

CABINET

29 July 2019

Minutes of the Cabinet meeting held at the Council Chamber on Monday 29 July 2019 at 6:30pm.

Committee Members present: Councillors D.B. Oliver (Leader), Mrs C.A. Bayliss, J. Brewerton, C.A. Clark, K.M. Field, S.M. Prochak (Deputy Leader) and J. Vine-Hall.

Other Members present: Councillors J. Barnes, Mrs M.L. Barnes, G.S. Browne, T.J.C. Byrne, J.J. Carroll, S.J. Coleman, P.C. Courtel, G.C. Curtis, K.P. Dixon, B.J. Drayson, A.E. Ganly, K.M. Harmer, Mrs S. Hart, A.K. Jeeawon, J.M. Johnson, Mrs E.M. Kirby-Green, C. Madeley, C.R. Maynard, P.N. Osborne, G.F. Stevens, R. Thomas and H.L. Timpe.

Advisory Officers in attendance: Executive Director (MJ), Executive Director (TL), Head of Acquisitions, Transformation and Regeneration, Head of Housing and Community (in part), Head of Strategy and Planning (in part), Planning Policy Manager (in part), Property Investment and Regeneration Manager and Democratic Services Officer.

Also Present: 1 member of the press and 16 members of the public.

CB19/25. **MINUTES**

(1)

The Chairman was authorised to sign the minutes of the meeting held on 8 July 2019 as a correct record of the proceedings.

CB19/26. **APOLOGIES FOR ABSENCE**

(2)

There were no apologies for absence.

CB19/27. **DISCLOSURE OF INTERESTS**

(5)

Declarations of interest were made by Councillors in the Minutes as indicated below:

J. Barnes Agenda Item 10 – Personal Interest in so far as he was an elected Member of East Sussex County Council.

Mrs Bayliss Agenda Item 6 – Personal Interest in so far as she was a member of Democracy4Bexhill.

Agenda Item 10 – Personal Interest in so far as she was a Trustee of Aurora Academies Trust.

Clark	Agenda Item 10 – Personal Interest in so far as he was an elected Member of East Sussex County Council.
Coleman	Agenda Item 6 – Personal Interest in so far as he was a member of Democracy4Bexhill.
Courtel	Agenda Item 6 – Personal Interest in so far as he was a member of Democracy4Bexhill.
Mrs Earl-Williams	Agenda Item 10 – Personal Interest in so far as she was an elected Member of East Sussex County Council.
Field	Agenda Item 10 – Personal Interest in so far as she was an elected Member of East Sussex County Council.
Maynard	Agenda Item 10 – Personal Interest in so far as he was an elected Member of East Sussex County Council.

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

CB19/28. **COMMUNITY GOVERNANCE REVIEW - BEXHILL-ON-SEA**
(6)

In 2016/17 and in accordance with the provision of the Local Government and Public Involvement in Health Act 2007, the Council carried out a Community Governance Review (CGR), as a result of receiving a valid petition. As a CGR had been carried out within the previous two years, the Council could not be compelled through a petition to carry out a further review. However, on 22 May 2019, the Council passed a motion for officers to report on the required procedure to establish a Town Council for Bexhill by 2021. Therefore, the report of the Executive Director set out the considerations for the Council in conducting a new CGR of Bexhill-on-Sea, incorporating all nine wards.

Full Council was required to agree the Terms of Reference (ToR) for the CGR which specified the area under review and detailed what the Council wanted to achieve; draft ToR were attached at Appendix A to the report.

It was proposed that a Steering Group comprising seven Members was appointed in accordance with political balance requirements to manage the process and draft ToR for the Steering Group were set out at Appendix B to the report. This would result in seat allocation of three Conservative Members, two Association of Independent Members, one Liberal Democrat/Green Member and one Labour Member. It was noted that all Members of the Council would have the opportunity to contribute to the review.

Under the terms of the 2007 Act, the Council was obliged to consult with the local government electors for Bexhill-on-Sea, take into account any representations made and ensure the outcome of the review, including any decisions were well publicised. One of the key roles for the Steering Group would be to determine the consultation and communication programme for the CGR. As a result of the feedback received in 2017, it was proposed that only one six week consultation period be held.

The Council would be required to complete the review within 12 months of the start of the CGR, including any consequential recommendations to the Local Government Boundary Commission for England. A draft timetable complying with the requirements of the 2007 Act was included within the ToR for the Steering Group at Appendix B.

The review would be completed once the Council approved the Reorganisation of Community Governance Order. Copies of the Order and associated maps would be deposited at the Council offices and published on the website. The Order would take effect for financial and administrative purposes on 1 April in the designated year.

Cabinet had sought advice from the Sussex Association of Local Councils who had advised that as the Council had conducted a full CGR in 2016/2017, it would not be necessary to repeat this process again, and that a consultation would only be required. For public clarity, it was also felt that the Council should not be seen to be “going over old ground”. Therefore it was proposed that recommendation 1) be reworded as follows: the draft ToR for a Community Consultation to consider the implementation of a new Parish Council covering the Bexhill-on-Sea area of Rother District Council be approved and updated accordingly. It was also suggested that the membership of the Steering Group be increased from seven to nine Councillors to ensure an equal balance of Bexhill Members were represented.

The Executive Director advised that in order to implement a CGR, it was essential that the Council conformed to the relevant local government legislation. Failure to conduct a thorough CGR could result in reputational damage and expose the process to the risk of legal challenge. This advice had been confirmed by the Council’s Legal Team.

With regards to the increased membership, the Executive Director confirmed that the amended seat allocation would be as follows: three Conservative Members, three Association of Independent Members, two Liberal Democrat/Green Member and one Labour Member. Group Leaders would need to provide the names of the Steering Group membership before the full Council meeting scheduled to be held on 16 September 2019.

After discussion, Cabinet reiterated that, the proposed amendments be forwarded to full Council for consideration.

RECOMMENDED: That:

- 1) the draft Terms of Reference for a Community Consultation to consider the implementation of a new Parish Council covering the Bexhill-on-Sea area of Rother District Council be approved and updated accordingly;
- 2) a politically balanced Community Consultation Steering Group be established comprising nine Members; and
- 3) the proposed timetable for the review be agreed as set out at Appendix B to the report.

(Councillors Mrs Bayliss, Coleman and Courtel each declared a personal interest in this matter as they were members of Democracy4Bexhill and in accordance with the Members' Code of Conduct remained in the room during the consideration thereof).

CB19/29. **REVENUE BUDGET AND CAPITAL PROGRAMME MONITORING - QUARTER 1 2019/20**

(12)

Members received and considered the report of the Executive Directors on the Revenue Budget and Capital Programme Monitoring Quarter 1 2019/20. The report contained details of the significant variations of the Revenue Budget and updated Capital Programme.

Since the last report to Cabinet, there had been two reportable virements. In April, the Council acquired Glovers House, Bexhill, as part of its regeneration agenda, for the sum of £7.8m including costs. This would generate an annual rent of £425,000 rising to £475,000 in December 2020.

Overall the cost of services identified a small deficit of £58,000 which was 0.4% greater than the revised budget. Members were advised it was too early to predict the year end position as a result of the new waste contract, volatility in planning application income and the delivery of the Property Investment Panel. The main reasons for the variations were attributed to underspends/savings on employment related costs, staff vacancies and recycling credits. The deficit was attributed to election costs, software upgrades, costs associated within the Acquisitions, Transformation and Regeneration service, and resources for the Rother 2020 programme and Property Investment Strategy.

Investment returns were in-line with the budget. The final year end position would depend on treasury management and property investment decisions made between now and March 2020.

The Council Tax collection rate was comparable to previous years and the Business Rates collection performance was slightly lower compared to the same period last year. At this stage, the outturn for both was expected to be broadly in line with the original estimate.

No significant variances were predicted to the Capital Programme 2019/20 estimated spend of £24m, as identified in Appendix A to the report. Appendix B to the report, showed the Capital Programme for the period 2019/20 to 2023/24 which had been updated to take account of any slippage in the 2018/19 financial year.

Overall the Council's overspend was expected to be £58,000. Officers would be investigating mitigation measures during the financial year.

RECOMMENDED: That the updated Capital Programme at Appendix B to the report, be approved.

AND

***RESOLVED:** That the report be noted.

*The **RESOLVED** parts of this minute are subject to the call-in procedure under Rule 16 of the Overview and Scrutiny Procedure Rules.

(The Leader had accepted this item onto the Agenda as an Additional Agenda Item in order for Members to be kept abreast of the Council's financial position).

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 8 August 2019.

CB19/30. **DEVELOPMENT OF LAND AT BARNHORN GREEN, BEXHILL**
(7)

The Executive Director advised that consideration of this item would be deferred, reported to the Property Investment Panel and brought back to the next meeting of Cabinet scheduled to be held on Monday 2 September 2019.

RESOLVED: That consideration of this item be deferred, reported to the Property Investment Panel and brought back to the next meeting of Cabinet scheduled to be held on Monday 2 September 2019.

CB19/31. **LAUNCHING AND LANDING OF PERSONAL WATERCRAFT AT HERBRAND WALK, BEXHILL**
(9)

In September 2018, Cabinet had agreed to temporarily approve the designation of the existing boat lane at Herbrand Walk to launch and recover Personal Watercraft (PWC). This decision would be subject to review and it was agreed that officers' liaise with key stakeholders to re-examine further optional sites and report back to Cabinet at a future meeting.

The report detailed the outcome of the investigations and possible options for managing the use of Herbrand Walk as a launch and recovery site for PWC. Officers had consulted other local authorities

who operated launch and recovery sites, whilst considering representations received from local residents and other key stakeholders.

Members were advised that the Council wished to minimise the risk of injury posed to bathers by PWC at Herbrand Walk and also minimise noise disturbance to local residents and beach hut owners. The Council did not have the power to prevent people from using PWC on the open sea; the Council was only able to deter the launch and recovery of PWC on the foreshore, as prescribed in the byelaw. The Council's resources to support byelaw compliance were limited and any solution would need to be reasonably practicable to deliver.

Officers had investigated other areas within the district as potential designated launch and recovery areas. Rye Harbour was identified, 20 miles from Herbrand Walk. It was felt unreasonable to expect PWC users to travel to Rye Harbour. However, there was another alternative site within approximately seven miles at Eastbourne which operated a permit based registration system at a cost of £70 per annum; this was enforced by Eastbourne's coastal office. Legal advice confirmed that it was acceptable to direct PWC users at Herbrand Walk to Eastbourne as the site was within a reasonable distance. Therefore this would enable the Council to remove the temporary designation of the boat lane at Herbrand Walk. The Council would adopt all reasonable measures to ensure compliance with the byelaw to mitigate any risks to the public which included:

- increased signage to deter PWC users from launching and recovering at Herbrand Walk;
- new signage to redirect PWC users to alternative launch and recovery sites; and
- implement a 'crackdown' on select occasions during the summer to educate PWC users and swimmers as to the correct use of the beach and boat lane.

The Cabinet Portfolio Holder for Safer Communities and Communications, Young People, Sport and Leisure advised that she would support officers in investigating alternative sites within the district.

Members agreed that Council 'crackdown' enforcement action was essential to ensure byelaw compliance.

RESOLVED: That:

- 1) the removal of the temporary designation of Herbrand Walk boat lane as a launch and recovery site for personal watercraft be noted; and
- 2) the actions outlined above to ensure compliance be noted.

CB19/32.
(10)

DEVELOPMENT OF OLD BEXHILL HIGH SCHOOL SITE (CA3.1)

Consideration was given to the report of the Executive Director concerning the development of the former Bexhill High School site as a leisure destination.

The Council's aspiration was to provide a one-site facility in Bexhill to encompass all leisure facilities for the community and this objective was reflected in the Council's Corporate Plan 2014-2021, Local Plan Site Allocation and the Bexhill Town Centre Strategy. Overall, the objective was to secure a leisure destination on the site of the former Bexhill High School.

The acquisition of the former High School site had encountered a number of complex land and legal obstacles and the report provided an update on the current position, as follows:

- Ministry of Defence: the Council had been in discussion with South East Reserves Forces' and Cadets' Association (SERFCA) to acquire the Drill Hall, as indicated on Appendix 1 to the report. The closest rifle range located in Hastings had subsequently closed therefore SERFCA had confirmed that they would not be moving from their current premises.
- De La Warr Estate (DLWE) and Village Green: Lengthy discussion had been held with the DLWE to acquire the land at the front of the site. A price was agreed and legal proceedings commenced, however it was understood that the DLWE was unable to prove title and had made an application to the Land Registry; formal determination was awaited. This also included the area of land designated as Village Green at the front of the site which was currently covered in cobbles. The Council wrote to the Open Spaces Society who had stated that they had no problem with this land being de-registered. This was required for widening the access road to the site but could not be de-registered until the Council had ownership of the land.
- East Sussex County Council (ESCC) Land: acquisition had been delayed due to legal constraints, as well as access issues to the Skills Centre building across the site. ESCC was working to resolve all issues as part of the transfer agreement.

Architects had been appointed to create a masterplan for the site and to submit an outline planning application; this was submitted early in 2019 and determination was awaited. Leisure consultants, Strategic Leisure Limited was appointed to provide specialist support and advice in delivering a new leisure facility and procuring an operator to run the centre.

To progress the site, the following next steps were required:

- Pursue a Compulsory Purchase Order to acquire the frontage land should the DLWE be unable to prove title; this could not commence until the application was resolved.

- Once transfer terms were agreed, the Council was expected to take ownership of the ESCC land within the 2019/20 financial year.
- As a result of not being able to purchase the Drill Hall, amendments would be required to the masterplan. This land had been earmarked for a hotel and associated car parking. It would be necessary to omit the hotel.
- As a result of losing the hotel and to maximize revenue potential, it would be necessary to amend the residential scheme.
- Once outline planning permission was granted, it would be necessary to separate the leisure and housing development into two distinct projects.

Members were disappointed that the hotel had been omitted from the plans and felt it was essential that an alternative site was located within Bexhill. It was noted that the loss of the hotel would impact on the overall viability of the scheme as its revenue was intended to cross-subsidise the leisure centre. However, additional housing on the site might well compensate for this. Members suggested that perhaps an alternative location should be sought for the leisure centre.

Concern was raised regarding the condition of the Skills Centre building; the building was looking dilapidated and neglected. Clarity was sought on the plans for this building. Members were advised that its current and future usage was unknown. The Executive Director advised that the property was allocated for educational purposes only and was currently leased by the Academies Trust from ESCC.

Following discussion, Cabinet approved the new approach of retaining the Drill Hall, reconfiguring the leisure centre site and the provision of additional housing to offset the capital costs in order to progress the new landmark leisure destination and provide much needed housing for the local community.

RESOLVED: That the new approach to developing the old Bexhill High School site Corporate Plan Project be supported by:

- a) omitting the proposed hotel; and
- b) separating the housing and leisure elements into two distinct projects to be brought forward separately after outline planning permission has been granted.

(When it first became apparent, Councillors J. Barnes, Clark, Field, Mrs Earl-Williams and Maynard each declared a personal interest in this matter as they were elected Members of East Sussex County Council and in accordance with the Members' Code of Conduct remained in the room during the consideration thereof).

(Councillor Mrs Bayliss declared a personal interest in this matter as she was a Trustee Aurora Academies Trust and in accordance with the Members' Code of Conduct remained in the room during the consideration thereof).

CB19/33. **FESTIVE LIGHTS IN BEXHILL**
(11)

At the meeting on 1 July 2019, Cabinet resolved to terminate the funding agreement with Shining Lights Limited and enter an agreement with Bexhill Chamber of Commerce and Tourism (BCCT) for the delivery of a festive lighting scheme in Bexhill Town Centre from 2019 onwards. However, BCCT had since advised that they were no longer in a position to provide this due to lack of capacity/time and changes in their organisation.

A £13,500 Council budget was available to work with a third party organisation willing to oversee and deliver the scheme. Members were reminded that the Council did not have the capacity in-house to oversee the implementation of festive lights. Therefore Cabinet's instructions were sought on how to proceed.

Cabinet agreed that the Council should advertise for other constituted interested parties / community groups to submit an interest in providing festive lights for Bexhill, by the end of August.

RESOLVED: That the Council advertise for other constituted interested parties / community groups to submit an interest in providing festive lights for Bexhill, by the end of August.

PART III – URGENT DECISIONS – The Chairman of Council had agreed that the following decisions were urgent in accordance with Paragraph 17 of the Overview and Scrutiny Procedure Rules contained in Part 4 of the Council's Constitution. The call-in procedure does not therefore apply to these decisions.

CB19/34. **DEVELOPMENT AND SITE ALLOCATIONS LOCAL PLAN - PROPOSED MAIN MODIFICATIONS**

(8)

Consideration was given to the report of the Executive Director that sought authority from Cabinet to authorise the 'Main Modifications' and 'Additional Modifications' to the Development and Site Allocations (DaSA) Local Plan for a six week public consultation. It was noted that to allow the Council to publish the DaSA for consultation purposes on 30 July 2019, the Chairman of the Council had already agreed that this matter could be taken as an urgent decision and therefore outside the call-in arrangements.

The Council had submitted the Proposed Submission Version of the DaSA Local Plan for independent examination in January 2019. The DaSA implemented the development strategy and core policies set out in the adopted Core Strategy and sought to allocate sites for particular uses as well as setting out more detailed policies for the effective management of development in relation to key issues.

In January 2019, the Secretary of State appointed an Inspector to conduct the independent examination into the Plan's soundness and legal compliance and subsequently issue a report with conclusions. The examination hearings were held between the 8 – 16 May 2019 and

officers and expert witnesses gave evidence on a number of matters, issues and questions set by the Inspector.

As a result of the examination process a number of modifications had been put forward to the Inspector. The Council was now required to conduct a further six week consultation on these modifications, once confirmed by the Inspector. Alongside the 'Main Modifications and Changes to the Policies Map' there would be further 'Additional Modifications' which were of a more minor nature and did not materially affect the policies set out in the DaSA Local Plan.

The report identified the proposed changes to the 'Main Modifications', 'Changes to the Policies Map' and 'Additional Modifications' as detailed at Appendices 1 to 3 respectively to the report. Copies of the Sustainability Appraisal and Habitat Regulations Assessment (HRA) had been prepared and placed in the Members' Room for perusal.

The six week public consultation would be open for anyone to make representations, would relate to the modifications only and not any other aspects of the plan; it would commence on 30 July 2019. All representations received on the 'Main Modifications' and 'Changes to the Policies Map' would be submitted to the Inspector for consideration. Representations received on 'Additional Modifications' would be considered by the Council.

It was essential that the consultation commenced as soon as possible to enable officers to undertake the consultation and compile and submit consultation responses to the Planning Inspector as promptly as possible after the period for representations had closed. This would provide the best possible chance for the Council to receive the Inspector's Report and adopt the DaSA at the September full Council meeting prior to the Core Strategy becoming more than five years old.

Officers were congratulated and thanked for all their hard work progressing the DaSA to date.

RESOLVED: That:

- 1) the proposed modifications to the Development and Site Allocations Local Plan to be considered alongside the respective Sustainability Appraisal and Habitats Regulation Assessment to enable representations to be made, be approved for public consultation purposes; and
- 2) the representations received to the 'Main Modifications' and 'Changes to the Policies Map' be subsequently sent to the Inspector following the close of the consultation.

The Chairman of Council had agreed that this decision could be taken as a matter of urgency to enable the Council to publish the Main Modifications, Changes to the Policies Map and Additional Modifications to the Development and Site Allocations Local Plan for consultation purposes on 30 July 2019.

CHAIRMAN

The meeting closed at 7:35pm.