

## Devolution Committee

**Minutes** of a meeting of the **Devolution Committee** held in the **Ditchling Room, Southover House, Southover Road, Lewes** on **Wednesday 15 June 2016** at 10.00am.

### **Present:**

Councillors T Nicholson (Chair), G Amy, J Carter, P Gander, B Giles and J Harrison-Hicks

### **Also Present:**

Z Downton, Committee Officer  
B Lewis, Head of Property and Facilities

### **In Attendance:**

J Norman, Committee Officer

## **1 Minutes**

The Minutes of the meeting held on 2 February 2016 were approved as a correct record and signed by the Chair.

## **2 Devolution Update**

The Committee considered Report No 75/16 which provided an update as to the state of progress on devolution of land to town and parish councils and to seek the Committee's endorsement of the approach being taken by officers towards overage. In the context of land sales, overage was used to describe a sum of money in addition to the original sale price which a seller of land might be entitled to receive in accordance with the agreed overage provisions set out within a contract of sale of land.

The Head of Property and Facilities explained that overage was a necessary mechanism to ensure that the Council achieved best consideration under Section 123 of the Local Government Act 1972. However, a considerable amount of officer time had been spent progressing devolution projects which had ultimately failed for lack of agreement between the Council and Town and Parish Councils concerned as to the

terms of overage and how it would be applied.

Paragraph 2.3 of the Report detailed that a recommendation had been made to the Council by the District Valuer (DV) specifically in connection with the devolution project as a whole. The recommendation was for the inclusion of overage provisions in the transfers of property and there was no good reason why the Council should not implement the DV's advice.

The Head of Property and Facilities explained that she had attended a meeting with Town and Parish Council clerks on 24 May 2016. The Chief Executive of Sussex and Surrey Association of Local Councils and Councillor Andy Smith, Lewes District Council's Leader had also been in attendance at the meeting. The meeting addressed concerns raised and any remaining confusion regarding the purpose of overage and the way in which it operated. The Head of Property and Facilities explained that central to those concerns expressed was the trigger for overage and the length of time overage applied for after the transfer.

The Head of Property and Facilities brought to the Committee's attention that the Council was clear that overage should only apply when there was an uplift in value, or change of use leading to an uplift in value, of the land. In response to a Councillor's question, the Head of Property and Facilities advised that refurbishments or improvements to existing facilities on land, such as changing rooms, would be excluded from overage. She added that the Council did not want to stifle the potential future use of land and known plans to make such improvements could in theory be included, and therefore protected, in any contract made. The Head of Property and Facilities advised that in any case, improvements or enhancements to current facilities on land such as public open spaces would be unlikely to increase the value of the land itself.

Paragraph 2.9 of the Report stated that the current proposal for transfer set an overage period of 50 years. Towns and Parishes had expressed that that was too long and that they would be seeking to reduce the overage period. A suitable compromise position was put forward at 30 years. The Committee noted that once the 30 year period of overage had expired, there would be no restrictions on transferred land.

The Head of Property and Facilities highlighted, under paragraph 2.11 of the Report, that Town and Parish Councils had raised concerns that the Council, by including a restrictive covenant in the Deed of Transfer relating to the repair and maintenance of the assets, was placing unreasonable obligations on the Towns and Parishes. She explained that after consideration, officers believed that it was a point that could be conceded, thus removing a further obstacle to the transfer of land and making the terms of overage explicit.

The Head of Property and Facilities clarified that the newly proposed timescale of six months for completion of transactions would need to be put forward and agreed as appropriate with individual Town or Parish Councils where discussions with the Council to transfer land had already

commenced, as with Lewes Town Council and Newhaven Town Council.

In response to a Councillor's question, the Head of Property and Facilities advised that she understood that Special Expenses payments in relation to transferred land would cease at the point of transfer. She would look into that further and advise the Committee if otherwise.

Head of  
Property  
and  
Facilities

The Head of Property and Facilities advised the Committee that the action points from the previous meeting of the Devolution Committee held on 2 February 2016 had not been progressed due to the need for the Council's approach to overage to be clarified as a priority.

The Committee noted that, under officer recommendation 2, as contained within the Report on page 6 of the Agenda, it should have read '...as set out in paragraph **2.12** of the report' and not paragraph 3.5.

Resolved:

- 2.1** That the state of progress on devolution of land to Town and Parish Councils be noted;
- 2.2** That it be noted that the approach being taken by officers towards the overage, as set out in paragraph 2.12 of Report No 75/16 be endorsed;
- 2.3** That it be approved that the overage period be reduced to 30 years; is triggered upon implementation of a planning decision; and that any restrictive covenants relating to maintenance and repair are stripped out of existing draft documents. Additionally overage is to apply only where there is an uplift in value of the transferred land; and
- 2.4** That it be approved that the Head of Property and Facilities write to the Towns and Parishes asking for written confirmation that they are able to agree the principles, as set out in paragraph 2.12 of Report No 75/16, before any transaction commences and further, to set a deadline of six months for the transaction to complete to avoid protracted negotiations.

Head of  
Property  
and  
Facilities

**3 Date of Next Meeting**

Resolved:

- 3.1** That it be noted that the next meeting of the Devolution Committee be scheduled to be held on Wednesday 5 October 2016 at 10.00am in the Ditchling Room, Southover House, Southover Road, Lewes.

**All to  
note**

The meeting ended at 10.35am.

T Nicholson, Chair