COUNCIL

Minutes of the proceedings of a Meeting of the Scarborough Borough Council held in
the
on Monday, 6th January, 2020 pursuant to Summons.

Present:-
The Mayor (Councillor Mrs Hazel E Lynskey) in the Chair;
Councillors A Abbott, J Atkinson, G A Backhouse, A Bailey, D J Bastiman,
E Broadbent, S Campbell, J Casey, D A Chance, W Chatt, M J Cockerill,
Ms E Colling, S Cross, Ms M Donohue-Moncrieff, G Goodberry, S B Green,
J Grieve, N Heritage, D C Jeffels, Mrs J Jefferson, P Kershaw, C D Maw, Ms J Maw,
R Maw, Mrs J E Mortimer, Mrs E Murphy, Ms T Norton, C Pearson, Mrs H Phillips,
T Randerson, P Riley, N Robinson, S Sharma, S Siddons, G W L Smith,
M Stonehouse, Ms R Swiers, P H Trumper, Ms S Tucker and Mrs M Watson

Apologies
Councillors G Coulson, W Forbes, Mrs H F Mallory, Miss R K Murphy and
P G Popple

1. DECLARATIONS OF INTERESTS.
No declarations of interest were received.

2. APOLOGIES FOR ABSENCE.
See above.

3. MINUTES OF THE MEETING OF THE COUNCIL HELD ON 4 NOVEMBER 2019 TO BE READ OR TAKEN AS READ AS THE CASE MAY BE.
RESOLVED that the minutes of the meeting held on 4 November 2019 be taken as read and signed by the Chairman as a correct record.

4. PUBLIC QUESTION TIME
The Chief Executive reported that no public questions had been received.
The Portfolio Holder for Legal, Democratic and Governance, Councillor Randerson welcomed this new standing item on the Council agenda.

5. TO CONSIDER ANY ANNOUNCEMENTS BY THE CHIEF EXECUTIVE
There were no announcements.

6. TO CONSIDER AND PASS RESOLUTIONS ON THE FOLLOWING 'A' ITEMS:-

(i) Whitby Business Park Area Action Plan - Five Year Review (19/167)
The recommendations in the extract minute from the Cabinet were proposed by Councillor Siddons and duly seconded.
RESOLVED that the Council agree that the Whitby Business Park Area Action Plan (WBPAAP) continues to be fit for purpose and does not need to be formally reviewed at this time. The need to review the Plan will be considered within five years of the date of this decision (November 2024).

Reasons
Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) requires that Local Authorities review their local plans at least every 5 years from adoption to ensure policies remain relevant and effective. The WBPAAP was adopted in November 2014 and it is therefore necessary to review whether an update or changes are required to the document.

The Plan is considered to remain valid and fit for purpose in respect of considering planning applications on both the developed part of the Business Park and the areas allocated for further expansion.

Following careful consideration of the plan it is not considered necessary or appropriate to make any changes to the document at this stage.

(ii) Tennis Strategy (19/230)
The recommendations in the extract minute from the Cabinet were proposed by Councillor Siddons and duly seconded.
RESOLVED that the Council adopt the Scarborough Borough Tennis Strategy (October 2019) as part of the Council’s Policy Framework.

Reasons
The new policy provides an evidence base and strategic framework against which current and future tennis provision can be supported and developed.

(iii) Interim Polling District and Polling Place Review (19/247)
The recommendations in the extract minute from the Cabinet were proposed by Councillor Siddons and duly seconded.
RESOLVED that the Council approves the proposed changes to polling places as set out in Appendix 1 of the report.

Reasons
- To move away from the use of schools where possible to minimise disruption to both schools and the wider community.
- To allocate Eastside Community Centre as the permanent polling place for the Abbey no.2 (FB) polling district since the use of the previously used Salvation Army building became unavailable.
- To comply with Section 18C of the Representation of the People Act 1983 which requires all Authorities to review polling districts and polling places ensuring all electors have suitable polling places.

7. ANY REPORTS GOING DIRECT TO COUNCIL
(i) **Changes to the membership of committees**
This item was deferred because of a further change to the political composition of the Council, namely Councillor Cross’s resignation from the Independent Group, announced that day, which would have implications for the membership of committees.

8. **TO RECEIVE A STATEMENT BY THE LEADER AND DEAL WITH ANY QUESTIONS ARISING FROM THAT STATEMENT.**
Councillor Siddons presented his Leader’s statement also commenting on the Building a Better Borough programme launched at the Cabinet meeting in December. This was an inclusive work programme which would engage residents, businesses and partners in shaping the future of the Council and of the Borough. Councillors would be at the heart of this process as community leaders working together to develop a new Corporate Plan and Vision for the Borough. The starting point was a widespread public engagement programme using residents’ surveys as well as creative channels such as the web and face-to-face meetings. He urged all elected Members to take part in the workshops planned for February. Whilst the new Corporate Plan was under development, Councillor Siddons had also announced a series of short-term actions to improve the wellbeing of the Borough.

Members then put questions to the Leader about the future of the Newburn House accommodation and outreach service for chaotic homeless individuals, Council engagement with local schools and sixth form colleges, and the future provision of affordable homes in the Esk Valley and the mix of affordable and social housing in the Council’s policy. In reply, Councillor Siddons noted that it was unfortunate that there was no longer a provider to run Newburn House but the Council would do everything in its power to ensure that the service’s clients continued to be supported. The Portfolio Holder for Economy, Communities and Commercial, Councillor Colling, noted that the Council had engaged with students of 16 and over through Local Democracy Week, and this would continue; further, a forum would be established in the next weeks to enable the Council to engage with members of this age group who were not in education. Councillor Siddons added that the Council’s Local Plan and planning policy would ensure there was a spread of affordable housing across the Borough, including in rural areas, and that those who needed affordable housing would have equal opportunity to access good quality affordable homes either to rent or to buy according to their circumstances. Members also asked when the Independent Remuneration Panel report would be published, requested a financial update on the Whitby Piers Project, and an update on the Whitby Church Street Flood Defence Scheme. In respect of the IRP report, this had been put on hold pending the outcome of the ongoing governance review; however, he looked forward to the resolution of this soon. Councillor Siddons undertook to provide written replies to the other two questions.

9. **TO RECEIVE STATEMENTS FROM EACH OF THE CABINET MEMBERS AND DEAL WITH ANY QUESTIONS ARISING FROM THOSE STATEMENTS.**
Councillor Colling presented her statement as Portfolio Holder for Economy, Communities and Commercial. Members then put questions to Councillor Colling. Asked to comment on the valuable opportunities presented to the Borough by the recently announced new Government funding streams and the need for cross-party working to make the most of these opportunities, Councillor Colling advised that the Towns Fund was an admission that for years there had been underinvestment in local communities and that many areas of the country had been left behind. She added that Scarborough Borough Council, in common with many local authorities, had seen its Government funding reduced over the last ten years by a staggering 65% or £35m. This had impacted on the Council’s ability to deliver much-needed growth, and if successful (for the Council was bidding against 98 other towns) the Towns Fund application would go some way to help address this shortfall.

Further, Councillor Colling regarded this as an opportunity for the Borough, and for every elected Member to come together for the benefit of residents and local communities to put aside political differences to work collaboratively to build a better Borough. The Towns Fund could generate up to £25m each for the towns of Whitby and Scarborough, in addition to the Future High Street Fund and Heritage Action Zone funding which could see a combined £12m of investment. She also referred to the Council’s strong track record of cross-party working evidenced by the Cinder Track, Town Centre Strategy and Climate Change scrutiny reviews, and the working group to review the Local Plan. A briefing would be arranged shortly for councillors by the Council’s town centre consultants, AECOM. In reply to the questioner, Councillor Jeffels’ comments on the significance of the Futurist site and the importance of the Council’s relationship with the Local Enterprise Partnership, the business community, Government and local MPs, Councillor Colling confirmed that the Futurist site was a priority for both tourists and residents which merited a quality development that would enhance the town for all. She added that relationships with the LEP and the business community were excellent, led by the Leader, the Chief Executive and key officers. Together with other local council leaders Councillor Siddons was lobbying hard to make sure that Government truly understood the Borough’s potential, and the need for investment particularly in the local transport infrastructure. In fact, Councillor Siddons had recently written to both local returning MPs on these matters. In respect of communications, another issue raised, both the Leader and Councillor Colling had confirmed the previous week that the Council would engage additional communications resource very soon for the benefit of all within the organisation.

In reply to a question about the independent investigation into the DBID ballot, Councillor Colling advised that the Council had commissioned the Association of Electoral Administrators (AEA) to undertake an independent and impartial investigation of the Council’s role in carrying out the ballot for the Yorkshire Coast Business Improvement District (BID) in 2018. Mr Peter Stanyon, Chief Executive of the AEA, was undertaking the investigation and had already been provided with detailed background information by the Council, the Yorkshire Coast BID Company and representatives of BID levy payers. However, in the interests of transparency and completeness he would also be seeking written comments from parties affected by the DBID. These comments should be limited to the scope of the enquiry, that is, the role of the Council in carrying out the ballot.
Details of how to submit comments would be made available shortly. Councillor Colling reminded the Chamber that this was comprehensive, detailed and fully independent report which originally had been scheduled to be presented to the Audit Committee on 30 January, but was now subject to slight delay. She could not answer questions about the cost of the investigation since it had not yet concluded.

With reference to several ongoing issues in Reighton and Flixton, and an issue Councillor Donohue-Moncrieff had raised about a business operating from a residential property, Councillor Donohue-Moncrieff reported local concerns about a perceived lack of planning enforcement by Scarborough Borough Council in her ward. She asked what reassurances the Portfolio Holder could give to residents in Hunmanby ward that the Council would act on legitimate concerns regarding planning enforcement. Councillor Trumper queried in respect of Whitby Town FC and Scarborough Athletic FC which played in the same football league, why the former club paid business rates and the latter did not. Councillor Colling undertook to provide a written reply to both questions.

Councillor Jefferson presented her statement as Portfolio Holder for Finance and Operations, providing an update on budget preparations for 2020/21. Members were advised that the Council’s provisional finance settlement announced by the Government on 20 December was broadly in line with expectations. A draft budget report would be submitted to the Cabinet on 14 January to go out to consultation, and Member Briefings were scheduled for 20 and 21 January which she urged all councillors to attend. Asked why councillors had not been involved earlier in the process, Councillor Jefferson and the Leader explained that the General Election and other matters affecting the Government had delayed the financial settlement which would usually be finalised before Christmas. The Member Briefings had been scheduled at the earliest opportunity in light of these delays, and afforded a valuable opportunity for Members to feed into the preparation of the budget. Asked if the Borough given its rich historical and cultural associations would be put forward for the Cultural Town Competition, both Councillor Jefferson and the appropriate Portfolio Holder, Councillor Colling responded in the affirmative, building on the work already underway to develop a calendar of festivals. Asked if through the Home Improvement Agency, the Council would consider the installation of air source heat pumps in rural properties too, Councillor Jefferson confirmed that she had discussed this matter at the recent Scarborough and Ryedale Joint Home Improvement Agency Committee and would pursue it further.

Councillor Randerson presented his statement as Portfolio Holder for Legal, Democratic and Governance. Members then put questions to Councillor Randerson. In respect of the Labour Party rally which took place in Whitby West Cliff car park during the recent General Election campaign, Councillor Chance asked who had given consent for the use of this Council car park, which according to pre-election rules, may only be charged at a commercial rate. He added that local residents had complained to him about the loud music played at the rally through the PA system. He asked further how much
was charged, was a licence or consent given, and if not, what action would the Council take regarding this breach of purdah. In reply, Councillor Randerson advised that proper authorisation was given for the use of the car park, he did not have any further details, but would advise Councillor Chance of the charge. Both Councillors Chatt and Donohue-Moncrieff requested a review of the Council’s Unreasonably Persistent Complainants and Unacceptable Behaviour Policy, in particular in relation to giving certain barred individuals a reprieve, and to give councillors the discretion either to opt in or out of communication with barred individuals. Councillor Randerson undertook to raise these issues with officers as part of the current review of the policy. Councillor Smith asked amidst concerns about recent vandalism in the Borough, particularly in the Northstead ward, and in respect of the proposed new community building in Peasholm Park, what provision was being made for CCTV coverage in Peasholm Park to protect the new community building and other assets. Councillor Randerson undertook to provide a written reply. Councillor Phillips requested that more information was made available on the website to make it easier to report and make safe lost dogs, in light of an incident at the weekend, when a member of the public had to report a lost dog at risk of being run over through a member of the Council’s CCTV team on the Council’s out of hours phone number. Councillor Trumper asked the Portfolio Holder to consider the idea of holding an event/s to mark the 75th anniversary of VE Day in May 2020. Councillor Randerson undertook to look into both these matters and report back.

10. TO RECEIVE A STATEMENT FROM THE CHAIR OF THE OVERVIEW AND SCRUTINY BOARD AND DEAL WITH ANY QUESTIONS ARISING FROM THAT STATEMENT
In the absence of the Chair, the Vice-Chair, Councillor Donohue-Moncrieff presented Councillor Coulson’s statement. In reply to Members’ questions, Councillor Donohue-Moncrieff confirmed that a comprehensive new Public Conveniences Strategy was scheduled to come to the next meeting of the O&S Board. In respect of the new Climate Change Task Group, the Chair, Councillor Trumper confirmed that there would be extensive consultation with local organisations and the general public through the evidence-gathering process. Asked why there was only one councillor from the Scarborough urban area on the Task Group and why both Green party councillors were not on the Group, Councillor Donohue-Moncrieff explained that she and the Chair had carefully selected the members of the Review Group to represent the different political groups (including the Green party) but also to reflect the large rural area of the Borough, to take advantage of councillors’ expertise and interests, and to ensure there was a plurality of views represented.

11. TO RECEIVE MINUTES OF THE COUNCIL’S EXECUTIVE AND COMMITTEES PUBLISHED SINCE COUNCIL LAST MET AND APPENDED HERETO.
RESOLVED that the minutes of the meetings be received.
Chairman
COUNCIL – 6 JANUARY 2020

QUESTIONS AND REQUESTS TO THE LEADER AND CABINET MEMBERS WITH THE REPLIES AND UPDATES PROVIDED AFTER THE MEETING

The Leader, Cllr Steve Siddons

1. A financial update on the Whitby Piers project was requested (Cllr Trumper)

   The Council has a budget of £9m and to date has spent £7.32m.

   The Council and its supplier are currently agreeing and finalising the final accounts and also the grant funding income, and final information will be available once this process is concluded.

2. An update on the Whitby Church Street Flood Defence Scheme was requested (Cllr Goodberry)

   Works have recommenced on site after the Christmas break. The temporary lighting remains in-situ with power having been restored to the pontoon on 19 December. Works intended for this month include:

   • Complete remainder of cut off trench works
   • Commence casting base slabs south of pontoon
   • Precast wall units will start being installed towards the end of January
   • Non-return valves will start being installed at the beginning of February

   Works are anticipated to be completed by end of April / early May.

Cabinet Member for Economy, Communities & Commercial, Cllr Liz Colling

1. With reference to several ongoing issues in Reighton and Flixton, and an issue Cllr Donohue-Moncrieff raised about a business operating from a residential property, Cllr Donohue-Moncrieff reported local concerns about a perceived lack of planning enforcement by Scarborough Borough Council in her ward. What reassurances can the Portfolio Holder give to residents in Hunmanby ward that the Council will act on legitimate concerns regarding planning enforcement? (Cllr Donohue-Moncrieff)

   Whilst it is not possible to divulge details about the specific case raised, planning officers did undertake a detailed investigation though did not find any evidence of a breach of planning in this particular instance.
In terms of the approach towards enforcement generally, as you would expect the Planning Service conducts its investigations in accordance with national guidance and our own Enforcement Strategy which was adopted by this Council in 2014, and which is due for review this year. As a Council, we do not condone any individual or party who undertakes development without the correct permissions.

However, we must be mindful that where development takes place without the benefit of planning permission, this is not in and of its own right enough to justify formal enforcement action. For example, paragraph 011 of the National Planning Policy Framework which states that:

‘Enforcement action should be proportionate to the breach of planning control to which it relates and taken when it is expedient to do so. Where the balance of public interest lies will vary from case to case.

In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:

•there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;

•development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development

•in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.’

In their investigations, planning officers must assess whether a breach of planning control is taking place (and this in and of its own right is not always straightforward), and where a breach found, determine whether substantive harm is being caused such as to warrant formal intervention. I fully appreciate the frustration that this can cause, to councillors and members of the public, as investigations and negotiations can take some time, and even where formal notices are issued they do not necessarily have an immediate effect. And I do appreciate the concern that people can be seen to be evading the necessary planning application process, often inadvertently, sometimes deliberately.

2. Whitby Town FC and Scarborough Athletic FC play in the same football league. Please can you explain why Whitby Town FC pays business rates and Scarborough Athletic FC does not. (Cllr Trumper)
Whitby Town Football Club is assessed separately as a football ground and premises and receives small business rate relief as well as 50% discretionary rate relief. 80% rate relief can be offered to Community Amateur Sports Clubs (CASCs), however the Club is not registered as a CASC therefore is not currently eligible for this relief.

The facilities rented by Scarborough Football Club have been assessed by the Valuation Office as part of the whole assessment for Scarborough Leisure Village. As such the liable party for the whole premises is Everyone Active so Scarborough Football Club do not receive a separate Business Rate account for the ground.

Cabinet Member for Legal, Democratic & Governance, Cllr Tony Randerson

1. Please can you review the Council’s Unreasonably Persistent Complainants and Unacceptable Behaviour Policy, in particular to consider giving certain barred individuals on the list a reprieve, and to give councillors the discretion either to opt in or out of communication with barred individuals. (Cllr Chatt and Cllr Donohue-Moncrieff)

In accordance with the policy adopted by full Council, every person directed to a single point of contact due to their unreasonable or persistent behaviour has this decision reviewed on a six monthly basis by EMT. Those subject to this restriction are also informed of their right of appeal to the Ombudsman. Having undertaken further research into this policy and its operation myself, as well as reviewing the policies and processes adopted by other Councils, I am satisfied that this Council’s actions are proportionate and reasonable and that there is already sufficient means in place, as agreed by full Council, to review each individual case. With regard to the discretion to opt in or out, as I stated before, this policy has been agreed by full Council and officers inform me that, not only would this prove technically difficult, it would also potentially put the Council in a position where it is in breach of its duty of care to staff.

2. Amidst concerns about recent vandalism in the Borough, in particular in the Northstead ward, and in respect of the proposed new community building in Peasholm Park, what provision is being made for CCTV coverage in Peasholm Park to protect the new community building and other assets? (Cllr Smith)

There is currently a review of CCTV coverage in Scarborough town including locations in Peasholm Park. Members will be kept fully informed of progress.

3. On the weekend of 4/5 January, a member of the public tried to report a lost dog at risk of being run over in Stepney ward, and was helped eventually on the out of hours phone number by a member of the Council’s CCTV team.
Please can you ensure that more information is made available on the website to make it easier to report and make safe lost dogs. (Cllr Phillips)

Thank you for your suggestion. A fuller statement of how to deal with stray dogs has now been added to the Council’s website thus:

The Council’s dog wardens’ primary function is to apprehend and deal with matters relating to stray, lost and found dogs.

Stray dogs which are seized or collected are held for a minimum of seven days during which time the dog may be reclaimed by the owner on payment of a release fee plus kenneling fees and any veterinary fees. Please remember most lost dogs can be reunited with the owner if they have an up to date collar and tag and microchip, without the involvement of the dog warden. Having a collar/tag and up to date microchip for your dog is a legal requirement for all owners.

After this seven day period if the dog is unclaimed then we always endeavour to rehome the dog, unfortunately in a small number of circumstances if rehoming is not suitable due to serious/terminal illness or if the dog exhibits aggression then we regrettably have to euthanise and cremate the dog. In practice, very few dogs are destroyed although in some circumstances the animal’s health or temperament may be such that it not considered suitable for re-homing.

For dealing with stray dogs the normal operating hours for the dog warden are;

Monday to Friday 9am - 5pm excluding Bank Holidays

If you are able, Cliff Top Kennels are open to receive stray dogs between 8:00am and 21:00 seven days per week. Please note you can only collect your dog from Cliff Top Kennels between 9:00am and 17:00 Monday to Saturday and upon payment of the fees incurred by the Council. The address for the Councils’ contracted kennels is – Cliff Top Kennels, Rocks Lane, Burniston, Scarborough YO13 0HX

If you have found a dog outside of these hours, and it is safe to do so, please keep the dog until the kennels reopen or the dog warden is next on duty.

4. Are there any events planned by the Council to mark the 75th anniversary of VE Day? If not, please can the Portfolio Holder look into this idea. (Cllr Trumper)

The Council is not planning any events itself to mark the 75th anniversary of VE Day, since resources are focused on preparations for the Armed Forces Day National Event in June. However, the Council will provide as much support as possible (but not financial) to community events.