

CABINET

At a meeting held on Tuesday, 14th February, 2017

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

CHAIRMAN'S OPENING REMARKS

The Chairman announced with regret that Councillor Backhouse had tendered his resignation as a Member of the Cabinet with immediate effect because of increased work commitments and personal reasons. The Chairman thanked Councillor Backhouse for his years of service on the Cabinet and other committees.

1. DECLARATIONS OF INTEREST

No declarations of interest were received.

2. MINUTES

RESOLVED that the minutes of the meeting held on 17 January 2017 be approved as a correct record and signed by the Chairman.

3. PUBLIC QUESTION TIME

The Chairman advised that one public question had been received which would be considered at Agenda Item 16.

4. FORWARD PLAN

The Cabinet considered the Forward Plan (Reference 17/46). One amendment was noted: Item 27 on the Forward Plan and Item 13 on today's agenda in respect of the Flat Cliffs scheme was not an 'A' item. Under his portfolio, Councillor Chatt confirmed that the Council had issued a press release condemning racist comments posted on social media sites in relation to the Government's resettlement programme for Syrian refugees and the recent arrival of five such families in the Scarborough area. In respect of his portfolio, Councillor Jenkinson confirmed that the Council retained unmanned tourist information points in Scarborough and Filey, whilst a staffed facility continued to operate in Whitby. In respect of item 30 on the Forward Plan, Whitby Piers, the Chairman commented that Phase 1 of the project was well underway to finalise the design of the piers and to establish the final costs. He expressed his gratitude to the Portfolio Holder, Councillor Cockerill, for all his work in ensuring the progression of this vital scheme. Councillor Cockerill confirmed that detailed investigations were in progress to allow a work specification to be prepared and costed, and the costing would be independently validated. Applications would be made to secure any permissions required to allow Phase 2, the work on the piers to proceed. All of these tasks were scheduled to be completed in time to bring a report to the

Cabinet in September. In the meantime, officers would continue to seek external funding contributions for Phase 2. Councillor Cockerill reiterated his confidence in Council officers and external consultants to bring this project to fruition, and noted how well the piers even in their current state had withstood the recent tidal surge. Following a question by Councillor Plant, Councillor Turner undertook to bring a report to Members to re-examine the possible establishment of a town council for Scarborough. Cabinet Members agreed that in the current financial climate, it was both fair and consistent that this tier of local government was created with precept-raising powers to make financial contributions to projects specific to the town, as other town and parish councils did in other areas of the Borough.

RESOLVED that, subject to the above, 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 17 January.

6. SELECTIVE LICENSING WITHIN PARTS OF THE NORTH BAY, CASTLE AND CENTRAL WARDS

The Cabinet considered a report by the Director (TW) (Reference 17/31) in respect of a new scheme for the Selective Licensing of Private Rented Accommodation in the 'Scarborough North' area. Members were advised that for the proposed scheme to be effective, enforcement remained the key implication for the Council. For this reason the report had been paused for three months to ensure the new staffing structure in Environmental Health was in place and that the proposed fee structure was properly costed. In reply to Members' questions, the Housing Manager added that the £65k allocated to the scheme for the first year of operation was a one-off payment to cover additional staffing costs associated with targeted enforcement and prosecution where needed. He added that he had every confidence in the partnership arrangements which underpinned the scheme, already established through the Community Impact Team. He asked for Recommendation 5 in the report to be amended to include the additional step of taking the Business Case for Scarborough Central out to public consultation.

RESOLVED that the Cabinet:

- 1) Recommends to Council the introduction of a Council led scheme for the Selective Licensing of Private Rented Accommodation in the area defined as 'Scarborough North'. This area incorporates parts of the Castle and North Bay Wards as shown on the map in Appendix B of this report.
- 2) Recommends to Council the approval of the policy document for the *Selective Licensing of Private Rented Accommodation within the Scarborough North Area* as included within Appendix A of this report.
- 3) Approves the proposed fee structure along with recommended discounts and exemptions.
- 4) Recommends to Council that agreement is given to prepare and publish a Public Notice of designation under sections 80 and 83 of the Housing Act 2004.

This Notice shall allow for the designation of the chosen area for the introduction of a Selective Licensing Scheme.

- 5) Instructs officers to work up the Business Case for the potential introduction of the next phase of Selective Licensing in the area defined as Scarborough Central, to then take out to public consultation. This area incorporates parts of Castle and Central Wards as shown in Appendix C of this report.

Reasons

In September 2016 Cabinet considered report 16/202 and gave 'in-principle' approval for the introduction of Selective Licensing of Private Rented Accommodation within the Castle and North Bay Wards. Officers were instructed to work up the final details of this proposal

This report seeks approval for the adoption of the final policy and fee structure needed. Approval is also required in order to take forward the formal designation of the proposed area. In addition a further recommendation is needed in order to start working up the Business Case for the next proposed phase of the scheme.

7. RESIDENTIAL REGULATION ENFORCEMENT POLICY

The Cabinet considered a report by the Director (TW) (Reference 17/28) in respect of a new Residential Regulation Enforcement Policy. Members were advised that this report complemented the previous report on the agenda, bringing the different powers available to the Council into one document, and reflecting a new emphasis on robust enforcement and partnership working. Members requested more detail on how the enforcement policy would be put into practice. At the Chairman's request, Councillor Mallory agreed to work with the Housing Team and other officers to provide this greater detail.

RESOLVED that the Cabinet recommends to Council the approval of a new residential regulation enforcement policy.

Reasons

The proposed policy has been developed in order to provide clarity to officers, members, the public (tenants and landlords) and other key stakeholders of the roles and responsibilities of the Council with respect to undertaking enforcement action in respect of residential premises.

The new policy combines key elements of housing enforcement policy and environmental health enforcement policy regarding residential dwellings.

Changes are being recommended to ensure that the Council takes a robust, fair and consistent approach toward meeting its legal obligations and to ensure that the Council's approach accords with current guidance and legislation.

8. SCHEDULE OF MEETINGS 2017/18

The Cabinet considered a report by the Director (LD) (Reference 17/37).

RESOLVED that the Cabinet recommends the Council to adopt the Schedule of Meetings for 2017/18 as set out in Appendix A to the report.

Reasons

Approval of the Schedule of Meetings will ensure that Council business is conducted efficiently.

9. PROTOCOL FOR MANAGING COUNCILLOR AND CO-OPTED MEMBER ABSENCES

The Cabinet considered a report by the Director (LD) (Reference 17/27) in respect of a new protocol for managing councillor and co-opted member absences. Members agreed that in addition to the two Independent Persons, the Portfolio Holder, Councillor Turner should also be consulted by the Monitoring Officer when determining applications for extended absence.

RESOLVED that the Cabinet recommend to the Council to:

- (i) Adopt the Protocol for Managing Councillor and Co-opted Member Absences outlined in paragraph 5.3 of the report with the amendment above; and
- (ii) Delegate authority to the Monitoring Officer to make the necessary changes to the Constitution consistent with the adoption of this Protocol.

Reasons

- To provide greater clarity and consistency in the management of councillor and co-opted member absences
- To fill a gap in Council procedures

10. ENVIRONMENTAL OFFENCES - FIXED PENALTY NOTICES

The Cabinet considered a report by the Director (LD) (Reference 17/36) in respect of the use of fixed penalty notices for fly-tipping and other environmental offences. Members welcomed this report and the continuing theme of enforcement. In recognition of the importance of the revised corporate enforcement policy referred to in the report, the Regulatory and Governance Manager would endeavour to bring the new policy to the Cabinet in the next two to three months. The Chairman noted how this work would tie in with task assigned to Councillor Mallory under Agenda Item 7. In reply to Members' comments and questions about the use of dog control legislation and dog fouling, the Portfolio Holder, Councillor Chatt commented that educational work had been undertaken in schools, but the nub of the problem was people who chose not to fulfil their responsibilities as dog owners, and for this enforcement was the appropriate response. Councillor Chatt also acknowledged that currently the additional seasonal dog warden was only deployed in the Scarborough area, and that in the interests of greater equity across the Borough, he would examine the case for providing an increased seasonal presence in the northern and southern areas as well.

RESOLVED that the Cabinet:

1. Recommend that Council:

- (a) approve the use of fixed penalty notices for fly-tipping offences;
- (b) approve that the penalty for fly-tipping offences be £400;
- (c) delegate authority to the Directors:
 - (i) to issue fixed penalty notices for fly-tipping offences;
 - (ii) to authorise in writing any Officer of the Council to issue fixed penalty-notices for fly tipping offences;
- (d) review and re-affirm the use of fixed penalty notices for the following types of environmental offence:
 - (i) littering;
 - (ii) fly-posting;
 - (iii) failure to comply with a notice to place waste for collection in receptacles of a kind and number specified;
 - (iv) abandoning a vehicle;
 - (v) failure to produce waste documents;
- (e) remove the discounted penalty for payment within 10 days and confirm the penalty levels in relation to the offences set out in paragraph 1(d) above;
- (f) in relation to the environmental offences set out in paragraph 1(d) above, review and re-affirm delegation of authority to the Directors:
 - (i) to issue fixed penalty notices;
 - (ii) to authorise in writing any Officer of the Council to issue fixed penalty notices;

2. Note that:

- (a) separate reports are being brought to Cabinet concerning dog control legislation and fixed penalty notices;
- (b) further reports will be provided in due course seeking approval of a revised corporate enforcement policy.

Reasons

To update Members on the changes to legislation permitting the use of fixed penalty notices for fly-tipping offences; to seek appropriate permissions and delegations to do so; and to allow opportunity for Members to review and re-affirm the use of fixed penalty notices in relation to a number of other environmental offences.

11. DRAFT FINANCIAL STRATEGY 2017 - 2027

The Cabinet considered a report by the Director (NE) (Reference 17/44) in respect of the draft Financial Strategy 2017-2027. In presenting the report, the Portfolio Holder, Councillor Mallory thanked all – members of the public, councillors and officers – who had played their part in the development of the draft Financial Strategy before Members today. She acknowledged the many challenges facing the Council and the difficult decisions which would need to be made, but in drawing up the budget, the Council had to look at the Borough as a whole. The Director, Mr Edwards, also expressed his gratitude to all those who had contributed to this dynamic document which had been a year in the making. However, the strategy was still in draft, since the final final settlement from Government would not be announced until the following week, although he did not anticipate any major changes. Unlike the draft budget considered by the Cabinet the previous month, this budget was now balanced thanks to additional transformational savings worth £61k, £42k efficiency savings within the Home Improvement Agency service, and £100k additional savings from car parking income. There were no further changes to the proposed revenue budget and the proposed capital budget remained unaltered. Mr Edwards noted the majority support in the public consultation exercise for the proposed Council Tax increase, the proposed use of reserves, and the identified efficiency savings. He also alluded to the fiscal challenges in the year ahead, with a further £2.1m of savings to be found in 2018/19, and that work would start on this shortly, with an interim budget report to come to the Cabinet in September. Lastly, he thanked the Corporate Finance Manager for delivering the Member briefings on the draft Financial Strategy, which 35 out of a total of 50 councillors attended. The Chairman thanked Mr Edwards, his Finance team and Members for their input into this budget, but noted with disappointment that 15 councillors did not attend the budget briefings. This disappointment was shared by the other Members of the Cabinet.

RESOLVED that the Cabinet note:

- i. the feedback from the budget consultation;
- ii. that current projections estimate that the Council will be required to make further savings of approximately £2.1 million to balance the 2018/19 budget and some essential and priority capital schemes remain unfunded in the budget. An interim budget report for 2018/19 setting out the approach for balancing the budget and an update on the identification of any funding to progress the unfunded capital schemes will be presented to Members in September 2017;
- iii. Note the updated Treasury Management Strategy for 2017/2018, with the principal amendment being:
 - Clarification that the maximum investment limit for the Royal Bank of Scotland/National Westminster Bank, which are part of the same parent institution, is a collective £15 million whilst the UK Government owns more

than 25%. National Westminster Bank are the Council's banking service provider.

And that the Cabinet recommend to the Council:

- i. The approval of the Financial Strategy, specifically:
- ii. the Revenue Budget for 2017/18;
- iii. a Council Tax increase of £5 for a Band D property (2.31%);
- iv. the Capital Budget and proposed new schemes for 2017/18;
- v. the optimum levels of reserves and use of reserves in 2017/18;
- vi. the Treasury Management Strategy and Prudential Indicators;
- vii. the Council's Pay Policy Statement contained, as required under Section 38 (1) of the Localism Act 2011;
- viii. the Council's Property asset Management Strategy

Reasons

Full Council must approve the 2017/18 budget and associated Council Tax level and fees and charges, which are incorporated within the Financial Strategy, at its meeting on 3 March 2017.

12. FINANCIAL MONITORING TO DECEMBER 2016 (3RD PERIOD)

The Cabinet considered a report by the Director (NE) (Reference 17/34) in respect of the Council's financial performance as at the end of the third quarter (December 2016). Members were advised that despite challenging circumstances, the Council was in a good position with an anticipated year end surplus of £490k and no longer a requirement to draw monies from the General Fund. In relation to the recent tidal surge which he estimated would cost the Council some £250k in community liaison work, clean up and repairs, he noted with great disappointment that currently the Government was unwilling to allow the Council to recoup most of these costs through the Bellwin Scheme. The Council would be making representations to the Government and local MPs to seek to change this position. The Chairman and other Cabinet Members echoed this concern at the inconsistency and unfairness of the Government's reaction. The Director, Mr Edwards also explained that following the 2016 triennial pension valuation, the Council was exploring the opportunity of prepaying the back funded element of the pension scheme contributions, which would generate a significant cash saving.

RESOLVED that the Cabinet:

- i) Note the report and in particular that:
 - Despite the setting of an extremely challenging budget a year end surplus looks likely to be achieved.

- The majority of income targets are being achieved.
 - The majority of savings identified as part of the 2016/17 budget setting process are being achieved but there are some exceptions which still require addressing.
 - The £270k draw from the General Fund outlined within the Financial Strategy will not be required this year.
 - As previously agreed, £322k of the projected year end surplus will be transferred to the Council's Investment Fund.
 - The capital programme continues to operate within the overall parameters set in terms of contingency levels.
- ii) Accept the following grants:
- £14,500 from the Arts Council towards the costs of the arts and cultural elements of Seafest Maritime Festival.
- iii) Allocate the following Section 106 monies:
- £22,691.77 indexation payments to the Eastside Community and Open Space Improvement Programme
 - £4,979.23 to off-site play areas within the Filey Area
- iv) Delegate Authority to Director (Nick Edwards), in conjunction with the Portfolio Holder for Finance, Procurement and Legal, to enter into agreement with the North Yorkshire Pension Fund to pay the backfunded element of the pension fund deficit for the next three years upfront thereby making interest savings.
- v) Note that, following the Tidal Surge on 13 January 2017, the Council has raised its intention to make a claim for costs through the Bellwin scheme with DCLG. The Government has not yet recognised the tidal surge as a scheme that is eligible for Bellwin support however and there is therefore a risk that the Council will not recoup all of the costs that it is expecting.

Reasons

To provide information relating to the Council's financial performance for the 2016/17 year.

13. FLAT CLIFFS URGENT SLOPE STABILISATION SCHEME

The Cabinet considered a report by the Chief Executive (Reference 17/42) in respect of this important scheme which was 100% externally funded and carried no ongoing financial implications for the Council.

RESOLVED that the Cabinet:

1. Accept £572,000 of Coast Protection grant funding
2. Approve the Flat Cliffs Urgent Works
3. Provide authority to enter into contract with a consultant from the YORconsult Framework to project manage and tender a design and build contractor and supervise the works
4. delegate authority to the Portfolio Holder for Project Leadership, Harbours, Coast and Flood Protection, in consultation with the Director (LD), to receive a report on the outcome of the tender analysis once it is concluded and, if appropriate, approve entering into a contract with the recommended contractors

Reasons

There are 45 residential properties built on the terraces of an undercliff system at Flat Cliffs. The access road, which is at risk of loss, is the sole means of access to the hamlet. A capital scheme is therefore required to undertake urgent, but limited, intervention works involving coastal protection and coastal slope stabilisation. If the scheme is not progressed coastal erosion and coastal landsliding at the sole access road to the hamlet of Flat Cliffs will cut-off the coastal community and force residents to vacate their properties.

14. UPDATE ON SECTION 106 PLANNING OBLIGATIONS

The Cabinet considered a report by the Director (TW) (Reference 17/33) which provided an update on key infrastructure provided through Section 106 planning obligations since the last report in December 2015. In presenting the report, the Portfolio Holder, Councillor Plant outlined the different types of Section 106 expenditure, the headline figures in the report, and asked that recommendation 2. be removed, since in the interests of transparency, he believed that this information should continue to be submitted to the Cabinet in a separate report. In reply to the Chairman's questions, the Major Projects Officer confirmed that in respect of the Hinderwell Road/ Newcoln Road site (Planning Ref: 07/01917/FL), the £50k allocated to enhance public open space and play areas in the vicinity, was an improvement on the original £23.426k written off when the funders went bankrupt. In respect of the planned signalised junction in the centre of Scalby in relation to the High Mill development, the County Council had until 2024 to spend the £56,687 paid by the developer, otherwise the monies would have to be returned.

RESOLVED that the updated information on Section 106 (S106) planning obligations be received and noted.

Reasons

1. The monitoring of S106 planning obligations and the reporting of that information to Members is required to ensure that the process is transparent. Continued reporting of this information and the availability of reports on the Council's website enables the process of collecting, allocating and spending of commuted sums to be transparent and the Council more accountable to the electorate.

2. To improve the efficiency of the Cabinet decision-making process, whilst maintaining transparency.

15. COMMUNITY HOUSING FUND

The Cabinet considered a report by the Director (TW) (Reference 17/35) in respect of a new fund to support community-led housing developments in areas where the impact of second homes was particularly acute. In reply to the Chairman's question about value for money, the Housing Manager explained that the communities in the National Park highlighted in the report had already expressed an interest in this type of housing which demanded considerable community involvement and for which there were already identified sites and opportunities. The Council would seek to maximise the value of the £1.86m allocation by working closely with the Homes and Communities Agency and housing associations to lever in further monies for these much needed local housing schemes.

RESOLVED that the Cabinet:

- i Accept £1.86m from DCLG to help deliver community led housing schemes in the Borough.
- ii Agree that for the 2016/17 allocation, funds are earmarked to support the development of community led housing schemes within the National Park area.
- iii Note that in order to 'stretch' the allocation it is proposed to work with Registered Providers and the Homes and Communities Agency on these schemes.
- iv Agree to the principle of using 10% of the total allocation (£186k) for revenue purposes to support the delivery of these homes.
- v Agree to passport £50k of these revenue funds into a pooled North Yorkshire enabling fund. This fund will be used to access technical expertise on a countywide level to help develop the programme along with different delivery models.
- vi Agree to use the remaining revenue funds to cover additional costs incurred by the Council in delivering these schemes. These shall include the need for additional Community Development capacity along with any other revenue costs associated with legal and enabling capacity in taking these developments forward.
- vii Instruct officers to work up a grant payment policy that sets out the terms by which payments would be made to communities (or developers) along with a mechanism to calculate the value of such payments and report back to Cabinet for approval of this policy by March 2017.
- viii Nominate the Portfolio Holder for Public Health and Housing as the Boroughs Community Led Housing 'Champion'.
- ix Report back to Cabinet progress against individual schemes and any necessary approval for capital spending on a scheme by scheme basis.

Reasons

The Council has been allocated £1.86M from Government to help promote the development of community led housing within the Borough. These funds need to be committed and spent on their intended purpose.

16. PROPOSED DISRUPTION AND DISPERSAL PROGRAMME FOR HERRING GULLS

The Cabinet considered a report by the Director (TW) (Reference 17/40) in respect of a proposed disruption and dispersal programme for herring gulls. As reported under Item 3, Ms Daphne Barr was present to ask the following question:

I realise you are considering the proposed disruption and dispersal programme for herring gulls but it needs to be taken in conjunction with other controls. I spend time on South Bay, walking by the harbour and along the front to the Old Pool and beyond. I have reported being a gull victim as I lunched at a harbour-side café. I recently walked from the harbour to the Spa Bridge looking for signs telling people not to feed the gulls. There was one, which is small and situated quite high up on a signpost outside the public toilets, saying Don't Feed the Gulls. It's a good, sensible, to-the-point statement, or order. But no-one sees it. People sit on the seats along the front and outside Ask Restaurant eating their meal; what's left they throw to the waiting birds. There is no visible sign or indication anywhere to say don't feed the gulls. Then when they get to the bin to throw away the packaging, they may see a poster saying "Your Food is not their food". What? By then it's done anyway, and will they read right at the bottom of the poster in smaller print: "Never feed the gulls"? Why has the Council not put up signs saying DON'T FEED THEGULLS? Visitors are not generally aware that feeding the birds creates such a problem and it is the responsibility of the Council to raise awareness. Signs need to be posted on railings, in obvious places where people eat out - as our visitors are encouraged to do to support the local economy. But inform them with signs that are clearly visible and to the point - don't feed the gulls. It seems profligate use of taxpayer money to spend £36,500 a year based on track records of a few areas in the South of England when even the basics of signage and proper waste disposal are not yet in place. There are new signs every few yards for the RNLI do's and don'ts, stickers on every other lamp post to clean up after your dog, but nothing to educate the public not to feed the gulls. The same signs are also needed in the town centre where gulls swoop for food. The need for signage is urgent - when will it start?

The Portfolio Holder, Councillor Chatt then provided the following reply: At the Council's recent Overview and Scrutiny Board meeting on 11 January 2017, approval was given for a revised action plan for 2017, to minimise the public nuisance caused by seagulls in the borough. This action plan contains nine main work streams to address this issue, one of which, is outlined in this report. Ms Barr's main point that more visual signage advising the public not to feed the gulls or drop their litter is well made and is a key issue covered in the Council's action plan. At the end of July 2016, Council officers distributed a series of A2 to A5 sized posters, with these key messages to seafront business properties (particularly food businesses) along Whitby and Scarborough. Filey businesses were also circulated these posters, via Filey Town Council. Businesses were encouraged to display these posters for their customers to see. Furthermore, approximately 40 signs were produced and fitted to public bins along various locations in Whitby, Scarborough and Filey.

However, it is our intention, over the next two or three months, to produce and fit more signage to clearly display for all visitors and residents to see along the seafronts across the three main towns in the borough.

The feedback from a number of local authorities who have employed the services of a specialist company to introduce a disruption and dispersal programme against herring gulls (Plymouth and Bath), has been positive and warrants the Council spending the proposed funds for an initial one year contract. The Council will closely monitor and evaluate the outcome of this programme before any decision is taken as to whether or not to extend it.

In the ensuing discussion, Cabinet Members recognised the importance of deterring people from feeding gulls by raising awareness, the display of signs and enforcement. The Portfolio Holder, Councillor Chatt acknowledged the contribution of the South Bay Traders Association in researching dispersal programmes for herring gulls, which he was prepared to support on a one year trial basis, whilst noting that this was only one initiative among many in the action plan. If successful and affordable, the programme would be rolled out to other areas of the Borough including Filey. Gulls would not disappear overnight, and it was the cooperation of the public – visitors, residents and businesses – which would ensure the nuisance relating to gulls diminished.

RESOLVED that the Cabinet approves the appointment of NBC Environment to undertake a disruption and dispersal programme in 2017 for the local herring gull population in specific locations around Whitby harbour and Scarborough's south bay.

Reasons

To seek an exemption from tendering for a disruption and dispersal programme for herring gulls in specific locations around Whitby harbour and Scarborough's south bay in 2017.

Chairman