

Rother District Council

Report to	-	Council
Date	-	16 December 2019
Report of the	-	Cabinet
Subject	-	References from Cabinet Meetings

The Council is asked to consider recommendations arising from the Cabinet meeting held on 2 December 2019, as set out below.

CABINET – 2 December 2019

CB19/67. **THE COUNCIL'S CONSTITUTION AND UK EXIT FROM THE EUROPEAN UNION (BREXIT)**

Members received the report of the Executive Directors detailing proposed changes to the Council's Constitution to be effective from the date the UK left the European Union (EU). The report had also been scrutinised by the Overview and Scrutiny Committee on 25 November 2019; a copy of the minutes was tabled at the meeting. Whilst the exact timing was unknown, the EU (Withdrawal) Act 2018 (the EUWA) would end the supremacy of EU law in UK law and would convert directly applicable EU legislation into domestic law. The legislation would generally have the same effect that it had before the UK left the EU, unless or until it was changed by Parliament. Some however had been amended by Statutory Instruments made under the EUWA to correct "retained EU law" to ensure that the legislation would work properly once the UK had left the EU.

It was therefore necessary to ensure that the Council's Constitution remained robust and actions undertaken by officers in accordance with current EU legislation referenced within the Constitution were not open to legal challenge. It was therefore recommended that a clause be inserted into the current Constitution, to be effective from the date at which the UK left the EU, to that effect. If for any reason the UK did not leave the EU, the clause would not be inserted into the Constitution.

RECOMMENDED: That the Council's Constitution be amended by the insertion of the following clause, effective from the date at which the UK leaves the European Union:

References to legislation including statutory instruments contained within this Constitution may have been superseded and therefore substituted by changes derived from the European (Withdrawal) Act 2018 ("the Act") and subordinate legislation introduced following the United Kingdom's exit from the European Union.

(Cabinet Agenda Item 6)

CB19/68. **HOUSING DEVELOPMENT PROGRAMME**

Cabinet considered the report of the Executive Director which updated Members on how the Council could directly intervene in the housing market, as a developer to accelerate housing delivery and increase overall housing supply. The report had also been scrutinised by the Overview and Scrutiny Committee (OSC) on 25 November 2019; a copy of the minutes was tabled at the meeting.

The target set out in the adopted Local Plan Core Strategy was for 335 dwellings per annum from 2011-2028. However, the average delivery rate of housing completions equated to only 198 dwellings per annum since 2011. This meant that the Council needed to deliver 458 homes per year (over 4,100 homes in total) between the current time and the end of the plan period.

It was noted that the Housing, Homelessness and Rough Sleeping Strategy (HHRSS) had been developed and adopted by Council on 19 February 2019. The HHRSS Improvement Delivery Plan (IDP) listed 'increasing the supply of housing' as its first priority. The report outlined the actions necessary to meet objective 1.1 of the IDP and gave Cabinet the opportunity to consider previous recommendations proposed in regard to a Council led housing development programme. The following salient points were noted:

- Annually 458 dwellings would need to be built to meet the Council's local plan target.
- A Council 15 year development programme up to 2035 could realistically deliver 1,000 dwellings. £200m would be required to achieve this.
- Local Authorities that owned 200 or more dwellings was required to account for them within their Housing Revenue Account (HRA). As the Council did not own any homes, Rother could develop up to 199 through the general fund without opening an HRA. This method of house building had limitations, as approval would be required from the Secretary of State for each development.
- A Council Local Housing Company (LHC) could take the format of a private company limited by shares or a private company limited by guarantee. The LHC would be led by a Board of Directors excluding any Cabinet Members. Two board structures were outlined in Appendix 4 to the report.
- Initially an experienced housing provider e.g. Optivo or Orbit would be required to provide a housing management service if housing stock was to be retained by the Council.
- Several sites across the district had been identified for housing growth / development namely Blackfriars Battle, North and North East Bexhill, Northeye, Hastings Fringes and small rural areas.
- Employment of a Housing Programme Manager would be required to develop a programme, identify suitable sites and manage the establishment of an LHC.
- Establishing an LHC would cost approximately £30,000 including all relevant fees, as well as an annual cost of £10,000 for additional works to maintain a housing company.

Members noted the OSC comments and after consideration agreed that a LHC be established following further research on board structures and housing companies established by other councils had been completed and reported at a future meeting. Cabinet endorsed recommendations 2) to 7) as detailed in the report.

RECOMMENDED: That:

- 1) a Local Housing Company be established following further research on board structures and housing companies established by other councils had been completed and reported at a future meeting;
- 2) a £200m Housing Development Programme to be delivered by the Local Housing Company be approved and financially supported by the Council;
- 3) the Programme aims to complete up to 1,000 new homes by 2035, with the primary objective being to increase and accelerate the overall delivery of housing in the district;
- 4) the Programme seeks to deliver mixed tenure developments in accordance with Local Plan and Housing Policy;
- 5) the Local Housing Company to be financially supported to purchase land on which to develop new homes, accessing borrowing to do so;
- 6) the Local Housing Company will sell the market housing through direct marketing and should seek to sell the affordable element on each scheme to a local registered provider; and
- 7) provision of sufficient additional resource is made through the Medium Term Financial Strategy Reserves for the development and delivery of the Housing Development Programme, including £60,000/year to appoint a Housing Development Programme Manager in the first instance.

(Cabinet Agenda Item 7)

CB19/69. MEDIUM TERM FINANCIAL PLAN 2020/21 TO 2024/25

Consideration was given to the report of the Executive Directors on the Council's Medium Term Financial Plan (MTFP) 2020/21 to 2024/25. The MTFP set the financial framework for the next five years and would be modified as the financial situation of the Council changed during that period. It was important that the MTFP supported the delivery of the Council's aims and objectives as set out in the Corporate Plan. The report had also been scrutinised by the Overview and Scrutiny Committee on 25 November 2019; a copy of the minutes was tabled at the meeting. The following points were noted:

- **Budget Process:** The Council had introduced a new three phased budget process. The third phase would commence in January 2020, once the Government settlement had been announced.

- Local Government Settlement 2020/21: The Council no longer received Revenue Support Grant and was budgeting for a net retained income from business rates for 2020/21 of £3.5m; a fall of £3.1m. Members noted that the Spending Review and Business Rates reset had been delayed. It was anticipated that the 2020/21 funding levels would rollover, including the Homelessness Support Grant. The Government's technical consultation proposed that the Council Tax Referendum limit be reduced from 3% to 2%.
- Non Domestic Rates (Business Rates): The Council was currently part of the Government's East Sussex 75% business rate retention pilot which was scheduled to conclude by the end of the financial year. Delegated authority was required for the Assistant Director, Resources to finalise the Council's participation in the reformed East Sussex Business Rate Pool. The Council could retain up to 50% of business rates growth.
- News Homes Bonus Grant (NHBG): The five year forecast assumed that the NHBG would be reduced so that by 2021/22 there would be no reliance on this funding.
- Council Tax: The forecast currently assumed an annual increase of 2% which would generate additional income of £137,000. An increase of £5 per annum would generate a further £54,000 of income.
- Cost Pressures: It was predicted that the base Revenue Budget would increase as a result of the new waste collection contract, homelessness demands, staffing costs based on the current workforce.
- Rother 2020 Programme – Income Generation and Cost Savings: The programme had broadly delivered or identified £1.8m of additional income and savings.
- Five Year Forecast: Reserves of £4.8m would be required to support a balanced budget by 2024/25, as well as £2.5m to support the Capital Programme.
- Cost Saving and Income Generation (Rother 2025): Additional savings would be required from the Council's Lean and Demand Project. Investment in technology would be required to improve Council efficiencies. Officers would be reviewing service provision, priorities and devolvement opportunities. Approximately £2.2m additional income by 2024/25 was anticipated from the Council's Property Investment Strategy. A reduction in staff would be required through voluntary or compulsory redundancies or the deletion of vacant posts. Increased shared services across local authorities would be explored.
- Revenue Reserves and General Fund Balance: The Council's usable reserves were expected to be £14.8m by the end of the financial year. The current MTFP estimated that £4.8m of reserves would be needed to support the Revenue Budget over the next five years. Due to estimated inflated costs, the latest five year forecast showed an increased use of reserves of between £5.3m and £6.5m between 2020/21 and 2024/25.
- Budget Consultation: Would be held between 3 December 2019 and 31 January 2020. The final outcome would be reported to the OSC on 27 January 2020 and Cabinet on 10 February 2020.

Cabinet was supportive of the current Council Tax Reduction Scheme for 2020/21. It was also agreed that the Council maintained its policy of maximising the annual increase in Council Tax within the Government's referendum limit and that the Assistant Director Resources be granted delegated authority, in consultation with the Cabinet Portfolio Holder for Strategic Overview, Finance, Resources and Value for Money to finalise the East Sussex Business Rate Pool agreement.

The MTFP highlighted the challenges the Council continued to face and was now focused on achieving financial self-sustainability, particularly through investment in the local economy.

RECOMMENDED: That the current Council Tax Reduction Scheme be affirmed and continue for the 2020/21 financial year.

Cabinet also **RESOLVED:** That:

- 1) the financial issues considered in this report be reflected in the Council's Medium Term Financial Plan;
- 2) Council maintain its policy of maximising the annual increase in Council Tax within the Government's referendum limit; and
- 3) Council continues to be part of the East Sussex Business Rate Pool in 2020/21 and that the Assistant Director Resources be granted delegated authority to finalise the necessary agreement with the Member authorities in consultation with the Cabinet Portfolio Holder for Strategic Overview, Finance, Resources and Value for Money.

(Cabinet Agenda Item 8)

CB19/70. **LOCAL COUNCIL TAX REDUCTION SCHEME 2020/21**

Each year, the Council was required to formally adopt and review a Local Council Tax Reduction Scheme (LCTRS) by 31 January to commence on the 1 April of that year.

No changes were proposed for the 2020/21 scheme except for some minor amendments to take into account legislative changes and certain rates in-line with Government increases and Housing Benefit administration. Whilst these changes were not considered a scheme change, it was necessary to report the changes and provide a copy of the scheme to Members to enable the Council to resist any potential challenge. With the exception of amending rates, Members noted that it was not necessary to undertake a full consultation exercise or Equality Impact Assessment. All major preceptors had been consulted and no objections had been received.

Cabinet was supportive of the scheme and noted that officers would be monitoring spend reflecting the forecast in the calculation of the 2020/21 taxbase. Members felt it was important that individuals who experienced exceptional hardship were made aware of the Council's

Exceptional Hardship fund. It was also requested that the LCTRS be reviewed at a future meeting.

RECOMMENDED: That the:

- 1) Council Tax Reduction Scheme currently in place for 2019/20 be continued for 2020/21;
- 2) Executive Director be authorised to make minor textual amendments and uprate premiums and living allowances when they are amended by the Government including an inflationary increase where appropriate; and
- 3) Local Council Tax Reduction Scheme be reviewed at a future meeting.

(Cabinet Agenda Item 9)

CB19/71. **THE COMMUNITY INFRASTRUCTURE LEVY – PROGRESS, UPDATE AND REVIEW**

The Community Infrastructure Levy (CIL) was a mechanism to allow local planning authorities to raise funds from some forms of development in order to contribute towards infrastructure costs. Under the CIL Regulations, the Council was a 'charging authority' and, through the Local Plan, was responsible for enabling growth and securing infrastructure funding for providers in-line with the Infrastructure Delivery Plan (IDP).

Since April 2016, the Council had been collecting CIL contributions, which totaled £1,058,313. The first round of CIL allocations had been held and the total awarded was £692,901. Four out of 10 applications were successfully awarded funding. It was noted that no CIL was awarded from the Bexhill Local CIL. The report identified the current bidding process, criteria and how strategic CIL was allocated. Rother was one of the first local authorities in Sussex to allocate CIL income through a bidding process.

The Council was required to produce two annual reports namely a CIL Monitoring and Infrastructure Progress Report (IPR). The IPR outlined which infrastructure items had been allocated funding as well as identifying infrastructure priorities for the next year.

The Government had introduced a number of significant legislative changes on 1 September 2019 and had also revised the Planning Practice Guidance. According to new regulations, the Council's existing 'Regulation 123 List' and IPR would be replaced by the Infrastructure Funding Statements (IFS). The IFS would need to be published by the end of the year for the previous financial year; the first year being December 2020. The purpose of the IFS was to improve transparency on how CIL and Section 106 monies were spent. The updated IDP informed the IFS and highlighted the critical infrastructure required to deliver the development quantum detailed in the Local Plan. It was a living document and would be continually updated.

The local CIL or neighbourhood proportion was payable to Parish and Town Councils (P&TC) at 15% (or 25% where a Neighbourhood Plan was made). The Council retained 5% to cover administration expenses. The neighbourhood portion could be spent by P&TCs as long as the proposed infrastructure met the requirement to 'support the development of the area'. The Council had the authority to claw-back unspent CIL funding from P&TCs, if they had not spent it on development projects within five years of receipt.

It was previously agreed that spending decisions could be made once CIL contributions had reached the minimum requirement of £250,000. This figure was considered too low as it did not allow the Council to consider larger sums of funding to bring forward major projects such as Bexhill Leisure Centre, High Speed Rail or improvements to the A21. It was recommended that the bidding process be delayed until after the IFS had been published. Critical infrastructure projects identified in the IDP would be given priority for CIL funding.

After deliberation, Cabinet endorsed recommendations 1) to 4) as detailed in the report. It was proposed that recommendation 5) be reworded as follows: a Cabinet Community Infrastructure Levy Steering Group (CILSG) be established to consider draft Terms of Reference for the allocation and spending of the Strategic Community Infrastructure Levy money and report back to Cabinet at the meeting scheduled to be held on 6 April 2020. The initial CILSG to consist of the Leader and Deputy Leader of the Council, the Cabinet Portfolio Holder for Strategy and Planning and the Cabinet Portfolio Holder for Regeneration and Bexhill Affairs. It was also recommended that recommendation 6) be deleted.

Cabinet agreed that CIL receipts enabled the Council to achieve much needed additional funding for key infrastructure projects across the district.

RECOMMENDED: That:

- 1) the Infrastructure Progress Report be replaced with the Infrastructure Funding Statements from December 2020 in-line with the updated Regulations;
- 2) the Section 106 collection monitoring be incorporated into the Infrastructure Funding Statements;
- 3) all new Section 106 Agreements include the provision for a reasonable fee, equating to 5% of the monetary value of each head of term where a financial contribution is secured and a flat fee of £500 for each non-financial head of term, to help provide resources for the new monitoring requirements;
- 4) bidding for the strategic Community Infrastructure Levy be paused until after the publication of the Infrastructure Funding Statements in December 2020;

- 5) a Cabinet Community Infrastructure Levy Steering Group (CILSG) be established to consider draft Terms of Reference for the allocation and spending of the Strategic Community Infrastructure Levy money and report back to Cabinet at the meeting scheduled to be held on 6 April 2020. The initial CILSG to consist of the Leader and Deputy Leader of the Council, the Cabinet Portfolio Holder for Strategy and Planning and the Cabinet Portfolio Holder for Regeneration and Bexhill Affairs; and

That the following recommendation not be supported:

- 6) the Bexhill local bidding process be paused pending the outcome of the Community Governance Review in relation to the creation of a Town Council for Bexhill-on-Sea.

(Cabinet Agenda Item 11)

CB19/72. **ADOPTION OF THE ROTHER DISTRICT DEVELOPMENT AND SITE ALLOCATIONS (DaSA) PLAN**

Consideration was given to the report of the Executive Director that sought authority to adopt the Development and Site Allocations (DaSA) Plan. The DaSA implemented the development strategy and core policies set out in the adopted Core Strategy (CS) 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.

The DaSA consisted of two principal parts, Part A 'Development Policies' and Part B 'Site Allocations'. The DaSA would need to be read in conjunction with Neighbourhood Plans that were in force across the district. Together both documents allocated the sites necessary to meet the CS's settlement housing targets.

In January 2019, the Secretary of State appointed an Inspector to conduct an independent examination into the DaSA's soundness and legal compliance and subsequently issued 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. Several modifications were proposed which fell into three categories, namely main modifications; changes to the policies map; and additional modifications. A further six week consultation period was held from 30 July 2019 and all representations were forwarded to the Inspector for consideration.

The Inspector's report was received on 5 November 2019 and was found to be 'sound' and subject to a number of changes being made to the main modifications was considered acceptable for adoption. Failure to include the recommended modifications would mean that the Council would not be able to adopt the DaSA.

It was noted that the additional modifications proposed did not materially affect the policies set out in the DaSA and predominantly comprised of points of clarification. These modifications were not

subject to examination, however did require formal adoption by the Council.

Cabinet recommended that the main and additional modifications to the DaSA Plan be accepted and forwarded to full Council for formal adoption.

RECOMMENDED: That the submitted Rother District Development and Site Allocations Plan, amended to include all the main modifications recommended by the Planning Inspector to make the plan sound, and the additional modifications, be adopted and duly published (including any consequential and other appropriate minor amendments) in accordance with Regulation 26 of the Town and Country Planning (Local Planning) Regulations 2012 (as amended).

(Cabinet Agenda Item 12)

CB19/73. **WATER FEATURE – BEXHILL-ON-SEA PROMENADE**

Members considered the report of the Executive Director which sought approval to reinstate the water feature located on the Promenade at Bexhill-on-Sea.

The water feature was installed as part of a seafront regeneration project in 2011/12. As well as a great asset, it was considered a destination attraction for the town, was located in a safe place and provided ample seating. A number of faults had led to the fountain being intermittently shutdown.

In 2018, a series of structural and mechanical surveys were carried out on all the equipment above and below ground. Results indicated that the whole system was leaking water and that the groundwork surrounding the water tank and the tank itself was at risk of collapse. This resulted in additional water and sewerage costs, as well as staff resources to manage the high level of complaints received. Therefore, it was decided that the feature be closed from spring 2019.

To remedy the situation and ensure that the water feature was fully operational for next year's summer season, it would be essential to excavate the site, remove and reinstall all equipment. To ensure easy access for future maintenance and reduce costs, it was suggested that the equipment be relocated above ground.

In consultation with the Leader of the Council and Cabinet Portfolio Holder for Culture, Tourism and Public Realm it was agreed that specialist contracts administrator Potter Raper be appointed to design a tender specification, review tender responses and oversee the replacement works. Indicative costs were estimated to be £300,000 up to £350,000 including consultancy and contingency fees. The contractor would be responsible for design, construction liability, as well as suitable warranties and insurances.

Members noted that in order to reinstate the water feature for the summer holiday season, it had been necessary to start the tender

process. Tender responses were expected before Christmas with commencement of works in January 2020.

Cabinet recommended that up to £350,000 be allocated from earmarked reserves and that delegated authority be granted to the Executive Director in consultation with the Leader of the Council and Cabinet Portfolio Holder for Culture, Tourism and Public Realm to approve appointment of the preferred contractor through a competitive tender process. Members were advised that provision had not been allocated in the Council's Revenue Budget, therefore full Council approval was required.

Two additional recommendations were proposed namely that the design of the water feature sought to maximise energy efficiency and minimise any adverse impact on the environment; and that the 2019/20 unspent portion of the Bexhill Local Community Infrastructure Levy be allocated to the water feature project on the Bexhill-on-Sea Promenade.

Assurance was given that legal advice and options to pursue recompense from the previous contractor were being explored.

Members agreed that the fountain was an extremely popular feature and attracted visitors to the promenade boosting the town's economy.

RECOMMENDED: That up to £350,000 be allocated from earmarked reserves to refurbish and enhance the interactive water feature on the Bexhill-on-Sea promenade;

Cabinet also **RESOLVED:** That the:

- 1) Executive Director in consultation with the Leader of the Council and Cabinet Portfolio Holder for Culture, Tourism and Public Realm be granted authority to appoint the preferred contractor against the contract specification;
- 2) design of the water feature sought to maximise energy efficiency and minimise any adverse impact on the environment; and
- 3) 2019/20 unspent portion of the Bexhill Local Community Infrastructure Levy be allocated to the water feature project on the Bexhill-on-Sea Promenade.

(Cabinet Agenda Item 13)

CB19/74. **INSTALLATION OF VIDEO CAMERAS IN THE COUNCIL CHAMBER**

In December 2017, Cabinet agreed to proceed with upgrading the audio / visual equipment in the Council Chamber, but did not support the installation of fixed cameras for videoing formal Council meetings. However it was requested that the installation be compatible, should the Council decide at a later date to introduce fixed cameras.

Estimated costs of £17,000 to install fixed cameras had been sought from the original provider. Funding would be set aside in the Capital Programme for Rother 2020 ICT investment however this did not include an annual revenue cost of £1,200 or £12,000 to webcast meetings; compensatory savings would need to be identified. The Council could place video recordings on the website at no additional costs.

After discussion, Cabinet agreed that the Executive Director in consultation with the Leader of the Council be authorised to proceed with the installation of fixed cameras in the Council Chamber with a view to recording all formal meetings, at a budget of up to £17,000 and the Constitution be amended accordingly.

In light of budgetary constraints, Members felt that the cost of £12,000 per annum to webcast meetings was too high and not justifiable. Therefore two additional recommendations were proposed namely that cost effective solutions to webcasting including live streaming to Facebook or a free social media platform be sought; and that all formal meetings be audio recorded and placed on the Council's website until the camera system was operational.

RECOMMENDED: That:

- 1) the Executive Director in consultation with the Leader of the Council be authorised to proceed with the installation of fixed cameras in the Council Chamber at a budget cost of up to £17,000 to be met from the capital programme provision for Rother 2020 ICT investment;
- 2) cost effective solutions to webcasting including live streaming to Facebook or a free social media platform be sought and reported at a future meeting;
- 3) all formal meetings of the Council be audio recorded and placed on the Council's website until the camera system was operational; and
- 4) appropriate amendments be made to the Council's Constitution.

(Cabinet Agenda Item 15)

Councillor D.B. Oliver
Leader of the Council