

Cabinet



Minutes of meeting held on Wednesday, 25 May 2016 at 6.00 pm

Present:-

Councillors **David Tutt** (chairman and leader of the council), **Gill Mattock** (deputy chairman and deputy leader of the council), **Margaret Bannister**, **Alan Shuttleworth**, **Troy Tester** and **Steve Wallis**.

1 Minutes of meeting held on 23 March 2016.

The minutes of the meeting held on 23 March 2016 were submitted and approved and the chairman was authorised to sign them as a correct record.

2 Declarations of interests by members.

Declarations of disclosable pecuniary interests (DPIs) by members as required under section 31 of the Localism Act and other interests as required by the council's code of conduct and regulation 12(2)(d) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

- Councillor David Tutt declared a personal (and non-prejudicial) interest in matters reported in minute 9 (*'Stronger Together' - Joint transformation programme - Business case and implementation*) as as he was a council appointed non-executive director iESE Limited.

3 Membership and responsibilities of cabinet members.

The chairman reported that he had made no changes and these were as set out in the agenda and as reported to the annual meeting of the council held on 11 May 2016.

4 Dates of future cabinet meetings 2016/17.

Dates of future cabinet meetings were agreed as follows:

- 13 July 2016 at 6.00pm
- 14 September 2016 at 6.00pm
- 19 October 2016 at 6.00pm
- 13 December 2016 at 6.00pm
- 8 February 2017 at 6.00pm
- 22 March 2017 at 6.00pm
- 24 May 2017 at 6.00pm

5 Delegation of executive functions.

Resolved: (1) That that the delegation of executive functions to officers be as set out in the scheme of delegation to officers (Section 3, Part D of

the council's constitution) and noting that relevant lead cabinet members are to be consulted by officers when exercising their delegated powers where required to do so.

(2) To note that delegations to individual cabinet members in respect of executive functions have not been made at this time.

6 Financial performance - Provisional outturn 2015/16 (KD).

6.1 Councillor Jenkins asked questions in relation to the design, location, funding and spend to date of the proposed Sovereign Harbour community centre for which provision had been made in the 2015/16 and 2016/17 capital programmes. The chairman said he would arrange for a written response to be given.

6.2 Cabinet considered the report of the chief finance officer providing the provisional outturn results for 2015/16. The final outturn report would form part of the statement of accounts that would be reported to the audit and governance committee in June and to cabinet in July.

6.3 General fund service expenditure variance for the year was principally as a result of:

- Theatre show increased income achieved (principally from the pantomime) (£203,000).
- Savings on street cleansing contract (£102,000).
- Surplus on catering trading account (£101,000).
- Additional income and expenditure savings on bereavement service (£74,000).

Members thanked the staff involved for the improved financial performance. These had, however, been offset in part, by the following negative variances:

- Redundancy payments (£109,000).
- Rental income from corporate properties (£83,000).

6.4 Resolved (key decision): (1) That the provisional general fund outturn on services expenditure for 2015/16 of £16.427m, a net favourable variance of £195,000 against the revised budget, be agreed. (2) That the transfers to and from reserves as set out at appendix 2 of the report be agreed. (3) That the provisional housing revenue account surplus for 2015/16 of £559,000 be agreed. (4) That the final capital programme and outturn for 2015/16 of £18.0m. be agreed.

7 Wish Tower restaurant - Development and marketing programme update (KD).

7.1 Cabinet considered the report of the senior head of regeneration, planning and assets. On 3 June 2015, cabinet had agreed a programme for the marketing and development of the site of the former Wish Tower café and sun lounge with a view to securing a café/restaurant operator and to the allocation of £1.2m from the £2m government grant award.

7.2 Focus Consulting had been appointed as project managers, together with Levitt Bernstein as architects and Bruce Gillingham Pollard, to procure a high quality operator for the site. The new facility had been designed to complement the planned war memorial and peace garden at the Wish Tower, providing a visual link between the two, in memoriam to the civilians of Eastbourne, killed in World War II. To that end, officers and architects had worked with representatives of the Foyle family (whose donation in the 1950's had funded the original building) so that the design of the new restaurant had been influenced by the proposed memorial.

7.3 The council had commissioned a 'soft market test' from an international leisure market and investment appraisal specialist. This highlighted the potential of the site and need to adopt a flexible approach to the terms offered in marketing the site. Following a period of advertising to the market, there were 14 initial requests for information and 6 potential operators submitted expressions of interest. Three operators had been shortlisted and would now go through a negotiated process to determine their best and final offer. The preferred operator would be determined in mid-June.

7.4 The preferred bidder must demonstrate a menu and price point to appeal to all potential customers and markets including beach goers, tourists and locals. It was important that the menu wasn't too focused on one particular food type without offering alternatives. Seafood was a natural food type given the location and this would be encouraged to appear on the menu. When considering each bid, and the suitability of the offer for Eastbourne, a high degree of regard had been given to the existing seafront offer. It was important that the preferred operator was able to offer something that did not already exist, bringing with it a certain cachet that would both attract new visitors to the town, but that would also hold appeal to local people.

7.5 Designs had been worked up to RIBA stage C within the parameters of the planning guidance note and reflecting the council's aspiration for this iconic site. The plans were to assist potential operators visualise the scale and form of the new facility, in turn assisting them in submitting bids for the future operation of the new café/restaurant. A construction contractor would be appointed to deliver the scheme. Internal fit out would be the responsibility of the tenant. The permanent facility would need to meet the financial targets set for the scheme, consistent with the council's commitment to achieving a sustainable asset base by 2021. A planning application would be submitted in June, for determination in September.

7.6 Intended as a temporary facility following the demolition of the former Wish Tower cafe, the Western View café had been constructed in such a manner that most of the building could be salvaged and relocated elsewhere. It was proposed the cafe would continue to operate until the end of November 2016. It would then be dismantled and moved to another location. This would need to be the subject of a separate report to cabinet presenting options and costs of relocation. Three potential

sites had been identified and officers were working up the options in more detail with a view to relocation taking place between January and March 2017.

7.7 There had been a number of stakeholder meetings with heritage, commerce and tourism stakeholders, including the Wish Tower memorial group, Business Breakfast and the Pier Action Group. There would be further public consultation as part of the planning process.

7.8 The future development of the Wish Tower site was an integral part of the council's seafront and tourism strategy. Significant progress had been made to develop a design and determine an operator. The next steps would be to appoint an operator, submit the planning application, and to prepare the construction contract and to this end it was proposed that delegation arrangements be put in place to progress the project.

7.9 Resolved (key decision): (1) That the contents of the report be noted.

(2) That the senior head of regeneration, planning and assets be granted delegated authority to conclude the commercial agreement with the preferred operator.

(3) That the senior head of regeneration, planning and assets be granted delegated authority in conjunction with the lead member for tourism and leisure services, and the lead member for core support and strategic services, to let the construction contract for delivery of the new building, subject to planning and other consents.

8 Arndale Centre extension - use of 'section 237' powers to assist with delivery of the proposed development (KD).

8.1 Cabinet considered the report of the senior head of regeneration planning and assets. Following the secretary of state's decision to approve the compulsory purchase order (CPO) to allow the £85m planned extension to the Arndale to proceed (which would provide an additional 22 new retail units, approximately 300 extra car parking spaces, seven restaurants and a nine-screen cinema and was expected to create approximately 800 retail and catering jobs) it was considered that the acquisition of the land for planning purposes of the development, so as to engage S.237 of the Town and Country Planning Act 1990, should be approved on the following basis:

- (i) The development had the benefit of planning permission and it was considered desirable that the development progress and be completed as soon as possible;
- (ii) the council had already undertaken a lengthy CPO process to secure the necessary land and rights needed to facilitate the development;
- (iii) it was considered that appropriate investigations had been undertaken by the developer to identify those with the benefits of the rights proposed to be infringed and that it was reasonable to

conclude such beneficiaries could not or would not be identified within a reasonable time period;
(iv) the development would deliver public benefits to the borough;
and
(v) those who currently benefited from the restrictive covenants would be entitled to compensation for the interference with their rights.

Accordingly, all relevant considerations had been assessed and on balance it was considered appropriate that the recommendation be approved.

8.2 Prior to and following the making of the CPO, the developer had sought to separately negotiate with relevant third party landowners in order to secure the land required for the Arndale extension by agreement. Various restrictive covenants existed over some areas of land which had been acquired by the developer and also over its existing land holding. A composite list of those rights, so far as it was possible to ascertain the rights from the title documentation, was set out in the schedule attached to the report.

8.3 The acquisition of the land by the council and subsequent use of S.237 powers to secure the release of any covenants that might impact upon the development would be followed by the transfer of the land to the developer. The CPO indemnity agreement between the council and the developer provided that the council's costs associated with the transfer of third party rights, the exercise of the section 237 power and any compensation payable as a result would be met by the developer. Accordingly, there were no financial implications for the council.

8.4 Resolved (key decision): That, in principle, the acquisition of the land, as identified on the attached plans and schedule by the council pursuant to Section 227 of the Town and Country Planning Act 1990 be authorised in order to then engage powers under section 237 of the Town and Country Planning Act 1990 for the planning purpose of facilitating the carrying out of the development (in its current form or as may be varied or amended) and subsequent disposal of that land to the developer (or an associated company) under section 233 of the Town and Country Planning Act 1990, and that the following authority be delegated to the senior head of regeneration, planning and assets in consultation with the lead cabinet member to:

- (a) Finalise the terms for the acquisition and disposal of the above land with the developer (or associated company) and for the relevant documentation to be entered into by the council; and
- (b) finalise the extent/boundary of the land identified in the attached plans and schedule to be acquired by the council and subsequently disposed of to the developer once S.237 powers have been exercised over the land.

9.1 Councillor Jenkins asked about the funding split between the 2 councils of the costs of implementing the programme and the impact these costs would have upon the council's debt. The chairman said at this stage it was anticipated that the split of costs and benefits will fall 60:40 Lewes District Council (LDC) and Eastbourne Borough Council (EBC), reflecting the expected share of benefits and noted that certain costs, e.g. for system replacement would need to be incurred at some future time irrespective of the programme.

9.2 Cabinet considered the report of the chief executive and senior head of projects performance and technology. In October 2015, cabinet approved a strategy for the development of shared services between LDC and EBC based on the integration of the majority of council services. The report sought approval to the detailed business case, high level plan and technology arrangements for the implementation of that strategy. LDC's cabinet had considered and approved a similarly worded report earlier today.

9.3 The 4 strategic objectives of the programme were:

- **Protect services.** Protect services delivered to local residents while at the same time reducing costs for both councils and together save £2.8m annually.
- **Greater strategic presence.** Create two stronger organisations which could operate more strategically within the region while still retaining the sovereignty of each council
- **High quality, modern services.** Meet communities and individual customers' expectations to receive high quality, modern services focused on local needs and making best use of modern technology
- **Resilient services.** Building resilience by combining skills and infrastructure across both councils

9.4 The total estimated savings of the programme as a whole was £2.797m with an equivalent reduction of the equivalent of 79 full-time staff across both councils. LDC would achieve a higher share of the benefits than EBC because EBC had already delivered significant savings through its future model programme and the joint transformation programme inherited the savings target from LDC's cancelled new service delivery model programme. The total budget for the programme was £6.878m of which £1.275m had already been allocated for technology investment that would be required in any event. Therefore the investment required specifically to deliver the programme was £5.603m. This met the financial business case test. Costs and benefits would be shared in the same proportion. The full business case was given at appendix 1 to the report.

9.5 The programme would involve:

- The creation of a single senior management team operating across both councils.
- Reviewing current pay scales and structures and potentially adopting a new joint pay and grading system.

- Redesigning and integrating the technology infrastructures of both councils.
- Significant investment in new technologies, both hardware and software.
- Creating a new target operating model for 350 staff working in joint teams.
- Building hundreds of integrated business processes for the joint teams, based on harmonised policies, driven by common technology.
- Significant cultural change to ensure staff exhibit the same core competencies and customer-centric attitudes and behaviours.

9.6 A high level view of the programme, which included more than 30 projects across six major work streams, was provided at appendix 2 to the report and a full net present value calculation on the programme costs was given in appendix 3. A summary of the non-discounted costs and benefits was as follows:

Direct programme costs	£5.603m
Existing allocated technology investment	£1.275m
Total programme budget	£6.878m
Business case savings	£2.797m
Payback period (all costs)	2.5 years
Payback period (excl. existing allocated costs)	2 years

9.7 It was proposed to fund the capital and one off revenue costs from a mixture of capital receipts, prudential borrowing and reserves and with the ongoing revenue costs coming from the efficiency savings generated. Both councils had existing earmarked sums which would be used to contribute to the programme, including:

- LDC funding was allocated for the new service delivery model programme in November 2014.
- EBC strategic change fund.
- EBC IT capital block allocation.

9.8 The programme would be managed in accordance with standard programme and project management methodologies. The joint transformation board would oversee delivery, monitor risks and be consulted on key deliverables and decisions, and cabinets would receive regular updates. The recommended employment model, having reviewed a number of options, was a shared services model with EBC as the host authority. The programme depended on a common approach to information and communications technology (ICT) strategy and service provision, and a number of options had been considered to deliver this. The recommended option was for application management to be performed by a joint internal team and to vary EBC's contract with SopraSteria Ltd to provide infrastructure management services to LDC. It was also recommended that the Digital 360 platform in use at EBC was extended to LDC, subject to commercial and procurement matters being settled satisfactorily. This meant that LDC would benefit from the significant investment EBC had already made in that platform. Legal and

procurement advice had been sought on these matters and was detailed in the report.

9.9 Customer and stakeholder engagement was one of the key work-streams of the programme. Effective customer and stakeholder insight would ensure that both councils develop policies and services taking into account the views of individuals, communities, stakeholders, forums, organisations, etc. A range of methods to engage and consult would include surveys, meetings, focus groups or discussions and user testing.

9.10 Resolved (key decision): (1) That the business case for the joint transformation programme be approved and that a total of £6.878m be provisionally allocated to the programme (para. 4.4 of the report).

(2) That the deputy chief executive be granted delegated authority to determine the appropriate allocation of costs against revenue and capital funds (para. 4.5 of the report).

(3) That the deputy chief executive be granted delegated authority, in consultation with the Joint Transformation Programme Board, to determine the methodology for cost and benefits sharing with an overriding principle that joint costs are allocated on the basis of the benefits realisation ratio (para. 4.6 of the report).

(4) That the chief executive be granted delegated authority, in consultation with the Joint Transformation Programme Board, to run the programme within the allocated resources, reporting to cabinets regularly (para. 5.1 of the report).

(5) That the high level programme plan be approved (para. 5.3 of the report).

(6) That the procurement approach and contract variation outlined in the report, including the exceptions to contract procedure rules and the proposed changes to information and communications technology service provision, be approved and that the deputy chief executive be granted delegated authority, in consultation with the Joint Transformation Programme Board, to negotiate the associated cost of pension protection with the service provider (paras. 5.10 to 5.13 of the report).

(7) That the adoption of the proven 'Digital 360' platform as the basis for the joint transformation programme be approved, subject to procurement (para. 5.12 of the report).

(8) That engagement be undertaken with local community stakeholders in respect of relevant elements of the programme (para. 5.3 of the report).

*** 9.11 Resolved:** That full council be recommended to approve the shared services employment model with Eastbourne Borough Council acting as the host authority (para. 5.4 of the report).

10 Joint venture on energy and sustainability (KD).

10.1 Cabinet considered the report of the senior head of community and Eastbourne Homes Limited managing director looking to see how the council could take a leading local role in addressing energy and sustainability issues and provide income to the council. Appendix 1 to the report listed the types of projects that could be considered, e.g. a public sector backed energy supply company, energy generation such as solar or CHP (combined heat and power) and commercial greenhouses. Lewes District Council's cabinet was due to consider a similar report at their meeting on 4 July 2016.

10.2 Following a market engagement exercise carried out via a Europe-wide advertisement, interviews were held with 3 major companies which confirmed:-

- A desire to work jointly with EBC to deliver the long term sustainability aims, including energy and food.
- That the costs of development, investment, risk and returns could be shared.
- That heat networks, energy generation plant, demand management to balance the national grid, and commercial greenhouses were financially viable and could provide an income to the council.
- The anticipated internal rate of return/return on investment (IRR/ROI) threshold ranged between 6-15%.
- There is no need for an expensive upfront masterplan - sites and business plans could be developed jointly as and when required;
- The council's long term thinking was in line with the need to tackle energy and food supply, waste and sustainability.
- Flexibility in approach to structuring the arrangements.
- That the approach should be phased – starting with key projects first and building up capacity and market value over time.

10.3 Officers from the Department of Energy and Climate Change had observed the market engagement exercise and were positive about the council's approach and long-term thinking.

10.4 It was proposed that the council set up a joint venture which at its top level was through a 'strategic partnership agreement' (SPA) as this gave the greatest flexibility for the long term aims. The SPA would act as an enabling body for the individual projects that would sit beneath it. The SPA would be procured through a competitive procedure with negotiation and in place by June 2017. It was anticipated that the commercial partner would need to be a significant market player and have a turnover of at least £50 million. Each individual project that sat within the SPA would be reported to cabinet to enable approval of a business plan, and the necessary capital allocation.

10.5 The key elements of the SPA that the council would be looking to secure were set out in the report and included 50:50 public:private split where appropriate and the opportunity to build in potential for other councils or public bodies to be able to participate and use the business

planning process. It is suggested that this be limited to within Sussex, Surrey and Kent.

10.6 A detailed legal analysis was given in the report covering procurement and the council's powers to undertake the proposed activities. External advice might be required for assessing some technical elements of the procurement process at an estimated cost of no more than £10,000. Once the joint venture had been set up, external legal advice might be required to verify bespoke contracts. The council had set aside a budget of up to £50,000 each year for the next three financial years to assist with these external costs. It was anticipated that any expenditure would be shared equally between the council and any other public sector partner/s in the joint venture.

10.7 Resolved (key decision): (1) That the start of a public procurement process advertised in OJEU for a joint venture with a private sector partner be approved.

(2) That the senior head of community and Eastbourne Homes Limited managing director be granted delegated authority to take all decisions during the joint venture procurement process, up to and including the selection and appointment of the private sector partner [where appropriate in consultation with the chief finance officer and lawyer to the council]. The delegation to include the detailed development, management and approval of the public procurement process to be followed and of all the procurement documentation required to deliver the project and the development and approval of all the contractual documentation to appoint the private sector partner.

(3) That the senior head of community and Eastbourne Homes Limited managing director be granted delegated authority to agree the inclusion in the joint venture structure of other local authority and public body partners within Kent, Surrey and Sussex.

11 * Regulatory services - new and amended policies (BPF).

11.1 Cabinet considered the report of the senior head of community seeking approval to a number of policies covering environmental health and licensing functions as follows:

- Regulatory services enforcement policy (amended).
- Redress schemes enforcement policy.
- Smoke and carbon monoxide alarms enforcement policy.
- Statement of principles for determining the amount of a penalty charge.

Copies were appended to the report.

11.2 The regulatory services enforcement policy had been amended to add a new section (5.5) to reflect the option to issue penalty charge notices. The other named policies and statement were proposed in response to recently approved government regulations. Consultation had taken place with the National Landlords' Association. No comments had been received.

***11.3 Resolved (budget and policy framework):** (1) That full council be recommended to adopt the following policies and statement:

- Regulatory services enforcement (amended).
- Redress schemes enforcement
- Smoke and carbon monoxide alarms enforcement.
- Statement of principles for determining the amount of a penalty charge.

(2) That full council be recommended to delegate the administration and enforcement of all the above policies and the statement of principles in exercise of relevant legislation to the senior head of community.

The meeting closed at 6.38 pm

**Councillor David Tutt
Chairman**