



Minutes of the Council
(Council decisions shown in bold text)

10 May 2017

-: Present :-

Chairwoman of the Council (Councillor Brooks) (In the Chair)
Vice-Chairman of the Council (Councillor Doggett)

Councillors Amil, Barnby, Bent, Bye, Carter, Darling (M), Darling (S), Ellery, Excell, Haddock, Hill, King, Kingscote, Lewis (B), Lewis (C), Manning, Mills, Morey, Morris, O'Dwyer, Parrott, Robson, Pentney, Stockman, Sanders, Stocks, Stringer, Stubley, Sykes, Thomas (D), Thomas (J), Tolchard, Tyerman and Winfield

8 Apologies for absence

Apologies for absence were received from: Councillors Carter, Darling (M), Kingscote, Lewis (B), Stocks and Winfield for the first part of the meeting until the adjournment; Councillor Morris for the second part of the meeting; and Mayor Oliver for the whole meeting.

9 Declarations of interests

Councillor Excell declared a pecuniary interest in respect of Minute 27.

The Chief Executive declared a personal interest in respect of Minute 20, as the report related to the employment of the Chief Executive, and advised that he would withdraw from the meeting for this item.

10 Communications

The Chairwoman:

- (a) thanked those who attended her Annual Civic dinner held on 9 May 2017 and advised that approximately £600 was raised for her charities; and
- (b) referred to the royal visit to Torbay on Wednesday 3 May 2017 by the Earl of Wessex. It was noted the purpose of the visit was to raise awareness of some of the challenges in Torbay, such as homelessness, and the work that had been carried out by local organisations to make a difference to the lives of people and the environment across the Bay. The Chairwoman thanked all the officers and colleagues who assisted in making the visit a success.

11 Order of Business

In accordance with Standing Order A7.2 in relation to Council meetings, the order of business was varied to enable: Item 15 (Notice of Motion – Amendment to Council Standing Order A14.3) and Item 17 (Revised Council Annual Pay Policy Statement) to be considered after Item 12 (Annual Report of the Overview and Scrutiny Board for 2016/2017); and Item 5 (exclusion of press and public) and Item 6 (Investment Committee Recommendation – Investment Opportunity) to be considered at the end of the meeting.

12 Appointment of Overview and Scrutiny Co-ordinator and Scrutiny Leads

The Council was requested to consider the appointment of the Overview and Scrutiny Co-ordinator and the appointment of scrutiny lead members for 2017/2018.

Councillor Thomas (D) proposed and Councillor Morey seconded a motion which was agreed (unanimously) by the Council as set out below:

- (i) that Councillor Lewis (C) be appointed as the Overview and Scrutiny Co-ordinator for 2017/2018 municipal year; and**
- (ii) that the following Councillors be appointed as the Scrutiny Leads as indicated for the 2017/2018 municipal year:**

Joint Commissioning – Children’s and Adults: Councillor Barnby;

Joint Commissioning – Health, Wellbeing and Public Health: Councillor Bent;

Joint Operations – Corporate and Business Services: Councillor Darling (S); and

Joint Operations – Community and Customer Services: Councillor Stocks.

13 Review of Political Balance and Appointments to Committees

The Council considered the submitted report on the appointment of committees and other bodies in the light of the political balance of the Council.

Councillor Thomas (D) proposed and Councillor Darling (S) seconded a motion, which was agreed (unanimously) by the Council as set out below:

- (i) that the overall political balance of the committees, as set out in Appendix 1 to the submitted report, be approved;**
- (ii) that, subject to (i) above being approved, the committees be appointed with the terms of reference set out in Appendix 2 to the submitted report;**

- (iii) that, subject to (i) above being approved, nominations be received to fill the seats on the committees;**
- (iv) that, a sub-committee of the Licensing Committee be established to comprise three Members of the Licensing Committee;**
- (v) that the terms of reference of the Licensing Sub-Committee be to consider and determine all matters in connection with licensing applications (including those set out in the Statement of Licensing Policy and Gambling Act Policy/Statement of Principles);**
- (vi) that the Licensing Sub-Committee be exempted from the rules of committee proportionality as defined in the Local Government and Housing Act 1989 and supporting regulations;**
- (vii) that the Governance Support Manager be authorised to empanel Members from the Licensing Committee to serve on the Licensing Sub-Committee as and when required; and**
- (viii) that the Mayor confirms the appointments to the Health and Wellbeing Board as set out in Appendix 2 to the submitted report.**

Following the vote, the members to serve on each committee and other bodies were nominated by the Group Leaders as set out in Appendix 2 to the submitted report.

14 Calendar of Meetings for 2017/2018

The Council considered the submitted report setting out the proposed calendar of meetings for 2017/2018.

Councillor Mills proposed and Councillor King seconded a motion set out below:

- (i) that, subject to the dates of the Policy Development and Decision Group meetings being amended as set out below, the calendar of meetings for 2017/2018, set out in Appendix 1 to the submitted report, be approved:**

Policy Development and Decision Group (Joint Operations Team) - meetings to start at 2.00 p.m.:

- 15 June 2017
- 13 July 2017
- 14 September 2017
- 12 October 2017
- 16 November 2017
- 14 December 2017
- 11 January 2018
- 15 February 2018

- 8 March 2018
- 12 April 2018

Policy Development and Decision Group (Joint Commissioning Team)
– meetings to start at 2.00 p.m.

- 5 June 2017
- 3 July 2017
- 4 September 2017
- 2 October 2017
- 6 November 2017
- 4 December 2017
- 15 January 2018
- 5 February 2018
- 5 March 2018
- 3 April 2018
- 1 May 2018; and

- (ii) that meetings of the Employment Committee and Civic Committee be held on an ad-hoc basis, to be determined by the Governance Support Manager in consultation with the relevant Chairman/woman.

During the debate Councillor Lewis proposed and Councillor Stubley seconded an amendment to the motion as follows:

- (i) that, subject to the start time ~~dates~~ of the Policy Development and Decision Group (Joint Operations Team) meetings being amended to 4.00 p.m. with the Policy Development and Decision Group (Joint Commissioning Team) meetings commencing at the rising of the Policy Development and Decision Group (Joint Operations Team) ~~as set out below~~, the calendar of meetings for 2017/2018, set out in Appendix 1 to the submitted report, be approved.

~~Policy Development and Decision Group (Joint Operations Team) – meetings to start at 2.00 p.m.:~~

- ~~• 15 June 2017~~
- ~~• 13 July 2017~~
- ~~• 14 September 2017~~
- ~~• 12 October 2017~~
- ~~• 16 November 2017~~
- ~~• 14 December 2017~~
- ~~• 11 January 2018~~
- ~~• 15 February 2018~~
- ~~• 8 March 2018~~
- ~~• 12 April 2018~~

~~Policy Development and Decision Group (Joint Commissioning Team) – meetings to start at 2.00 p.m.~~

- ~~• 5 June 2017~~

- ~~3 July 2017~~
- ~~4 September 2017~~
- ~~2 October 2017~~
- ~~6 November 2017~~
- ~~4 December 2017~~
- ~~15 January 2018~~
- ~~5 February 2018~~
- ~~5 March 2018~~
- ~~3 April 2018~~
- ~~1 May 2018~~

The amendment was put to the vote and declared carried.

The amended (substantive) motion was then considered by members, which was agreed by the Council as follows:

- (i) **that, subject to the start time of the Policy Development and Decision Group (Joint Operations Team) meetings being amended to 4.00 pm, with the Policy Development and Decision Group (Joint Commissioning Team) meetings commencing at the rising of the Policy Development and Decision Group (Joint Operations Team), the calendar of meetings for 2017/2018, set out in Appendix 1 to the submitted report, be approved; and**
- (ii) **that meetings of the Employment Committee and Civic Committee be held on an ad-hoc basis, to be determined by the Governance Support Manager in consultation with the relevant Chairman/woman.**

15 Composition and Constitution of the Executive and Delegation of Functions

The Deputy Mayor, on behalf of the Mayor, presented the Mayor's report on the above, which was noted.

16 Scheme of Delegation for Council Functions

Councillor Thomas (D) proposed and Councillor Darling (S) seconded a motion which was agreed (unanimously) by the Council as set out below:

that the scheme of delegation of Council functions, as set out in Part 3 of the Constitution in so far as they relate to Council functions be approved.

17 Annual Report of the Overview and Scrutiny Board for 2016/2017

The Council received and noted the Overview and Scrutiny Annual Report for 2016/2017.

18 Notice of Motion - Amendment to Council Standing Order A14.3

Members received the following motion, notice of which was given in accordance with Standing Order A14:

A14.3 Procedure

- (a) If the subject matter of any motion listed on the agenda comes within the province of the Executive or any Council committee, it shall stand referred to the Elected Mayor or committee, as appropriate, ~~without debate~~ **following debate by Councillors if the matter is to be determined by the Executive at Full Council**. Executive matters will be considered and determined by the Elected Mayor normally at a meeting of the Policy Development and Decision Group (Joint Operations Team) or (Joint Commissioning Team) or he/she may announce his/her decision at the Council meeting, or may refer the matter to an individual member of the Executive or an officer. Matters referred to a Council committee will be placed on the next available agenda and the Committee will determine whether to request officers to prepare a report on the matter for consideration at a future meeting.

In accordance with Standing Order A16.9 Councillor Sanders withdrew his motion with the consent of Councillor Darling (S) as seconder.

19 Revised Council Annual Pay Policy Statement

Members considered the submitted report (as circulated on 8 May 2017) setting out the Employment Committee's recommendation for the Council's Pay Policy to be updated in respect of the salary range of officers whose posts were evaluated using Hay. The report also recommended that the salary of the Chief Executive be reviewed in light of the recommended changes to the Pay Policy and independent advice received from South West Councils (as set out in exempt Appendix 2).

Councillor Mills proposed and Councillor Ellery seconded a motion, which was agreed by the Council as set out below:

- (i) **that the revised Torbay Council Annual Pay Policy Statement as set out at Appendix 1 to the submitted report be approved, with the following paragraph included:**

“In the absence of appropriate data from Hay, the Council will take advice from the Head of Human Resources and the Assistant Director, Corporate and Business Services. In such a scenario independent advice will be sought from South West Councils (HR and Employment Services) and other professional organisations to advise the Council as to the appropriate level of remuneration to be awarded.”; and

- (ii) that consideration of the appropriate level of remuneration for the Chief Executive be delegated to the Employment Committee to determine.**

(Note: Prior to consideration of Minute 20, the Chief Executive withdrew from the meeting due to his personal interest in respect of this item.)

20 Adjournment

At this juncture the meeting was adjourned until 5.30pm on Wednesday, 10 May 2017.

21 Planning Application P/2017/0121/MPA - Relocation of Torbay School to MyPlace, Parkfield - Alterations to MyPlace, Parkfield and construction of new single storey extensions to rear

Prior to consideration of Planning Application P/2017/0121/MPA, the Monitoring Officer presented her procedural briefing and recommendation (as circulated on 8 May 2017). Members noted that the Council meeting's Rules of Debate did not reflect the custom and practice of the debate followed by the Development Management Committee when considering Planning Applications. Therefore, the Monitoring Officer had prepared a procedural recommendation to apply to the Council's consideration of Planning Application P/2017/0121/MPA to ensure consistency.

The Monitoring Officer also reminded Members that, along with pecuniary and non-pecuniary interests, Members were required to ensure there could be no question of predetermination or bias when considering Planning Applications. It was noted this required all Members (including those Members of the Development Management Committee who considered the application on 13 March 2017) to keep an open mind in respect of all the issues presented in relation to the Planning Application before reaching a decision.

Councillor Thomas (D) proposed and Councillor Tyerman seconded a procedural motion, which was agreed (unanimously) by the Council as set out below:

- (i) that Council suspends Standing Order A16.6 to A16.9 and adopts the following procedure for consideration of Planning Application P/2017/0121/MPA:**
 - (a) Standing Order A23.3 (i) to (iv) to be followed in respect of representations as follows:**
 - (i) introduction of item by officer;**
 - (ii) representations by objector(s) (5 minutes);**
 - (iii) representations by applicant, agent or supporters (5 minutes);**

- (iv) **officers to comment if necessary on matters raised above;**
 - (b) Questions by Members to the Planning Officers in respect of the application;**
 - (c) Once all questions have been asked, a motion will be put forward and seconded to open the application for debate, the options for the motion include:**
 - 1. Approval (with or without conditions); or**
 - 2. Refusal (with reasons); or**
 - 3. Deferment for further information or a site visit; or**
 - 4. Delegation for determination by an officer or other Committee of the Council**
 - (d) Members may speak more than once on a motion;**
 - (e) During the debate if any further additions (such as reasons for refusal or additional conditions) are suggested to the motion, the Chairwoman will seek consent of the proposer and seconder for these to be included in the original motion. If consent is not forthcoming, then a further motion can be moved once the motion on the table has been dealt with;**
 - (f) Prior to the vote on the motion, the Chairwoman will confirm the details of the motion, including asking the Planning Officer to clarify if there are any additional technical conditions required or reasons for refusal; and**
 - (g) A vote will be taken on the motion and the Chairwoman will announce the result of the vote. If the motion fails the Chairwoman will invite Members to propose an alternative motion which will be subject to debate prior to the vote and following (c) to (f) above; and**
- (ii) that the Monitoring Officer is authorised to update the Constitution to reflect this practice for consideration of future Planning Applications by full Council and Development Management Committee.**

Members then considered the Planning Application. At its meeting on 13 March 2017, the Development Management Committee considered a planning application for the relocation of Torbay School to MyPlace, Parkfield, Colin Road, Paignton and the construction of a new single storey extension to help accommodate the school. The officer recommendation to the Committee was conditional approval. The Committee resolved to refuse the application on the grounds of overdevelopment on the site and the impact the proposal would have on neighbouring properties by reasons of the proximity to these properties. The Committee's decision was not in

accordance with paragraph 4 of the Terms of Reference for the Development Management Committee (Schedule 4 of the Constitution) and therefore the Executive Head of Business Services referred the application to Council for decision. The Council considered the submitted report setting out details of the planning application.

Prior to the meeting, Members undertook a site visit and written representations were circulated to Members on 8 and 9 May 2017.

The Team Leader Development Management and Planning Officer presented the planning application at the meeting and responded to Members' questions.

The Chairwoman allowed additional time for speakers making representations on the application (10½ for speakers against the application and 10½ minutes for the speaker in support of the application). Members heard representations from Mr Sinclair, Mr Watts and Mr Hurst against the application and Mr Dempsey (Director of Children's Services and applicant) in support of the application.

Councillor Kingscote proposed and Councillor Morey seconded a motion as determined by the Development Management Committee on 13 March 2017 as set out below:

that the application be refused on the grounds of overdevelopment on the site and the impact the proposal would have on neighbouring properties by reason of the proximity to these properties.

During the debate, Councillor Kingscote and Councillor Morey accepted additional reasons for refusal by Members along with advice from Planning and Legal officers, which were then incorporated in the original motion.

A recorded vote was taken on the motion. The voting was taken by roll call as follows: For: Councillors Barnby, Ellery, Excell, Hill, Kingscote, Lewis (B), Lewis (C), Morey, O'Dwyer, Robson, Stockman, Stringer, Stublely, Sykes, Thomas (D), Thomas (J), Tolchard, Tyerman and Winfield (19); Against: Councillors Amil, Bye, Darling (M), Haddock, King, Manning, Mills, Parrott and Stocks (9); Abstain: Councillors Brooks, Carter, Darling (S), Doggett, Pentney and Sanders (6); and Absent: Mayor Oliver, Councillors Bent and Morris (3). Therefore the motion was carried as follows:

that the application be refused on the grounds of overdevelopment of the site and the impact the proposal would have on neighbouring properties by reason of the proximity to these properties. In addition the proposal will have a detrimental impact on the core tourism area, constitute poor design, loss of leisure facilities and has failed to demonstrate it will not contribute to flood risk within the critical drainage area which is contrary to Policies T01 T02 DE1 DE3, SC1, Sc2 and ER2 of the Torbay Local Plan. The perceived benefits to the provision of education facilities in Torbay are not considered to overcome the harm caused by the proposals.

(Note: During consideration of Minute 22, Councillor Bent left the meeting.)

22 Duration of Meeting and Order of Business

At this juncture, the Chairwoman advised that the meeting had exceeded four hours in duration and in accordance with Standing Order A11.2, the Chief Executive and the Monitoring Officer had indicated that items 5 (Exclusion of Press and Public) and 6 (Investment Committee Recommendation – Investment Opportunity) must be transacted at the meeting. Therefore, the Chairwoman varied the order of business to enable items 5 and 6 on the agenda to be considered before item 16 (Transformation Project – Delivery of student accommodation on part Upton Place (Torquay Town Hall Car Park)).

(Note: Prior to consideration of Minute 23, Councillors Barnby, Kingscote, Sanders and Stringer left the meeting.)

23 Exclusion of the Press and Public

Councillor Hill proposed and Councillor Thomas (J) seconded the motion, which was agreed by the Council, as set out below:

that the press and public be excluded from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended) is likely to be disclosed.

Prior to consideration of the item in Minute 25 the press and public were formally excluded from the meeting.

24 Investment Committee Recommendation - Investment Opportunity

The Council considered the recommendations of the Investment Committee on an investment opportunity. Members received details of the proposal as set out in the exempt report circulated prior to the meeting.

The decision of the Council meeting is restricted due to exempt information contained within the decision.

25 Duration of Meeting

In accordance with Standing Order A11.1, the Chairwoman invited members to vote for the meeting to continue as the meeting had exceeded four hours duration. On being put to the vote, it was resolved to continue the meeting.

26 Transformation Project - Delivery of student accommodation on part Upton Place (Torquay Town Hall Car Park)

The Council considered the submitted report which sought approval of a business case to support delivery of student accommodation on part of Upton Place, Torquay.

Councillor Haddock proposed and Councillor King seconded a motion, which was agreed by the Council as set out below:

- (i) that prudential borrowing of up to £14.2 million to support the design and build of the student accommodation at Upton Place be approved;**
- (ii) that the Council enter into a 25 year full repairing and insuring lease, as detailed in the Business Case, subject to further negotiation, and with an option for the Council to sell the building within the lease period to the education provider;**
- (iii) that power be delegated to the Chief Executive, in consultation with the Chief Financial Officer and the Executive Head of Business Services, to agree the final details of the lease, following more detailed design work and further discussion with education provider;**
- (iv) that it be agreed, in principle, for the exclusive use by education provider of the redundant basketball/netball courts on Upton Park and that a final decision be made in accordance with the Constitution following further discussions with the provider; and**
- (v) that it be agreed, in principle, that some of the income from this project be used to finance the refurbishment of the Lower Union Lane Multi Storey Car Park and/or targeted public realm improvements (as set out in the Council's Transformation Strategy for Torbay's Town Centres), subject to Council's subsequent approval of separate business cases for the refurbishment and public realm works.**

Chairwoman