

Minutes of meeting held on Wednesday 20 March 2013 at 6.00pm

Present:-

Councillors **David Tutt** (Chairman and Leader of the Council), **Gill Mattock** (Deputy Chairman and Deputy Leader of the Council), **Margaret Bannister**, **Troy Tester** and **Steve Wallis**.

(An apology for absence was reported from Councillor Carolyn Heaps who was attending another meeting on Council business.)

100 Minutes

The minutes of the meeting held on 12 December 2012 were submitted and approved and the Chairman was authorised to sign them as a correct record.

101 Members' interests

Declarations of disclosable pecuniary interests (DPIs) by members as required under Section 31 of the Localism Act and other interests as required by the Code of Conduct and regulation 12(2)(d) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012:

No declarations were reported.

102 Urgent item – Devonshire Park review – engagement of consultants (Cabinet, 12 December 2012, page 220, minute 65).

102.1 The Chairman was of the opinion that this item of business should be added to the agenda by reason of urgency under the provisions of section 100 B (4) of the Local Government Act 1972. He explained that it was necessary on grounds that the Council's original intention to engage consultants through the Arts Council's framework agreement had not been possible and that if the project was to progress without delay a decision was required now.

102.2 David Clarke Associates (DCA) had been appointed to assess the business case for developing and investing in Devonshire Park, following the work by Marks Barfield Associates regarding the options for the site. These were presented as 4 options for the new build of conference and tennis facilities and inspired the Council to undertake further work regarding the business capacity and financial modelling that would be required to realise the proposals, including a desire to challenge the proposals regarding gaining maximum value from existing facilities.

102.3 DCA's appointment was the result of a circulation of a brief to a range of similar consultancies and a shortlist interview process. The value of this work was £25,000. The resultant business case informed a new design brief and cost plan and in December 2012, Cabinet approved advancing the business planning work to a value of £40,000 – alongside the master-plan to RIBA stage C. In the following months as the procurement options, finances and options around Devonshire Park and Towner were being considered, it became clear that there should be one contract only that developed a business plan alongside the most appropriate governance and organisational model to deliver it, thereby avoiding duplication.

102.4 A new specification for the work was drafted which defined the remit to include:

- Developing the business case into a fully worked up 15 – 20 year business plan;
- Operational model for the site including staffing structures and options appraisal for different governance models;
- Inclusion of Towner in the options appraisal and 'profit & loss' business plan, structures and governance;
- Financial modelling and consultation with potential funding partners and statutory agencies against the capital costs;
- Client support to ensure the design process is focused on achieving the business plan and financial model.

It had also become clear since the previous report to Cabinet that DCA would be the best consultant to provide this work, given their expertise.

102.5 To date David Clarke's expertise had been used in continuing consultation with local businesses and the Lawn Tennis Association (LTA) and formalising their continuation of contract via the Arts Council's England's (ACE) framework had been anticipated. It had now been learnt that the Council was unable to make appointments via this framework as only ACE could do so, despite the fact the work covered ACE funded activity. Therefore, an exception to the Council's contract procedure rules was sought so that a contract could be awarded to DCA immediately and not put the project at risk for the following reasons:

- Continuity for the programme as re-tendering would lead to a high level of duplication and retrospective analysis.
- Critical relationship with the LTA.
- Continuing work needed on the business plan to enable the capital procurement process to align. The business plan and financing models were shaping the scope of the project, design brief and assisted in determining the procurement strategy and therefore the necessary project management services.
- Continuing work on the organisational structure and governance would enable the Towner transition to Trust to progress,.
- Delaying work on the business plan, organisational and financial

modelling until after May would push the whole programme for Devonshire Park back and undermine the relationships between DCA, stakeholders and potential funders and ability to build on the business case, finance and design solutions presently on the table.

102.6 **Resolved** (1) That the further contract be awarded to David Clarke Associates with an estimated value of approximately £40,000.

(2) That the Council's contract procedure rules be waived to allow for the contract to be entered into on the basis that it avoids additional costs, duplication and risks to the progress and relationships vital to realising the ambitions for Devonshire Park.

103 Food safety service plan 2013/14 (Cabinet, 20 October 2010, page 175, minute 69, 2010/11 minutes).

103.1 Cabinet considered the report of the Senior Head of Development and Environment. Under its framework agreement with the Food Standards Agency the Council prepares a food safety plan each year. A copy of the plan was appended to the report.

103.2 The main aim of the food safety service was to ensure that food produced and purchased in the borough was safe and without risks to health. This intention would be met by the appropriate and proportionate enforcement of food safety legislation, carrying out inspections of food and food premises, sampling and analysis of foodstuffs, the investigation of complaints regarding food and food premises including cases of food poisoning, and the provision of advice to businesses and the public on legislative requirements and good food hygiene practice.

103.3 The service plan was an expression of the Council's commitment to the further development of its food safety service. It covered the key areas of food safety enforcement and the relevant management arrangements, and targets against which the Council monitored service delivery, plus supplementary information on related services such as infectious disease control and health promotion.

103.4 The plan linked with the Council's corporate plan priorities around the local economy, which were primarily based on tourism, in that it would sustain and improve standards of food safety in the town's food businesses. It was intended to continue to provide a balanced service of enforcement based on four principles:

- Demand driven; requests for advice, food complaints and food poisoning investigations.
- Inspection driven; inspection programme and sampling programme.
- Education driven; provision of advice, health promotion initiatives, training courses and campaigns.
- Intelligence driven; sampling, inspections, food complaints, food

poisoning notifications and food hazard warnings.

- 103.5 It was proposed to carry out consultation on the plan for a period of 6 weeks. The consultation would involve the public, local businesses and business organisations and internal stakeholders. Following consultation the plan would be revised to take account of any relevant representations.
- 103.6 **Resolved (key decision)** (1) That the development of the food safety service plan be endorsed.
- (2) That the Senior Head of Development and Environment, in liaison with the lead Cabinet member, be given delegated authority to update and approve the plan following public/stakeholder consultation.

104 Health and safety annual service plan 2013/14 (Cabinet, 31 March 2010, page 297, minute 128, 2010/11 minutes).

- 104.1 Cabinet considered the report of the Senior Head of Development and Environment. The Health and Safety at Work etc Act 1974 requires local authorities to set out their priorities, a plan of interventions and how these would be targeted to maximise their impact. A copy of the plan was appended to the report.
- 104.2 The previous 3-year plan would be replaced by an annual plan in future. The new plan was influenced by a series of government reviews of regulatory services reforms to reduce red tape, ensure risk based interventions, reduce the number of inspections carried out and to increase information provision to small businesses in a form that was both accessible and relevant to their needs.
- 104.3 The plan set out broad aims, local priorities, how these reflected regional and national objectives and details of how, when and who would undertake the various tasks. The plan also set out the regulatory context, links to local, regional and national objectives, enforcement options and monitoring arrangements.
- 104.4 It was proposed to carry out consultation on the plan for a period of 6 weeks. The consultation would involve the public, local businesses and business organisations and internal stakeholders. Following consultation the plan would be revised to take account of any relevant representations.
- 104.5 **Resolved (key decision)** (1) That the development of the health and safety service plan be endorsed.
- (2) That the Senior Head of Development and Environment, in liaison with the lead Cabinet member, be given delegated authority to update and approve the plan following public/stakeholder consultation.

105 Use of powers under the Regulation of Investigatory Powers Act 2000 ('RIPA') (Cabinet, 18 April 2012, page 370, minute 120, 2011/12 minutes).

- 105.1 Cabinet considered the report of the Deputy Chief Executive:
- Informing members of the extent of the authority's recourse to surveillance activities regulated by RIPA and associated legislation during the 2012 calendar year and of the result of the three yearly review of the authority's RIPA arrangements.
 - Advising on the changes brought about by the Protection of Freedoms Act 2012 and related legislation.
 - Recommending the adoption of a revised policy with regard this authority's recourse to all types of covert surveillance.
- 105.2 The types of surveillance covered by the RIPA regime include directed surveillance (essentially covert surveillance in places other than residential premises or private vehicles) as well as the use of a covert human intelligence source, or 'CHIS' (this includes public informants and people who make test purchases). In 2012 no applications were made by either the Council or its partner organisations.
- 105.3 The Council's arrangements with regard to the use of RIPA remain subject to inspection by the Office of the Surveillance Commissioner. The next inspection was due very shortly and would involve interviews with key personnel and other enquiries being made with the objective of providing feedback.
- 105.4 The 3-yearly review of this authority's arrangements, carried out with knowledge of the recent legislative changes, had resulted in a streamlined draft policy document being prepared. Adherence to this revised policy alongside recourse to the law and to statutory guidance as well as to other resources which sat outside it but which have been appropriately vetted, would ensure that this authority continued to act in accordance with the law.
- 105.5 **Resolved (key decision)** (1) That the results of the comprehensive 3-yearly RIPA review, and of the authority's recourse to RIPA regulated surveillance during the 2012 calendar year, be noted.
- (2) That the relevant recent legislative changes in this area and their impact on local authorities' potential recourse to surveillance be noted.
- (3) That a policy which governs this authority's recourse to covert surveillance of all types, stating that it will be deployed only as a last resort, be adopted as appended to the report.
- (4) That the Lawyer to the Council be given delegated authority to:
- (a) Incorporate such amendments to the policy of this authority which

are necessary to ensure that it is up to date and accords with the law;
 and

(b) continue to review the authority's procedures, policies and training on an annual basis in consultation with the senior responsible officer for RIPA (currently the Deputy Chief Executive) and the lead Cabinet member.

106 Exclusion of the public

Resolved: That the public be excluded from the remainder of the meeting as otherwise there was a likelihood of disclosure to them of exempt information as defined in schedule 12A of the Local Government Act 1972. The relevant paragraphs of schedule 12A and descriptions of the exempt information are shown beneath the item below. *(The requisite notices having been given under regulation 5 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.)*

107 Alternative employment procedure (AEP)

107.1 Cabinet considered the report of the Human Resources Manager. Twenty-five employees were currently within the scope of the procedure. The Human Resources team was working with the Corporate Management Team to identify suitable vacancies within the Council and otherwise provide support to those under threat of redundancy.

107.2 **Resolved:** That action taken to support, redeploy and assist with self-marketing under the AEP and the use of the AEP in managing the change resulting from implementation of phase one of future model be noted.

Notes: (1) Exempt information reasons 1 and 2 – information relating to an individual or likely to reveal the identity of an individual.

(2) The minute was declared open, but the report and discussions thereon remain confidential.

The meeting closed at 6.10 pm.

Councillor David Tutt
Chairman

(der\P:\cabinet\minutes\13.03.20)