

CABINET

5 October 2020

Minutes of the Cabinet meeting held remotely on Monday 5 October 2020 at 6.30pm.

Committee Members present: Councillors D.B. Oliver (Leader), S.M. Prochak (Deputy Leader), J.H.F. Brewerton, T.J.C. Byrne, K.P. Dixon, K.M. Field, H.L. Timpe and J. Vine-Hall.

Other Members present: Councillors J. Barnes, Mrs M.L. Barnes, R.K. Bird, G.S. Browne, C.A. Clark, S.J. Coleman, Mrs V. Cook, B.J. Drayson, Mrs D.C. Earl-Williams, A.E. Ganly, P.J. Gray, K.M. Harmer, J.M. Johnson, Mrs E.M. Kirby-Green, L.M. Langlands, C.A. Madeley, C.R. Maynard, A.S. Mier, P.N. Osborne, G.F. Stevens and R.B. Thomas.

Advisory Officers present: Chief Executive Designate, Assistant Director Resources, Head of Strategy and Planning, Head of Environmental Services, Licensing and Community Safety, Democratic Services Manager and Democratic Services Officer.

Also Present: 29 members of the public via the YouTube live broadcast.

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The decisions made under PART II will come into force on 16 October 2020 unless they have been subject to the call-in procedure.

CB20/49. **MINUTES**

(1)

The Chairman was authorised to sign the minutes of the meeting held on 7 September 2020 at a later date as a correct record of the proceedings.

CB20/50. **APOLOGIES FOR ABSENCE**

(2)

An apology for absence had been received from Councillor C.A. Bayliss.

CB20/51. **DISCLOSURE OF INTERESTS**

(5)

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

Barnes, J Agenda Item 7 – Personal Interest as Chairman of Etchingham Parish Council.

Byrne Agenda Item 6 – Personal Interest as a member of Bexhill Environmental Group.

Thomas Agenda Item 6 – Personal Interest as a member of Bexhill Environmental Group and Sussex Wildlife Trust.

Vine-Hall Agenda Item 7 – Personal Interest as Chairman of Sedlescombe Parish Council.

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 15 October 2020.

CB20/52. **POTENTIAL APPEAL COSTS - STRATEGY AND PLANNING - RR/2017/1705/P - LAND OFF SPINDLEWOOD DRIVE, BEXHILL**

(6)

Following the refusal of planning permission RR/2017/1705/P – Land off Spindlewood Drive, Bexhill in March 2020, against officer recommendation, it was advised that the Applicant had now appealed the decision. The decision whether the appeal was heard by written representations, hearing or public inquiry would be taken by the Planning Inspectorate (PI), in consultation with the Applicant and Local Planning Authority.

It was advised that should the appeal be decided by Written Representations officers could defend the Council's reasons for refusal, with expert advice of a drainage consultant. The cost to appoint a drainage consultant was likely to be in the region of £5,000 to £10,000. An additional contingency of a further £10,000 was also suggested in the unlikely event costs were awarded against the Council.

However, should the appeal be heard at a Hearing or Public Inquiry it would need to be defended by outside consultants with input from Counsel; previous experience showed that funding for up to £75,000 could be required to cover the costs of a planning consultant and Counsel, based on a three day inquiry.

It was advised that a Hearing was historically less adversarial and involved a round table discussion with no cross-examination, whereas a public enquiry was more complex and allowed for cross-examination of expert witnesses; this would result in professional officers being unable to defend the Council's decision as it would be in conflict with their own professional advice to grant the original application.

In addition, if the PI allowed the appeal and granted permission, the Appellant could seek to claim their appeal costs, on the basis that the appeal would have been avoided if the Council had granted permission. The Appellant's costs would be likely to be a similar amount to the Councils' and therefore far higher for a hearing or public inquiry in the region of £150,000.

It was noted that should the Applicant win the appeal against the decision then no New Homes Bonus (NHB) grant would be received once the development had been completed. Based on the number of properties in the application, it was estimated that £1,069,400 of grant

would be foregone. In order to ensure that the Council had the best chance of defending the Council's decision it was agreed that the Council's preferred format be confirmed as a Hearing. Following a successful defence, should a new application be submitted by the Applicant, which did meet with approval, the potential NHB grant would be payable to the Council.

RESOLVED: That the Planning Inspectorate be advised that the Local Planning Authority supports the Hearing format for the defence of the appeal in respect of 'land off Spindlewood Drive, Bexhill,' and that funding of up to £150,000 be set aside from ear marked reserves, to meet costs of defending the appeal.

(Councillor Byrne declared a Personal Interest in this matter as a member of Bexhill Environmental Group, and in accordance with the Members' Code of Conduct remained in the room during the consideration thereof).

(Councillor Thomas declared a Personal Interest in this matter as a member of Bexhill Environmental Group and the Sussex Wildlife Trust, and in accordance with the Members' Code of Conduct remained in the room during the consideration thereof).

CB20/53.
(7)

PUBLIC SPACES PROTECTION ORDER (NO1A)

The Council's current Public Spaces Protection Order (PSPO) (No 1) to control dogs expired in January 2021 and in June Cabinet authorised consultation with Parish and Town Councils seeking amendments thereto prior to renewal.

Both Ewhurst and Iden Parish Councils had proposed amendments, as detailed in Appendix A, with responses received from Iden residents at Appendix B to the report. No comments were received from Ewhurst Parish Council. The Parish Councils carried out their own public consultation on the amendments and the proposed amendments were also publicised on Rother District Council's website.

Members were supportive of the proposal to approve the making of an amended PSPO, considering the proposals of the Parish Councils and the two objections to the amendments from Iden residents; it was therefore necessary to consult with East Sussex County Council, the Police and Police and Crime Commissioner before the new controls were introduced. It was noted that dog owners who placed dog mess in bags and then left it in situ / on a fence could be charged with the separate offence of litter dropping and be given a Fixed Penalty Notice.

RESOLVED: That following consultation with the East Sussex County Council, Police, Police and Crime Commissioner an amended Public Spaces Protection Order be made for three years.

(Councillors J. Barnes and Vine-Hall each declared a Personal Interest in this matter as Chairmen of Etchingam and Sedlescombe Parish Councils respectively, and in accordance with the Members' Code of Conduct remained in the room during the consideration thereof).

CB20/54. **MEDIUM TERM FINANCIAL PLAN - 2021/22 TO 2025/26**
(8)

The Medium-Term Financial Plan (MTFP) for the period 2021/22 to 2025/26 would be the latest projection of the Council's financial position over the next five-year period ahead of confirmation of Government funding and other factors that would affect its finances. A report was originally scheduled to be presented at this meeting however, it had been deferred, in agreement with the Cabinet Portfolio Holder for Finance and Performance Management, due to the impact on the Council's financial position as a result of the COVID-19 pandemic.

By mid-October officers would have a clearer picture of the costs involved and would be in a better position to assess the impact of the pandemic not just on the current financial year but also on the MTFP. This would also provide an opportunity to produce a more robust MTFP for Members to consider and debate.

The deferral of the MTFP report to the 2 November 2020 Cabinet meeting would allow officers to present to Members a better-informed position of the Council's five-year financial position and better place them to make informed budget decisions.

RESOLVED: That the report be noted.

CB20/55. **SUBSTITUTE SCHEME - 12 MONTH REVIEW**
(9)

Following the introduction of a formal Substitute Scheme (SS) in September 2019 a light-touch review of the scheme, in consultation with Committee Chairmen, had taken place and two minor amendments were suggested to improve clarity and application.

The first proposed amendment related to clarifying that the serving Chairman of Council would be unable to act as a named Substitute as ordinarily the Chairman of Council was an ex-officio Member on the relevant committees as a non-voting Member. This would preserve the Chairman's neutrality whilst acting as Chairman of the Council.

The second amendment related to allowing a Substitute Member to replace a vacancy on a Committee (for the relevant Group) until such times as full Council could appoint a replacement Substantive Member. Members were pleased with the formal scheme which had worked well over the preceding 12-month period.

The Chief Executive Designate agreed to ascertain why there was no provision for a substitute Member on the Audit and Standards Committee.

RESOLVED: That the Council's substitute scheme be amended as set out at Appendix 1.

CHAIRMAN

The meeting closed at 7:15pm

Rother District Council – Constitution

Part 3 Responsibility for Functions

9. Appointment of Substitute Members of formal Committees and Sub-Committees

1. (a) There shall be no substitution of members of the Audit and Standards Committee, Cabinet or Licensing Panels. Members of the Cabinet may not be substitutes on any Overview and Scrutiny Committees.

(b) The Chairman of Rother District Council may not be a substitute on any Committee.
2. The political groups may appoint substitute Members from their own group in accordance with this Procedure Rule on committees and subcommittees. Only substitute Members who have undergone related training may be substituted to the Planning Committee.
3. Substitute Members will have all the powers and duties of any ordinary Member of the committee.
4. In the case of a vacancy on a committee, the appropriate named Substitute can attend and take the vacant seat until such times as a replacement Substantive Member has been appointed by Full Council.
5. Political Groups will be permitted to nominate one substitute Member for each relevant Committee on which they have an allocated seat(s).
6. Substantive Members must organise their own substitute arrangements and confirm the attendance of a substitute to the Democratic Services Manager or Officer at least one clear working day prior to the commencement of the meeting (unless there are extenuating circumstances such as a medical emergency or some other family-related emergency); notification by electronic mail or telephone will suffice for these purposes.
7. The Chairman of a relevant meeting will seek confirmation of substitute Members present at the “Apologies and Substitutes” Agenda Item.
8. Substitutes arriving after the commencement of the meeting and for which prior notification has not been received will not be permitted to act as a substitute.

9. Where a substantive Member is substituted on a relevant Committee for more than 50% of the scheduled meetings of that Committee in any civic year, Group Leaders will be alerted and consideration given to the removal of the substantive Member.
10. Substitute Members may attend meetings in that capacity only:
 - i. to take the place of the substantive Member for whom they are the designated substitute;
 - ii. to take the place of a vacant seat for whom they are the designated substitute for that Group;
 - ii. where the substantive Member will be absent for the whole of the meeting;
 - iii. has undertaken the mandatory training in the case of the Planning Committee; and
 - iv. after notifying the Democratic Services Manager no later than one clear working day prior to the commencement of the relevant meeting.