

Cabinet

Minutes of meeting held remotely on 10 December 2020 at 2.30 pm.

Present:

Councillor James MacCleary (Chair).
Councillors Zoe Nicholson (Vice-Chair), Matthew Bird, Julie Carr, Chris Collier, Johnny Denis, William Meyer, Emily O'Brien and Ruth O'Keeffe.

Officers in attendance:

Robert Cottrill (Chief Executive), Homira Javadi (Chief Finance Officer), Philip Evans (Director of Tourism & Enterprise), Ian Fitzpatrick (Deputy Chief Executive and Director of Regeneration and Planning), Tim Whelan (Director of Service Delivery), Becky Cooke (Assistant Director for Human Resources and Transformation), Oliver Dixon (Head of Legal Services), Jo Harper (Head of Business Planning and Performance), Emma Kemp (Senior Planning Policy Officer), Beverley Lucas (Specialist Project Manager), Millie McDevitt (Performance and Programmes Lead), Mark Reynard (Senior Lawyer), Simon Russell (Head of Democratic Services) and Peter Sharp (Head of Regeneration).

Also in attendance:

Councillor Liz Boorman (Vice-Chair of Policy and Performance Advisory Committee) and Councillor Isabelle Linington (Leader of the Opposition).

Mr Tony Rowell (Member of the public)

19 Minutes of the meeting held on 12 November 2020

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

20 Apologies for absence

Apologies for absence were reported from visiting members Councillors Miller and Peterson and Ms Debbie Twitchen (Tenants Representative).

21 Declarations of interest

Councillor Collier declared a personal and prejudicial interest in agenda item 14 (Community Infrastructure Levy Recommendations for Spending) as a member of Peacehaven Town Council. He remained in the room to participate but did not vote on the item.

22 Public question time

Mr Tony Rowell submitted the following questions to Councillor Zoe Nicholson,

Cabinet member for finance and assets in relation to agenda item 17 (North Street Quarter – scheme delivery).

- 1) Would you please confirm that all sections of the Constitution Part 4 ‘Contract Procedure Rules’ Section 18, Disposal of Interests in Land, have been complied with as regards the potential disposal of land to Human Nature?**

Response:

Councillor Nicholson confirmed that the Council had and would be complying with all parts of section 18 in the Contract Procedure Rules, with regards to this disposal process. Section 18 required the Council to advertise land for sale and complete a number of critical actions.

- 2) Please confirm that Finance Procedure Rules paragraphs 2.1.22 and 3.1.10 have been complied with?**

Response:

Councillor Nicholson confirmed that paragraphs 2.1.22 and 3.1.10 of the Financial Procedure Rules had been complied with as part of this process.

Supplementary Question and response:

In accordance with the Council’s Cabinet Procedure Rules, Mr Rowell asked the following supplementary question:

“Given the answer to the second written question was yes, as the decision to dispose of North Street will result in income of over £500,000 and in accordance with 3.1.10 which states that prior approval for a new proposal of this size must be made at Full Council and to comply with Budget and Policy procedure rules, at which meeting of the Council was this decision made?”

Councillor Nicholson confirmed that a written response would be given to Mr Rowell, following the meeting.

- 3) Agenda item 17 paragraph 2.4 states ‘North Street Quarter Ltd’s (NSQL) agreement to sell its land to Human Nature is, therefore, dependent on this third-party agreeing sale and purchase terms with the Council. At the same time, the Council’s deal with Human Nature is dependent on this purchaser reaching an agreement with NSQL’.**

Is the purchase of the land from NSQL by Human Nature dependent on the Council selling their piece of land to Human Nature?

Response:

Councillor Nicholson responded that part development of the site was not an option, in accordance with Planning Policy set by the South Downs National Park Authority. Therefore, if the Council did not sell their piece of land to Human Nature, the development could not be delivered.

Supplementary Question and response:

In accordance with the Council's Cabinet Procedure Rules, Mr Rowell asked the following supplementary question:

“What is preventing Human Nature and Lewes District Council from developing the site together?”

Councillor Nicholson responded that the Council was effectively developing the site with Human Nature, given the Heads of Terms agreement for the sale, state a number of mandatory points as part of the development. For example, sale of the land was dependent of Human Nature obtaining planning permission and also the inclusion of a Health Hub as part of the planning application. The current situation presented the Council with a landowner that was about to own the majority of the site and had the confidence, despite the current challenging context, to deliver the scheme as a developer itself.

Ms Debbie Twitchen submitted the following questions to Councillor Zoe Nicholson, Cabinet member for finance and assets. As Ms Twitchen had sent her apologies, her questions were read out by the Head of Democratic Services.

- 1) Agenda item 17 paragraph 2.2 states ‘Human Nature will not be recruited to act as the developer for LDC because it will not be entering into a Land Collaboration Agreement (LCA) in the place of NSQL’.**

Why will Human Nature not be entering into a LCA with the Council?

Response:

Councillor Nicholson responded that there was no requirement for a LCA, as Human Nature was the developer itself.

- 2) Agenda item 17 paragraph 1.4 states ‘On 2nd April 2020, the Leader of the Council gave delegated authority for the Council to enter into an Exclusivity (Lockout) Agreement with NSQL’s preferred**

developer'

Was Human Nature the preferred developer at 2 April 2020?

Response:

Councillor Nicholson responded that as of 2 April 2020, NSQL had not confirmed its preferred developer. It was expected that following the Cabinet Leader's Decision, NSQL would shortly inform the Council; however, this occurred during the start of the Covid-19 pandemic. Since that point, NSQL had confirmed that it would not be appointing a preferred developer and instead would be entering into a Sale Agreement with Human Nature.

3) Under the heads of terms with Human Nature, how many homes will be built for letting at social rents?

Response:

Councillor Nicholson responded that this was subject to the South Downs National Park Authority (SDNPA) Planning Policy as SDNPA was the planning authority. The planning authority set out expectations for the number of affordable homes on any development. As had been reported in the press, Human Nature intended to submit a new planning application which was good news as this must adhere to the SDNPA Local Plan, which now required any developer to make 50% of homes built on the site affordable. The planning application must also have regard to the Lewes Neighbourhood Plan, which had been adopted since the last application was submitted in 2016. The Council expected to be working closely with the SDNPA and Human Nature to ensure the most appropriate balance of affordable homes on the site.

23 Community wealth building

The Cabinet considered the report of the Deputy Chief Executive and Director of Regeneration and Planning, providing them with the results of a diagnostic investigation undertaken into community wealth building (CWB) and to seek their endorsement of the resultant Reimagining Lewes District Action Plan.

Lewes District Council made a commitment to CWB in its Corporate Plan adopted in February 2020 and commissioned the Centre for Local Economic Strategies (CLES) to undertake a study over the summer involving in-depth interviews with council staff and partners.

CWB uses the combined power of organisations, businesses and communities to keep as much wealth as possible in the local economy through the creation of new jobs and new locally owned enterprise.

Thanks, were conveyed to Ian Fitzpatrick, Deputy Chief Executive/Director of Regeneration and Planning, Jo Harper, Head of Business Planning and Performance, Councillor Nicholson and CLES for their work in producing the

report and Action Plan.

Policy and Performance Advisory Committee (PPAC), held on 30 November 2020, considered the report and were supportive of the recommendations in full. Vice Chair, Councillor Liz Boorman was in attendance to present PPAC's discussion.

Councillor Collier addressed the Cabinet and requested a 6-month progress report on the Action Plan. This was unanimously agreed by fellow Cabinet members and detailed below.

Resolved (Key decision):

- (1) To note the progress made in relation to community wealth building
- (2) To note the findings of the diagnostic study undertaken by the Centre for Local Economic Strategies set out at Appendix 1 to the report, and
- (3) To agree the Reimagining Lewes District Action Plan set out at Appendix 2 to the report, and to request a 6-month progress report.

Reason for decisions:

The Council is committed to developing a Community Wealth Building approach as part of the Corporate Plan adopted in February 2020.

24 Support for local people in financial distress

The Cabinet considered the report of the Director of Service Delivery, advising members of the options available to increase financial support to people in financial distress and deliver an increase in the Council tax reduction scheme.

The request had originated from a meeting of the Policy and Performance Advisory Committee, held on 3 November 2020.

Thanks, were conveyed to Tim Whelan, Director of Service Delivery and his team's work in setting out various options to the Cabinet.

Policy and Performance Advisory Committee (PPAC), held on 30 November 2020, considered the report and were supportive of the recommendations in full. Vice Chair, Councillor Liz Boorman, was in attendance to present PPAC's discussion.

Resolved (Key decision):

- (1) That Cabinet adopt option (c), set out at paragraph 5.2 of this report.
- (2) That Cabinet agrees to continue to support the Minimum Income Floor pilot for the self-employed.

Reason for decision:

The recommended option provides significant support from funds currently available to the Council.

25 Finance update - performance quarter 2 - 2020-2021

The Cabinet considered the report of the Chief Finance Officer, updating members on the Council's financial performance for quarter 2 of 2020/21.

The position at the end of September showed a negative variance of £1.126m on net expenditure, which is an increase of £429k on the previous quarter. The impact of the pandemic and associated lockdown continued to have a significant impact on the Council's financial position, in particular on income which was down some £646k at the end of September.

The £1.126m current shortfall was expected to increase as the impact of the second lockdown took effect with further reductions in income and continued increased cost pressures, in particular relating to homelessness and temporary accommodation.

In response to a question from Councillor Collier, Councillor Nicholson commented that the impact of the government's Income Compensation Scheme in this financial year would likely be half of what the overall loss would be.

Visiting member and Vice-Chair of PPAC, Councillor Liz Boorman, addressed the Cabinet and commented that whilst the current financial situation wasn't positive, the deficit (over 6 months) was an improvement over the £10 million previously forecast for the whole year.

Resolved (Non-key decision):

(1) To note the General Fund, HRA and Collection Fund financial performance for the quarter ended September 2020.

(2) To agree the amended capital programme as set out at appendix 2 to the report.

Reason for decisions:

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

26 General fund revenue budget update

The Cabinet considered the report of the Chief Finance Officer, providing an update on the 2020/21 revenue budget and 2021/22 draft revenue budget.

The Cabinet budget update in September forecast a deficit of £4 million in the current financial year, with future deficits of between £2.8 million to £1.5 million (2021/22 to 2024/25), reflecting the impact of the pandemic in terms of lost income from fees and charges, delayed savings, additional direct costs and the financial support so far received from the government.

The latest position showed an improvement of £1.3 million in 20/21, due to reduction in costs and delivery of further savings.

The Council was awaiting further details from the Chancellor of the Exchequer's spending review on November 25th 2020 on whether it would help address the deficit faced by the council.

Policy and Performance Advisory Committee (PPAC), held on 30 November 2020, considered the report and were supportive of the recommendations in full. Vice Chair, Councillor Liz Boorman was in attendance to present PPAC's discussion.

Resolved (Non-key decision):

To note the latest budget positions as set out in the report.

Reason for decisions:

To progress the budget setting process and update Cabinet on the background to this.

27 Council tax base and non-domestic rate income for 2021/22

The Cabinet considered the report of the Chief Finance Officer, seeking their approval for the Council Tax Base and net yield from Business Rate Income for 2021/22 in accordance with the Local Government Finance Act 1992.

Resolved (Key decision):

(1) To agree the provisional Council Tax Base of 36,711.4 for 2021/22 for the whole area and that the Council Tax Base for each of the Town and Parish areas of the District shall be as set out in Appendix 2 of this report

(2) To agree that the Chief Finance Officer, in consultation with the Portfolio Holder for Finance and Assets, determine the final amounts for the Council Tax Base for 2021/22.

(3) Agree that the Chief Finance Officer, in consultation with the Portfolio Holder for Finance and Assets, determine net yield from Business Rate income for 2021/22.

Reason for decisions:

Cabinet is required to approve the Tax Base which will be used for the purposes of calculating the 2021/22 Council Tax.

(NB: The Chair agreed to adjourn the meeting for 5 minutes, following the completion of this item to allow members and attendees a short comfort break).

28 Portfolio progress and performance report quarter 2 - 2020-2021

The Cabinet considered the report of the Deputy Chief Executive and Director of Regeneration and Planning, considering the Council's progress and performance in respect of key projects and targets for the second quarter of the year (July – September 2020), as detailed at Appendix 1 to the report.

Where performance or projects were 'off track/below target', key commentary was provided in the appendix and also by Cabinet members at the meeting.

Cabinet commended staff for their exemplary performance during this quarter, in particular the percentage of calls to the contact centre answered within 60 seconds, planning performance and low number of average days lost per full term employment due to sickness.

Policy and Performance Advisory Committee (PPAC), held on 30 November 2020, considered the report and were supportive of the recommendations in full.

Resolved (Non-key decision):

To note progress and performance for quarter 2.

Reason for decision:

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

29 Community Infrastructure Levy Recommendations for Spending

The Cabinet considered the report of the Deputy Chief Executive and Director of Regeneration and Planning, seeking their approval to release Community Infrastructure Levy (CIL) funds, as recommended by the CIL Executive Board, to assist in the delivery of certain infrastructure projects required to support development in the district.

The Community Infrastructure Levy, known as CIL, is a charge that local authorities could make on developments to raise funds for infrastructure projects, as a result of local development and growth. The CIL was payable upon commencement of a development and since 2015 the council had collected over £7.4 million.

Projects endorsed by the councillors include CIL contributions of £30,000 for upgrades to bridleways and footpaths into the popular Centenary Park in Peacehaven, over £290K for essential improvements to Barcombe and Seaford Fire Stations and £17,000 for an all-weather path around Beechwood Rural Park in Hamsey to provide better access for wheelchair and pushchair users.

Policy and Performance Advisory Committee (PPAC), held on 30 November 2020 considered the report and were supportive of the recommendations in full. Vice Chair, Councillor Liz Boorman, was in attendance to present PPAC's discussion.

Councillor O'Brien thanked Emma Kemp, Senior Planning Policy Officer for her work in ensuring a rigorous application process and welcomed any feedback from members on the process. CIL would be reviewed next year, particularly around strategic spending.

(NB: Councillor Collier declared a personal and prejudicial interest in this item as a member of Peacehaven Town Council. He remained in the room but did not vote on the item.)

Resolved (Key decision):

To agree the release of funds from the CIL governance pots as recommended by the CIL Executive Board.

Reason for decision:

To support the delivery of the right level and type of infrastructure to support the growth identified for the local planning authority in the adopted Joint Core Strategy.

30 Newhaven - Towns Fund

The Cabinet considered the report of Deputy Chief Executive and Director of Regeneration and Planning, providing an update on progress with the submission to the Towns Fund for Newhaven.

Councillor MacCleary clarified that unfortunately road spending, particularly work on the Ring Road, did not fit into the criteria for spending of this Fund, set by the government.

The Council would likely hear whether the bid was successful early in the New Year. In addition to this, the Council was also awaiting to hear whether its bid, submitted by the previous administration to the Future High Street's Fund for Newhaven was successful.

Visiting member, Councillor Boorman, addressed the Cabinet in support of the report.

Resolved (Non-key decision):

(1) To note the bid being prepared for submission to the Towns Fund and the decision-making of the Newhaven Town Deal Board.

(2) To authorise the Director of Regeneration and Planning to submit the Towns Fund bid by 29 January 2021 in line with Government requirements.

Reason for decision:

The Towns Fund is a £3.6billion Government funding pot. Newhaven has been shortlisted to submit a bid of up to £25m of capital funding that will contribute to economic recovery and growth.

31 Memorandum of Understanding between Environment Agency and Lewes District Council relating to coastal risk management at Telscombe Cliffs

The Cabinet considered the report of the Director of Service Delivery, requesting the Chief Executive to enter into a Memorandum of Understanding (MoU) with the Environment Agency.

Recognising the complexities and technical difficulties posed at Telscombe Cliffs, the MoU would help better understand what viable options exist for managing the risks posed by cliff erosion at Telscombe Cliffs. Subject to Cabinet's approval, the Environment Agency would take a lead role on the project.

The Cabinet expressed thanks to Tim Bartlett, Specialist Adviser for Flood and Coastal Risk Management, and Tim Whelan, Director of Service Delivery, for their work in brokering this MoU.

Policy and Performance Advisory Committee (PPAC), held on 30 November 2020, considered the report and were supportive of the recommendations in full. Vice Chair, Councillor Liz Boorman, was in attendance to present PPAC's discussion.

Resolved (Key decision):

(1) To authorise the Chief Executive to agree to enter into a Memorandum of Understanding.

(2) To authorise the Council to work in partnership with the Environment Agency to explore the options viable to manage the risks posed by the undefended cliffs at The Esplanade, Telscombe Cliffs.

Reason for decisions:

By entering into the Memorandum of Understanding with the Environment Agency, their larger technical capability and resources can be utilised to seek an appropriate solution to managing the risks posed by an eroding coast at this

location.

32 North Street Quarter - scheme delivery

The Cabinet considered the report of the Deputy Chief Executive and Director of Regeneration and Planning, providing an update on progress with securing a developer for the North Street Quarter scheme. The report sought Cabinet approval of the Heads of Terms (HoTs) of a legal agreement with a prospective third-party purchaser – Human Nature. It also sought delegated authority for the Council to enter into a legal agreement, based on these HoTs, with this party.

A new scheme would bring greater benefits because the South Downs National Park's Local Plan included tougher requirements on sustainability, flood defences and affordable homes.

Policy and Performance Advisory Committee (PPAC), held on 30 November 2020, considered the report and were supportive of the recommendations in full. Vice Chair, Councillor Liz Boorman, was in attendance to present PPAC's discussion.

Following the general discussion amongst Cabinet members, Cabinet resolved to exclude the public whilst discussing the exempt appendix, containing the HoTs that accompanied the report as otherwise there was a likelihood of disclosure to them of exempt information as defined in schedule 12A of the Local Government Act 1972, paragraph 3 – Information relating to the financial and business affairs of any particular person (including the authority holding that information) and paragraph 5 – Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Following discussion of the exempt appendix, the public meeting resumed, and Cabinet made the following resolution:

Resolved (Key decision):

(1) To agree the HoTs of the proposed sale and purchase agreement for the Council's part of the NSQ site, as set out in the exempt Appendix 1 to the report.

(2) To delegate authority to the Director of Regeneration and Planning, in consultation with the Leader of the Council and Head of Legal Services, to complete negotiations with Human Nature and enter into a sale and purchase agreement with this party, and all ancillary documents, based on the agreed HoTs set out in the exempt Appendix 1 to the report.

Reason for decisions:

To progress redevelopment of the strategically significant North Street Quarter (NSQ) site in Lewes.

The meeting ended at 4.45 pm

Councillor James MacCleary (Chair)