



Minutes of the Council

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

28 Opening of meeting

The meeting was opened with a prayer.

29 Apologies for absence

Apologies for absence were received from Councillor Ellery. The Monitoring Officer also advised that Councillors Hernandez, James, Kingscote and Stockman would be joining the meeting after the adjournment.

(Note: Councillors Morey and Stockman arrived during consideration of Minute 35; Councillor Hytche arrived during consideration of Minute 36; and Councillor James arrived during consideration of Minute 39).

30 Minutes

The Minutes of the Annual Council and Adjourned Annual Council meetings held on 30 April and 1 May 2014 were confirmed as a correct record and signed by the Chairwoman.

31 Declarations of interests

Councillor Excell declared a non-pecuniary interest in Minute 47 as he owned shops and flats in Torre 201 - 203 and was Chairman of Torre Traders.

32 Communications

The Chairwoman:

- (i) read a statement on behalf of Councillor Pentney advising of her recent diagnosis of motor neurone disease; and
- (ii) announced that a Civic Garden Party had been arranged for Sunday 7 September 2014 at 3.00 pm to be held at the Spanish Barn, Torre Abbey, Torquay. The event aimed to bring together those individuals and organisations who make a valued contribution to the community, to recognise and celebrate their work and also to promote the Chairwoman's charities.

The Mayor:

- (i) highlighted a successful investment package of £7 million which had been secured for Torbay as part of a £270 million wider sub regional bid submitted by the Heart of the South West Local Enterprise Growth Deal. The Mayor advised this funding would include assisting with infrastructure improvements across Torbay including road junction improvements at the Torquay Gateway; Torquay Town Centre access; delivery of a new railway station at Edginswell; and a loan to Galliford Try and Linden homes to accelerate delivery of the new housing scheme at White Rock. The Mayor welcomed the confidence that the Government had shown in the work of the Heart of the South West Partnerships and our economic strategy and congratulated the team for their hard work in putting forward these plans; and
- (ii) advised that the latest unemployment figures showed that, since May 2011, the percentage of people claiming job seekers allowance in Torbay had reduced by 1.6% to 2.7% which was at a faster rate than the English average. The Mayor was pleased to announce that this showed a positive trend and reflected the achievements that had been made to improve Torbay's economy and further reflected business confidence in Torbay's growth.

33 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 7 (a) (Notice of Motion – Budget Proposals) to be considered after Item 22 (Covenant Protecting Babbacombe Downs Against Development); Item 8 (Submission of the Torbay Local Plan to the Secretary of State) after Item 15 (Composition and Constitution of the Executive and Delegations of functions); Item 19 (Torquay Waterside Regeneration – the Pavilion, Marina Car Park and Cary Green) to be taken prior to Item 17 (Petitions); and Item 6 (Members' questions) to be considered at end of the meeting.

34 Notice of Motion - Motor Neurone Disease Charter (Mayoral)

Members considered a motion in relation to the Motor Neurone Disease Charter, notice of which was given in accordance with Standing Order A14.

It was proposed by Councillor Parrott and seconded by Councillor Amil:

That this Council adopts the Motor Neurone Disease (MND) charter and thereby supports achieving quality of life, dignity and respect for people with MND and their carers.

The Charter:

1. People with MND have the right to an early diagnosis and information.
2. People with MND have the right to access quality care and treatments.
3. People with MND have the right to be treated as individuals and with dignity and respect.
4. People with MND have the right to maximise their quality of life.
5. Carers of people with MND have the right to be valued, respected, listened to and well supported.

In accordance with Standing Order A14.3(a), the motion stood referred to the Mayor. The Mayor advised he would accept the motion and the record of his decision is attached to these Minutes.

35 Energy and Climate Change Strategy 2014-2019

The Council considered the submitted report setting out the Energy and Climate Change Strategy 2014 to 2019. The Strategy set out the energy and climate change challenges for Torbay and how these could be addressed with an overarching aim of securing economic prosperity and increasing social and environmental benefits by reducing carbon emissions. It was noted that the Overview and Scrutiny Board's recommendations of adopting an action plan to underpin the Strategy had been incorporated.

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

that the Energy and Climate Change Strategy 2014-2019 for Torbay and Action Plan as set out in Appendix 1 of the submitted report be approved.

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

36 Adult Social Care - Local Account

Members considered the submitted report setting out the third Local Account for Adult Social Care. The Local Account highlighted what had been achieved for local people in relation to adult social care, details of the multi agency approach to adult safeguarding, the level of performance for the last financial year and commitment to future service delivery.

It was proposed by Councillor Scouler and seconded by Councillor Lewis:

that, subject to any additional recommendations from the Mayor and Group Leaders, the Local Account in Appendix 1 of the submitted report which sets out performance for 2013-14 and sets out intentions for the Annual Strategic Agreement for services for 2015-16 be approved; and that the multi agency safeguarding report, set out in Appendix 2 of the submitted report, be approved.

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

37 Community Safety Commercial Team Service Plan 2014-15

The Council considered the submitted report which included the Commercial Team Service Plan, the Food Safety Service Plan and the Policy on the Protection of Children in relation to Tobacco Sales and Other Age Restricted Goods.

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

- (i) that the Statutory Food Safety Service Plan as set out in Appendix 1A of the submitted report be approved;
- (ii) that the Policy on the Protection of Children in relation to Tobacco Sales and Other Age Restricted Goods as set out in submitted report Appendix 1C of the submitted report be approved; and
- (iii) that the overall work plan of the Commercial Team for 2014/15 be noted.

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

38 Capital Investment Plan Update (Outturn 2013/14) - subject to Audit

Members noted the submitted report on the Capital Investment Plan and outturn position for the Council's capital expenditure and income.

39 Provisional Revenue Outturn 2013/14 - Subject to Audit

The Council considered the submitted report on the provisional revenue outturn for 2013/2014 which provided a summary of the Council's expenditure throughout the financial year and recommendations on the use of any uncommitted resources.

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

- (i) that £0.8m of restructuring costs are funded from the available resources identified at outturn to protect the Council's Comprehensive Spending Review reserve – paragraph 4.3 of the submitted report;
- (ii) that a sum of £0.350m is approved as carry forwards into 2014/15 for Crisis Support Fund and Hardship Fund - paragraph 4.15 to 4.17 of the submitted report; and
- (iii) that members note that the transfers outlined in (i) to (ii) above are subject to the final audit of the Council's accounts.

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

40 Urgent Decision taken by the Executive Director of Operations and Finance under the Officer Scheme of Delegation

The Council noted the submitted report.

41 Composition and Constitution of the Executive and Delegation of Functions

Members noted the submitted report which provided details of changes made by the Mayor to his Executive.

42 Submission of the Torbay Local Plan to the Secretary of State

The Council received the submitted report setting out the new Torbay Local Plan (a Landscape for Success) for submission to the Secretary of State as the final stage of preparation of the new plan. A revised officer recommendation had been circulated prior to the meeting.

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

that in order to progress the Torbay Local Plan, the Council is recommended to agree the following actions:

- a) the Proposed Submission Plan be submitted formally to the Secretary of State for Independent Examination by the Planning Inspectorate;
- b) the Senior Service Manager for Strategic Planning and Implementation, in consultation with the Director of Place and the Executive Member for

Strategic Planning, Housing and Energy, be authorised to agree minor editorial changes to the Proposed Submission Plan for submission to PINS;

- c) the Senior Service Manager for Strategic Planning and Implementation be given delegated powers to agree amendments to policy and related matters with the appointed Planning Inspector to facilitate the timely progression of the Independent Examination; and
- d) the Senior Service Manager for Strategic Planning and Implementation keep Members briefed on the evolving Examination timescales, and any issues emerging from the Planning Inspectorate's initial assessment of the Submission Plan.

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

43 Adjournment

At this juncture, the meeting was adjourned until 6.00 pm on Thursday 17 July 2014.

44 Torquay Waterside Regeneration - the Pavilion, Marina Car Park and Cary Green (Mayoral)

The Chairwoman announced that, following the publication of the agenda, the submitted report had been withdrawn.

45 Petition for the return of street lighting at night in Eden Vale Road

In accordance with Standing Order A12, the Council received a petition requesting the return of street lighting at night in Eden Vale Road (approximately 73 signatures).

At the invitation of the Chairwoman, Mr McGonigle, addressed the Council in relation to the petition. The Chairwoman advised that the petition would be referred to the Group Service Manager, Streetscene and Place, Patrick Carney for consideration in consultation with the Executive Lead for Safer Communities, Highways, Environment and Sport.

46 Petition against development of hotel and apartments next to the Pavilion & Marina Car Park on Torquay Harbourside, incorporating Cary Green as their car park

In accordance with Standing Order A12, the Council received the petition against development of a hotel and apartments next to the Pavilion and Marina Car Park on Torquay Harbourside, incorporating Cary Green as their car park (approximately 1,095 signatures).

At the invitation of the Chairwoman, Mr Griffey and Mr Short addressed the Council.

The Chairwoman advised that, under the Council's Petition Scheme, as the petition had reached the 1,000 signature threshold it was subject to debate by the Council.

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

that the petition be noted and no further action be taken at this stage.

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

that the Chief Executive of Torbay Development Agency take the matter away to see if he can get improved best value for the residents of the Bay and that he returns to Council on 25 September 2014 with his proposals for consideration.

In accordance with Standing Order A19.4, a recorded vote was taken on the amendment. The voting was taken by roll call as follows: For: Councillors Cowell, Darling, Davies, Doggett, Faulkner (J), James, Parrott, Pountney and Stocks (9); Against: The Mayor, Amil, Barnby, Bent, Butt, Hernandez, Hill, Hytche, Lewis, Mills, Pritchard, Richards, Scouler, Thomas (D) and Thomas (J) (15); Abstain: Addis, Baldrey, Brooksbank, Excell, Faulkner (A), Kingscote, McPhail, Morey, Pentney, Stockman, Stringer and Tyerman (12); and Absent: Councillor Ellery (1). Therefore, the amendment was declared lost.

The original motion was then put to the vote and declared carried.

47 Public Question - Traffic Routes

In accordance with Standing Order A24, the Council heard from Mr Lang who had submitted a statement and question in relation to traffic routes to Torquay Town Centre. The Executive Lead for Strategic Planning, Housing and Energy and Environmental Policy responded to the statement and question that had been put forward, plus a supplementary question asked by Mr Lang.

48 Public Question - Council's Tall Buildings Strategy, Heritage Strategy and Green Space Protection in relation to Cary Green

In accordance with Standing Order A24, the Council heard from Ms McPhail who had submitted a question in relation to the Council's Tall Buildings Strategy, Heritage Strategy and green space protection in relation to Cary Green, Torquay. The Executive Lead for Strategic Planning, Housing and Energy and Environmental Policy responded to the statement and question that had been put forward.

49 Public Question - Development at Cary Green

In accordance with Standing Order A24, the Council heard from Mr Griffey who had submitted a question in relation to the development at Cary Green, Torquay. The Executive Lead for Strategic Planning, Housing and Energy and Environmental Policy responded to the statement and question that had been put forward, plus a supplementary question asked by Mr Griffey.

50 Clennon Valley Sport and Leisure Regeneration Procurement (Mayoral)

The Council made the following recommendation to the Mayor:

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

that Moirai Capital Investment Ltd (MCI Ltd) as the preferred bidder for the sport and leisure improvements at Clennon Valley and Goodrington be rejected.

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.

51 Corporate Parents Annual Report (Mayoral)

The Council made the following recommendation to the Mayor:

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

that Members recognise Corporate Parents' Groups and their role as Corporate Parents, support the work of both the Officers and Members, attend recommended training, increase their efforts to attend events to support Looked after Children and specifically approve:-

- the pledge to Children in Care
- the action plan attached to the submitted report

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.

52 Covenant Protecting Babbacombe Downs Against Development (Mayoral)

The Council made the following recommendation to the Mayor:

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

that the Council considers entering into a deed covenanting with the residents of St Marychurch Ward as follows:-

‘Torbay Council covenants with all inhabitants of the ward of St Marychurch that for a period of 100 years beginning on the date of this deed it will not on the land shown edged red on the plan attached erect or permit the erection of any permanent structure without any such proposal first obtaining the majority of votes in a referendum of the persons who at the day of the referendum would be entitled to vote as electors at an election of councillors for St Marychurch Ward and are registered as local government electors at an address within this Ward. For the purpose of this covenant ‘permanent structure’ shall mean any structure intended to remain on the land for a period greater than 3 months. This covenant shall not apply to the installation, construction or renewal (whether by statutory undertakers or otherwise) of any media for the supply or removal, electricity, gas, water, sewage, energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media/or to the installation of street furniture.’

On being put to the vote, the 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.

53 Notice of Motion - Budget Proposals (Mayoral)

Members considered a motion in relation to budget proposals, notice of which was given in accordance with Standing Order A14 by Councillors Cowell and Ellery.

It was proposed by Councillor Cowell and seconded by Councillor Morey (in the absence of Councillor Ellery):

this Council notes the continuing budgetary pressures placed upon the authority by the Government’s disproportionate cuts to local government spending.

Council also notes that a further £3.8 million of cuts are currently being identified for the year 2015-16.

Given that there will be an estimated £10 million cut to Torbay Council’s budget in 2016-17, Council requests that the Mayor sets out proposed spending areas to be considered for that financial year as part of his September budget.

Council recognises that service providers and users will need as much time as possible to identify alternative delivery methods and in so doing avoid

unnecessary stress and anxiety as was evident during the recent budget process.

In accordance with Standing Order A14.3(a), the motion stood referred to the Mayor. The Mayor rejected the motion as the proposal related to the 2016/17 financial year, therefore no judgement could be made on spending until the outcome of the elections in 2015 and any resulting changes to funding for local government by a new Government was known.

54 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 had accepted an urgent question under Standing Order A13.2(ii) which was circulated prior to the meeting.

The Chairwoman advised that question 1 would be taken in two parts as Councillor Thomas (D) was the decision-maker on the first part of question 1, question 9 would be directed to Councillor Thomas (D) as Executive Lead for Strategic Planning, Housing, Energy and Environmental Policy and question 10 would be also be directed to Councillor Thomas (D).

Verbal responses were provided at the meeting. Supplementary questions were then asked and answered in respect of questions 1 (part 2), 2, 3, 4, 7, 8, 9 10, 11, 12, 13, 15, 16 and the urgent question.

Chairwoman

Minute Item 34

Record of Decisions

Notice of Motion - Motor Neurone Disease Charter

Decision Taker

Mayor on Thursday, 17 July 2014

Decision

That the motion be supported.

Reason for the Decision

To respond to the motion.

Implementation

This decision will come into force and may be implemented on Wednesday, 30 July 2014 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

At the Council meeting held on 17 July 2014, members received a motion, as set out below, notice of which had been given in accordance with Standing Order A14 by Councillors Parrott and Amil.

That this Council adopts the Motor Neurone Disease (MND) charter and thereby supports achieving quality of life, dignity and respect for people with MND and their carers.

The Charter:

1. People with MND have the right to an early diagnosis and information.
2. People with MND have the right to access quality care and treatments.
3. People with MND have the right to be treated as individuals and with dignity and respect.
4. People with MND have the right to maximise their quality of life.
5. Carers of people with MND have the right to be valued, respected, listened to and well supported.

Alternative Options considered and rejected at the time of the decision

None

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

22 July 2014

Signed: _____
Mayor of Torbay

Date: 22 July 2014

Record of Decisions

Clennon Valley Sport and Leisure Regeneration Procurement

Decision Taker

Mayor on Thursday, 17 July 2014

Decision

That Moirai Capital Investment Ltd (MCI Ltd) as the preferred bidder for the sport and leisure improvements at Clennon Valley and Goodrington be rejected.

Reason for the Decision

To review the winning tender bid received from MCI Ltd. and to determine whether or not to grant them preferred bidder status.

The Council has a responsibility to the public of Torbay to ensure that in return for the granting of a 125 year lease that the best possible sports, leisure and tourism hub is created. The core outputs which MCI Ltd would be contractually obliged to provide are an insufficient return for this.

Implementation

This decision will come into force and may be implemented on Wednesday 30 July 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 the successful tender following a procurement exercise for options for Council assets at Clennon Valley and Goodrington.

The evaluation of the bids identified Moirai Capital Investments Ltd (MCI) as the winning tender and part of the Official Journal of the European Union (OJEU) procurement requirements is for the Mayor to determine whether or not to grant preferred bidder status.

The proposal from MCI includes three 125 year leases relating to three zones totalling 97.9 acres. The submitted report includes details of core outputs that will be achieved in each of the zones and optional outputs if commercially viable.

The Mayor considered the recommendations of the Council made on 17 July 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?

Yes – Reference Number: I016234

Does the call-in procedure apply?

Yes

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

None

Published

22 July 2014

Signed: _____
Mayor of Torbay

Date: 22 July 2014

Record of Decisions

Corporate Parents Annual Report

Decision Taker

Mayor on Thursday, 17 July 2014

Decision

That Members recognise Corporate Parents' Groups and their role as Corporate Parents, support the work of both the Officers and Members, attend recommended training, increase their efforts to attend events to support Looked after Children and specifically approve:-

- the pledge to Children in Care
- the action plan attached to the submitted report

Reason for the Decision

To ensure the Council meets its statutory duties under the Children Act 1989, the Children (Leaving Care) Act 2000, the Adoption and Children Act 2002, the Children Act 2004 and the Children and Young Persons Act 2008.

Implementation

This decision will come into force and may be implemented on Wednesday 30 July 2014 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

The Children Act 1989 and subsequent legislation introduced a requirement for elected members to be ultimately accountable for the quality of care provided to vulnerable children with specific responsibility to lead this work and monitor its effectiveness. This responsibility is known as 'Corporate Parenting' recognising that the role must be shared by all elected members, a range of Council departments and partner agencies.

The submitted report outlines how the role is undertaken at Torbay and proposes an action plan for 2014/15, together with a pledge from 'Corporate Parents' to children in care.

The Mayor considered the recommendations of the Council made on 17 July 2014 and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

None

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

22 July 2014

Signed: _____
Mayor of Torbay

Date: 22 July 2014

Record of Decisions

Covenant Protecting Babbacombe Downs Against Development

Decision Taker

Mayor on Thursday, 17 July 2014

Decision

That the Council considers entering into a deed covenanting with the residents of St Marychurch Ward as follows:-

'Torbay Council covenants with all inhabitants of the ward of St Marychurch that for a period of 100 years beginning on the date of this deed it will not on the land shown edged red on the plan attached erect or permit the erection of any permanent structure without any such proposal first obtaining the majority of votes in a referendum of the persons who at the day of the referendum would be entitled to vote as electors at an election of councillors for St Marychurch Ward and are registered as local government electors at an address within this Ward. For the purpose of this covenant 'permanent structure' shall mean any structure intended to remain on the land for a period greater than 3 months. This covenant shall not apply to the installation, construction or renewal (whether by statutory undertakers or otherwise) of any media for the supply or removal, electricity, gas, water, sewage, energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media/or to the installation of street furniture.'

Reason for the Decision

To respond to the application for a covenant on Babbacombe Downs received by representatives of the community. By entering into the deed of covenant with the residents of the St Marychurch ward, the Council will be unable to carry out substantial development of Babbacombe Downs without first obtaining the consent of the majority of those residents taking part in a referendum on the proposals.

Implementation

This decision will come into force and may be implemented on Wednesday 30 July 2014 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

An application has been received from representatives of the community to place a covenant on Babbacombe Downs. The covenant would require the Council to hold a referendum of residents of the ward if it wished to build a structure on any part of the land edged red on the plan (attached to the submitted report) over the next 100 years. The building would only take place if the referendum resulted in a majority voting in favour of the structure or structures. The covenant would not apply to new street furniture such as bins, benches and shelters.

The Mayor considered the recommendations of the Council made on 17 July 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

22 July 2014

Signed: _____
Mayor of Torbay

Date: 22 July 2014