

**CABINET**

14 May 2018



Minutes of the Cabinet meeting held at the Town Hall, Bexhill-on-Sea on Monday 14 May 2018 at 11:00am.

Cabinet Members present: Councillors C.R. Maynard (Leader), Lord Ampthill, A.E. Ganly, Mrs S. Hart, I.R. Hollidge, Mrs J.M. Hughes, I.G.F. Jenkins, G.P. Johnson, M.J. Kenward (Deputy Leader) and Mrs E.M. Kirby-Green.

Other Members present: Councillors J. Barnes, Mrs. M.L. Barnes, J.J. Carroll (in part), S.H. Earl, Mrs D.C. Earl-Williams (in part), B. Kentfield, M. Mooney, P.N. Osborne (in part), J. Potts and M.R. Watson.

Advisory Officers present: Executive Director (AL), Executive Director (MJ), Assistant Director Resources, Financial Services Manager, Economic Development Manager, Programme Support Officer, Contracts Manager (in part) and Democratic Services Manager.

Also present: 6 members of the public.

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The decisions made under PART II will come into force on 24 May 2018 unless it has been subject to the call-in procedure.

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**CB17/91. MINUTES**

The Chairman was authorised to sign the minutes of the meeting held on 8 April 2018 as a correct record of the proceedings.

**CB17/92. APOLOGIES FOR ABSENCE**

An apology for absence was received from Councillor J.M. Johnson, Vice-Chairman of Council.

**CB17/93. EXCLUSION OF PRESS AND PUBLIC**

**RESOLVED:** That the press and public be excluded whilst matters containing exempt information, as prescribed by Part 1 of Schedule 12A of the Local Government Act 1972, as amended and relating to Minute CB17/99 was under consideration. The report submitted in connection with this item and which contains information exempt from publication by virtue of Part 1 of Schedule 12A to the Act shall remain confidential if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**PART I – RECOMMENDATIONS TO COUNCIL – not subject to call-in procedure under Rule 16 of the Overview and Scrutiny Procedure Rules.**

**CB17/94. REVIEW OF LOCAL PAY AWARD**  
**(6.1)**

Cabinet received and considered Minute LGP17/51 arising from the meeting of the Licensing and General Purposes Committee (L&GP) held on 16 April 2018 that had considered the review of local pay award. The Executive Director advised that the L&GP Committee had taken into account all relevant issues, was keen to continue to support the Council's existing commitment to matching the Living Wage and supported an increase of 2% for two years. Members were also reassured that with regard to the gender pay gap, male and female employees were all paid at the same rate of pay for doing the same job. The Council was aware that the gender pay gap review identified that there were more men in higher paid positions than women.

Cabinet was in agreement with the recommendations and, for the purposes of clarity, wished the recommendation to be amended to include "2% each year", over two years. The Leader of the Council led Members in thanking all levels of staff for all their hard work and commitment to the Council.

**RECOMMENDED:** That

- 1) the Council's commitment to matching the Living Wage from the Living Wage Foundation be continued for staff on SCP6 for 2018/19 and 2019/20 (representing a pay settlement offer of 3.6% for these staff only); and
- 2) subject to the Council's current financial position and outlook being maintained, a two year pay settlement increase of 2% each year for 2018/19 and 2019/20 be approved.

**CB17/95. COASTAL ENVIRONMENTS CORPORATE PROJECT – EAST**  
**(7.1) PARADE**

Cabinet received and considered Minute OSC17/57 arising from the meeting of the Overview and Scrutiny Committee (OSC) held on 23 April 2018 that had considered the Coastal Environments Corporate Project – East Parade. Cabinet had originally considered the matter in March (Minute CB17/77 refers) and referred detailed consideration of the project to the OSC.

The Chairman of the OSC, Councillor Osborne, advised that the OSC had received a detailed and interesting presentation from Cheryl Poole, the Council's Programme and Projects Officer and Julian Porter, the District Curator on the history of East Parade and the Promenade, as well as the four heritage projects proposed. Following the presentation the OSC had held a detailed debate and it was pleasing to report that there was consensus amongst all political groups for the project and its aims and objectives. The only concern that had been expressed by some Members was the modernistic design of the clubhouse. It was considered that architecture was very much subjective and ultimately

the design of the clubhouse would be determined by the Council as the Local Planning authority.

Cabinet was fully supportive of the project and agreed to recommend to Council that the project proceed as submitted. The project was considered long overdue and all Members were looking forward to it coming to fruition. It was hoped that as a consequence, public access to the Sea Angling Club and its facilities would be improved.

**RECOMMENDED:** That:

- 1) it be noted that £295,000 has been set aside by full Council in the Capital Programme from the car parks' earmarked reserves to progress Project A;
- 2) subject to Cabinet approval of Project A, the Bexhill Sea Angling Club be authorised to confirm Rother District Council's £295,000 contribution to lever in match funding from external grant awarding bodies;
- 3) subject to Bexhill Sea Angling Club securing funding for their element, an architect be procured by Rother District Council to progress the scheme to the detailed design phase, including planning permission, and project delivery, to be funded from the capital allocation; and
- 4) the remaining three projects (B, C and D as outlined within the report) being planned to address the heritage and environment of East Parade be further developed and brought before Members as appropriate.

(Councillor Maynard declared a personal interest in this matter as an Executive Member of East Sussex County Council and in accordance with the Members' Code of Conduct remained in the room during the consideration thereof).

CB17/96.  
(7.2)

**CALL-IN AND URGENCY PROCEDURES**

Cabinet received and considered Minute OSC17/58 arising from the meeting of the Overview and Scrutiny Committee (OSC) held on 23 April 2018 that had considered the Call-in and Urgency Procedures within the Council's Constitution.

The Call-In procedure was the mechanism by which the Council's OSC could challenge decisions made by the Executive that were not yet implemented. Following the reduction of membership on the OSC last year from 20 to 12, full Council had agreed to reduce the number of Members of the OSC who could call-in a decision from three to two to better reflect the ratio of opposition Members to controlling group Members serving on the Committee.

Whilst it was acknowledged that the procedure was operating well, the OSC had now requested that the procedure be further amended to allow any two non-executive Members of Council, who need not be

Members of the OSC, to be able to call-in a decision with effect from the new civic year.

Cabinet agreed to support the recommendation to Council on the proviso that at least one of the two Members requesting a call-in must have been present at the Cabinet meeting in question and have heard first-hand the debate and reasons for decision; the proposed new structure would also be subject to review after one year. The Leader of the Council hoped that this condition would increase non-executive Member attendance at meetings of Cabinet from the new municipal year.

**RECOMMENDED:** That

- 1) the call-in procedure be amended to enable any two non-executive Members of the Council, one of whom must have been present at the Cabinet meeting in question, to call-in a decision with effect from the new civic year;
- 2) the Constitution be amended accordingly; and
- 3) the revised procedure be subject to review after one year.

CB17/97.  
(8.1)

**PROPERTY INVESTMENT AND OTHER INVESTMENTS**

In December 2017, full Council had agreed the Property Investment Strategy (PIS) (Minute C17/46 refers), however, following Government and CIPFA changes to the statutory guidance and Prudential Code it was necessary to revise the PIS. A briefing paper had been circulated to all Members at the February full Council meeting advising of this requirement.

A revised draft Strategy was attached at Appendix B to the report which now focused on supporting and safeguarding the economy of the Rother area, through the long term protection of existing and the creation of new employment space. For the plan to be sustainable the property investments must make a net positive return for the Council.

Whilst the changes brought a loss of flexibility in where investment could be made, which could be seen as unhelpful in achieving the best returns, it was however considered positive, in the sense that the Council's regeneration ambitions for the Rother area were now at the forefront of the PIS.

It was noted that whilst there were no plans currently to invest beyond the Rother border, either alone or in partnership with neighbouring councils, to do this would require the use of a wholly owned company in order to comply with legislation, in particular the Localism Act 2011 (see Minute CB17/98 below).

Although the portfolio would be managed from existing resources within the Council's Estates team, specialist external advice would be required, as needed. To this end a specific budget provision of £100,000 was recommended to acquire specialist advice in support of delivering the PIS which could be met from the Medium Term Financial

Strategy Reserve. This approach would be subject to review by the Property Investment Panel (PIP) as the portfolio grew, training was currently being organised for the PIP Members and they would be supported with specialist valuation and financial advice. Members were reassured that ultimately the Council's Chief Financial Officer had the right of veto over any investment where it was considered the appraisal did not show the long term soundness of the investment.

**RECOMMENDED:** That the revised Property Investment Strategy set out at Appendix B to the report be approved and provision for £100,000 be made in the Revenue Budget to be met from the Medium Term Financial Strategy Reserve, to meet the costs of specialist advice as set out in the report.

CB17/98.  
(8.2)

## **WHOLLY OWNED LOCAL AUTHORITY COMPANIES**

Members had previously been advised that to support the Council's income generating ambitions wholly owned subsidiary companies might need to be established (Minute CB17/45 refers). It was now considered appropriate to establish a holding company and thereafter other companies, as appropriate to deal with other Rother 2020 activities. The Council would require specialist external legal and accounting advice and support to establish the proposed company structure and an initial budget of £75,000 was proposed to cover these costs.

The detailed report before Members included the advantages and disadvantages, proposed structure, resource requirements, governance arrangements and the relationship between the companies and the Council. In order for the Council to move quickly, it was requested that the Council authorised the Executive Director in consultation with the Leader of the Council, Portfolio Holder for Finance, Monitoring Officer and Section 151 Officer to approve the details of the companies following receipt of the further legal and financial advice.

The advantages of setting up wholly owned companies, which were unfettered by Council bureaucracy, included greater entrepreneurial freedom, lower operating costs, the ability to operate outside Rother geographical boundaries, independent commercial identity from the Council and the ability to sell as a going concern once established. The disadvantages included loss of direct control, possible loss of revenue through corporate taxation, possible inefficient VAT recovery compared to the Council, risk of commercial failure and reputational damage if unsuccessful.

Following the Council decision to operate a café/restaurant in-house from the Colonnade it was recommended that this business was operated through a subsidiary company. Due to tight timescales for a summer opening, a dormant trading company in the name of Colonnade Bexhill Limited had already been established, subject to Member approval of this approach.

It would also be necessary for the Council to provide an overdraft facility of up to £250,000 to the new holding and trading companies to

be charged and repaid at commercial loan rates. This would allow the business to mobilise its operations, including advance purchase of stock, equipment and to meet any early staffing costs.

As the Council would be the sole shareholder of all companies, it was necessary to appoint company directors to each and it was proposed that the Executive Director be authorised to appoint company directors in consultation with the Leader of the Council, relevant Portfolio Holders, Monitoring Officer and the Section 151 Officer. It was proposed that each company had between two and five directors and relevant training would be provided to the company directors and any other officers or elected Members who were closely involved with each company. The Board of Directors would be responsible for delivery of the expected outcomes within the Business Plan of their respective company and have oversight of the performance, financial and operational management within the parameters agreed with the shareholder.

It was important that appropriate governance structures were in place to ensure proper supervision of the companies, thereby protecting the Council's financial and reputational investment in the company. The Articles of Association required for the setting up of the company would be drafted by legal to reflect the aims and objectives of the company. The governance and management structures would need to be included in the Articles of Association. It was recommended that the approval of the final Articles of Association for the company was delegated to the Executive Director in consultation with the Section 151 Officer, Monitoring Officer and the Leader of the Council following receiving legal advice.

In order to ensure good governance and demonstrate a clear separation between the Council's role as the municipal authority and the Council's role as shareholder, it was recommended that a Shareholder Board was created. The new Shareholder Board would be appointed by the Council and fulfil the Council's role as sole shareholder. The Leader of the Council proposed that the following six Members be recommended to Council to form the Shareholder Board: Councillors Lord Ampthill, Mrs M.L. Barnes, S.H. Earl, G.P. Johnson, I.R. Hollidge and M.J. Kenward.

The Shareholder Board would not be operational but would have powers to make decisions on behalf of the Council when it came to company matters. The Shareholder Board would provide updates to the Overview and Scrutiny Committee (OSC) on performance of the new companies. It was requested and agreed that any potential conflict with Members' role on the Shareholder Board and the Council's Code of Conduct in terms of interests would be considered and addressed within the Articles of Association.

A key governance issue was the relationship between the company's internal management and the Council, the sole shareholder. To this end, it was advised that a scheme of delegation be drawn up structuring the relationship between the Council and the companies. The scheme of delegation would set out in detail the powers and responsibilities of the Council's sole shareholding of the company, how

it would exercise that power and how the directors of the company and the shareholder would interact. It would also set out which decisions were made by the Council and which decisions were made by the directors of the company.

**RECOMMENDED:** That

- 1) the setting up of a holding company be approved; and the setting up of a wholly owned local authority trading company limited by shares be retrospectively approved;
- 2) an overdraft facility of up to £250,000 be made available to the above companies to enable the mobilisation of the operation to be undertaken, to be charged at a commercial loan interest rate;
- 3) a budget of £75,000 be approved for the necessary specialist legal and financial advice required to be funded from the Medium Term Financial Strategy Reserve;
- 4) the Executive Director be granted delegated authority, in consultation with the Leader, Portfolio Holder for Finance, Monitoring Officer and the Section 151 Officer, the power to:
  - a. Establish a holding company.
  - b. Agree the name for the company.
  - c. Draft, in line with this report, and approve Articles of Association as required.
  - d. Name the directors of the company.
  - e. Make governance arrangements for the companies including agreement to the scheme of delegation.
  - f. Decide on the relationship between the Council and the Companies.
- 5) a Shareholder Board be established made up of the following six Councillors Lord Ampthill, Mrs M.L. Barnes, S.H. Earl, G.P. Johnson, I.R. Hollidge and M.J. Kenward; and
- 6) the Monitoring Officer be authorised to make the necessary amendments to the Council's Constitution to establish the Shareholder Board.

**PART II – EXECUTIVE DECISIONS** – subject to the call-in procedure under Rule 16 of the Overview and Scrutiny Procedure Rules by no later than 4:00pm on 23 May 2018.

CB17/99.  
(10.1)      **ACQUISITION OF LAND AT THE FORMER HIGH SCHOOL SITE, BEXHILL**

Consideration was given to the confidential report of the Executive Director that set out the rationale and current position with regard to the acquisition of land at Down Road, Bexhill.

Members agreed that the Executive Director proceed with the acquisition of the land for the sum as set out in the report, but in the event that agreement was not reached, officers were authorised to

explore the use of Compulsory Purchase Order powers to acquire the land up to the amount stated at the meeting and report back to a future meeting of Cabinet in due course.

The land in question was required in order for the Council to bring forward the site in line with the Corporate Priority Project CA3.1 which was to provide a landmark leisure destination and comprehensive development plan for the site.

**RESOLVED:** That the Executive Director be authorised to proceed with the acquisition of land at Down Road, Bexhill, but in the event that agreement is not reached, officers be authorised to explore the use of Compulsory Purchase Order powers to acquire the land up to the amount stated at the meeting and report to a future meeting of Cabinet once further advice has been obtained.

(This matter was considered exempt from publication by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972, as amended).

(Councillor Lord Ampthill declared a personal and prejudicial interest in this matter as he had a long acquaintance with the beneficial owners of the land in question and in accordance with the Members' Code of Conduct left the room during the consideration thereof).

(Councillor Maynard declared a personal interest in this matter as an Executive Member of East Sussex County Council and in accordance with the Members' Code of Conduct remained in the room during the consideration thereof).

**CHAIRMAN**

The meeting closed at 12.20pm

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