

CABINET
25 July 2022

Minutes of the Cabinet meeting held at the Town Hall on Monday 25 July 2022 at 6:30pm.

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

Other Members present: Councillors Councillors J. Barnes (remote), J.J. Carroll, C.A. Clark (remote), S.J. Coleman, P.C. Courtel, K.M. Harmer, C.A. Madeley, C.R. Maynard (remote), A.S. Mier (remote) and P.N. Osborne.

Advisory Officers present: Chief Executive, Deputy Chief Executive, Director – Place and Climate Change, Head of Service – Housing and Community (in part), Planning Policy Manager (in part) and Democratic Services Manager.

Also Present: 35 members of the public via the live webcast.

Publication Date: 28 July 2022

The decisions made under PART II will come into force on 5 August 2022 unless they have been subject to the call-in procedure.

CB22/15. **MINUTES**

The Chair was authorised to sign the Minutes of the meeting held on 27 June 2022 as a correct record of the proceedings.

CB22/16. **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

CB22/17. **DISCLOSURE OF INTERESTS**

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

Field Agenda Item 10 – Personal Interest as a Member of East Sussex County Council.

Madeley Agenda Item 11 – Personal Interest as a Director of the Bexhill Old Town Preservation Society.

Maynard Agenda Items 10 and 11 – Personal Interest as an Executive 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.

CB22/18. **ANTI-POVERTY STRATEGY**
(9)

Cabinet received Minute OSC22/12 arising from the meeting of the Overview and Scrutiny Committee (OSC) held on 18 July 2022 regarding the Anti-Poverty Strategy. Cabinet had approved the draft strategy for public consultation at its March meeting, following which a number of amendments had been made. A total of 25 local organisations responded including seven town and parish councils, 13 charities, voluntary agencies alongside three public sector organisations, two political parties (branches) and the Council's Planning Policy team.

A range of organisations fed back that the delivery of the Strategy would need to be integrated with a range of existing strategies, including the Housing, Homelessness and Rough Sleeping Strategy, Local Plan, Economic Development and the Hastings & Rother Food Network's 'Food Insecurity Strategy for Rother'. In particular, the consultation responses from East Sussex County Council Public Health and the local Clinical Commissioning Group (CCG) drew attention to the strong alignment between the objectives within the draft Anti-Poverty Strategy and the drivers of broader health inequalities across the Health and Social Care sectors.

The development of the Strategy had highlighted that the causes of poverty were multiple and complex and its symptoms wide ranging. The effects of poverty were felt by a range of different sectors of the community across different demographic groups and geographic locations. Many of the causes of poverty could not be influenced effectively at a local level and the Council could not effectively tackle the symptoms of poverty on its own.

The proposed partnership approach that coordinated the 'whole system' of services supporting those experiencing poverty was therefore important. The proposed Strategy had been developed between key local partners to ensure that the objectives identified were relevant and that the actions proposed ambitious while being measurable and achievable within the resources available locally.

The proposed Anti-Poverty Steering Group (APSG) would be well placed to deliver the strategy action plan and provide periodic progress updates to the Rother Local Strategic Partnership which could, in turn, monitor APSG performance; further, the APSG would be able to build-upon the work of the Anti-Poverty Task and Finish Group and develop the Anti-Poverty Strategy into a broader Health and Wellbeing approach, that was better aligned to the emerging priority aims of the new Integrated Care System introduced on 1 July 2022 and other existing local strategies.

Cabinet paid tribute to the efforts of Councillor Coleman, the officers and partners for producing the very timely Anti-Poverty Strategy which

provided the framework for a collaborative and holistic approach to poverty and the causes of poverty.

RECOMMENDED: That

- 1) the Anti-Poverty Strategy be approved and adopted; and
- 2) it be noted that an Anti-Poverty Steering Group will be formed to oversee the delivery of the Strategy Action Plan as well as inform the development of a broader health and wellbeing strategy for Rother.

(When it first became apparent, Councillors Field and Maynard both declared a personal interest as an elected Member and an Executive Member with responsibility for Adult Social Care and Health of East Sussex County Council respectively, and in accordance with the Members' Code of Conduct remained in the meeting for the consideration thereof).

CB22/19. **THE RAVENSIDE GATEWAY ROUNDABOUT IMPROVEMENT PROJECT UPDATE**

(10)

In July 2020, the Council had approved a project to improve the Ravenside Gateway roundabout and commission the installation of a sculpture or artwork on the roundabout. A contribution from the Bexhill Local Community Infrastructure Levy (BL CIL) of £150,000 was allocated towards the project at that time.

Officers had been trying to work in conjunction with National Highways (NH) and East Sussex County Council to progress the project in a two-phase approach involving a phase 1 clearance, followed by a phase 2 installation of a sculpture and hardstanding. However, the presence of an invasive plant species, Horsetail, had led to significant delays to clearance of the site as no works could be undertaken unless carried out by NH contractors under their supervision.

This had delayed implementation of the phase 1 works which had yet to be programmed in. Whilst the allocation of BL CIL was intended to enable this project to move quickly with the certainty of funding, the delay to this project should not stop the progression of other improvements in Bexhill and it was therefore recommended that the BL CIL allocation be removed from this project at this time. Should this project progress to phase 2, a funding stream would need to be identified and it was proposed that external funding be sought, including a request for a contribution from Bexhill-on-Sea Town Council and a further paper would be presented at an appropriate later date.

Members were disappointed and frustrated at the lack of progress on this project, largely due to NH, but supported the reallocation of the BL CIL funding to support other current projects that were on-going. It was agreed to issue a press release setting out the reasons for the lack of progress on this project and Members were reassured that the project would be pursued to completion.

RECOMMENDED: That the cost of the Ravenside Roundabout Project be retained on the Capital Programme, but the allocation of Bexhill Local Community Infrastructure Levy (£150,000) be removed; AND

RESOLVED*: That other sources of funding be sought with a paper to be brought at a future date outlining options for consideration.

*The **RESOLVED** part of this Minute is subject to the call-in procedure under Rule 16 of the Overview and Scrutiny Procedure Rules.

(When it first became apparent, Councillors Field and Maynard both declared personal interests as elected Members of East Sussex County Council, and in accordance with the Members' Code of Conduct remained in the meeting for the consideration thereof).

CB22/20.
(11)

DEVOLUTION OF PUBLIC CONVENIENCES IN BEXHILL

In accordance with the Council's Financial Stability Programme and the Protecting Discretionary Services Strategy, agreement was sought to devolve the public conveniences in Bexhill from Rother District Council to Bexhill on Sea Town Council (BoSTC) by April 2023, as part of the wider programme of devolution.

The devolution of assets and services project had two phases, with phase one focussing on public conveniences in Bexhill and the second phase covering assets/services for all other local councils by April 2024. Discussions were already underway with Rye and Battle Town Councils and discussions had begun with BoSTC about other assets and services that could be devolved. The desired outcomes of this project were to protect discretionary services for future use by the community and to reduce the Council's net spend on discretionary services by 2025/26.

There were 14 public conveniences in Bexhill that could be devolved, listed at Appendix A to the report. BoSTC had indicated its interest in taking on all public conveniences, however, there were also ongoing discussions with two other organisations regarding the future management arrangements of the public conveniences at the Polegrove and Manor Gardens. In 2021, the newly created BoSTC conducted a survey seeking the views of Bexhill residents on a range of issues, with over 2,000 responses; 36% wanting to see improvements to the public conveniences.

It was noted that in order to achieve the ambitious timescale, public conveniences would be leased rather than disposed of, which provided control over potential future uses and a model lease was already available as a starting point for negotiation. Legal Services had confirmed that there was the capacity to deliver the programme and, if necessary, additional external legal support would be commissioned.

Members also requested that consideration be given to the installation of solar panels on any appropriate public convenience buildings as part of this project, to assist the Council in meeting its climate change decarbonisation programme which could potentially be funded through

the Climate Change CIL fund. The delivery of local services by local organisations would save money as well as the carbon footprint of the service delivery.

The amount of revenue savings was dependent on the number of facilities transferred, ranging from £123,771.10 to £137,493.99 per annum. These figures were based on 2022/23 expenditure on contract cleaning and 2021/22 expenditure on utilities, grounds maintenance, hired and contract services, insurance and repairs only.

It was proposed that up to £218,000 of local CIL funding collected for Bexhill between 2016 and May 2021 (prior to BoSTC being established) would be made available to BoSTC and other community organisations to enable a programme of refurbishment to be undertaken. A one-off cost of £20,000 had also been earmarked from the Invest to Save fund, set up to enable the delivery of the Financial Stability Programme, to carry out the condition surveys for Bexhill public conveniences.

RECOMMENDED: That

- 1) the principle to transfer public conveniences in Bexhill to BoSTC on long-term leases by April 2023, be approved;
- 2) up to £218,000 of local CIL funds be made available to BoSTC and other community organisations to enable the refurbishment of public conveniences; and
- 3) the Deputy Chief Executive be granted delegated authority to facilitate the devolvement and transfer of public conveniences and enter into leases, when terms are agreed, with BoSTC, and community groups, in consultation with the Leader and Portfolio Holders.

(Councillor Madeley declared a personal interest as a Director of the Old Town Preservation Society, and in accordance with the Members' Code of Conduct remained in the meeting for the consideration thereof).

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 4 August 2022.

CB22/21. **ARTICLE 4 DIRECTION - COASTAL LAND AT FAIRLIGHT COVE**
(6)

Members considered the making of an Article 4 Direction at coastal land at Fairlight Cove. An Article 4 direction was a direction under Article 4 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (“the GPDO”) which enabled the Secretary of State or the local planning authority to withdraw specified permitted development rights across a defined area.

The effect of the Article 4 direction at Fairlight Cove would remove permitted development rights from specified residential properties close to the cliff edge for certain forms of householder development,

including residential extensions and outbuildings. The removal of these specific permitted development rights did not stop development but meant that planning permission would be required to allow for the proper assessment of risks before development was permitted to proceed.

An independent report by a Chartered Geologist and Chartered Civil Engineer specialising in coastal science, coastal risk management and landslide management had been undertaken, to evidence the need for the Article 4 direction and inform its scope and geographical coverage (attached at Appendix 1 to the report). The report confirmed that for the short to medium term, there were 12 most vulnerable properties, which were closest to the cliff line. Whilst there were existing planning policies which applied to planning applications for development at Fairlight Cove covering unstable or potentially unstable land, none were applicable to development not requiring planning permission; it was noted that Building Regulations was also unlikely to cover the impact of development on ground stability.

Consequently, in order to offer appropriate protection in terms of reducing risks to ground stability, it was proposed that the Article 4 direction would cover 28 residential properties, as shown on Map 1 and List A and List B in Appendix 2 to the report, for the various types of permitted development detailed within the report. Once agreed, the Article 4 Direction would be kept under review and extended to other properties if and when appropriate in future years.

In order to make an Article 4 direction, the Council was required to publish a notice, allowing for a period of at least 21 days for representations and specifying the date on which it was proposed to come into force between 28 days and two years from the date of notice.

It was noted that compensation could be payable by the Council to affected householders following the imposition of an Article 4 direction, if introduced with less than 12 months' notice. Cabinet therefore had two options:

- (a) provide the minimum notice period removing "permitted development rights" from the affected properties within 28 days, with the risk of compensation; or
- (b) provide a notice period of 12 months, thereby removing the risk of compensation but enabling affected property owners to commence developments within that time period, without needing planning permission, should they wish to do so.

It was not possible to determine whether a successful compensation claim against the Council was likely, nor the monetary value of any potential claim. Having regard to this, together with the findings of the independent report that concluded that natural cliff processes were likely to be a more significant factor in cliff instability than human activity, it was recommended that the Council made a non-immediate Article 4 direction giving a notice period of 12 months. This would not

stop the Council from making an immediate Article 4 direction if any significant harm was identified, with the risk of compensation.

Cabinet heard from the local Ward Member who was supportive of the Article 4 Direction and had worked with the community and the Council to get to this point for some time. The Cabinet Portfolio Holder thanked all Members and officers involved and requested that information also be provided to the properties behind the Article 4 line advising them to consider development proposals carefully so as not to contribute to the destabilisation of the cliff.

RESOLVED: That:

- 1) the making of an Article 4 Direction in respect of the land and those classes of development described in this report be approved;
- 2) the Director of Place and Climate Change be granted delegated authority to confirm the Article 4 Direction following a 21 day consultation period, subject to consideration of any representation response received, so that it comes into effect at the end of a 12 month notice period; and
- 3) the Director of Place and Climate Change be granted delegated authority to make an immediate Article 4 Direction within the 12 month period specified in 2) above, if warranted, i.e. if development is identified which constitutes a threat to the amenities of the area.

CB22/22.

**REVENUE BUDGET AND CAPITAL PROGRAMME MONITORING
DRAFT 2021/22 OUT TURN**

(7)

Consideration was given to the report of the Chief Finance Officer on the Revenue Budget and Capital Programme draft 2021/22 out turn, which updated Members on the Council's finances as at the 31 March 2022. Members were advised that the information was subject to the external audit of the Council's financial accounts due to commence in September 2022. The report had also been considered by the Overview and Scrutiny Committee on 18 July 2022.

The draft revenue out turn for 2021/22 showed an overall deficit of £1.444m, which was £1.256m lower than the approved planned use of reserves, due to the material variances as set out in the report. However, budget pressures were expected to continue into 2022/23 and budget monitoring would play a crucial role in helping the Council achieve its Financial Stability objective laid out in the Corporate Plan.

The draft Capital Programme out turn indicated an underspend of £66.156m against the revised budget, due largely to the pace of the programme continuing to be slowed by the impact of the pandemic. Any scheme slippage would be carried forward into 2022/23 but would also be subject to review by the Finance department and Heads of Service.

RESOLVED: That the report be noted.

CB22/23. **REVENUE BUDGET AND CAPITAL PROGRAMME MONITORING
AS AT QUARTER 1 - 2022/23**

(8)

Consideration was given to the report of the Chief Finance Officer on the Revenue Budget and Capital Programme Monitoring as at 30 June 2022. The revenue budget and capital programme statements were summarised in Appendices A and B respectively to the report, together with the impact of the forecast on the Council's reserves at Appendix C to the report. The report had also been considered by the Overview and Scrutiny Committee on 18 July 2022.

The Chief Finance Officer highlighted the key points within the report and several questions were asked. It was noted that increases in energy bills would be covered by the budget contingency fund (£200k) and the planning income did not currently cover the cost of providing the service. The Chief Finance Officer also pointed out that there would be several other competing pressures on the budget contingency and that it was unlikely to be sufficient. The Local Government Association and the Planning Advisory Service had lobbied for an increase in planning fees, which was set centrally by Government, and the Chief Executive agreed to lobby again the local Members of Parliament; the Government had recognised a need to review the planning fees at some point. The Council was currently dealing with a large number of minor applications which generated less income but involved a disproportionate amount of time and effort to process; ways of streamlining the processing of minor applications was currently being considered.

The revenue budget forecast for Quarter 1 2022/23 was in deficit of £2.839m, which was £347,000 lower than the approved planned use of reserves, with the main variances as detailed within the report. The Chief Finance Officer would work closely with Heads of Services and Members to reduce areas of overspend and its impact on reserves.

The capital programme was forecast to underspend by £42.4m against the revised budget with slippage relating to schemes in both 2021/22 and 2022/23. The Chief Finance Officer and Heads of Services would review and carry forward into the following financial years if required.

RESOLVED: That the report be noted.

CHAIR

The meeting closed at 8.11pm.

cb220725/lc