

## **CABINET**

At a meeting held on Tuesday, 18 June 2019

Present:-

Councillor S Siddons (Chairman) in the Chair;  
Councillors Ms E Colling, Mrs J Jefferson and T Randerson

### **1. DECLARATIONS OF INTEREST**

No declarations of interest were received.

### **2. MINUTES**

Since these Cabinet minutes predated the local elections and change of administration, the Chairman referred them to the Chairman of that meeting for approval and signature.

### **3. PUBLIC QUESTION TIME**

The Chairman reported that no public questions had been received.

### **4. FORWARD PLAN**

The Cabinet considered the Forward Plan (Reference 19/135). With the permission of the Chairman, Councillor Donohue-Moncrieff addressed the meeting expressing her concern at the late publication of the Forward Plan the previous day and that the item on the agenda concerning public conveniences had not been given sufficient public notice. The Monitoring Officer, Mrs Dixon replied that the Forward Plan was a living document that was under review in accordance with the new administration's priorities, and similarly, the item on public conveniences had come forward in reflection of those priorities with the appropriate notice provided.

**RESOLVED** that the Forward Plan be approved.

### **5. PROGRESS OF SCRUTINY OF EXECUTIVE DECISIONS**

Members were advised that there had been no call-ins of executive decisions since the last meeting on 12 March.

### **6. HOUSEHOLD DUTY OF CARE ENFORCEMENT POWERS**

The Cabinet considered a report by the Director (LD) (Reference 19/090) in respect of new household duty of care enforcement powers. Members were advised that in light of a 40% increase in fly-tipping across England in the last five years, two-thirds of which involved household waste, the report introduced a new tool for the Council to tackle this problem which was both costly and damaging to the environment. A common scenario was a householder engaging the services of a contractor through a social media network to dispose of waste which was then illegally fly-tipped. However, the householder was under a legal responsibility to check that the contractor had obtained the authorisations to dispose of waste correctly. Both the fly-tipper, and the householder, should they not have undertaken the appropriate checks, were liable for prosecution by the Council but this was a long and drawn out process through the courts. With the introduction of the quicker

and more effective sanction of a fixed penalty notice, officers would also seek to raise awareness through an educational campaign of the public's responsibilities. Members welcomed the report stressing the importance of the educational initiative especially to help prevent householders disposing of waste illegally through a third party.

**RESOLVED** that the Cabinet recommend that the Council:

- a) Approve the use of fixed-penalty notices for duty of care offences committed by householders under s34 Environmental Protection Act 1990.
- b) Approve that the penalty for the offence be £200
- c) Delegate authority to the Directors:
  - (i) to issue fixed penalty notices for householder duty of care offences;
  - (ii) to authorise in writing any Officer of the Council to issue fixed penalty notices for householder duty of care offences

### **Reasons**

To ensure the Council can use available legislative tools to tackle the problem of the illegal fly-tipping of waste.

## **7. ANNUAL REPORT AND IMPROVEMENT PLAN 2019/20**

The Cabinet considered a report by the Director (LD) (Reference 19/136) in respect of the Council's Annual Report and Improvement Plan 2019/20. Introducing the report, the Portfolio Holder, Councillor Randerson commended the many positives therein, including the Skills Village in Eastfield and football stadium in Scarborough, but also noted with some concern the number of indicators that were in the wrong direction of travel or below target. He also welcomed the forthcoming National Armed Forces Day in Scarborough but would wish to ensure that the necessary sponsorship was obtained to help defray costs. Portfolio Holder, Councillor Colling asked in respect of sports provision in the Borough and the development of a new international competition standard athletics track in Scarborough whether there was demonstrable need for such a facility. The Director, Mr Bradley replied that this matter would be addressed through the public and other consultation as part of the planning process. The Chairman noted that he would be asking councillors to consider the items involving the Council's partners which were marked as red with a view to improving performance.

**RESOLVED** that the Cabinet:

- (i) Notes the significant achievements made over the last 12 months, including:
  - a. Opening of the Scarborough Sports Village, with attendances well above target
  - b. Delivery of major events, including the Tour de Yorkshire
  - c. Improvements to Scarborough Open Air Theatre, increasing capacity of the venue and attracting major acts
  - d. Approval for major retail developments in Whitby
  - e. Securing of funding and commencement of Flood prevention and Coastal protection works in all areas of the Borough.
- (ii) Recommends to Council that approval be given for publication of the Annual Report and Improvement Plan 2019/20

### **Reasons**

Current best practice and rules on Data Transparency require the Council to publish its performance information and to make the details available to the public and partners in as many formats as possible.

## **8. PUBLIC CONVENIENCES**

The Cabinet considered a report by the Director (NE) (Reference 19/134) in respect of public conveniences provision on Royal Albert Drive and the South Cliff. Members were reminded of the Council's current plan for the provision of public conveniences which had been subject to extensive public consultation and the initial delivery phase of which was approved in April 2017. The plan which was developed in the context of severe budgetary pressures and many existing public conveniences in a poor condition, set out a clear vision 'To adopt a sustainable approach to public convenience provision in the Borough of Scarborough that positively contributes to public health, well-being and the prosperity of the community.' Supporting this vision were a number of key aims:

- To facilitate the provision of public conveniences directly, through partnership and through devolution of responsibility to the wider public and private sectors.
- To ensure that all facilities are maintained to a high standard, accessible to all and effectively signposted and promoted.
- To ensure that public conveniences are delivered in a sustainable manner with due regard to affordability and the environment.

Hitherto, as a consequence of the plan, a new facility had been developed in Whitby, responsibility for running public toilets in Whitby had been devolved to the Town Council, and linked public toilet/harbour user facilities had been provided at Scarborough Harbour. However, as the Portfolio Holder, Councillor Jefferson had alluded to, there was considerable public demand to replace the facilities lost on Royal Albert Drive and the South Cliff, and the planned developments to provide these replacements were taking too long to come to fruition. The report before Members was therefore an interim measure to help meet this public demand in time for the summer season, whilst Phase 2 of the review was expected to come to the Cabinet later in the year. The cost of these proposals amounted to £51k, a significant proportion of which was to connect the Royal Albert Drive temporary facilities to the sewer. Councillor Colling raised concerns that savings of £58k were still to be realised through the Phase 2 review and that as a result, other facilities were at risk of closure. She noted too that market testing was last undertaken in 2013, and that councils employed a range of models to deliver these services. She therefore proposed that the Council return to the market to explore the options available. The Director, Mr Edwards reminded the meeting that the current plan was not about closing toilets, but about delivering a sustainable service to a high standard within the Council's resources. He acknowledged that this detailed work was still to be done in Filey, and there was more work to do in Scarborough, but he was happy to work with the new administration to investigate options to deliver the best outcomes for the Borough. With the permission of the Chairman, other councillors addressed the meeting. Councillor Heritage noted the popularity of the skate park on Marine Drive and the area as a place to walk for older people. The lack of facilities deterred these users. Councillor Coulson made the case for public conveniences in

rural areas, where in some cases the local parish council had assumed responsibility for running the facilities. Mr Edwards confirmed that the previous review had looked at this delivery model which had been adopted in some villages. Councillor Donohue-Moncreeff noted the challenge of providing public conveniences with reducing budgets, but felt that in some cases, the reviews could have been conducted more sensitively. She wondered how the reversal of the decision to close, and the exception made in respect of these two facilities in the report and the £51k cost of the proposals would play out in the rest of the Borough, when the plan for public conveniences was still being implemented, and how the proposals would be funded. In reply, Mr Edwards accepted that there were lessons to be learned from Phase 1 of the public conveniences review and that he would have hoped that the new facilities on Royal Albert Drive could have been delivered more quickly. However, these interim proposals represented a response to public demand, and the £51k could be afforded because savings from the plan had been realised more quickly than expected, with the caveat that the budgetary position would require review by the end of the year, and there was a risk that not all the £300k projected savings would be delivered. He would continue to engage with councillors, the public and other stakeholders through Phase 2 of the review. The Chairman ended by noting that the £51k sum included a contingency which may or may not be used, and the public consultation from 2017 highlighted issues around demand for public toilets in Scarborough that the Cabinet was now addressing through this report.

**RESOLVED** that the Cabinet:

- a) Approve the installation of a temporary public convenience on Royal Albert Drive for the 2019 summer tourist season (until the end of September 2019 subject to appropriate planning consent).
- b) Re-open and refurbish the Holbeck Clock public convenience.
- c) Approve £51k of one off costs to deliver the above noting the effect that it will have on the 2019/20 projected outturn position.
- d) Note, the potential for budgetary growth in the 20/21 Medium Term Financial Strategy should the full budgetary savings from public conveniences not be achieved.

### **Reasons**

To provide and reinstate public toilets on Royal Albert Drive and in South Cliff Gardens near Holbeck Clock.

## **9. RAINCLIFFE WOODS (FORGE VALLEY) - BOARDWALK PROJECT**

The Cabinet considered a report by the Director (NE) (Reference 19/132) in respect of the Boardwalk Project in Raincliffe Woods. Members were advised that the boardwalk along the River Derwent in Forge Valley was coming to the end of its natural life, and that this project represented an opportunity to replace the structure in its entirety whilst delivering access improvements and safeguarding the environment on this Site of Special Scientific Interest in the National Park. Raincliffe Woods Community Enterprise which managed the area had applied for a large grant from the RDPE Growth Programme to

facilitate the project but as a small organisation required some short term cashflow assistance from the Council between expenditure and receipt of the £800k grant funded at 100% with no match funding requirements. In response to concerns which had been raised through the consultation process about protection of the sensitive environment around the boardwalk, the Customers, Communities and Partnerships Manager, Ms Ireland explained that detailed pre-application work was taking place in respect of the permissions required from the Environment Agency to undertake the work, and also in respect of mitigation of the project's financial risks. With the permission of the Chairman, local Councillors Phillips and Coulson addressed the meeting. Councillor Phillips was critical of RWCE's lack of engagement concerning the project, and commented on the poor access to the site, the narrow road used as a rat run, the lack of a footpath, the projected traffic increases and the existing problems with rough sleeping and anti-social behaviour in the area. Councillor Coulson referred to the shortage of car parking and asked who was responsible for the boardwalk's maintenance. In response, Ms Ireland commented that highways issues would be addressed through the planning process. The proposals had also been revised following the public consultation to re-locate the new footpath further away from the road and not create laybys, and to erect signage which would advise dog-walkers about the environmental sensitivity of the site. Further, RWCE and other agencies were aware of anti-social behaviour in the woods, but she did not feel that this scheme would aggravate this problem. Additional car parking provision would be created as part of the scheme, and upon its successful completion, RWCE would be responsible for its maintenance.

**RESOLVED** that:

- a) The Council enter into an agreement with Raincliffe Woods Community Enterprise (RWCE) to provide a "cashflow facility" to support the delivery of the Forge Valley Boardwalk replacement project and associated works.
- b) That the Council enters into an agreement with North York Moors National Park (NYMNP) to share financial losses incurred as a result of:
  - ineligible expenditure or overspends on a 50/50 basis
  - overspends on a 50/50 basis, with a maximum liability for NYMNP of £10,000.

### **Reasons**

The Council are responsible for the maintenance of the Forge Valley Boardwalk. RWCE are currently applying for a large grant which will facilitate the replacement of the Forge Valley Boardwalk. However, as a small organisation with limited financial resources they are unable to fund in advance the scale of the works required. They, therefore, need some short term cash flow assistance to cover the period between expenditure and receipt of the grant from the RDPE Growth Programme.

## **10. PERFORMANCE MANAGEMENT FRAMEWORK - QUARTER FOUR REPORT 2018/19**

The Cabinet considered a report by the Director (LD) (Reference 19/137) in respect of the Council's performance for a rolling 12 month period to the year end of 2018/19. Introducing the report, Portfolio Holder, Councillor Randerson posed a series of questions and comments about the Critical

Success Factors: The Sands was progressing well but was this for the benefit of residents citing the delay in providing a cinema and the high admission costs for the new spa?; Middle Deepdale was part of Eastfield; why was the new office accommodation not going ahead? And what was to become of the Futurist site? – he requested an early report on this matter and the office accommodation. Councillor Jefferson referred to the delay in exploring opportunities to regenerate Whitby Upper Harbour and to develop a Strategic Business Plan because of the unresolved objection to the Whitby Harbour accounts. In relation to the latter comment, Mr Edwards explained that the primary objection to the harbour accounts concerned the ringfencing of car parking revenue. The Council was still awaiting the external auditor's determination of this matter which was the subject of regular updates to the Audit Committee. The Portfolio Holder, Councillor Colling commented that the new Cabinet intended to work with the Council's officers to address the areas of concern and poor performance in the report.

**RESOLVED** that the Cabinet note the contents of this report and in particular the good/satisfactory levels of performance being achieved by services at the current time in particular:

1. The continuing improvement in response times to complaints and Freedom of Information requests; and
2. The increase in compliments received by the Council in relation to the carrying out of its services.

### **Reasons**

To provide information relating to Council performance for a rolling 12 month period to the end of the fourth quarter/year end of 2018/19, including monitoring of Performance Indicators, Critical Success Factors and the Council's Significant Partnerships.

To ensure that the Council's Corporate Service and Business planning processes are effective.

In accordance with Government guidelines, details on the performance of the Council and its services must be made available through as many mechanisms as possible.

## **11. SUPPORTING MARINE AQUACULTURE - SEAGROWN LIMITED**

The Cabinet considered a report by the Director (RB) (Reference 19/131) in respect of the establishment of a seaweed farming and processing industry in the Borough. Members were advised that this project involved creating a brand new, innovative and sustainable marine aquaculture sector on the Yorkshire Coast. The global market for seaweed was estimated to be worth around \$12bn in 2015 and by 2024 it was predicted to have grown to in excess of \$87bn, achieving an annual global growth rate of 12% throughout the period. This would be the first project of this type and scale in the UK led by SeaGrown Limited, a new company, run by local entrepreneurs with a background in marine science and survey. In effect, SeaGrown aimed to spearhead the UK's entrance into the global seaweed market. SeaGrown had been successful in securing some £470k funding support from the Coastal

Communities Fund to set up an offshore farm, and as a small company, required the Council to manage the fund on their behalf. Members enthusiastically welcomed the report.

**RESOLVED** that the Cabinet:

1. Approve the acceptance of grant funding of circa £472,150 from the Coastal Communities Fund (CCF) on behalf of SeaGrown Limited for the establishment of a seaweed farming and processing industry within the Borough of Scarborough whereby SBC will act as accountable body for the funds and be subject to contract and terms and conditions of the grant; and
2. Delegate authority to the Director (RB) in consultation with the relevant Portfolio Holders to enter into an agreement with SeaGrown Limited governing payment of the grant and to offset any liabilities contained in the terms and conditions of the grant.

### **Reasons**

To enable SeaGrown Limited to receive funding from the CCF and meet the preference of the funding body the Ministry of Housing, Communities and Local Government (MHCLG) to have the Local Authority acting as accountable body for the funds.

### **GOVERNANCE REVIEW UPDATE**

Before closing the meeting, the Chairman advised that he and officers were in touch with the Local Government Association, the Centre for Public Scrutiny, and other councils about his proposals to reform the Council's governance structure to enable more councillors to participate in decision-making. To this end, a series of externally facilitated workshops would be arranged for all councillors in due course, with the aim of bringing recommendations to the full Council in the autumn.

**Chairman**