

# Public Document Pack

Rother District Council



## COUNCIL

18 September 2023

Minutes of the Council meeting held at the Town Hall, Bexhill-on-Sea on Monday 18 September 2023 at 6:30pm.

Councillors present: Mrs V. Cook, (Chair), R.B. Thomas (Vice-Chair), J. Barnes (MBE), Mrs M.L. Barnes, C.A. Bayliss, A.E. Biggs, S. Burton, T.J.C. Byrne, F.H. Chowdhury, C.A. Clark, S.J. Coleman, Mrs V. Cook, B.J. Coupar, C.A. Creaser, G.R.M. Delany, K.M. Field, A.E. Ganly, P.J. Gray, T.O. Grohne, L. Hacking, A.P. Hayward, T.M. Killeen (MBE), Mrs E.M. Kirby-Green, M.C. Legg, C.R. Maynard, R.A. McCourt, S.B. McGurk, A.S. Mier, D.B. Oliver, P.N. Osborne, C. Pearce, S.M. Prochak, MBE, A. Rathbone Ariel, J. Stanger, R.B. Thomas, H.L. Timpe and C.J. Winter.

Councillors present remotely: A.K. Jeeawon.

Advisory officers present: Chief Executive, Director - Place and Climate Change and Democratic Services Manager and Democratic Services Officer.

Also Present: Stewart Drew, Director and Chief Executive Officer De La Warr Pavilion, 36 members of the public in the Council Chamber and 66 members of the public via the live webcast.

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### C23/39. **MINUTES**

The Chair was authorised to sign the Minutes of the Council meeting held on 31 July 2023 as a correct record of the proceedings.

### C23/40. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors B.J. Drayson and N. Gordon.

### C23/41. **DECLARATIONS OF INTEREST**

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

Coupar                      Agenda Item 16 – Personal Interest as a Council appointed Director of the Council's wholly owned Housing Company, Rother DC Housing.

Field                         Agenda Item 15 – Personal Interest as an elected Member of East Sussex County Council.

Mrs Kirby-Green        Agenda Items 12 and 15 – Personal Interest as an elected Member of East Sussex County Council.

Maynard                    Agenda Items 12 and 15 – Personal Interest as an elected Member of East Sussex County Council.

Prochak	Agenda Item 11 – Personal Interest as a Council appointed Trustee on the Board of the De La Warr Pavilion.
Thomas	Agenda Item 16 – Personal Interest as the Chairman of the Council’s wholly owned Housing Company, Rother DC Housing.
Timpe	Agenda Item 11 – Personal Interest as a Council appointed Trustee on the Board of the De La Warr Pavilion.

C23/42. **CHAIR'S COMMUNICATIONS**

The Chair made the following announcements:

- The Chair thanked her fellow councillors who joined her at the Civic Service at St Mary’s Church in Battle yesterday afternoon as they solemnly declared “that they would do their best during their term of office to exercise the responsibility committed to them wisely, diligently and faithfully, mindful of the good of the community and the needs of the people they served.”
- At the service, the Chief Executive read that “we should live in harmony with one another and be willing to associate with people of low position. To be careful to do what is right in the eyes of everyone and if it is possible, as far as it depends on you, live at peace with everyone”. She ended with the words ‘If your enemy is hungry, feed him; if he is thirsty, give him something to drink.’ The Chair thanked the Chief Executive for her lovely words well read.
- August had been quiet Council meeting wise, but both Vice-Chair Councillor Thomas and the Chair had been busy representing Rother District Council at various events.
- The Chair opened the Polegrove Open bowls tournament on Monday 7 August and, with the Mayor of Bexhill, bowled the first balls on pristine greens; she commended IDVERDE for their immaculate tending of this part of the Polegrove and Bexhill. The Chair returned on the Saturday to present awards and to thank all those who took part.
- On 15 August, the Chair unveiled an info board in Barrack Road Memorial Gardens, originally the cemetery of the Bexhill Barracks circa 1798-1820, where soldiers and families of soldiers from King George 3rd's Kings German Legion were laid to rest.
- The Chair was pleased to be invited to join the Mayor of Bexhill on a part of her walk about along the promenade at Bexhill to celebrate Bexhill Day. Listening to some great music along the prom, the Chair was stopped by several residents to ask what was going on! When the Lancaster flanked by a Spitfire and a Hurricane flew low over the sea the only sound you could hear were the engines as all

the people around were silent. Later, the Chair stood with the Mayor and members of the British legion who dipped their flags in honour as the Lancaster appeared again swooping from Beachy Head low over the sea. It was magnificent!

- On Monday 21 August, the Chair and her husband Ron were guests of the ABF, The Soldiers Charity which is the Army's national charity, here for soldiers, past and present, and their families for life, at the Brighton Race meeting. They travelled by train and bus to the event, but being complete novices, they had no idea how to place a bet and were grateful for some gentle guidance and after some light flutters they came home £1.90 up.
- On 15 September, the Chair and her husband Ron were guests of the Heritage Railway Association and the Kent and East Sussex (KES) Railway. Hauled by a Crompton slimline Diesel, which used to run on the Charing Cross to Hastings line, they travelled in a Wealden Pullman Car with the Mayor of Tenterden, Huw Merriman MP, Lord Faulkner, Lord Snape, Viscount Stansgate, board members of the KES railway as well as Steve Oates CEO and Chris Austin OBE from HRA, through some lovely Kent and Sussex countryside. Councillor Prochak joined them at Bodiam and they listened to the Rother Valley railway Heritage Trust CEO, Mike Hart, speak with gratitude to Rother District Council for their support in progressing the Line from Robertsbridge to Bodiam. It was an excellent occasion.
- The Vice-Chair of Council, Councillor Thomas had represented the Council at events at both Folkestone and Sevenoaks and the Chair looked forward to reading about them in the Bulletin.
- The Vice-Chair of Council, Councillor Thomas, thanked the Chair, Councillor Mrs Cook for instigating, organising and leading the Civic Service on Sunday, which had enhanced the reputation of this Council both within the district and beyond.
- In accordance with paragraph 2.2(a) of the Council Procedure Rules, the Chair exercised her discretion in favour of varying the order of business so that Agenda Item 15 was taken next, followed by Agenda Items 5 and 6 and then Agenda Item 11.
- The Chair also confirmed that there was an additional agenda item 16, to approve the appointment of two non-executive directors to the board of the Council's Housing Company.

C23/43.

#### **PETITION**

1. In accordance with paragraph 3.2(a) of the Council Procedure Rules, the Chair of Council exercised her discretion to vary the order of business so that this item was taken at this point in the Agenda.
2. The Council had received a petition from Nigel Jacklin relating to Northeye Asylum Seeker Centre Proposals and it had been

requested that the petition be debated by full Council. The petition contained over 1,500 signatures from those who resided, worked or studied in the Rother area and therefore met the criteria for debate at full Council.

3. The Petition received requested the following:

“We demand that Rother District Council OPPOSE Northeye Asylum Seeker Centre Proposals.”

4. Nigel Jacklin addressed the Council for five minutes and thanked all the people who helped to get signatures, those who had signed the petition and Councillor Mrs Cook, for encouraging them to engage with the democratic process as well as the Chief Executive and Democratic Services for their help. Mr Jacklin proceeded to outline the background and rationale for the Petition and requested that the Council:

- publicly stated its opposition to the proposals;
- immediately ensured that the residents views were represented; and
- actively opposed the new emergency legislation and took legal action if the Home Office decided to go ahead.

5. In accordance with the Petition Scheme, the Council had 15 minutes in which to debate the Petition. The Chair of Council invited the Leader of the Council to respond, then all Group Leaders, both local Ward Members and followed by any other Member who wished to speak.

6. At the conclusion of the debate, it was moved by Councillor Oliver, seconded by Councillor Bayliss and

**RESOLVED (unanimously):** That the Council:

- 1) will use all its powers to press the Home Office to provide full details of precisely what it is proposing for the site;
- 2) will press the Home Office to ensure that it engages fully with all stakeholders and attends all liaison meetings; and
- 3) is fully committed to using all its powers to ensure that any use of the site is lawful and acceptable in planning terms having regard to the Local Plan, national policy and other material planning considerations.

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

**PUBLIC QUESTION TIME**

1. Pursuant to Paragraph 11 of the Council Procedure Rules the following question was put by Nigel Jacklin and answered by Councillor Oliver.

**Question:** My question relates to the Home Office proposals to use the Northeye site to accommodate 1,200 male asylum seekers. As you will be aware, these plans were announced in March this year with the original plan being to move the men in from September onwards. At the time of writing (21st August) the site still remains in the hands of a private investment company who took ownership of the site in August 2022. This followed a tip off by an employee of the previous owner that the site would be sold and used to house asylum seekers. I am aware that the Council has participated in legal actions on this issue relating to similar use of a site in Essex and am of the opinion that Rother District Council are best placed to make a legal challenge if the proposals go ahead.

My question is: Given the widespread local opposition to the camp, why hasn't the Council stated publicly that it opposes the proposals to use the site for the above purposes?

**Answer:** The answer to this question has been provided in the meeting, therefore it would only be repeating what I have already said.

**Supplementary Oral Question:** I do believe that some of the "unknowns" that you referred to in the previous 15 minutes are actually "knowns". I believe that in the judicial review disclosure, a Home Office e-mail suggests that Northeye would be used for a minimum of five years. I believe you also do know how local residents feel about it, and so, whilst I do also believe that you know or expect it to be imposed on us through the use of emergency legislation, which means that your Planning Committee would be bypassed, and so in that respect I would ask whether you could reconsider, voting to oppose it?

**Answer:** Well, none of those questions you ask, we know the answer to, I assure you, we do not know the answers to those questions that you have just posed then, and that is where we are at the moment. It is exasperating for us to deal with uncertainty when the Home Office cancel meetings, when they should have been at meetings with other representatives from East Sussex and various other larger sites and they do not turn up. We have asked these questions time and time again but we do not get any answers so I am sorry I cannot be more helpful than that.

2. Pursuant to Paragraph 11 of the Council Procedure Rules the following question was put by Sharon Blagrove and answered by Councillor Oliver.

**Question:** Rother District Council imposed a flat rate trial £30 parking cost on the Central Carpark at Camber recently, without any consultation.

The traders in that area have suffered significant financial losses because of the low footfall mainly due to the cost to park, £30 even for half an hour.

This particular carpark is the only one with flat access to the beach and is used by many disabled people.

I note Councillor Timpe the Cabinet Portfolio Holder for tourism, said in the BBC radio interview, 'We have made a mistake, and we all have our hands up'.

I have today presented the petition I started regarding this issue, which asked that the charge be dropped to allow the traders to recoup their losses. It has just under 2,000 signatures from service users, residents and traders.

Will you please confirm that this Council will consult the public before carrying out any trials such as these and other projects that affect residents and traders in future and as the Leader of the Council, do you have any message to convey to the traders and residents of Camber?

**Answer:** Trials can be a useful way of understanding the full impact of changes to services. It is important that the experiences of residents and businesses are considered, alongside any other data collected when determining the extent of those services into the future. The flat fee parking trial was a result of the wealth of historic public engagement between the Council, residents, business owners, and visitors to Camber including comments and complaints received, feedback from the public meeting held on 28 July 2021, and the frequently asked questions submitted to the council in 2022 and circulated to all Camber residents via the Camber Parish Newsletter in July 2022.

A consistent concern of residents has been the number of vehicles accessing the village, increasing antisocial parking and congestion, and extending the response time of emergency services vehicles. We have worked with our partners to address these concerns in a number of ways included new and increased signage on the approach to the village and along the diversion route used when Central car park is full, supporting the introduction of Civil Parking Enforcement by East Sussex County Council, replacing damaged posts on verges, providing financial support to Sussex Police to provide additional police presence during the summer period, and working closely with our partners at SECAmb to provide local ambulance support to beachgoers and residents.

The flat fee parking rate was trialled for a nine-week period (3 July-1 September inclusive) during the summer of 2023 to assess the impact on congestion and the number of vehicles accessing the village. With any trial, it is important to collate data and review over a period of time, and, due to poor weather during July in particular, all of the car parks in Camber were quieter than they were in July 2022.

**Supplementary Oral Question:** I first of all thank you, Councillor Oliver for your answer. Just one thing there to put in is that I have not

spoken to any trader at all in Camber that were aware of this and it was really foisted on them, all of a sudden, nobody knew much about it, and that is why they were very angry. My question is, this trial has proved beyond doubt to have been detrimental not only to Camber traders, but also meant a big loss in revenue to Rother District Council. Could you please confirm that in future, charges will remain on an hourly basis for that car park and not a flat rate charge, so that the traders do not have to worry about this happening again? I have seen so many people and heard so many people absolutely devastated because of what has happened. I know that a trial of any kind can go right or it can go wrong. This one, I do not think it was beneficial to anybody and I would like to still ask you if you have any message to convey to the people of Camber and the traders of Camber that has always had a good relationship with Rother District Council. Thank you.

**Answer:** Thank you for that supplementary question. I fully appreciate the comments that you have made. We are undertaking a full review of what has taken place during the trial period. As for the feedback referred to in those dates, they were provided to me by officers, so I'm pretty convinced that they were, in fact there. Yes, I think that the option that you mentioned with regard to a phased-in rate based on, it is one that would be considered. Everything will be considered and officers are working on the data that we have recovered during the season. It was unfortunate that July was a very bad month, so we take that into account, there is also a cost of living crisis out there, which again may have impacted on things, but we are going to look at every possible part of it, it is important that we do for the benefit of our residents of Camber.

3. Pursuant to Paragraph 11 of the Council Procedure Rules the following question was put by John Bradford and answered by Councillor Timpe.

**Question:** Was any consideration given that the two car parks in Old Lydd Road gave the only level access to the beach for disabled and those who needed it. And to the fact the steep dunes at Western would prevent some people, if not many, getting access to the beach if unable to afford the fees at Old Lydd Road car parks or climb the steep dunes?

**Answer:** Rother District Council does not have a policy of providing free off-street parking to all Blue Badge holders; prior to the start of the trial Blue Badge holders paid to park in all Camber car parks. Many Blue Badge holders have chosen and continue to choose to park for free on street if they are visiting for less than three hours. After receiving a complaint, a decision was taken to offer free parking in our nine disabled bays at Camber Central, and four disabled bays at Old Lydd Road for the duration of the trial.

Non-Blue Badge holders who choose to park at Western car park but do not wish to or are unable to walk over the dunes, can access the beach at Central via a 0.4 mile walk along the pavement on Old Lydd Road.

**Supplementary Oral Question:** Councillor am I to understand, then, from your answer, that no consideration was given to the needs of the disabled and those who needed a level access, as you felt that the current policy for disabled was adequate and a pavement walk of 0.4 of a mile along a pavement which was parked with vehicles, and that was good enough for the disabled and older people? Or was your answer in a Kent radio interview as to whether the needs of the disabled had been considered? You answered obviously not, continuing we have made a mistake and we all have our hands up. Is that the actual answer you meant to give me?

**Answer:** I think that I have answered your question and I was not part of any discussions that took place prior to this decision, so I believe that it has been answered.

4. Pursuant to Paragraph 11 of the Council Procedure Rules the following question was put by James Hyatt and answered by Councillor Timpe.

**Question:** 1. Given that RDC were warned prior to implementing the 'trial' of the highly likely financial damage it would have on numerous businesses in Camber and having failed to consult with businesses beforehand, also failing to take out an impact assessment, is there a case or would RDC consider out of goodwill to offer compensation to the businesses in some form? Maybe liken it to the grants in COVID (this has been far more damaging than COVID to Camber's businesses) some of those businesses including ours are now in a precarious position that we have previously never experienced in 39 years of trading in Camber.

2. It has been stated one of the reasons RDC brought in the trial was to generate more funds to cover the upkeep of Camber and not burden the tax payer, would it have not been better to carry out the work on the central car park overflow (Johnson's field) for a combined cost of £20,000 as was the quote given by a local builder? Can RDC assure they will get the overflow up and running for next season and give the businesses a much needed leg up, which let's be fair, the central end needs, especially going on that central only holds 160 vehicles compared to the western car parks 1,400 vehicles?

3. As soon as it was apparent the trial wasn't working and causing vast financial damage to businesses and being counter productive in every other aspect, we have to wonder why RDC decided to persevere with the trial? By proceeding with it, it's caused speculation between businesses and villagers alike that there is a possible ulterior motive i.e. was it done purposefully to dishearten the businesses, maybe financially damage them or more. It's a valid and concerning view to hold given RDC plans to tender out a cafeteria of sorts to be built within the proposed new toilet block in central. Can RDC assure us this is not the case?

**Answer:** 1. The Council is not in a position to compensate businesses for loss of income during the 2023 season as there are many factors



that can impact seasonal businesses and the cost of parking is just one element.

The businesses in the centre of Camber do not only rely on those parking in Camber Central and Old Lydd Road car parks for custom. Local residents, holiday park visitors, and those staying in the village and walking to the beach all contribute, as do those who park elsewhere and walk to these facilities.

2023 saw the sixth wettest July on record and this had a direct impact on the number of day-trippers visiting Camber. During the trial period, 27 days were recorded by onsite Coastal staff as wet, overcast, and windy. Coastal Officers forecast each day at Camber as red, amber, or green, assessing likely visitor numbers and resource requirements dependant on weather conditions and Camber did not experience any 'red' days during this trial period. There were 8 'red' days during the same period in 2022.

2. As noted, one of the reasons the Council brought in the trial was to ensure visitors make an appropriate contribution to the ever-increasing cost of running the beach.

Rother District Council does not own Johnson's Field – we have a lease arrangement with East Sussex Council whereby we have shared any profits from parking on the site in previous years. Both the revetment and the surface require significant investment and repair if Johnson's field is to be used in the future. Whilst we appreciate the local builder's estimate of £20,000, contractors who have assessed the site on behalf of ESCC and RDC estimate the work will cost significantly more. At this time, neither council has the available funds to invest in this scheme however this will be kept under review.

3. As previously outlined, with any trial, it is important to collate data and review over a period of time. The Council's motives for the trial were transparent – to attempt to reduce congestion, and to ensure visitors were fairly contributing to the costs of running the beach. There was not and is not any ulterior motive to financially damage the existing businesses. The Council will continue to look into options for meeting these objectives but there is no straightforward answer.

A common question from residents asks why the Council does not close the road to all except residents when Camber is "full". East Sussex County Council is the Highways Authority however they advise that there is no ability under the highways act to restrict certain vehicles from the public highway. The Police are not authorised to close roads other than in an emergency such as a road traffic accident. Rother District Council is not a Highways Authority and as such has no powers to close roads due to congestion.

The other most frequently suggested solution is for the Council to offer a "park and ride" scheme. Unfortunately, this is not a cost-effective solution at present. The Council would need to hire vehicles and pay for drivers throughout the season and rent a suitable parking site. The cost of using the scheme would need to be low enough to entice

visitors, who often wish to park as close to the destination as possible and usually bring additional items such as wind breaks, inflatables, toys, and food and drink with them to use on the beach. Unless coupled with a road closure, it is likely that these buses would simply add to the congestion on busy days and be running empty or near empty at other times.

**Supplementary Oral Question:** As I understand your answer, you feel that the weather, in addition to the parking policy, could have contributed to the smaller numbers visiting Camber, whereas it was reported in Dymchurch, Winchelsea Beach and other resorts that it was still very busy. I therefore ask that on the days that Old Lydd Road car parks were full, do you know whether the percentage of spaces paid for according to Rother District Council records and a Ringo records? Only when the fees returned to normal on the 2 September were Wardens present and issued penalty notices. Does this not demonstrate people were taking the chance of getting away with it and more so at the higher rate? Am I right in assuming then that revenue is seriously down and consequently visitors have not been contributing in any significant way to paying towards Rother District Council's costs, which was the intention, thank you.

**Answer:** Thank you, Mr Hyatt, I do not have any figures for you, but I can certainly get some. I will ask the officers after this meeting and we will get them for you so that we can give you some data that you require.

5. Pursuant to Paragraph 11 of the Council Procedure Rules the following question was put by Bernard Brown and answered by Councillor Oliver.

**Question:** This question concerns the performance of Rother District Council in matters for which the Council is directly responsible in regard to its' 100% ownership of Rother DC Housing Company Ltd. The question is NOT one for the Company. The question is put to RDC as the corporate body being a) the principal party to the Shareholder Agreement and b) the Corporate Body registered at Companies House as a Person of Significant Control.

The Leader is now asked to confirm that the Council, as required under the terms of the Shareholder Agreement and the Council in its' performance of the duties as the Corporate Body designated as a Person of Significant Control in Rother DC Housing Company Ltd, has significantly failed in its' specific responsibilities of Governance.

Will the Leader confirm this failure manifests itself through the breaches of the Companies Act in terms of registering Directors of the Company; the failure to remove Directors on ceasing to be elected members of RDC; the failure to comply with the terms of the Shareholder Agreement in the appointment of external directors to the Company; the failure to prevent Board Meetings which were by default not quorate; the failure to comply with other duties defined in the Shareholder Agreement; the failure to ensure a Service Level Agreement is in place between RDC and Rother DC Housing Company

Ltd; the failure to ensure a formal financial agreement covering advances of up to £4 Million by RDC to Rother DC Housing Company Ltd is in place.

Will he precisely identify what steps are being taken to rectify these ongoing failures?

**Answer:** I welcome Mr Brown's question and have recently provided a detailed response to Mr Brown following the receipt of a letter from him. The letter included a number of questions relating to the Council's governance of Rother DC Housing Company Ltd and these are restated within the Public Question Mr Brown has submitted. In my response to this letter, I have acknowledged some administrative points of learning relating to the governance of the Company. I acknowledge these again here and we are grateful to Mr Brown for drawing these to our attention. We continue to work with our legal advisors to continuously improve the Council's arrangements for governing the Company. The Council's internal audit team has undertaken a review of the Council's governance of the Company, and a report will be coming forward to Audit and Standards Committee later in the year. The report will follow two earlier update reports presented to Audit and Standards Committee during 2022. I welcome the opportunity to meet with Mr Brown personally in order to demonstrate in more detail the governance arrangements and specialist legal counsel that the Council has in place in order to oversee the activity of the Housing Company effectively.

**Supplementary Oral Question:** Can I first of all to say I want to add my congratulations to the Chair for the Civic Service at St Mary's yesterday, I thought it was a wonderful example of how councillors should be presenting themselves to the public.

I thank him for his response and the answers he previously provided. I would recommend all officers and councillors to read up on a document called Just Culture, and this is a policy document adopted by the airline industry where the objective of the exercise is to correct errors without going into a blame culture but accountability is absolutely essential for moving and improving processes going forward. I remain unconvinced that the full recognition is made of some of the very serious governance errors which have been made. However, I am hopeful that the acknowledgment given by the Leader that lessons have needed to be learned really sets the pathway to a better governance. Tonight's item on external directors is overdue and an example of past problems. The exchanges between myself and the Leader and the Chairman of the Housing company have been continuously courteous, and I publicly welcomed the opportunity to meet with them on these matters. The development of Blackfriars is a particularly important to me, just as is the governance and vital financing of the £88 million pound project. My supplementary question, I would ask the Leader if he can advise, when the service level agreement between the Council and the company cease to be a plan and become a reality, and, in addition to input from internal audit, may I ask that he and his officers discuss some of these matters, specifically with the external auditors, to ensure forward-facing governance and financial control truly become the norm, and the

mistakes of the past are not repeated. Reports have said the Blackfriars project needs to regain viability, the repetition of mistakes is not an option. Thank you.

**Answer:** Thank you very much, Mr. Brown, for making those points and I will assure you that they will be attended to and we will get back to you with a more detailed reply, and I hope there will be an occasion quite soon where we can actually meet with the Chair of the Housing company and myself and any relevant officers in order to elucidate the responses to your questions.

C23/45. **DE LA WARR PAVILION CHARITABLE TRUST**

It was moved, seconded and agreed that Council Procedure Rules 15.4 (content and length of speeches) and 15.5 (when a Member may speak again) be waived for the duration of this item.

The Chair of the Council welcomed Stewart Drew, Director and Chief Executive Officer of the De La Warr Pavilion (DLWP) Charitable Trust to the meeting, who proceeded to present the annual report to Members. Members had been in receipt of a written report that set out in summary the activities and achievements of the DLWP Charitable Trust during the financial year 2022/23.

Following the presentation, Members asked a number of questions and congratulated Stewart Drew on the 2022/23 successes of the DLWP, particularly focusing on the equalities, diversity and inclusive agenda as well increased engagement with young people, particularly from the most deprived areas of the district. The Chair thanked Stewart Drew on behalf of the Council for his informative and interesting presentation.

(Councillors Prochak and Timpe each declared a Personal Interest in this matter as Council appointed Trustees on the Board of the De La Warr Pavilion and in accordance with the Code of Conduct remained in the room during the consideration thereof).

C23/46. **REPORT OF THE CABINET ON MATTERS FOR DETERMINATION BY COUNCIL**

1. It was moved by Councillor Oliver and seconded that the report of the meeting of the Cabinet held on 4 September 2023, as set out in the Agenda be approved and adopted.
2. The Chair of the Council having called over the reports, the Minute was not reserved for discussion.
3. On the Motion of the Chair of the Council, duly seconded, the Council approved and adopted the following report:

CB23/23 – Lawn Tennis Association Tennis Foundation Grant

C23/47. **REPORT OF THE AUDIT AND STANDARDS COMMITTEE**

1. It was moved by Councillor Barnes and seconded that the report of the Audit and Standards Committee held on 26 July 2023, be approved and adopted.
2. The Chair of the Council having called over the report, the only Minute was reserved for discussion:  
  
AS23/18 – Independent Person (Standards) – Proposed Extension to Term of Office
3. On the Motion of the Chair of the Council, the Council proceeded to deal with the reserved Minute.

C23/48. **RESERVED MATTER**

**Audit and Standards Committee – 26 July 2023**

**AS23/18 – INDEPENDENT PERSON (STANDARDS) – PROPOSED EXTENSION TO TERM OF OFFICE**

**RESOLVED:** That Minute AS23/18 be approved and adopted, as submitted.

C23/49. **AUDIT AND STANDARDS COMMITTEE ANNUAL REPORT ON AUDIT RELATED MATTERS**

It was moved by Councillor Barnes and seconded that the Annual Report of the Audit and Standards Committee on audit related matters as set out within the Agenda be received.

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

C23/50. **REPORT OF THE HUMAN RESOURCES COMMITTEE**

1. It was moved by Councillor Oliver and seconded that the report of the Human Resources Committee held on 30 August 2023, be approved and adopted.
2. The Chair of the Council having called over the report, the Minute was not reserved for discussion.
3. On the Motion of the Chair of the Council, duly seconded, the Council approved and adopted the following report:

HR23/08 – Home Working Allowance

C23/51. **MOTION TO COUNCIL - PROTECTION OF FIRE SERVICES FOR ROTHER**

In accordance with Council Procedure Rule 13, consideration was given to the following Motion moved by Councillor Legg and seconded by Councillor Creaser:

That Council adopt the following statement:

1. this Council values the importance of local fire service provision, and is of the view that the reduction of crew, engines or operational hours would not be desirable as it could present an increased risk to public safety;
2. that East Sussex Fire Authority are informed of this Motion and asked to keep the Council updated on any developments relating to their review of fire service provision through the Council's Community Safety Co-Ordinator; and
3. that the Chief Executive be requested to write to local MPs to ask that Government funding be sought to protect essential services for the District.

It was moved by Councillor John Barnes and seconded by Councillor Winter that the Motion be amended by the entire deletion of 2. and 3. and the substitution thereof the following:

2. Council ask that the Overview and Scrutiny Committee and Cabinet engage with East Sussex Fire and Rescue Service if and when there is a review of fire service provide; and
3. Requests that the Chief Executive write to the local Members of Parliament to ask the Government to agree a three-year settlement for the Fire Authority and temporary removal of the referendum cap.

The Amendment being put forward was declared **LOST**.

**RESOLVED:** That the Motion on being put was declared **CARRIED** as follows:

- 1) this Council values the importance of local fire service provision, and is of the view that the reduction of crew, engines or operational hours would not be desirable as it could present an increased risk to public safety;
- 2) that East Sussex Fire Authority are informed of this Motion and asked to keep the Council updated on any developments relating to their review of fire service provision through the Council's Community Safety Co-Ordinator; and
- 3) that the Chief Executive be requested to write to local MPs to ask that Government funding be sought to protect essential services for the District.

(When it first became apparent, Councillor Mrs Kirby-Green declared a Personal Interest in this matter as an elected Member of East Sussex County Council and that she had attended a meeting of the Fire Authority as a substitute Member in December 2022 and in accordance with the Code of Conduct remained in the room during the consideration thereof).

(When it first became apparent, Councillor Maynard declared a Personal Interest in this matter as an elected Member of East Sussex County Council and in accordance with the Code of Conduct remained in the room during the consideration thereof).

**C23/52. DELEGATIONS TO OFFICERS - PLANNING SERVICE**

To regularise an administrative error, the officer scheme of delegations for the Planning Service, attached at Appendix 1 to the report had been resubmitted for approval.

**RESOLVED:** That the officer scheme of delegations in respect of the Planning Service, attached at Appendix 1 be approved and adopted.

**C23/53. DESIGNATION OF THE MONITORING OFFICER**

In accordance with the delegated authority granted to the Chief Executive at the July meeting, an external Interim Monitoring Officer had been appointed.

In accordance with the Section 5 of the Local Government and Housing Act 1989, the Council was required to formally designate Linda Walker as the Monitoring Officer.

**RESOLVED:** That Linda Walker be designated as the Council's Interim Monitoring Officer with effect from 19 September 2023.

**C23/54. APPOINTMENT OF TWO NON-EXECUTIVE DIRECTORS TO THE BOARD OF ROTHER DC HOUSING COMPANY**

In accordance with Rother DC Housing Company's Articles, the Council was required to appoint all directors to the Board of the Company. Following a comprehensive recruitment process in consultation with the Shareholder Representative and Leader of the Council, it was recommended John Cudd and Paul Whitnall be appointed to the Board of directors to provide independent knowledge, skills and expertise required to enable the Company to operate effectively as a commercial entity.

**RESOLVED:** That:

- 1) John Cudd be appointed a non-executive director of Rother DC Housing Company Ltd with effect from 18 September 2023; and
- 2) Paul Whitnall be appointed a non-executive director of Rother DC Housing Company Ltd with effect from 18 September 2023.

(Councillors Coupar and Thomas declared a Personal Interest in this matter as a Council appointed Director and Chairman of the Council's wholly owned Housing Company, Rother DC Housing respectively and in accordance with the Code of Conduct remained in the room during the consideration thereof).

**(The Chair of Council had accepted this item onto the Agenda as an Additional Agenda Item to enable Council to consider this matter which could not wait until the next scheduled meeting of Full Council on 18 December 2023).**

**CHAIR**

The Council rose at 9:15pm



## 3.1 Director – Place and Climate Change / Development Manager

### Planning Service

The Council's Cabinet and Planning Committee may delegate some of its functions and powers to specific officers of the Council. The following is a list of those delegations

C denotes from Cabinet. P denotes from Planning Committee.

In the absence of the nominated officers delegated power may be exercised by the Chief Executive or such officer as the Chief Executive may nominate.

### DEVELOPMENT MANAGER

All functions exercised by Development Manager and in their absence the Development Management Team Leaders.

#### Development Management

- 3.1.1 To deal with applications for listed building consent under S10 of the Planning (Listed Buildings and Conservation Areas) Act 1990. (P)
- 3.1.2 To prescribe conditions or reasons for refusal or approval to be applied to any planning application determined by the Council for delegated decisions or resolved to be delegated by the Planning Committee. (P)
- 3.1.3 That where decisions of the Planning Committee vary from an officer recommendation the decision notice will not be issued until it agrees with the draft minutes approved by the Chair. Alignment of the two documents will take place within two clear working days of the receipt of the draft minutes. Should any issue be unresolved at the end of those two days it will be referred to the Head of Paid Service for final resolution.
- 3.1.4 To approve minor amendments to planning consents and to approve or disapprove any matter submitted as a condition of planning approval or in relation to a planning obligation made under S106 of the Town and Country Planning Act 1990. Function also to be exercised by Team Leaders, Principal Officers (Level 5) and Senior Officers (Level 4) of Development Management. (P)
- 3.1.5 To deal with applications for Lawful Development Certificates under S191 and S192 of the Town and Country Planning Act 1990. Function also to be exercised by the Development Manager, Team Leaders Principal Officers (Level 5) and Senior Officers (Level 4). (P)
- 3.1.6 To determine applications for planning permission in accordance with the arrangements detailed under Delegated Procedures and to determine individual planning applications specifically delegated by Committee resolution and to prescribe conditions or reasons for refusal or approval as appropriate. Under the delegated system all applications identified with the

(DEL) notification on the weekly list will be dealt with by officers where there are no conflicting views and the matter has not been subject to a call in 'call-in' by the ward member.

- 3.1.7 The weekly list sets out new applications on a ward basis, so that Councillors are fully aware of new submissions in their local area at the outset. They may call applications to Committee (clearly citing planning reasons and whether the call in is conditional or a recommendation of approval or refusal) up to seven days (no later than 5pm on the last day) after the closure of any weekly list publicity period or expiry of the site notice whichever is the later(P). The officer for a planning application is required to inform the ward member or chair of the committee of the expected outcome of an application prior to call in (or any time after) if requested by the ward member or chair of the committee. Under exceptional circumstances, the Chair of the Planning Committee be granted authority to call-in an application, at any time before the decision notice is issued after consultation with the local Ward Member(s).
- 3.1.8 Planning applications on the weekly list sets out the applications which are time limited and/or for information only, for example those set against the relevant regulations and those not subject to appraisal against planning policy. Such applications are not subject to any call-in measures.
- 3.1.9 Planning applications which are labelled (COM) automatically go to be determined at Planning Committee where the applicant is or is related to an elected member of the Council or member of Council staff, is for Council owned land, or applications submitted by the Council itself.
- 3.1.10 To refuse planning permission for applications in circumstances where no extension of time is agreed, and it is not possible to resolve any outstanding matters. Function also to be exercised by the Function also to be exercised by Team Leaders, Principal Officers (Level 5) and Senior Officers (Level 4) (P)
- 3.1.11 To rescind or revoke all obsolete, irrelevant or inoperative entries in the registers under his control relating to the Town and Country Planning Act 1990; Article 4 Directions made under the General Permitted Development Orders; the Town and Country Planning (Control of Advertisements) Regulations 1992, and Notices under Section 65 of the Public Health Act 1936. Function also to be exercised by the Function also to be exercised by Team Leaders, Principal Officers (Level 5) and Senior Officers (Level 4) (P) (C)
- 3.1.12 To exercise the Council's functions under Section 224 of the Town and Country Planning Act 1990 - power to remove or obliterate placards and posters. Function also to be exercised by the Function also to be exercised by the Development Manager and Development Management Team Leaders (C).
- 3.1.13 Acting in conjunction with the Solicitor to the Council to authorise Section 106 Planning Obligations or authorise the modification of existing Section 106 Planning Obligations which relate to planning control matters. (Any Obligations that relate to financial matters, including changes to affordable housing provision are to be referred to Planning Committee for decision). All such Obligations to be concluded within a six-month period of the authorisation unless extended at the discretion of the Development Manager

or Solicitor to the Council. Function also to be exercised by the Development Management Team Leaders. (P)

- 3.1.14 To decide not to investigate alleged breaches of planning control where it is considered that the matter is not having a serious impact on amenity or the environment, having regard to the provisions of the development plan and any other material considerations and in this regard no investigations shall take place in respect of anonymous complaints or in respect of slight variations which would otherwise be permitted by the Town & Country (General Permitted Development) Order 2015 (as amended) or other minor development that amounts only to a technical breach. Function also to be exercised where appropriate by the Development Manager and Development Management Team Leaders. (P)
- 3.1.15 To decide to take no further action on breaches of planning control that have been investigated and are not having a serious impact on amenity or the environment, having regard to the provisions of the development plan and any other material considerations. Function also to be exercised where appropriate by the Planning Service Managers, Development Manager and the Development Management Team Leaders. (P)
- 3.1.16 To take enforcement action, having first consulted with the Solicitor to the Council in respect of breaches of planning control, under Part V11 and Part VIII of the Town and Country Planning Act 1990 which are having a serious impact on amenity or the environment, having regard to the provisions of the development plan and any other material considerations. The Solicitor to the Council be authorised to take any other steps necessary to remedy the breach of planning control including legal action under Part VII and Part VIII of the Town and Country Planning Act 1990. Function also to be exercised where appropriate by the Development Manager and the Development Management Team Leaders. (P)
- 3.1.17 To issue Notices under Powers to require information in relation to Notices of the land under Section 330 of the Town and Country Planning Act 1990 and to issue Planning Contravention Notices under Section 171C of the Town and Country Planning Act 1990. Function also to be exercised where appropriate by the Development Manager and the Development Management Team Leaders. (P)
- 3.1.18 Acting through the Solicitor to the Council, to withdraw an enforcement notice which has been complied with, where it is considered that the breach of planning control cannot be repeated or waive or relax any requirements of any notice under Section 173A of the Town and Country Planning Act 1990. Function also to be exercised where appropriate by the Development Manager and the Development Management Team Leaders. (P)
- 3.1.19 Acting in consultation with the Solicitor to the Council, to extend the period for compliance with any enforcement notice under Section 173A where that would be expedient; such extension not to exceed 12 months. Function also to be exercised where appropriate by the Development Manager and the Development Management Team Leaders. (P)
- 3.1.20 The making of land use planning representations to the Traffic Commissioner on applications for Operators Licences made under the Goods Vehicles (Licensing of Operators) Act 1995. Function also to be exercised by the

Development Manager and Development Management Team Leaders. (P)

- 3.1.21 The making of directions under Article 4 of the Town and Country (General Permitted Development) Order 1995. Function also to be exercised by the Development Manager and Development Management Team Leaders. (P)
- 3.1.22 To exercise the Council's functions in respect of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 or any subsequent replacement regulations. Function also to be exercised by Development Manager and Development Management Team Leaders. (P)
- 3.1.23 To make representations where necessary in respect of proposals made by Government Departments in consultation with the Chair of Planning Committee, where appropriate. (P)

### **Rights of Entry**

- 3.1.24 To authorise at his discretion officers (either generally or specifically) to exercise all or any statutory rights of entry in the Planning Acts and the Regulations made thereunder. (P)

### **Planning Policy**

- 3.1.25 To make representations on draft planning and related policy statements and documents upon which the Council is consulted in terms of their alignment with Council policies and strategies in consultation with the Chair of Planning Committee. (C)

### **Tree Matters**

- 3.1.26 That the following actions shall be delegated to the Development Manager and Development Management Team Leaders:
- To determine applications to fell, lop or prune trees the subject of a tree preservation order or in a conservation area. (C)
  - To respond to Forestry Commission consultations on the basis of the Council's adopted policy. (C)
  - To deal with the hedgerow removal notices under The Hedgerow Regulations 1997 and to issue hedgerow retention notices. (C)
- 3.1.27 Acting through the Solicitor to the Council, to make such tree preservation orders as considered necessary. This justified through a report to be confirmed by the Development Manager and/or Development Management Team Leaders before the Order is confirmed detailing any objection received. (P)
- 3.1.28 To exercise the Council's functions in respect of High Hedges under Section 8 of the Anti-Social Behaviour Act 2003. Function to be exercised following consultation with and acting through the Solicitor to the Council. This justified through a report to be confirmed by the Development Manager and Development Management Team (P)

## Highway Matters

- 3.1.29 To deal with consultations by the East Sussex County Council on highway matters, including the creation, diversion and closure of footpaths and bridleways, and traffic management measures and highway Stopping Up Orders. (C)

## Nature Conservation Matters

- 3.1.30 To determine Appropriate Assessments submitted to the Council under the Conservation (Natural Habitats etc) Regulations 1994.

## **DIRECTOR – PLACE AND CLIMATE CHANGE – STRATEGY AND PLANNING AND BUILDING CONTROL MANAGER**

### **(Concurrent Power)**

- 3.1.31 To prepare and implement, after consultation with the Chief Finance Officer, a scheme for the charging of fees in accordance with the Building (Local Authority Charges) Regulations 1998.
- 3.1.32 To approve Site Waste Management Policies for the construction and demolition of sites after consultation with the Director – Place and Climate Change.
- 3.1.33 To issue decisions on all applications under the Building Regulations, and to determine applications for relaxation thereof. (C)
- 3.1.34 To employ qualified consultant structural engineers to check where necessary structural details of applications submitted under the Building Regulations. (C)
- 3.1.35 To exercise the Council's functions under the following Sections of the Building Act 1984. (C)

S.8	Relaxation of Building Regulations
S.16	Passing and rejection of plans
S.19	Use of short-lived materials
S.20	Use of materials unsuitable for permanent building
S.21	Provision of drainage
S.22	Drainage of buildings in combination
S.24	Provision of exits etc.
S.25	Provision of water supply
S.31	Proposed departure from plans
S.32	Lapse of deposit of plans
S.36	Removal of alteration of offending work
S.59	Drainage of buildings
S.72	Means of escape in case of fire
S.73	Raising of chimney
S.74	Cellars and rooms below subsoil water level
S.75	Consents under Section 74
S.76	Defective Premises
S.77	Dangerous Building
S.78	Dangerous building - emergency measures

S.79	Ruinous and dilapidated buildings and neglected sites
S.80. 81, 82	Demolitions
S.84	Paving and drainage of yards and passages
S.95	Power to authorise officers to enter premises

Revised September 2023