

## **CABINET**

At a meeting held on Tuesday, 17th January, 2017

Present:-

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

### **CHAIRMAN'S OPENING REMARKS**

Cabinet Members and ward Councillor Jefferson joined the Chairman in commending and thanking the multi-agency team and emergency responders who dealt with the tidal surge incident of 13 January 2017. The Leader also commended the officers of the Council, in particular, Mrs Dixon and Mr Thompson of Silver Command for their work in coordinating the speedy and efficient Council response to the tidal surge.

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

No declarations of interest were received.

#### **2. MINUTES**

**RESOLVED** that the minutes of the meeting held on 13 December 2016 be approved as a correct record and signed by the Chairman.

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

The Chief Executive reported that Mr Mick Rivers had registered to ask a question in respect of Agenda Item 9.

Question: 'I am Mick Rivers I live on Prospect Place immediately behind the Futurist on what is referred to as the slope. My property has this footprint development on three sides. I note the 2012 Futurist brief had 4 main aims when it was put together with People: safety health happiness and inclusiveness being the first aim. The current corporate aim also has People: safety health happiness and inclusiveness. When the report to vote on demolition was published, the people element had been removed. This shows the council to have no aim to look after people's safety health happiness or inclusiveness. With safety a low priority I am very concerned the council will not provide enough thought to life risk and not ensure enough money is provided to cover claims for death, injury damage, destruction of property or loss of earnings. I understand £10 million is an industry minimum for a normal large build. The council refers to this build in the report in front of you as "A high risk project."

The previous report you voted on (with the life risk, injury and destruction of property removed) considers 'catastrophic collapse of the slope' Clearly this has potential for collapse of buildings causing death, injury or destruction to many buildings. Has the council seriously considered this and what is the total value of Personal Liability insurance planned? In the event of a major collapse, where the public liability insurance does not cover all eventualities,

where will the money come from to cover the death, serious injury, the rebuilding/repairing of what could be all or large areas of Blands cliff, Prospect Place and the old Brewery Apartments and also loss of earnings for businesses?’

The Portfolio Holder for Project Leadership, Harbours, Coast and Flood Protection, Councillor Cockerill then provided the following reply: ‘Safety is always the highest priority of the Council, and there is statutory legislation in place to ensure the protection of life and property when undertaking construction projects.

The Council has no option but to comply in full with this legislation and therefore there is no need to reproduce it in reports to Members. It is all done as standard.

The Council has properly assessed the risk and has identified that the Futurist Building supports the cliff behind and there is potential for the cliff to collapse if the works are not done properly. The risk of this occurring has been assessed as the lowest possible rating of “very low”. Full mitigation measures are proposed including the employment of a competent consultant and contractor, carrying out slope stability analysis, putting in place PI insurance, and ensuring proper site supervision.

Detailed questions have previously been raised in February 2015 by Mr Rivers, and the officer advised Mr Rivers that “In the event that Councillors make a decision to demolish the Futurist then I will provide responses to all of the questions raised.”

That decision was not taken until last week (9 January 2017) and the next stage of the project is to prepare the detailed design and demolition methodology to ensure the Futurist can be demolished without causing damage to property or risk to life. This process will take up to 32 weeks and at the end of the period all of the information to give assurance of the safety of the demolition process will be available. It will also be presented to the Planning and Development Committee for examination and ratification before any physical works commence.

The Council’s proposed contract with Willmott Dixon makes provisions for £10m insurance for each and every claim in respect of third party liability.

I am therefore satisfied that consideration has and will continue to be given to residents who may be affected by the works, that the risks have and will continue to be properly assessed and that works will not be allowed to commence until all of these risks have been removed or mitigated and the demolition can be carried out in the safest manner.

I am also satisfied, that in the exceptionally unlikely event of any adverse occurrence, sufficient levels of insurance are in place to protect everyone concerned.’

Councillor Cockerill then put a question on behalf of Filey Town Council requesting an update in relation to the external investigation into the Marriott case.

The Portfolio Holder for Human Resources, ICT and Transport Services, Councillor Backhouse then provided the following reply:

'The employment tribunal case involving one of our former employees, Mr Ben Marriott has concluded. Although the Council remains disappointed by the Tribunal's decision, to avoid any further court costs and implications on the public purse, the Council reached a settlement with Mr Marriott. For the record, the settlement was for the Council to pay £95k to Mr Marriott. The Council refused the inclusion of a confidentiality clause as part of the settlement as the Council considered it important in the interests of transparency for the settlement to be made public. The Council's legal fees in the matter are approximately £16.7k. The Council did not engage a QC in relation to this matter. The external investigation we have instigated with our external auditors, Mazars, is underway and we await the investigation's findings sometime in the new year.'

In reply to a Member's question, the Monitoring Officer, Mrs Dixon confirmed that in respect of staffing issues such as this, the local authority protected its employees' rights to confidentiality, and councillors would only become aware of such matters on a need to know basis, for example, through serving on an Employee Appeals Panel.

#### **4. FORWARD PLAN**

The Cabinet considered the Forward Plan (Reference 17/13). Three amendments to the Forward Plan were noted: under the Finance, Procurement and Legal portfolio, the Mid-year budget report in July; under the Democracy, Safer and Stronger Communities portfolio, a Protocol for managing councillor absences in February; and under the Project Leadership, Harbours, Coast and Flood Protection portfolio, Item 23, Dean Road/Manor Road Depots would be deferred to April. Under his portfolio, the Cabinet Member for Tourism and Culture, Councillor Jenkinson was pleased to report that the Yorkshire Coast Accommodation Brochure was now available; Robin Hood's Bay's success in being recognised as one of the top 25 beaches in the world; and that some 32,000 tickets had already been sold for this year's Open Air Theatre season. In respect of her portfolio, the Cabinet Member for Finance, Procurement and Legal, Councillor Mallory commented that just over half the total number of Members had attended the recent briefings on the forthcoming budget. She reminded the meeting that it was vitally important that councillors if they could, had some input in the preparation of next year's budget, and urged those who did not attend to take up the offer of one-to-one meetings with finance officer. Commenting on his portfolio and in relation to a recent decision by the Traffic Penalty Tribunal to uphold an appeal by a resident against the issue of a Penalty Charge Notice for a parking infringement in a Disc Parking Zone, the Cabinet Member for Human Resources, ICT and Transport Services, Councillor Backhouse stated that both the County and Borough Councils had appealed against this decision which they believed was informed by a misunderstanding of the Residents'

Parking Scheme. In response to a question about the reference to the Whitby Piers Scheme in the Financial Strategy which stated the intention to commence stabilisation works in 2019/20, Councillor Cockerill confirmed that this scheme was the number one priority project in his portfolio to bring forward for approval, the Council was currently seeking funding contributions from other tiers of local government and beneficiaries, and construction works were scheduled to commence by the second quarter in 2018/19 to be completed within a year.

**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 13 December.

**6. MORTGAGE BREATHING SPACE LOAN SCHEME**

The Cabinet considered a report by the Director (TW) (Reference 17/12) in respect of a regional loans scheme provided by Wakefield Metropolitan District Council to help owner occupiers in financial difficulties in the Borough stay in their homes. In reply to a Member's question, the Housing Manager confirmed that the figures in paragraph 3.1 of the report were for the whole of the scheme, not just the Borough.

**RESOLVED** that the Cabinet:

- i Support the use of the Mortgage Breathing Space Loan Scheme as a homeless prevention tool within the Borough and enter into agreement with Wakefield Metropolitan District Council regarding the administration of this scheme.
- ii Delegate to the executive of Wakefield Council, in accordance with Article 11.4(b) of the Constitution, the function of the payment of loans by the Borough Council under the Breathing Space Scheme.

**Reasons**

To help reduce the incidence of homelessness within the Borough.

**7. DRAFT REVENUE AND CAPITAL BUDGET 2017/18**

The Council considered a report by the Director (NE) (Reference 17/19) which outlined the Council's draft revenue and capital budget 2017/18 for public consultation. Introducing the report, the Director, Mr Edwards reminded Members that last September the Cabinet had accepted the Government's offer of a four year funding settlement, which although it gave some certainty to aid financial planning, entailed a continuing reduction in Government grant to 2019/20. Members were further advised that on 15 December, the finance settlement for 17/18 had been confirmed, equating to a cut in grant funding of 13.5% (£819k), in addition to a £176k reduction in New Homes Bonus allocations. The late notice of the final settlement and the significant reduction in NHB allocation meant that savings of £203k still needed to be identified to set a balanced budget for 17/18. Mr Edwards would later be bringing some additional proposals to balance the budget to the Executive Board, which if agreed to, would form part of the public consultation on the draft budget. Members were referred to Table 3 in the report which illustrated the scale of reductions in Local Government Finance Settlement Funding over

the two Spending Review Periods from 2010/11 to 2019/20 amounting to a total percentage reduction of 65.82. A combination of funding cuts and unavoidable cost pressures meant that a total of £2.492m in savings and additional income was required to set a balanced budget in 17/18. The current draft budget proposed a draw of £500k from reserves and the savings of £1.789m identified in Appendix A3 of the report. Further, a 2.31% rise in the Borough Council's share of Council Tax (£5 on a Band D property) was proposed. Despite these fiscal challenges, the budget sought to safeguard the delivery of high quality services in accordance with the Council's Efficiency Plan and to continue the investment in the Borough to promote economic regeneration through the Investment Management Plan – economic regeneration which would assume even more importance as the Council came to depend more on business rates income for its finances. In the ensuing discussion, it was noted that the Borough Council as the collecting authority on behalf of a range of other organisations retained only a fraction of the Council Tax paid. In reply to a Member's comment, Mr Edwards welcomed Fylingdales Parish Council's financial support for the coastal protection scheme in Robin Hood's Bay.

**RESOLVED** that the Cabinet:

- (i) approve the Council Tax Base for 2017/18 as 37,623.69 Band D equivalent properties;
- (ii) approve that a surplus of £1.960 million be declared on the Council Tax Collection Fund. This surplus will be distributed in proportion to the share of Council Tax attributable to each precepting authority and the Borough Council's share of the surplus will equate to a one-off sum of £258,031;
- (iii) agree that authority to approve the NNDR1 Return be delegated to the Director (Nick Edwards);
- (iv) endorse the draft budget proposals set out in the appendices to this report prior to them being re-presented to Cabinet and Full Council for approval in February; with particular attention being given to the proposed £5 Council Tax increase for a Band D property and the savings proposals listed at Appendix A3. If the Council Tax increase or any savings proposals listed are deemed by Members to be unacceptable alternative savings of an equivalent value must be identified;
- (v) note the outcome and details of the provisional Local Government Finance Settlement for 2017/18 and the indicative figures for the following two years to 2019/20; along with the resulting funding gaps of £2.492m in 17/18, £2.180million in 18/19, £1.295million in 19/20;
- (vi) note that the savings identified to date for 2017/18 total £1.789 million and a £0.5m draw from reserves is proposed, therefore **savings of £203k still need to be identified in order to set a balanced budget;**

- (vii) subject to the approval of recommendation (iv) agree that officers enter into a period of consultation on the proposals contained within this report; and
- (viii) recommend that Council approve the 2017/18 Council Tax discount and premiums set out in Section 3.3 of this report, which remain unchanged from those approved for 2016/17.

### **Reasons**

All preceptors use the Council Tax Base figure as the denominator for calculating their Council Tax. It is a statutory requirement for the Council to notify the major

Precepting Authorities of the approved Tax Base and any surplus or deficit on the Collection Fund by the 31 January of each year.

It is a statutory requirement to submit the NNDR1 form to the Department for Communities and Local Government and notify North Yorkshire County Council and North Yorkshire Fire & Rescue Service of their respective shares by the 31 January of each year.

Full Council must approve the 2017/18 budget, and associated Council Tax level at its meeting on 3 March 2017. It is important that the Council consults with the public on its budget prior to it being approved, and that the areas identified in the consultation process are taken into consideration in the budget setting process.

## **8. OVERVIEW AND SCRUTINY BOARD - REVIEW OF CAR PARKING CHARGES**

The Cabinet considered a report by the Director (LD) (Reference 17/16) which presented the findings and recommendations of the Car Parking Review Group in respect of off-street car parking charges for 2017/18. The report was introduced by the Chair of the CPRG, Councillor Mortimer who explained how the Review Group had identified the 2% inflationary increases in fees and charges as per the Council's Budget Strategy through comparison with private operators in the Borough, rather than with other seaside resorts. Members including the Portfolio Holder, Councillor Backhouse and the Chair of the Overview and Scrutiny Board, Councillor Siddons welcomed the Review Group's contribution and the diligence and speed with which they reached their conclusions. Councillor Backhouse commended the idea of extending transferable tickets to all of the Council's off-street car parks, and noted that long stay car park tariffs could also extend to chargeable hours the following day for overnight stays.

**RESOLVED** that the Cabinet:

- (i) Approve the proposed fees and charges for 2017/18 outlined in Appendix B of the report.
- (ii) Determine not to implement Winter Charging across those car parks where charges do not apply at present.

- (iii) Note the progress in relation to Residents Parking Concessions
- (iv) Determine not to amend the times of operation of off street car parks
- (v) Approve the introduction of interchangeable tickets across all of the Borough Council's off street car parks.

#### **Reasons**

- To support the prudent and effective management of the provision of car parking
- To ensure that the 2% inflationary increase in Fees and Charges identified in Budget Strategy can be achieved.

#### **9. DEMOLITION OF THE FUTURIST THEATRE AND ADJOINING BUILDINGS AND STABILISATION OF THE CLIFF**

The Cabinet considered a joint report by the Chief Executive and Director (NE) (Reference 17/18) in respect of the next stages of the demolition of the Futurist Theatre and stabilisation of the cliff. Introducing the report, the Portfolio Holder, Councillor Cockerill commented that following the Council decision on 9 January, all the Cabinet was 100% in support of this work. In relation to the party wall aspects of the work, he added that he expected there to be a strip of land some metres wide that would remain undisturbed immediately to the side of adjacent properties. At the permission of the Chairman, Councillor Jefferson then addressed the meeting. She voiced her concerns at the risks involved in this highly complex project, was pleased at the reassurances given to Mr Rivers about public liability insurance but also called for after the event insurance and a geotechnical survey. She repeated a question put at the Council meeting whether King Street was being stabilised for development in light of the Futurist Feasibility Submission dated October 2016. Councillor Jefferson requested in regard to paragraph 5.7 of the report that the decision to instruct Willmott Dixon to proceed with the demolition and stabilisation works be referred to full Council. She also questioned the wisdom of proceeding with the project since the Council's application for exemption against listing of the theatre had yet to be determined, and she believed there were restrictive covenants in place which required consideration. In response, the Director, Mr Edwards confirmed that the Council had approved the demolition and stabilisation project based on the allocated budget of £4m, and that if after the extensive pre-construction stage outlined in paragraph 5.5 which would ensure the highest standards of safety, it was demonstrated that the implementation stage could be undertaken within budget, then the Cabinet would have the authority to give the go ahead. The Director, Mrs Dixon added that she was not aware of any restrictive covenants which would obstruct the proposed development, but the Council had powers to appropriate and thus clear the site if they existed. The Chairman proposed that the Portfolio Holder for Finance, Procurement and Legal be added to recommendation (ii).

**RESOLVED** that the Cabinet:

- i Approve the outsourcing of the project management, contract administration and supervision of the Futurist demolition works and

- establish a budget of £90k to be funded from the capital development reserve.
- ii Delegate authority to the Director (LD) in consultation with the Portfolio Holder for Project Leadership, Harbours, Coast and Flood Protection and the Portfolio Holder for Finance, Procurement and Legal to award a contract for the project management, contract administration and supervision of the Futurist demolition works to a consultant procured from the YORconsult Framework offering the most economically advantageous tender.
  - iii Approve the appointment of Willmott Dixon Construction Limited from the Scape Framework and agree to enter into a Delivery Agreement in the sum of up to £416,000 to prepare a detailed design and quotation for a contract price for the demolition and stabilisation work.
  - iv Authorise the service of Party Wall Notices to relevant adjacent properties and the appointment of Party Wall Surveys as required.

### **Reasons**

To enable the safe and cost effective demolition and redevelopment of the Futurist site following Council's decision to confirm the funding to proceed with the next stage.

## **10. DEMOLITION OF PREMISES AT ROYAL ALBERT DRIVE, SCARBOROUGH**

The Cabinet considered a report by the Director (NE) (Reference 17/11) in respect of demolition of premises at Royal Albert Drive, Scarborough. Commenting on the report, the Portfolio Holder, Councillor Cockerill noted that the timeframe to obtain the necessary permissions to demolish the premises could be similar to that to receive an acceptable bid to develop the site, in which case the developer could take responsibility for the demolition. Members noted that the proposed demolition would entail the loss of the public conveniences on site, and supported the retention of such facilities both on a temporary basis during demolition and ideally as part of the new development.

**RESOLVED** that the Cabinet:

- i approve the demolition of the retail and toilet facilities edged red on the attached plan (Appendix 1) to provide a clear site, subject to the relevant permissions being obtained;
- ii approve the appointment of contractor 'A' to carry out the demolition and site clearance for the price outlined in the private and confidential summary (Appendix 2) subject to obtaining the relevant permissions;
- iii establish a budget of £31,678 to be funded from the Capital Development Reserve for the contractor appointment and associated costs including obtaining relevant permissions, capping the utilities and internal project management fees. A summary breakdown is detailed within the private and confidential Appendix 2.

### **Reasons**



- The site is now in a dilapidated condition and is attracting vandalism and anti-social behaviour.
- Due to the current poor condition the retail premises will not be able to be utilised in the 2017 season.
- A cleared site is more attractive to developers thus hopefully encouraging development.
- The building has become an eyesore on an otherwise picturesque part of the North Bay coastline.

**Chairman**