

Minutes of the Overview and Scrutiny Board

11 January 2023

-: Present :-

Councillor Douglas-Dunbar (Chairwoman)

Councillors Barrand, Brown, Bye (Vice-Chair), Foster, Johns and Kennedy

(Also in attendance: Councillors Chris Lewis, David Thomas, Cowell and Long)

29. Apologies

An apology for absence was received from Councillor Loxton.

30. Minutes

The minutes of the meeting of the Board held on 7 December 2022 were confirmed as a correct record and signed by the Chairwoman.

31. Climate Change Emergency Update

The Board received an update from the Climate Emergency Officer, Jacqui Warren on the Cabinet's implementation of the recommendations arising from the Climate Change Emergency Review. Members also had before them the Torbay Climate Emergency Action Plan Consultation Draft 2023-2025 which was currently out to public consultation. The Board discussed the following:

- When would the guidance be issued on traffic free pavements and storage of recycling bins as part of the planning process and who would be issuing it.
- Was the decarbonisation of Torbay Leisure Centre value for money given the costs of installation against the proposed savings.
- What progress has been made to change our vehicles from petrol and diesel.
- Was the target for increasing Torbay's recycling rates to 50% by March 2023 realistic based on the current figures.

Resolved (unanimously):

That the Cabinet be recommended to approve the draft Torbay Climate Emergency Action Plan 2023-2025 subject to the dates in the Action Plan being achievable.

32. Exclusion of press and public

Prior to consideration of the items in Minutes 33 and 34 the press and public were formally excluded from the meeting on the grounds that the items involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

33. Delivery of Capital Projects

The Senior Lawyer, Cathy Fleming, outlined the submitted exempt paper on the appropriateness of the inclusion of termination provisions in leases. The Board noted that the delivery of capital projects by local authority was subject to a multitude of factors and risks. The ability to de-risk such projects was subject always to market conditions and the bargaining strength of the local authority. It was not possible to remove risk entirely and the transfer of risk away from the local authority was likely to increase the cost of the project.

The Board then scrutinised and received detailed updates in respect of the following Capital Projects.

- Edginswell Station;
- Paignton Coastal Defence Scheme;
- Edginswell Business Park Site 3;
- Torbay Road;
- Victoria Centre;
- Lymington Road Business Centre; and
- St Kildas.

Members challenged if some of the information contained within this item could have been made public and requested future reports to include public and private information separately to allow for open discussions where appropriate on some of the Council's Capital Projects to help keep the public informed. They would then be able to exclude the press and public if they wanted to discuss the updates on the commercial or contractor elements of the schemes.

Resolved:

That the Cabinet be recommended:

1. the current economic situation is one where almost all project costs are increasing, especially in terms of materials and labour. Every project budget should have a contingency percentage built-in. The contingency percentage should be project specific and calculated by reference to a number of factors including the cost of the project and the risk profile of the project. It may be that a more robust contingency percentage needs to be applied in the current economic circumstances;
2. it may be appropriate to review the level of financial due diligence undertaken in respect of a project, particularly in respect of prospective contractors.

Thorough financial due diligence should inform the level of security that the Council should be seeking in respect of a contractor. Financial due diligence is also something that should be monitored throughout the life of the project, not simply at the outset; and

3. a capital project will be made up of several elements and potentially multiple contracts. There needs to be a joined-up approach to reviewing and negotiating the legal documentation – as indicated in the submitted report in regard to agreements for lease and building contracts, the terms of the documents need to dovetail.

34. Review of Council Investments

The Board considered the submitted exempt report which provided an update on the performance of the Council's investment portfolio. Members noted that there were only two empty properties and it was hoped that a lease would be signed on one over the next few weeks with the other being a small property which it was hoped would be let in due course. Overall, the investments were generating an annual income of around £13.5m with £4m being allocated to the Council's Revenue Budget to help fund other Council services.

Members challenged if some of the information contained within this item could have been made public to enable the Council to promote the success of our investments and requested future reports to include public and private information separately to allow for open discussions where appropriate.

Resolved (unanimously):

That the Director of Pride in Place be requested to provide a public report and private report for future investments so that the Council can share the success of their investments.

Chairwoman