



Minutes of the Adjourned Annual Council

1 May 2014

-: Present :-

Chairwoman of the Council (Councillor Barnby) (In the Chair)
Vice-Chairman of the Council (Councillor Hill)

The Mayor of Torbay (Mayor Oliver)

Councillors Amil, Baldrey, Brooksbank, Butt, Cowell, Davies, Darling, Doggett, Ellery, Excell, Faulkner (A), Faulkner (J), Hernandez, Hytche, James, Kingscote, Lewis, McPhail, Mills, Morey, Parrott, Pentney, Pountney, Pritchard, Scouler, Stockman, Stocks, Thomas (D), Thomas (J) and Tyerman

10 Apologies for absence

Apologies for absence were received from Councillors Addis, Bent, Richards and Stringer.

11 Communications

The Chairwoman thanked all those who attended the civic luncheon and advised that the amount raised for the Chairwoman's charities was approximately £415.

The Mayor:

- (i) announced that the Government had included Blatchcombe, Shiphay and Tormohun in the draft Assisted Area Status map. He advised that this was excellent news for the whole of Torbay and was testament to the effective partnership between Torbay Council, Torbay Development Agency (TDA) and the Heart of the South West Local Enterprise Partnership (HOTSW) who had been lobbying together for recognition of these areas to assist with future funding. It was expected that formal ratification of the Assisted Area Status map would be announced at the end of May 2014, when this opportunity could then start to assist in generating more jobs and investment for Torbay; and
- (ii) advised that on behalf of the Council and the people of Torbay, he had written to the Headteacher of Corpus Christi School offering Torbay's sincere and heartfelt condolences to the family of Mrs Anne Maguire and staff and pupils at the school, following the terrible event on Monday 28 April 2014.

12 Order of Business

In accordance with Standing Order A7.2 in relation to Council meetings, the order of business was varied to enable agenda item 10 (Provision of a dwelling on adjacent land (Re-submission of P/2013/0979), Pine Lodge, Sladnor Park Road, Torquay) to be considered after Item 4 (Public Question Time).

13 Public Question - Can recycling facilities

In accordance with Standing Order A24, the Council heard from Mr Long who had submitted a statement and question in relation to the removal of can recycling banks at Lymington Road Coach Station and Brunswick Square Car Park, Torquay. The Executive Lead for Safer Communities, Highways, Environment and Sport responded to the statement and question that had been put forward, plus a supplementary question asked by Mr Long.

14 Public Question - Hi Flyer

In accordance with Standing Order A24, the Council heard from Mr Long who had submitted a statement and question on the outstanding debt in relation to Hi Flyer balloon and assets owned by Lindstrand. The Mayor responded to the statement and question that had been put forward, plus a supplementary question asked by Mr Long.

15 P/2014/0095 - Provision of a dwelling on adjacent land (Re-submission of P/2013/0979), Pine Lodge, Sladnor Park Road, Torquay

At the Development Management Committee on 14 April 2014, officers had recommended refusal of a planning application for the provision of a dwelling on land at Pine Lodge, Sladnor Park Road, Torquay, as the proposal was contrary to Local Plan Policies L4, L3, L2, CFS and CF6, of the Saved Adopted Torbay Local Plan 1995-2011 and the provisions of the Adopted planning obligations SPD. In addition, the precedent set by an approval of the application would result in potential further applications contrary to policies L2 and L3 of the saved Adopted Local Plan.

The Development Management Committee had resolved that the planning application be approved and therefore it was necessary for the application to be referred to Council for consideration as approval of the application was contrary to the officer's recommendation and the Torbay Local Plan 1995-2011.

Prior to the meeting, members undertook a site visit. The Council considered the submitted report which set out details of the planning application. The Team Leader Development Management presented the planning application at the meeting.

During the meeting, members heard representations from Mrs Lamar who was in support of the application.

It was proposed by Councillor Thomas (D) and seconded by Councillor Morey:

that Planning application P/2014/0095 should be refused for the reasons set out in 1.2 of the submitted report and in accordance with the officer's recommendation set out in the officer committee report (Appendix 1 of the submitted report), notwithstanding the deferral of the Development Management Committee based on its decision to approve the application.

A recorded vote was taken on the motion. The voting was taken by roll call as follows: For: Mayor Oliver, Councillors Amil, Brooksbank, Butt, Cowell, Darling, Doggett, Excell, Hill, James, Kingscote, Lewis, McPhail, Mills, Morey, Pentney, Pountney, Pritchard, Scouler, Thomas (D), Thomas (J) and Tyerman (22); Against: Councillors Baldrey, Davies, Ellery, Faulkner (A), Faulkner (J), Hernandez, Hytche, Parrott, Stocks and Stockman (10); Abstain: Councillor Barnby (1); Absent: Councillors Addis, Bent, Richards and Stringer (4). Therefore the motion was declared carried.

16 Members' questions

Members received a paper detailing the questions, as attached to the agenda, notice of which had been given in accordance with Standing Order A13. The Chairwoman advised that question 3 would be directed to Councillor Lewis as Executive Lead for Health and Wellbeing.

Verbal responses were provided at the meeting. Councillor Butt responded to question 9 on behalf of Councillor Richards. Supplementary questions were then asked and answered in respect of questions 1, 2, 3, 4, 6, 7, 11, 12, 13, 14 and 15.

17 Notice of Motion - Betting Shops (Mayoral)

Members considered a motion in relation to the creation of a separate planning use class for betting shops, notice of which was given in accordance with Standing Order A14.

It was proposed by Councillor Faulkner (A) and seconded by Councillor Doggett:

This Council notes that:

63 cross-party led local authorities have submitted a proposal for the government to create a separate planning use class for betting shops so that councils have new powers to address the problem. Creating a separate planning use class is Liberal Democrat Party policy and is also supported by the LGA, the GLA and the Mayor of London.

The proliferation and concentration of betting shops is contributing to community decline, especially the decline in valued community assets like pubs. England's poorest spend £13bn a year on the gambling machines in these shops according to a study published by the Campaign for Fairer

Gambling. The ongoing spread of betting shops has also been linked to gambling addiction and crime.

The proposal has been submitted under the Sustainable Communities Act. The government is considering it right now.

This Council resolves to

Write to, the Secretary of State, Eric Pickles MP, asking him to "Please agree to the proposal for a separate planning use class for betting shops submitted by 63 councils under the Sustainable Communities Act".

In accordance with Standing Order A14.3(a), the motion stood referred to the Mayor. The Mayor advised that the Government had recently announced details of consultation on the subject of the motion, which he supported. Therefore rather than write to the Secretary of State, Eric Pickles, the Mayor advised the Council would respond supporting the proposals outlined in the consultation. Councillor Faulkner (A) and Doggett agreed with this approach.

18 Disposal of Surplus Real Estate Assets (Mayoral Decision)

The Council made the following recommendation to the Mayor:

It was proposed by Councillor Thomas (D) and seconded by Councillor Hernandez:

that the Mayor be recommended:

- (i) that the Mayor considers the results from the consultation with Ward Members, the Local Access Forum (where appropriate) and the relevant Community Partnerships (circulated on 29 April 2014) to the disposal of the 10 Assets listed in Appendix 1 of the submitted report;
- (ii) that the 10 Assets listed in Appendix 1 of the submitted report be declared no longer required for service delivery and that the Executive Head of Commercial Services be requested to advertise their intended individual disposal in accordance with both the Council's Community Asset Transfer Policy 2008 and where appropriate Section 123(2A) of the Local Government Act 1972;
- (iii) that, subject to any expressions of interest received from the Community and any objections received to any disposal advertised pursuant to s123 of the Local Government Act 1972 and the assets listed in Appendix 1 of the submitted report be individually disposed on such terms as are acceptable to the Executive Head of Commercial Services in consultation with the Chief Executive of Torbay Development Agency; and
- (iv) that the Executive Head of Commercial Services in consultation with the Chief Executive of the Torbay Development Agency be delegated

authority to consider any objections received on the advertisement of any of the proposed disposals pursuant to s123 of the Local Government Act 1972

An amendment was proposed by Councillor Darling and seconded by Councillor Pountney:

- (ii) that housing associations be approached in respect of the following assets with a view to them developing the sites for affordable housing:
 - (a) Hillside, Former Children's Home and adjoining land, South Parks Road, Torquay;
 - (b) Land rear of 64-70 Borough Road, Paignton; and
- (iii) that the Former Learning Resource Centre, 21 Old Mill Road, Torquay, be explored for potential employment opportunities.
- (ii) that, subject to the above, the 10 Assets listed in Appendix 1 of the submitted report be declared no longer required for service delivery and that the Head of Commercial Services be requested to advertise their intended individual disposal in accordance with both the Council's Community Asset Transfer Policy 2008 and where appropriate Section 123(2A) of the Local Government Act 1972.

On being put to the vote, the amendment was declared carried (unanimous).

The substantive motion (the same wording as the original motion with the additional paragraphs (ii) and (iii) and amended original paragraph (ii)) was then before Members for consideration.

On being put to the vote, the substantive motion was declared carried.

The Mayor considered the recommendation of the Council, as set out above, at the meeting and a record of his decision, together with further information, is attached to these Minutes.

19 Devon Audit Partnership - Extension of Deed of Variation (Mayoral Decision)

The Council made the following recommendation to the Mayor:

It was proposed by Councillor Tyerman and seconded by Councillor Pountney:

That the Mayor be recommended:

- (i) that each Devon Audit Partnership authority approve the extension of the partnership for a further 3 years (April 2014 to March 2017) and that the submitted Deed of Variation be approved; and

- (ii) that the membership of the Partnership be extended to include the Police and Crime Commissioner for Devon and Cornwall (OPCC).

On being put to the vote, the motion was declared carried (unanimous).

The Mayor considered the recommendation of the Council, as set out above, at the meeting and a record of his decision, together with further information, is attached to these Minutes.

20 Careers on South West Changes to Legal Arrangements (Mayoral Decision)

The Council made the following recommendation to the Mayor:

It was proposed by Councillor Mills and seconded by Councillor Pritchard:

that the Mayor be recommended to approve the changes to the legal arrangements around the ownership of Careers South West (as set out in paragraph 4.6 to 4.9 of this report) to enable the company to operate more commercially and autonomously on a day to day basis, whilst Cornwall, Devon County, Plymouth City and Torbay Councils continue to retain ownership and authority over the business.

On being put to the vote, the motion was declared carried (unanimous).

The Mayor considered the recommendation of the Council, as set out above, at the meeting and a record of his decision, together with further information, is attached to these Minutes.

21 Local Government Pensions Discretions 2014

The Council considered the submitted report on changes to the Local Government Pension Scheme (LGPS) 2014 which resulted in a new set of pensions discretions. It was noted that the Council's policy statements currently related to the 2008 LGPS Regulations. The new LPGA Regulations 2014 introduced a number of changes to the discretions that required Council approval in order to be compliant with the new 2014 Regulations.

It was proposed by Councillor Mills and seconded by Councillor Tyerman:

that Council approve the pension discretion policy statements set-out in Appendix 2 of the submitted report.

On being put to the vote, the motion was declared carried (unanimous).

22 Review of Political Balance and Appointments to Committees

The Council considered the submitted report on a change in political balance following notification that Councillor Bobbie Davies wished to be a member of the Non-Coalition Group and the appointment of committees and other bodies. A revised Appendix 2 was circulated prior to the meeting.

It was proposed by Councillor Mills and seconded by Councillor Excell:

- (i) that the overall political balance of the committees, as set out in Appendix 1 of 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 of the submitted report;
- (iii) that, subject to (i) above being approved, nominations be received to fill the seats on the committees;
- (iv) that Councillor Excell be appointed as the Council's nominated representative on the Devon and Cornwall Police and Crime Panel; and
- (v) that Councillor Brooksbank and Councillor Ellery be appointed as the Council's nominated representative on the Devon and Somerset Fire and Rescue Authority.

On being put to the vote, the motion was declared carried (unanimous).

Following the vote, the members to serve on each committee and other bodies were nominated by the Group Leaders.

23 Calendar of Meetings 2014/15

The Council considered the submitted report setting out the proposed calendar of meetings for 2014/2015.

It was proposed by Councillor Mills and seconded by Councillor Pritchard:

- (i) that the provisional calendar of meetings for 2014/2015, set out in Appendix 1 of the submitted report, be approved for final ratification at the Annual Council Meeting; 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.

On being put to the vote the motion was declared carried (unanimous).

24 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 2014/2015.

It was proposed by Councillor McPhail and seconded by Councillor Thomas (D):

- (i) that Councillor Thomas (J) be appointed as the Overview and Scrutiny Co-ordinator for the 2014/2015 municipal year; and
- (ii) that the following Councillors be appointed as the Scrutiny Leads as indicated for the 2014/15 municipal year:

People – Councillor Bent
Place – Councillor Kingscote
Business – Councillor Pentney
Health – Councillor Davies

On being put to the vote, the motion was declared carried (unanimous).

25 Overview and Scrutiny Annual Report

The Council received and noted the Overview and Scrutiny Annual Report for 2013/2014.

26 Composition and Constitution of the Executive and Delegation of Functions

The Mayor presented his report as submitted with the agenda, on the above, which was noted.

27 Scheme of Delegation for Council Functions

It was proposed by Councillor Mills and seconded by Councillor Excell:

that the Scheme of Delegation of Functions set out in part 3 of the Constitution in so far as they relate to Council functions, be confirmed.

On being put to the vote, the motion was declared carried (unanimous).

Chairwoman

Minute Item 18

Record of Decisions

Disposal of Surplus Real Estate Assets

Decision Taker

Mayor on Thursday, 01 May 2014

Decision

- (i) That the feedback from ward councillors, the Local Access Forum and the Community Partnerships (circulated on 29 April 2014) on the disposal of the 10 Assets listed in Appendix 1 of the submitted report be noted;
- (ii) that consideration be given for the following assets to be developed as sites for affordable housing:
 - (a) Hillside, Former Children's Home and adjoining land, South Parks Road, Torquay;
 - (b) Land rear of 64-70 Borough Road, Paignton;
- (iii) that the former Learning Resource Centre, 21 Old Mill Road, Torquay, be explored for use as potential employment opportunities;
- (iv) that, subject to (ii) and (iii) above, the 10 Assets listed in Appendix 1 of the submitted report be declared no longer required for service delivery and that the Executive Head Commercial Services be requested to advertise their intended individual disposal in accordance with both the Council's Community Asset Transfer Policy 2008 and where appropriate Section 123(2A) of the Local Government Act 1972;
- (v) that, subject to any expressions of interest received from the Community and any objections received to any disposal advertised pursuant to s123 of the Local Government Act 1972 and the assets listed in Appendix 1 of the submitted report be individually disposed on such terms as are acceptable to the Executive Head of Commercial Services in consultation with the Chief Executive of Torbay Development Agency; and
- (vi) that the Executive Head of Commercial Services in consultation with the Chief Executive of the Torbay Development Agency be delegated authority to consider any objections received on the advertisement of any of the proposed disposals pursuant to s123 of the Local Government Act 1972.

Reason for the Decision

The disposal of assets not required for service delivery will generate capital receipts to be reinvested in the Council's existing capital programme which will contribute towards achieving the Council's objectives. The disposals will also reduce the expenditure and repair liability across the Council's assets.

Implementation

This decision will come into force and may be implemented on Wednesday 14 May 2014 unless

the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

The submitted report sets out details of 10 unused assets for disposal which will achieve capital receipts and cost savings. The following assets were considered for disposal which are no longer required by the Council:

1. The Old Windmill and adjoining land, Windmill Lane, Paignton;
2. Higher Lodge, Cockington, Torquay;
3. Land at Loxbury Road and Vicarage Road, Torquay;
4. Land and unused garages adj Alpine Road, Torquay;
5. Hillside (former children's home) and adjoining land, South Parks Road, Torquay;
6. Former Learning and Resource Centre, 21 Old Mill Road, Torquay;
7. Glebeland playground, adjoining 7 Glebeland Way, Torquay;
8. Land r/o 64 to 70 Borough Road, Paignton;
9. Land betwixt 90 to 94 Colley end Road, Paignton; and
10. 286 and 288 Totnes Road, Paignton.

The Mayor considered the recommendations of the Council made on 1 May 2014 and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

Alternative options are set out in the submitted report, plus the recommendation by the Adjourned Annual Council to include two assets to be considered for affordable and a further asset to be explored for potential employment opportunities (as outlined in decision (ii) and (iii) above).

Is this a Key Decision?

Yes – Reference Number: I016355

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

6 May 2014

Signed: _____
Mayor of Torbay

Date: 6 May 2014

Minute Item 19

Record of Decisions

Devon Audit Partnership - Extension of Deed of Variation

Decision Taker

Mayor on Thursday, 1 May 2014

Decision

- (i) That the extension of the Devon Audit Partnership for a further 3 years (April 2014 to March 2017) and that the submitted Deed of Variation be approved; and
- (ii) that the membership of the Partnership be extended to include the Police and Crime Commissioner for Devon and Cornwall (OPCC).

Reason for the Decision

The three year extension will enable the continuation of the provision of a high quality and cost effective internal audit service. The proposal for OPCC to join the Partnership will enable the partnership to generate income and contribute towards achieving a sustainable service.

Implementation

This decision will come into force and may be implemented on Wednesday 14 May 2014 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

The Devon Audit Partnership between Devon, Torbay and Plymouth was established in 2009 to deliver internal audit functions. Since its establishment the Partnership arrangement was challenged to make significant financial savings whilst still providing a high quality, robust, independent and assurance function.

The Partnership proposes to extend the arrangement for a further 3 years with the membership extended to include the OPCC to enable financial targets to be achieved and to provide modernised working practices. The proposed Deed of Variation will enable the extension to take place and the OPCC to join the partnership as a non-voting member.

The Mayor considered the recommendations of the Council made on 1 May 2014 and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

Not to extend the partnership.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

6 May 2014

Signed: _____
Mayor of Torbay

Date: 6 May 2014

Minute Item 20

Record of Decisions

Careers South West Changes to Legal Arrangements

Decision Taker

Mayor on Thursday, 1 May 2014

Decision

That the changes to the legal arrangements around the ownership of Careers South West (as set out in paragraph 4.6 to 4.9 of the submitted report) be approved, to enable the company to operate more commercially and autonomously on a day to day basis, whilst Cornwall, Devon County, Plymouth City and Torbay Councils continue to retain ownership and authority over the business.

Reason for the Decision

To enable the Owners to retain authority over the company, as they remain its ongoing guarantors, whilst enabling the Company to operate commercially on a day to day basis. (Note: The above decision is required by the four owners to enable the proposal to proceed.)

Implementation

This decision will come into force and may be implemented on Wednesday 14 May 2014 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

The submitted report sets out a proposal to change the legal arrangements for the operation of Careers South West (CSW). CSW is a company limited by guarantee and is wholly owned and controlled by four local authority corporate members: Cornwall Council; Devon County Council; Plymouth City Council and Torbay Council. CSW manages the delivery and provision of government funded services, primarily in the areas of skills and careers related information and advice and guidance services to young people aged 13 to 19.

The success of CSW has meant it can no longer work under the Teckal exemption and a review by the owner authorities is required to ensure an appropriate basis for future working.

The Mayor considered the recommendations of the Council made on 1 May 2014 and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

Alternative options are set out in the submitted report.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

6 May 2014

Signed: _____
Mayor of Torbay

Date: 6 May 2014