delivers a slow charge to other vehicles that have not been designed to utilise the AC fast charge option)
- Rapid charging – typically 50kW + DC charge units suitable for an increasing number of the latest electric vehicles (including the Nissan EV 200 vans that we are now adding to our fleet) and capable of delivering 80% top up to an empty battery within 40 minutes.

1.2 Business Models

Again, in very broad and simple terms our involvement with the electric vehicle charging industry can be at one of three levels:

1. The industry is happy to offer deals to the public sector in which a charge point operator will install and operate a charging network from a number of parking bays in key locations. The Council would enter into a lease agreement in respect of the land and the operation of the charge points would be wholly a matter for the contractor.
2. It is also an option for public sector bodies to commission and then wholly own and manage the charging infrastructure. The day to day maintenance and management (including monitoring of and payment for electricity) can of course be contracted out to a specialist company.
3. The option that seems to be emerging as the more popular at present in this rapidly evolving industry appears to be a more complex collaboration in which a single public sector body (or possibly a group of them) enter into an agreement with a charge point operator to share expertise, risks and benefits. Typically the arrangement will enable local authorities to roll out infrastructure with minimal levels of investment and reduced risk but unlike option 1, the Council would retain control over the specification of the charging infrastructure along with medium and long term benefits in the form of shared profits from the sales of electricity. The council would also be able to specify for example an arrangement to ensure that renewable energy sources (such as photovoltaics) and onsite energy storage to help smooth peak demand are built into contract specifications.

Following discussions with our Place, Assets and Commercialisation Team we were absolutely clear that in the present marketplace, option 3 would be our preferred option.

2.0 Exeter rapid charging project

We have recently been invited into discussions with a supplier as part of another limb of the Devon collaboration, this project began life focussing primarily on the needs of residents to charge vehicles in and around Exeter.

A supplier (Gamma Energy) has successfully won funding from [innovate UK](#) to work with Devon County Council and partners to deliver the following:

- To supply, install and manage rapid chargers delivering 50kW DC along with slow and fast AC connection options and a demand-smoothing battery storage solution with the battery holding sufficient charge for fully charging at least one vehicle.
- The cost to non-residents for rapid charging is 30p/Kwh (inclusive of VAT).
- Residents of each of the areas can receive a 10% discount (when they register with an app).
- For information, 20KWh provides approximately 50 miles and would cost around £6
- Also for information, Gamma Energy's solar park in Cullompton produces 5GWh of renewable electricity per year, enough to power 1,500 EVs for an entire year.

The project has already secured 11 sites within the city of Exeter and in total they have funding for 150 charge units.

Unlike the DELETTI programme, this project already has funding in place to deliver outputs on a relatively tight timescale and we understand that in effect Innovate UK require units to have been **installed and be operational by early summer 2021** to enable their use to be evaluated by the end of March 2022. This now presents this Council with an exciting opportunity provided we have the will and ability to act quickly.

Devon County Council and Gamma Energy have approached us inviting our interest in hosting these fully funded rapid charger units within some of our car parks where residents and visitors are likely to find them of value. Like DELETTI phase 2 there is no upfront cost to us and in return for hosting units on a peppercorn rent for a contract period of up to 15 years, we receive a 3% share in the increasing electricity revenue that arises over that period.

I have met on site with a representative of Gamma Energy and their initial interest in working with us amounts to installing and operating thirty 50kW rapid charging units locally. I have obtained similar quotes previously and the installation of just one such similar 50kW rapid charging unit is of the order of £40,000-£50,000.

Sites currently of interest:

- Exmouth Imperial Road short stay car park – 5 chargers (serving ten charging bays)
- Exmouth Town Hall short stay car park – 2 chargers (serving 4 charging bays)
- Lympstone car park – 2 chargers (serving 4 charging bays)
- Sidmouth Ham West and / or Roxburgh short stay car park – 4 chargers (serving 8 charging bays)
- Honiton Lace Walk short stay car park – 2 chargers (serving 4 charging bays)
- Honiton Blackdown House – 2 chargers (serving 4 charging bays)
- Budleigh Salterton Rolle Mews short stay car park 1 charger (serving 2 charging bays)
- Beer Central car park 2 chargers (serving 4 charging bays)
- Axminster West Street car park, 3 chargers (serving 6 charging bays)
- Colyton, Dolphin Street car park 2 chargers (serving 4 charging bays)
- Seaton Jurassic car park 3 chargers (serving 6 charging bays)
- Ottery St Mary Canaan Way car park (2 chargers (serving 4 charging bays)

3.0 Further information

3.1 Car Sharing

A potentially exciting element already emerging from this collaboration is interest from the proprietor of local Community Interest Company [Co-Cars](#). We will be carrying out some market testing locally with Co Cars over the coming weeks but the potential for dedicating some of the charge points set out above as a dedicated co-car hubs has already been identified. Officers have already expressed initial interest and are making an obvious connection with the Council's evolving green travel plan. The potential for co-car hubs at both Blackdown House and Exmouth Town Hall along with other possible locations is now being actively explored and this would in due course be the subject of a further report with recommendations, likely to link with other non-car park specific options already under consideration. This will include the possible roll out of additional [Co-Bikes](#) hubs around East Devon following their successful introduction into Cranbrook.

3.2 DELETTI phase 1

We are delighted to be an active partner in the County Council led Devon Low-carbon Energy & Transport Technology Innovator (DELETTI) programme. The £800,000 plus grant funding will prevent more than 300 tonnes of carbon from entering our atmosphere every year and that aligns perfectly with our own emerging climate change action plan.

We know that the government has stated that new petrol and diesel cars and vans cannot be sold after 2040 but we are expecting our residents and visitors to gradually move to so-called ultra-low emission (electric and plug in hybrid) vehicles before then and we are committed to doing everything we can to encourage that. It is impossible to encourage more people to use electric cars until there are more charging points, and more charging points are unlikely to be provided by the market until there are more electric cars on the road. We agree with the County Council's view

that this partnership programme will help to break that cycle. Fewer petrol and diesel cars will lead to a reduction in emissions, cleaner air and an improved quality of life for residents.

We have already procured our first official public charge points and these are being delivered under that contract this year and the project is currently in the statutory procurement standstill period. We will begin working with the successful contractor to install and operate fast charge points within the next few weeks and residents should see them “in the ground” soon. In East Devon there will be a new 22kW fast charging unit serving two adjacent charging-only parking bays in each of:

- Exmouth: Imperial Road Short Stay car park
- Honiton: Lace Walk short stay car park
- Sidmouth: Ham East Short Stay car park
- Seaton: Orchard Short Stay car park

The majority of funding for this project has come from a successful bid to the European Regional Development Fund and Council’s contribution to this project has been agreed as a maximum of £4,000 per unit, amounting to £16,000 in total. Subject to the Council approving the detail contained in the final lease document, the eight car parking spaces will be leased to the operator for a peppercorn rent and the Council will then take a share of the electricity revenue that we expect to increase significantly over the ten year operating period. All other costs associated with supply, installation, repair, replacement and management are borne by the successful contractor.

3.3 DELETTI phase 2

In addition we are now engaged in the project’s second phase, this time focussing on on-street residential charging as a priority. The phase 2 project is still at an early stage and the Council has simply committed to entering into an agreement with the successful contractor following another formal procurement process to provide ten-year leases for agreed parking bays within specified car parks for the provision of fast chargers. At present the car parks mentioned in our letter of intent, based on officer advice and potential supplier feasibility studies are:

- Broadclyst, The Green
- Ottery St Mary, Brook street car park
- Budleigh Salterton, Lower Station car park

At this stage it is not envisaged that the Council would need to make a financial contribution to the project.

3.4 Project Pipeline

Finally we have also submitted a bid for consideration by our Local Enterprise Partnership for £500,000 capital funding for the installation of additional EV charging points throughout the district, to enable more EV users to charge electric vehicles. The project supports the wider rollout of EV charging by Devon County Council on street and the Council’s response to the climate emergency. The funding would be focused on rapid EV charge points and would then enable this Council as it develops expertise through early adoption via the DELETTI and Innovate UK projects, to move into the Business Model identified as option 2 above.