

CABINET

At a meeting held on Tuesday, 13 December 2016

Present:-

Councillor D J Bastiman (Chairman) in the Chair;
Councillors W Chatt, M J Cockerill, A Jenkinson, Mrs H F Mallory, J Plant and
Mrs S Turner

1. DECLARATIONS OF INTEREST

Councillor Cockerill declared a personal and non-prejudicial interest in agenda item 10, Filey Flood Alleviation Scheme in his capacity as Chairman of the Filey Flood Working Group.

2. MINUTES

RESOLVED that the minutes of the meeting held on 15 November 2016 be approved as a correct record and signed by the Chairman.

3. PUBLIC QUESTION TIME

The Chairman reported that no public questions had been received.

4. FORWARD PLAN

The Cabinet considered the Forward Plan (Reference 16/295). Two amendments to the Forward Plan were noted: that Item 14 Street Trading Policy should come under the Public Health and Housing portfolio, and the addition of an item under the Project Leadership portfolio on Coast Protection in March 2017 which would provide a Borough wide update and reaffirm the Council's commitment to one of its key priorities to strengthen and maintain the Whitby Piers. In this connection, the Portfolio Holder, Councillor Cockerill reported that contractor, Balfour Beatty would be meeting with officers and himself later that day to commence the first stages of the project. Councillor Cockerill also confirmed that efforts would continue to identify funding to make up the shortfall for this project. In respect of his portfolio, the Cabinet Member for Tourism and Culture, Councillor Jenkinson reported that ticket sales for the Open Air Theatre surpassed 50,000 this year, and with some acts announced for 2017, sales had already exceeded 15,000.

RESOLVED that, subject to the above amendments, 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 15 November.

6. LOCAL SUPPORT FOR COUNCIL TAX (LSCT) SCHEME 2017/18

The Cabinet considered a report by the Director (LD) (Reference 16/279) which proposed several minor amendments to the current year's LSCT Scheme in order to mirror changes to other benefit regulations whilst introducing an Exceptional Hardship scheme. The Benefits Manager

confirmed that none of the partner agencies listed in paragraph 4.1 had commented on the proposed changes.

RESOLVED that the Council be recommended to:

- i Approve the LSCT local scheme for 2017/18 in accordance with Schedule 1A Section 13A of the Local Government Finance Act 1992 (Council Tax Reduction Schemes) with amendments to the current scheme detailed below.
 - Restrict the period of temporary absence from Great Britain allowed for payment of LSCT to continue from 13 to 4 weeks
 - Remove the Severe Disability Premium (SDP) for people who have a carer who is receiving Universal Credit (Carers Element)
 - Limit the number of Dependants additions to 2 for all dependants born after April 2017.
 - Remove the work component for all new claims for Employment and Support Allowance.
- ii Introduce an Exceptional Hardship scheme for people having difficulty paying their Council Tax. This would not be a cash payment, but an additional credit to the Council Tax account to help manage a debt.

Reasons

The Council approved and implemented a one year LSCT scheme for 2016/17 and has to agree and set a scheme for providing support for Council Tax in 2017/18 by 31 January 2017. This means that approval will be sought from full Council on 9 January 2017.

The decision will form part of the overall budget-setting process and in designing a scheme due regard has been given to achieving a balanced budget whilst trying to achieve a fair and equitable scheme for the overall benefit of the Borough, it's residents and effects on the local economy.

A report to Overview and Scrutiny Board on 26 October 2016 recommended the changes outlined above.

7. REVIEW OF THE COUNCIL'S TAXI AND PRIVATE HIRE POLICY (POST CONSULTATION)

The Cabinet considered a report by the Director (LD) (Reference 16/261) which proposed an amended draft Taxi and Private Hire Licensing Policy for adoption. In introducing the report, the Portfolio Holder, Councillor Chatt commented that the draft policy had enjoyed the unanimous support of the Licensing Committee. He explained that the amendment in the policy to establish a single MOT testing centre in the Borough for all licensed hackney carriage and private hire vehicles was to promote consistency in vehicle quality in the interests of public safety. This followed checks carried out earlier in the year in conjunction with the Police which revealed a number of licensed vehicles that were not roadworthy despite having passed their MOTs. Cabinet Members questioned officers about the report. Councillor Plant highlighted Government guidance which noted that licensing authorities with

only one MOT testing station opened themselves to criticism in geographically extensive areas, whilst there may be advantages in authorities contracting out MOT and compliance testing work to different garages by benefiting from competition in costs. With regard to garages which were suspected of awarding MOT certificates for vehicles which were not roadworthy, the Environment and Regulation Manager, Mr Bramley understood that the Police were investigating these establishments. Councillor Chatt clarified that the proposed MOT testing station would be open to the wider public and would carry out MOT tests and licensing compliance checks, not repair work, so drivers would still need to use other garages. It was also confirmed that the new policy would be subject to an evaluation after a year. If problems did arise from a single MOT testing station, then contingency plans would be put in place to address this. Some Cabinet Members could not support the proposal to increase the minimum acceptable tyre tread depth from the statutory limit of 1.6mm to 2mm, arguing that the statutory limit had been introduced for a reason and was sufficient.

RESOLVED that the Cabinet recommends that the Council:

- i) note the analysis of the results of the consultation on the Taxi and Private Hire Policy (attached at **Appendix 1**);
- ii) consider the consultation comments and amendments made to the draft Policy as a result (attached at **Appendix 2**);
- iii) note the results of the Equality Impact Assessment (attached at **Appendix 3**);
- iv) approve the amended draft Taxi and Private Hire Licensing Policy (attached at **Appendix 4**) post consultation; and
- v) consider the draft Taxi and Private Hire Licensing Policy for adoption.

Reasons

The current Policy was adopted in 2013. It is a requirement that Councils regularly review and update policies to reflect changes in legislation, local circumstances and relevant safeguarding issues. A comprehensive review of the Policy has now taken place resulting in a number of key changes and amendments following consultation.

8. REVIEW OF POLLING DISTRICT AND POLLING PLACE - PROPOSED NEW VENUE FOR POLLING DISTRICT VA

The Cabinet considered a report by the Chief Executive (Reference 16/276) in respect of the designation of a new polling place in Whitby.

RESOLVED that the Council is recommended to approve the designation of Whitby Mission and Seafarers' Centre, Hagersgate House, Hagersgate, Whitby, YO21 3PP as a new polling place for polling district VA to replace the Whitby Tourist Information and Visitor Centre, Langborne Road, Whitby, YO21 1YN.

Reasons

To comply with the requirements of the Representation of the People Act 1983.

To ensure a suitable polling place is arranged for electors resident in the VA Ward following the closure of the Whitby Tourist Information and Visitor Centre.

9. APPOINTMENT OF EXTERNAL AUDITORS

The Cabinet considered a report by the Chief Executive (Reference 16/286) in respect of a proposed new sector-led body approach for the appointment of External Auditors.

RESOLVED that the Cabinet recommends that Full Council opts in to the 'appointing person arrangements' made by Public Sector Audit Appointments (PSAA) for the future appointment of the Council's external auditors.

Reasons

The sector wide procurement conducted by PSAA will be truly independent and less resource intensive than establishing an auditor panel and conducting our own procurement process for the appointment of External Auditors.

Regulation 19 of the Local Audit (Appointing Person) Regulations 2015 requires that a decision to opt in must be made by Full Council (authority meeting as a whole). To comply with this regulation Cabinet is asked to make recommendations to Council.

10. FILEY FLOOD ALLEVIATION SCHEME

The Cabinet considered a report by the Chief Executive (Reference 16/229) in respect of a new Flood Alleviation Scheme for Filey. At the invitation of the Chairman, Councillor Vesey asked if some tree planting or similar measures could be considered to offset the carbon generated in the development of the scheme, whilst providing a means of holding water and absorbing CO2. The Portfolio Holder, Councillor Cockerill confirmed that some soft landscaping, probably shrub planting was being considered as part of the scheme.

RESOLVED that the Council is recommended to:

1. Approve the construction of the Filey Flood Alleviation Scheme.
2. Accept £2,269,000 Environment Agency grant funding for the Filey Flood Alleviation Scheme.
3. Accept £1,710,000 Local Levy funding for the Filey Flood Alleviation Scheme.
4. Accept £20,000 Filey Town Council funding towards the Filey Flood Alleviation Scheme.
5. Approve the allocation of £369,000 towards underwriting the risk of the scheme to be funded from the £3m ring-fenced budget for coast protection as approved by Council at its meeting on 26 February 2016 (report ref 16/49 refers).
6. Note that the works are to be constructed on land currently owned by third parties, and delegate authority to the Director (NE) in consultation with the Portfolio holder for Finance, Procurement and Legal and the

Portfolio Holder for Project Leadership, Harbours, Coast and Flood Protection to conclude all land transactions to enable the works to proceed.

Approve the recommendation of Balfour Beatty as the contractor for the Filey Flood Alleviation works, who have been selected through a competitive tendering exercise via the YorCivils Framework, and subject to the completion of all land transactions in recommendation (6) delegate authority to the Director (NE) in consultation with the Portfolio Holder for Finance Procurement and Legal and Portfolio Holder for Project Leadership, Harbours, Coast and Flood Protection to enter into contract with the recommended contractor.

7. Agree to become responsible for the maintenance of the scheme once completed, to be funded from the existing Land Drainage budget.

Reasons

To reduce the risk flood risk from surface water for the community of Filey.

11. NORTH WHARF STRENGTHENING WORKS, SCARBOROUGH HARBOUR

The Cabinet considered a report by the Director (NE) (Reference 16/289) in respect of strengthening works to part of the North Wharf, Scarborough. In introducing the report, the Portfolio Holder, Councillor Cockerill explained that following a load assessment of the North Wharf, a weight restriction of 3.5 tonnes had been imposed on the area used for loading. This had compromised some harbour operations. He proposed that a further recommendation be added to use Scarborough Harbour Reserves to make up any shortfall in external funding received. In reply to councillors' questions, Councillor Cockerill commented that these reserves were one of several harbour reserves. He added that the ideal solution would be to strengthen all of the North Wharf structure, but the prohibitive costs involved meant prioritising the main loading area. In the event of a fire on a vessel in the harbour, he understood the weight restrictions on the wharf would not prevent the fire service accessing the fire.

RESOLVED that the Cabinet approve the implementation of strengthening works to a section of the North Wharf; and consequently to

1. Provide authorisation to the Director (NE) after consultation with the Portfolio Holder for Project Management, Harbours, Coast and Flood Protection to enter into contract with a Contractor to carry out the works, selected from the Council's approved list offering the most economically advantageous competitive tender.
2. Provide authorisation for officers to seek and accept external funding contributions from the Marine Management Organisation following the tender exercise, and that if this funding bid is successful, that a budget to make up any shortfall is funded from Scarborough Harbour Reserves, negating the requirement to bring a further report to the Cabinet.

3. On the basis that the funding bid is unsuccessful, establish a £140,000 budget for the project, to be funded from Scarborough Harbour Reserves.

Reasons

To safely allow vehicular traffic exceeding the current 3.5 tonne limitation onto a section of the wharf.

12. ROYAL ALBERT DRIVE, SCARBOROUGH - DISPOSAL OF 99 YEAR LEASE

The Cabinet considered a report by the Director (NE) (Reference 16/269) in respect of disposal of premises at Royal Albert Drive, Scarborough. It was noted that the newspaper referred to in paragraph 3.5 should read 'Scarborough News'.

RESOLVED that the Cabinet approve in principle:

- (i) the disposal of the long leasehold interest for a term of up to 99 years of premises that form the existing Café, retail units, public conveniences and adjacent public open space at Royal Albert Drive, Scarborough, as edged red in Appendix 1;
- (ii) a tender evaluation criteria based on:
 - a) Pass/Fail criteria;
 - b) Price (60%);
 - c) Quality (40%).
- (iii) a marketing budget of £5,000 to be funded from the Capital Development Reserve.

Reasons

- To achieve a capital receipt from the disposal and reduce the Council's maintenance liability.
- To provide a regeneration opportunity for this prime sea view site and enhance the economic wellbeing of the Borough.
- To widely and effectively market this exciting opportunity.

13. STREET TRADING - CONSULTATION ON NEW POLICY AND FEES, AND RESOLUTION TO DESIGNATE STREETS AS CONSENT STREETS UNDER SCHEDULE 4 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

The Cabinet considered a report by the Director (LD) (Reference 16/294) in respect of a new Street Trading Policy and comprehensive re-designation of streets in the Borough to allow for more straightforward regulation and enforcement of street trading. Members were advised that over a number of years the Council had received complaints about unauthorised street trading activity such as itinerant ice cream vans. The new Policy before the Cabinet set out a transparent, objective and easily accessible framework, within which

robust decisions could be made to authorise or refuse applications to trade on the street, and effective enforcement action could be taken in the event of unauthorised trading being encountered. The Cabinet then discussed and asked questions about the report. Members suggested dialogue between the County Council Trading Standards and the Licensing Team to monitor the quality of goods being sold on the streets. In respect of the status of car parks, these were not covered under the street trading legislation; however, the Council did have powers as a landowner to take legal action against unauthorised trading in these areas. Members were informed about the proposed single point of contact for the public, the newly restructured Environmental Health service to provide more resilience, and the graduated approach which would be taken to enforcement action, but were concerned that it was not clear from the report nor officers' responses that sufficient resources would be dedicated to weekend enforcement. Members preferred that this issue, and more broadly, the enforcement strategy which supported the new Policy, be clarified before the Policy was put out to public consultation. The Chairman therefore proposed that the relevant Portfolio Holders, Councillors Chatt, Mallory and Plant meet with the Director, Mrs Dixon and the Environment and Regulation Manager, Mr Bramley, to resolve this matter before the commencement of the consultation exercise.

RESOLVED that:

- i. notice be given of the Council's intention to pass a resolution, in the form attached at Appendix 1, to designate all streets in the Borough as consent streets;
- ii. the Portfolio Holders for Finance, Procurement and Legal, Public Health and Housing, and Strategic Planning and Transformation meet with the Director, Mrs Dixon and the Environment and Regulation Manager before 21 December to clarify the enforcement strategy underpinning the new draft Street Trading Policy;
- iii. that the draft Street Trading Policy attached at Appendix 2 be consulted upon during the period 21 December 2016 to 15 February 2017 inclusive, and that following consultation, the Policy, (together with consultation comments), be brought back to Cabinet for recommendation to full Council for formal adoption; and
- iv. the action plan outlined at para 7 of this report (as amended in iii above) be approved.

Reasons

To ensure that the Council has in place a clear framework through which to make decisions to authorise and regulate street trading and is able to take robust enforcement action in respect of unauthorised street trading.

14. PERFORMANCE MANAGEMENT FRAMEWORK - QUARTER 2 REPORT 2016/17

The Cabinet considered a report by the Director (LD) (Reference 16/287) in respect of the Council's performance for a rolling 12 month period to the end of September 2016. With the permission of the Chairman, Councillor Cluer addressed the Cabinet voicing her concern at the 'at risk' status of the Critical Success Factor in relation to food safety interventions. Members were

advised, in reply, that the Environmental Health service would use contractors to provide cover for absent staff to address this.

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.

Reasons

To provide information relating to Council performance for a rolling 12 month period to the end of the second quarter of 2016/17.

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.

15. DEVELOPMENT OF BEACH COURT FACILITY (SPORTS PROVISION)

The Cabinet considered a report by the Director (TW) and Director (NE) (Reference 16/268) in respect of a new Beach Court facility on the North Bay, Scarborough. Members commended this report which would deliver a great asset funded by Sport England for the town.

RESOLVED that the Cabinet:

- (a) approve the development and subsequent letting of a beach volleyball facility totalling approximately 385 sq m on the North Bay Scarborough, in the location outlined red on the map attached as Appendix 1, on terms outlined in Appendix 2. This is subject to the Crown Estate allowing a sub- lease agreement, which has been agreed in principle with the Crown Estate's managing agent.
- (b) approve the proposed tenant the North Riding Eagles Volleyball Club be treated as a special purchaser due to the award of funding from Sport England;
- (c) note that no objections have been received by the Council in relation to the letting of the public open space.

Reasons

- To enable the development of a new sporting facility within the North Bay area of Scarborough to be progressed
- To note the proposed terms of occupation in respect of the proposal
- To comply with the Council's Constitution and Section 123 of the Local Government Act 1972

16. EXCLUSION OF THE PUBLIC

RESOLVED that in accordance with Section 100A(4) of the Local Government Act 1972 (and subject to consideration of the public interest under Paragraph 10 of Part 2 of Schedule 12A of the Act) the public be excluded from the meeting for the following item of business on the grounds

that it involves the likely disclosure of exempt information (as defined in Part 1 of Schedule 12A of the Act), namely information;

- (a) relating to any individual;
- (b) which is likely to reveal the identity of an individual; and/or
- (c) relating to the financial or business affairs of any particular person (including the authority holding that information).

17. SALE OF PUBLIC TOILETS AT KHYBER PASS, WHITBY

The Cabinet considered a report by the Director (NE) (Reference 16/288) in respect of the sale of public toilets at Khyber Pass, Whitby.

RESOLVED that the Cabinet:

- (i) provide final approval for the freehold disposal of the existing public convenience building on Khyber Pass, Whitby as shown edged red in Appendix 1 (the Property) to Bidder B for the price outlined in Appendix 2 (part a) of this report subject to:
 - a. Bidder B obtaining satisfactory planning permission for their development;
 - b. contractual terms being agreed between the Council and Bidder B;
 - c. vacant possession being provided by the Council
 - d. satisfactory completion of a party wall agreement with the adjoining tenant
- (ii) accept Tender 2 as detailed in Appendix 2 (part b) of this report for the construction and internal fit out of the new public convenience facility, the location of which is identified in Appendix 1
- (iii) approve the establishment of a capital budget of £250,000 to be funded from the anticipated capital receipt of £180,000 with the balance of £70,000 funded from the Capital Development Reserve
- (iv) note that discussions are continuing between the Council and Whitby Town Council for the management of public conveniences within Whitby. A further report will be presented to Cabinet in January 2017.

Reasons

- To obtain final approval for the freehold disposal in accordance with the Council's Constitution.
- To achieve a capital receipt from the disposal of the existing premises at Khyber Pass and reduce the Council's maintenance liability.
- To provide a new, modern public convenience facility in a busy area of Whitby.
- To accept the successful tender for the construction of the new facility;
- To recognise the shortfall in the capital funding for the new facility.
- To obtain authority for the capital expenditure.

Chairman