

Cabinet

Minutes of meeting held in Court Room at Eastbourne Town Hall, Grove Road, BN21 4UG on 11 July 2018 at 6.00 pm

Present:

Councillor David Tutt (Chair)

Councillors Alan Shuttleworth (Deputy-Chair), Margaret Bannister, Jonathan Dow, Stephen Holt, Colin Swansborough and John Ungar

Officers in attendance:

Robert Cottrill (Chief Executive), Philip Evans (Director of Tourism & Enterprise), Ian Fitzpatrick (Director of Service Delivery), Tim Whelan (Interim Director of Service Delivery), Peter Finnis (Assistant Director of Corporate Governance), Catherine Knight (Assistant Director of Legal and Democratic Services), Pauline Adams (Head of Finance), Graham Cook (Consultant Programme Manager for the Devonshire Park redevelopment) and Simon Russell (Committee Services Lead)

11 Minutes of the meeting held on 23 May 2018.

The minutes of the meeting held on 23 May 2018 were submitted and approved and the chair was authorised to sign them as a correct record.

12 Apologies for absence.

None were reported.

13 Declarations of members' interests

Councillors Tutt and Ungar declared a prejudicial interest in agenda item 12 (Housing development update) as members of Aspiration Homes LLP and Eastbourne Housing Investment Company Limited Board. They both withdrew from the room whilst this item was considered. The Interim Director of Service Delivery also declared a prejudicial interest in this item and withdrew from the room whilst this item was considered.

Councillor Ungar declared a personal interest in agenda item 13 (Leisure services options) as a council representative on the Cavendish Sports Centre Joint Liaison Committee. He remained in the room and took part in the discussion.

14 Right to address the meeting/order of business.

A request to speak on agenda item 14 (Construction of a new Sovereign Centre) had been received from Mr Paul McNaught-Davis. As a result, the Chair proposed and it was agreed, to amend the order of business and consider agenda items 13 and 14 first on the agenda as both reports were interlinked.

15 Leisure services options

The Cabinet considered the report of the Director of Tourism and Enterprise, seeking approval to transfer management of the four Eastbourne Borough Council Leisure Centres and Motcombe Pool to a new operator and enter into new arrangements with Wave Leisure Ltd.

Councillor Ungar declared a personal interest in this item and remained in the room whilst the item was considered.

Resolved (key decision):

(1) To approve measures to create new agreements with Wave Leisure to operate the four Leisure Centres (Eastbourne Sports Park; Hampden Park; Shinewater; Cavendish) and Motcombe Pool as of 1st April 2019. To delegate authority to the Director of Tourism and Enterprise, in consultation with the Cabinet member for Tourism & Enterprise, to negotiate and conclude any lease, contract, grant and other arrangements to allow for the operation of these Centres in the most efficient structure to achieve this outcome, ensuring compliance with all legal requirements.

(2) To approve future monitoring of the agreement provided by Wave in the form of an annual report to Cabinet.

(3) To approve measures for Wave to operate Regency Community Centre. To delegate authority to the Director of Tourism and Enterprise, in consultation with the Cabinet member for Tourism & Enterprise, to negotiate and conclude any lease, contract, grant and other arrangements to allow for the operation of Regency Community Centre in the most efficient structure to achieve this outcome, ensuring compliance with all legal requirements.

(4) To agree that the delegations at 1 and 3 above include authorisation not to dispose by auction or invitation of tenders following public advertisement (sought under Contract Procedure Rule 18.1).

(5) To resolve that any leases to be granted to Wave Leisure to allow them to occupy premises outlined in this report will help the Council to secure the promotion or improvement of the social well-being of the Council's area.

Reason for decisions:

To enable improved management and investment opportunities for the existing four 'dry' leisure sites and Motcombe Pool with an emphasis on improving community participation in sports activities and improving the well-being of the local community through a more active lifestyle.

16 Construction of a new Sovereign Centre

The Cabinet considered the report of the Director of Tourism and Enterprise, on the proposed design, budget and construction mechanism for the construction of a new swimming and leisure complex and the interim management of the existing centre, following the expiry of the current arrangements with Eastbourne Leisure Trust (ELT) and Serco.

A member of the public, Mr McNaught-Davis, addressed the Cabinet as a representative of ELT. He recommended that Cabinet reject officer recommendation 6 and that ELT and Serco continue to operate the existing centre until the new centre is open, due to the potential risk of financial cost and quality provision.

Councillor Tutt thanked Mr McNaught-Davis for the points raised and suggested an amendment to officer recommendation 6. The amendment was unanimously agreed and detailed below.

Visiting members, Councillors Freebody and Smart addressed the Cabinet on the overall cost of the project, proposed plans and suggested an added option to refurbish the existing leisure centre.

Councillor Tutt thanked Eastbourne Swimming Club for their feedback and detailed discussions about the scale and configuration of the pools. This had been taken into consideration and incorporated into the revised plans, including an 8 lane pool and diving pit. The Cabinet unanimously agreed to option C, set out at 7.3 of the report.

Resolved (key decision):

- (1) To approve option C for the construction of a new swimming and leisure complex.
- (2) To delegate to the Director of Tourism & Enterprise, in consultation with the Cabinet member for Tourism and Enterprise, authority to make amendments to the design and business case which result from further analysis of option C, the planned public consultation and planning application processes.
- (3) To approve the requisite variation to the capital programme for option C.
- (4) To approve the appointment of CLEAR Sustainable Futures (CSF) to deliver this scheme.

(5) To instruct officers to discontinue the current procurement process (OJEU Ref: 2017/S 098-194542) for the operator of the new Sovereign Centre.

(6) To delegate to the Director of Tourism and Enterprise, in consultation with the Cabinet member for Tourism and Enterprise:

(a) Authority to appoint a temporary operator to run the existing centre from 1st April 2019 until the new Leisure Centre is open, having regard to representations and information from both existing and potential operators, and:

(b) To negotiate and conclude the documentation (including any lease that is required) to allow for the delivery of these services in the most efficient structure ensuring compliance with all legal requirements. This delegation is to include authorisation i) not to dispose by auction or invitation of tenders following public advertisement (sought under Contract Procedure Rule 18.1) and ii) to waive any requirement for a competitive process to award a sub-threshold services contract (Contract Procedure Rule 2.4.1.a).

(7) To instruct officers to seek further advice on the optimal financial structure of the new operator contract and report to a future Cabinet on proposals to select an operator for the new swimming and leisure complex.

(8) To delegate to the Director of Tourism & Enterprise, in consultation with the Cabinet members for Tourism and Enterprise and Financial Services, the Chief Finance Officer and the Lawyer to the Council authority to work on the detailed development, management and approval of the scheme and of all the documentation required to deliver the project. Such delegation to include approval to allowing exceptions to the Council's Contract Procedure Rules should that be necessary.

Reason for decisions:

To finalise the development plan for a new swimming and leisure complex in Eastbourne.

17 Corporate plan refresh

The Cabinet considered the report of the Director of Regeneration and Planning, setting out the results of a review and refresh which had been undertaken of the Council's four year plan (2016-2020) at the end of the second year.

Resolved (key decision):

(1) That the progress made in the second year of delivery of the Corporate Plan (paragraphs 3.2 – 3.4 of the report) be noted.

(2) To approve the design changes to the Corporate Plan, set out at appendix A to the report.

Recommended to Council (budget and policy framework):

(3) To recommend that Council agree the Council Plan contents.

Reason for decisions:

During the period of a four year Corporate Plan adjustments and refinements may need to be made to respond to changed circumstances and emerging opportunities. In acknowledgement of this an annual review is a helpful way of ensuring that the Plan remains focused on delivery of the organisations overall strategic objectives.

18 Corporate performance 2017/18

The Cabinet considered the report of the Director of Regeneration and Planning, updating them on the Council's performance against Corporate Plan priority actions, performance indicators and targets for the year 2017/18.

Part B of the report detailed the Council's financial performance for the year 2017/18.

Visiting member, Councillor Freebody addressed the Cabinet on the performance indicators. He noted the good performance indicator for keeping crime and anti-social behaviour low, working in partnership with other agencies. Councillor Freebody also raised points on the performance indicators below target, for calls answered within 30 seconds and abandoned calls. Vacant positions had now been filled within the Customer First team and new starters were in the early stages of their training development. The Cabinet member for Core Support and Strategic Services would continue to closely monitor performance.

Councillor Freebody also suggested that the combined target of 9 days across Lewes and Eastbourne for staff absence days due to sickness should be lower. Councillor Tutt agreed to discuss the suggestion with Councillor Smith, Leader of Lewes District Council.

Resolved (key decision):

(1) To note the achievements and progress against Corporate Plan priorities for 2017/18, as set out in part A of the report.

(2) To agree the General Fund, HRA and Collection Fund financial performance for 2017/18, as set out in part B of the report.

(4) To approve the transfer from/to reserves, as set out at appendix 3 to the report.

(5) To approve the amended capital programme, as set out at appendix 5 to the report.

(6) To note the key elements of the Statement of Accounts 2017/18, as set out in section 6 of part B of the report.

Reason for decision:

To enable Cabinet members to consider specific aspects of the Council's progress and performance.

19 Medium term financial strategy

The Cabinet considered the report of the Deputy Chief Executive, setting out an overarching financial strategy to support the Council's strategic priorities and plans over a four year period.

Resolved (key decision):

(1) To approve the updated medium term financial strategy and associated plan 2019-22 as summarised at appendix 2 to the report.

(2) To agree the balance of assumptions made in the strategy.

(3) To request that the emerging budget proposals for 2019/20 be brought to Cabinet in December, prior to detailed consultation and that the medium term financial strategy be represented if material changes arise in the interim.

(4) To agree the principal risks of the strategy, set out at appendix 1 to the report.

Reason for decisions:

The Council is required to set out a medium term financial outlook which sets financial policy as well as taking account of other major policies and its corporate plan. The strategy is refreshed annually to take account of changes in the external environment as well as performance.

20 Annual treasury management report 2017/18

The Cabinet considered the report of the Deputy Chief Executive, reporting on the activities and performance of the treasury management service during 2017/2018.

Recommended to Council (budget and policy framework):

(1) To agree the annual Treasury Management report for 2017/18.

(2) To approve the 2017/18 prudential and treasury indicators included in the report.

(3) To approve the re-profiling of the Authorised Limit and Operational Boundary.

Reason for decisions:

Requirement of CIPFA Treasury Management in the Public Sector Code of Practice (the Code) and this has to be reported to Full Council.

21 Equality monitoring policy

The Cabinet considered the report of the Director of Regeneration and Planning, seeking approval for a joint equality monitoring policy.

Resolved (key decision):

(1) To approve the joint equality monitoring policy, set out at appendix A to the report.

(2) To delegate authority to the Director of Regeneration and Planning, in consultation with the Cabinet member for Core Support and Strategic Services to make any amendments to the approved text set out in the appendices to the Policy to align with the Census 2021 questions when these are published.

Reason for decisions:

An Equality Monitoring Policy is required to ensure the Council meets its legal duties under Equality Act 2010 and collects the information required to fulfil its Public Sector Equality Duty (PSED) whilst complying with the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

22 Housing development update

The Cabinet considered the report of the Director of Regeneration and Planning, setting out proposals for the next stage of housing development, utilising previously approved loan facilities to Eastbourne Housing Investment Company Limited and Aspiration Homes LLP.

Councillors Tutt, Ungar and the Interim Director of Service Delivery declared a prejudicial interest in this item and withdrew from the room whilst it was considered. Councillor Shuttleworth chaired the meeting for this item.

Resolved (key decision):

(1) To note the Council's housing development pipeline of homes to be delivered through the Housing Revenue Account ("HRA"), Aspiration Homes ("AHLLP") and Eastbourne Housing Investment Company ("EHICL") by a mix of purchasing land for new development and acquisitions of existing properties.

(2) To give delegated authority to the Director of Regeneration and Planning, in consultation with the Cabinet member for Direct Assistance Services, to dispose of land currently held in the HRA as listed in the programmes set out

in the report and identified as held within the HRA to Aspiration Homes or EHICL pending due diligence. This delegation was to include authorisation not to dispose by auction or invitation of tenders following public advertisements is usually required by the Council's Contract Procedure Rules (paragraph 18.1). To further give delegated authority to the Director of Regeneration and Planning in consultation with the Lead member for Housing to determine the terms for the disposals that may be below market value.

(3) In relation to loans from the Council:

(a) To note the loan amounts associated with the delegation at paragraph 2 above as follows:

(i) A loan amount of up to £6,900,000 required to develop or acquire the homes set out under the AHLLP programme that would be covered by £10m loan facility approved in the 2017/21 capital programme; and

(ii) A loan amount of up to £6,600,000 required to develop or acquire the homes set out under the EHICL programme that would be covered by £20m loan facility approved in the 2017/21 capital programme;

(b) To agree that the Council makes a further loan facility available of up to £10m on market terms to Eastbourne Housing Investment Company Ltd (EHICL) for the purpose of enabling the company to purchase residential accommodation under the existing programme relating to the purchase of such accommodation; and

(c) To authorise the Deputy Chief Executive, in consultation with the Cabinet member for Finance, to determine the terms of any loan which would be offered.

(4) To approve a housing strategy feasibility budget of £200,000 for site assessments related to housing development. This budget would be spent on emerging development opportunities within the programme.

(5) To authorise the Assistant Director for Legal and Democratic Services to ensure that a "Funding Agreement" pursuant to the existing "Deed of Entrustment" is entered into by Aspiration Homes with the Council so that right to buy receipts were appropriated in accordance with legislative requirements and the retention agreement with Government in relation to "social housing". To give delegated authority to the Director of Regeneration and Planning to determine the terms of such agreements.

(6) To delegate authority to the Director of Regeneration and Planning and the Cabinet member for Direct Assistance Services (and where appropriate the Deputy Chief Executive and Assistant Director – Legal and Democratic Services) to progress the projects through the Clear Futures Energy & Sustainability Joint Venture if they consider it appropriate, and at an appropriate future stages to decide if the projects should be put forward to the Clear Futures Steering Board for inclusion as part 1 and/or part 2 projects.

Reasons for decisions:

- (1) The pipeline shows the scale and detail of the Council's current housing development programme.
- (2) The locations listed in the report have a variety of preconstruction issues to resolve, and may be brought forward in a number of different phases. By giving delegation to the Director of Regeneration and Planning, disposal and delivery of housing can take place as site issues are resolved.
- (3) In order for either entity (AHLLP or EHICL) to purchase land from the Council and develop them for housing they will require access to up front capital investment. To continue the street acquisitions programme under EHICL and purchase further property.
- (4) Sites require significant assessment before establishing viability. This feasibility budget will allow assessments to take place earlier and speed up housing delivery.
- (5) For Aspiration Homes to use Right to Buy receipts to fund new affordable housing the necessary legal agreements need to be in place to allow this and these must be used in accordance with the terms of our right to buy receipt retention agreement
- (6) The involvement of Clear Futures may sometimes significantly improve a range of efficiencies in the delivery of the projects.

23 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 paragraph of schedule 12A and a description of the exempt information was shown below. (The requisite notice having been given under regulation 5 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.)

24 Asset investments and disposals

The Cabinet considered the report of the Chief Executive regarding the Council's asset investment and disposals.

Resolved (key decision):

- (1) To agree to act as guarantor for a company to raise finance on an asset.
- (2) To agree to the commercial terms as set out at section 3 of the exempt report.

(3) To delegate to the Chief Executive, the authority to finalise the transactions in consultation with the Leader, Chief Finance Officer and Assistant Director Legal Services

(4) To agree a budget of up to £75,000 from reserves to undertake legal and financial due diligence and finalise all necessary documentation and processes required for this purpose, to give approval to allowing exceptions to the Council's Contract Procedure Rules, should that be considered appropriate by the Chief Finance Officer and the Assistant Director - Legal & Democratic Services in the appointment of the relevant consultants.

(5) To approve the establishment of a wholly owned council company if required for the purpose of such company providing the guarantee and in such a case agree the Council will guarantee the obligations of such wholly owned company.

Reason for decision:

The Council has set out income targets to assist with the reductions in Government funding as part of its medium term financial strategy. This opportunity would represent a significant low risk contribution towards those targets.

Notes: (1) The report remains exempt. (2) Exempt information reason 3 – information relating to the financial or business affairs of any particular person (including the authority holding that information). (3) All officer recommendations contained in the exempt report were unanimously approved.

The meeting ended at 6.56 pm

Councillor David Tutt (Chair)