

CABINET

At a meeting held on Tuesday, 17 October 2017

Present:-

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

1. DECLARATIONS OF INTEREST

No declarations of interest were received.

2. MINUTES

RESOLVED that the minutes of the meeting held on 12 September 2017 be approved as a correct record and signed by the Chairman.

3. PUBLIC QUESTION TIME

The Chief Executive reported that Ms Shirley Sheppard had registered to ask a question in respect of Agenda Item 10, Demolition of the Futurist Theatre, adjoining buildings and stabilisation of the cliff. The questions with corresponding answers (in bold) provided by Councillor Cockerill are set out below.

Questions part 1

The final cost for the demolition of the Futurist Theatre and adjoining buildings including stabilisation is £3.913m, however there is no full breakdown of these costs within the report.

- A. Which councillors have been presented with the comprehensive breakdown of this latest full cost?
- B. If so when did they receive this?

A cost summary was presented to the Major Project Board on 9 October 2017 which Councillor Cockerill attended. Since then, this information had been shared with all Cabinet Members.

- C. In the aim of openness and transparency would Cabinet please advise SBC that nearby residents have a copy of this breakdown immediately, so as to be able to compare it with previous costs before any decision is made?
- D. If Cabinet deems this unallowable, can they defend the late publication of this document which does not allow one time to apply through the necessary 'freedom of information' channels.

We believe this to be of utmost importance as in previous tables many costs were not included in the main breakdown.

The detailed costs remain commercially sensitive. However, we accept that the design is of most importance to nearby residents and businesses, hence the consultation events which have taken place including through the planning process.

E. Have councillors been presented with the possible costs of these things not included?

F. If so what is the total of these costs?

All costs for the demolition and stabilisation works are included. There are no known other costs.

G. Have preliminary costs that have already been incurred been included in this £3.9m breakdown?

Yes, they have.

H. Does this cost breakdown still include the cost saving, but noisy, plan of 'crushing on site' instead of using the old gas works site?

Yes.

I. If so is the cabinet aware that these so called low noise crushers are 'outside the jurisdiction of noise controls'?

The contractor will be required to comply with all noise control legislation.

J. Can this cutting of costs be justified when around 60 residences will be affected by this noise?

Yes, as during the finalisation of any scheme my officers work with prospective contractors to see if there are benefits of any kind – financial, time, disruption etc- which can be achieved by the decision to keep the crushing on site.

Questions part 2

The risk matrix states that claims for compensation for damage to buildings from adjacent owners is C3- Likely of medium impact.

A. Are the councillors aware of which properties have been included in the 'Schedule of condition of properties' to be conducted?

B. My business at 9 Blands Cliff has received notification, but our home at number 6, only 20m further up the cliff has not.

- C. Due to the stacking nature of all of the buildings up the steep Cliff, does the cabinet think this is a fair appraisal of the properties that will be affected?

It is the contractor, experienced in such work, who decided which properties are visited. Further consultations have been undertaken through the planning process.

Questions part 3

The risk matrix states in 5.12.16 Disruption to sea front businesses caused by demolition programme over a full year is. A3- Very Low of medium impact

- A. Why have the two business at the bottom end of Blands Cliff not been include? *(They are at more risk as with such activity and noise visitors are very unlikely to want to walk up the cliff, or visit premises close to the noise).*

The two properties were either issued with a party wall notice or invited to a drop-in session. However, the risk register will be changed to state disruption to ‘neighbouring’ businesses as well.

4. FORWARD PLAN

The Cabinet considered the Forward Plan (Reference 17/219). Following a visit to Eastfield on a Cabinet Away Day, Members expressed concern at the lack of progress with the regeneration of the High Street in Eastfield and agreed to refer the matter to the Overview and Scrutiny Board.

RESOLVED that the Forward Plan be approved.

5. PROGRESS OF SCRUTINY OF EXECUTIVE DECISIONS

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

6. VINCENT PIER TOILETS & HARBOUR USER FACILITIES, SCARBOROUGH HARBOUR

The Cabinet considered a report by the Director (NE) (Reference 17/231) in respect of the development of new harbour facilities and public toilets at Vincent Pier, Scarborough Harbour. Members welcomed this report which it was hoped would help alleviate the pollution issues in the South Bay.

RESOLVED that the Cabinet recommends that the Council:

1. Approve the allocation of £180,000 from Harbour Reserves for the construction of new harbour user facilities and public toilets at Vincent Pier Scarborough Harbour.
2. Enter into a Design and Build NEC3 Short Contract with Hughie Construction Limited to undertake works to construct new harbour user facilities and public toilets at Vincent Pier Scarborough Harbour.

Reasons

To facilitate the construction of new harbour user facilities and public toilets at Vincent Pier, Scarborough Harbour.

7. SELF-BUILD HOUSING AND THE SELF-BUILD REGISTER (CHARGING AND ELIGIBILITY CRITERIA)

The Cabinet considered a report by the Chief Executive (Reference 17/206) in respect of the introduction of a charging schedule and eligibility criteria for inclusion on Part 1 of the Council's Self-Build Register. Members queried how the proposed charge of £50 compared with other local planning authorities and whether the charge would be sufficient to cover the costs of providing this service. The Forward Planning Manager explained that levies varied widely between zero and £350 and of the twenty other authorities he had examined, most set a levy below £50, although around a quarter were above. However, it was also proposed that this authority charge an annual fee. He added that it was difficult to quantify the precise costs of processing an application, but the charging schedule and eligibility criteria would be kept under review through regular reporting to the Planning and Development Committee. The Chairman and other Members were satisfied with these monitoring arrangements.

RESOLVED that the Cabinet:

1. note the requirements of the Self-build and Custom Housebuilding Act 2015 (as Amended) and the need for the Borough Council to publish a self-build register and meet its duty to grant planning permission for sufficient serviced plots within the Borough (excluding the North York Moors National Park Area); and
2. recommend that Council agree to the introduction of the charging schedule as set out in this report (the proposed fees to be reviewed on a regular basis) for inclusion on Part 1 of the Self-build register;
3. recommend that Council agree to the introduction of eligibility criteria for inclusion on Part 1 of the Self-build register as set out in this report.

Reasons

The provision of self-build plots is a requirement as set out in the Self-build and Custom Housebuilding Act 2015 (as Amended). In terms of the provision of such plots these should be directed towards genuine need within the Borough. Housing land is a finite resource and it is considered that without restrictions on who can apply to be on the register, persons could have their name on more than one register in North Yorkshire or wider. This would result in an over-estimation of need in the wider area and put pressure on 'more popular' areas to provide self-build plots. Scarborough, Whitby and Filey are very popular areas for second homes and retirement and, if left uncontrolled, could see wide interest in building self-build housing from persons with no local connection or without appropriate funds to realise a self-build project. The introduction of a charge, albeit modest, also allows the authority to recover a small part of the cost of managing the register and associated work involved.

8. ANNUAL REPORT AND IMPROVEMENT PLAN 2017/18

The Cabinet considered a report by the Director (LD) (Reference 17/222). Introducing the report, the Portfolio Holder, Councillor Turner commended the Council's hard work and successes highlighted in the report such as the new Leisure Village and football ground, the new University Technical College and Coventry University Campus, the continuing success of the Open Air Theatre and the opening of the new Alpamare Waterpark. At the invitation of the Chairman, Councillor Mark Vesey addressed the Cabinet noting the below average 'Quality of Life' indicators in the report in respect of such matters as life expectancy, crime rates, fuel poverty, wage rates, and people on benefits. He added that the Borough still faced many challenges and encouraged the Cabinet to focus its efforts on improving these indicators. The Portfolio Holder responded by noting that many of these areas were beyond the remit of the Council. She also noted that she and her colleagues already worked hard to improve the quality of life of all the Borough's residents. The Chairman also commented that although these indicators were not directly in the Council's control, the Council continued to work closely with health partners, the police, the education authority and other agencies to tackle these issues.

RESOLVED that the Cabinet:

- i. note the significant achievements made by the Council over the last 12 months including: adoption of a new Local Plan for the Borough, the opening of the new leisure village and football ground, supporting the opening of the UTC and new Coventry University Campus, delivery of major events such as the Tour de Yorkshire, the continuing success of the Open Air Theatre and the opening of the new Alpamare Waterpark;
- ii. note the significant progress made by the Council in delivery of its Corporate Aims and Objectives, and the continuing improvement in performance achieved over the last 12 months;
- iii. and recommend Council to approve the publication of the Annual Report and Improvement Plan 2017/18

Reasons

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

9. COMPOSITION AND OPERATION OF THE APPOINTMENTS COMMITTEE

The Cabinet considered a report by the Director (LD) (Reference 17/183) in respect of the Council's Appointments Committee.

RESOLVED that the Cabinet recommends that the Council:

- (i) Approves the changes to the composition and operation of the Appointments Committee outlined in paragraph 5.1;
- (ii) Removes the Appointments Committee's function listed at 8.8 (ii) (c), namely 'The nomination to Council of elected members to sit on external bodies in accordance with the Protocol for the Appointment of Members to External Bodies, but excluding appointments which form part of the portfolio of a member of the Executive' which is not consistent with the Protocol nor with current practice; and
- (iii) Delegates authority to the Monitoring Officer to amend the Council's Constitution accordingly.

Reasons

- To allow more equitable representation on the Appointments Committee
- To simplify the committee's operation whilst enabling councillors to serve on the committee through their political groups according to their experience and expertise

10. DEMOLITION OF THE FUTURIST THEATRE, ADJOINING BUILDINGS AND STABILISATION OF THE CLIFF

The Cabinet considered a report by the Director (NE) (Reference 17/233) in respect of the demolition of the Futurist Theatre, adjoining buildings and stabilisation of the cliff. With the permission of the Chairman, Councillors Randerson, Jefferson and Vesey all addressed the meeting. Councillor Randerson expressed concern (shared by Councillor Jefferson) that only Cabinet Members had seen the cost breakdown of the demolition and cliff stabilisation scheme. In reply, Councillor Cockerill reminded the meeting that a cost summary of the scheme had been considered by the Major Project Board on 9 October, and importantly, the final cost of the scheme came within the allocated budget. Councillor Jefferson then put the following questions to Councillor Cockerill to which he undertook to provide a written reply:

- (i) Is it still the case that of the £4m, £1.536m will be financed from borrowing (as outlined in the Budget report to full Council in February 2016)?
- (ii) Does the £4m include payment for alterations to the Foreshore Road under the s278 agreement with the County Council?
- (iii) the Risk Matrix No 7. in the report refers to a loss of tenant - (detailing Flamingo Land). The definition of tenant means a person or body who has acquired land/property for which a rent will be payable. - is the Council receiving rent and is there a signed lease –if so where is it?
- (iv) According to the report, at the Planning and Development Committee on 11 December 2012 it was stated that planning permission for demolition was not required. What has changed?
- (v) How can Cabinet make a decision to demolish when planning permission has not yet been obtained?
- (vi) Since the methodology of the demolition has changed from the original proposals, is the Cabinet happy with the present position and figures as it would appear tests and site visits are still taking place?
- (vii) The Cabinet being asked to agree recommendations today consist of only three original councillors of the eight councillors who agreed in principle to accepting the preferred bidder and proposals from the appraisal at the Cabinet meeting of 16 September 2014. Is not this of concern?

Councillor Vesey then referred to the Heritage Statement for the site which in recognition of the historic significance of the area, stated that the Futurist Theatre should not be demolished unless it was replaced by a development of equivalent iconic and cultural value and benefit to the local community. This was not guaranteed under the current proposals. In reply, Councillor Chatt commented that the decision to approve the demolition and stabilisation scheme had already been made. The report today provided further details

and the assurance that since the final costings came within the budget, the scheme could proceed (subject to planning permission). He reminded the meeting this was a long standing issue that required resolution.

RESOLVED that the Cabinet:

1. Note, that the final cost for the demolition of the Futurist Theatre and adjoining buildings (the Futurist Theatre Site) including stabilisation of the cliff is £3.913m, which is within the £4m budget allocated and approved by Full Council.
2. Subject to obtaining planning permission for the works, authorise entering into a supplemental agreement with Willmott Dixon Construction Limited (Willmott Dixon) to proceed with the demolition of the Futurist Theatre Site.
3. Approve that a £200k (5%) contingency budget be earmarked within the Capital Contingency Reserve to mitigate any potential cost overruns on the scheme to be funded from the remainder of the £4m committed budget (£87k) and the Capital Contingency Reserve (£113k) which is allocated for such purposes;
4. Subject to obtaining planning permission for the works, approve the Council entering into a s278 agreement with North Yorkshire County Council relating to the carrying out of alterations to Foreshore Road on terms to be approved by the Director (NE) in consultation with the Leader.

Reasons

To seek approval from Cabinet to proceed with the demolition of the Futurist Theatre Site now that the final contract price submitted by the contractor for the works is within the allocated budget of £4m.

11. SAVING SOUTH CLIFF GARDENS - AWARD OF HLF GRANT

The Cabinet considered a report by the Chief Executive (Reference 17/230) in respect of the Saving South Cliff Gardens project. Members welcomed this excellent news for the residents of the South Cliff and wider Borough.

RESOLVED that the Cabinet:

1. Approve proceeding with the development stage of the Saving South Cliff Gardens project
2. Accept £334,200 Heritage Lottery Fund grant funding for the Saving South Cliff Gardens project Stage 2 development.
3. Approve the allocation of £90,000 towards the development stage of the scheme to be funded from the Capital Revenue Reserve as approved by Full Council (ref 17/58).
4. Approve entering into a contract with Southern Green Limited to undertake the stage 2 development work and the option to instruct the delivery of Stage 3 should the stage 2 bid be successful.
5. Note that the maximum grant the HLF can award of £5m has been applied for and provide a formal commitment to the HLF to underwrite any further increase in costs in Stage 3 provided that the Council and

the HLF have made a decision that the project should proceed to Stage 3. Provision of this commitment is a condition of the grant, and the Leader is asked to note the strategy within the report to ensure costs remain within budget.

Reasons

To save the unique and enchanting heritage of South Cliff Gardens from a point of critical decline and to breathe new life into the Gardens so they appeal to 21st Century communities and become a vibrant and well-used park once again.

12. AWARD OF COASTAL AND FLOOD MAINTENANCE WORKS TERM CONTRACT 2017-2021

The Cabinet considered a report by the Chief Executive (Reference 17/232). **RESOLVED** that the Cabinet approve entry into contract with Transcore Ltd for the provision of a Maintenance Term Contract starting in October 2017 and completing in October 2021 for reactive maintenance works to the coastal defences, coastal slopes and flood sites within the Borough.

Reasons

- To comply with the Council's Financial and Contract Procedure Rules;
- To ensure the Council's coast and flood defence assets are adequately maintained.
- To ensure that there is a competent identified Contractor appointed to provide the services required.
- To ensure that speed of response and best value are attained.

13. LAND OFF FILEY ROAD - IN PRINCIPLE AUTHORITY TO DISPOSE OF LAND CURRENTLY USED BY SOUTH CLIFF BOWLS CLUB

The Cabinet considered a report by the Director (NE) (Reference 17/224) seeking in principle authority to dispose of land currently used by South Cliff Bowls Club. Introducing the report, the Portfolio Holder, Councillor Mallory proposed an additional recommendation (iii) to authorise Director (NE) in conjunction with the Portfolio Holder to consult with the South Cliff Bowls Club about finding a suitable alternative site to facilitate the club. The Director, Mr Edwards then provided further background detail to the report. He noted that some two years ago the South Cliff Bowls Club because of its reduction in membership had considered giving up its lease of the site. Since then, the Club's circumstances had improved. In the meantime, the Council in discussions with its development partner, Wrenbridge, had concluded that by including the adjacent site of the Bowls Club, the wider Filey Road site could be made more attractive to potential developers. He added that the Council had a good working relationship with the Bowls Club, and should Members be minded to accept the recommendations leading to the eventual disposal of the site, then the Council would ensure that the Club was offered an alternative suitable site with facilities in the vicinity. He further noted that a letter of objection to the site's disposal had been received from the Bowls Club, and officers had also received a communication nominating the site as an Asset of Community Value under the Localism Act. With the permission of the Chairman, local ward Councillor Siddons then addressed the Cabinet. He

noted that initial plans for the development of sites often evolved through the development process. In light of this, the site's historic importance, and the value of physical activity and recreation to the local community's wellbeing, he asked that local residents be consulted further on the future of the site. Councillor Mallory noted his comments and agreed with him on the importance of local consultation.

RESOLVED that the Cabinet:

1. approve, in principle, the marketing of the freehold interest of the site outlined with a dashed red line in Appendix 1;
2. note that a further report will be presented to Cabinet seeking final approval for the sale of the freehold interest of the land as well as the wider site outlined red in Appendix 1 once a purchaser has been identified; and
3. authorise Director (NE) in conjunction with the Portfolio Holder to consult with the South Cliff Bowls Club about finding a suitable alternative site to facilitate the club.

Reasons

- To obtain a capital receipt to assist the Council in meeting its corporate objectives.
- To obtain in principle support of Cabinet to dispose of the freehold interest of this site to be marketed as part of the larger enabling site.
- To comply with the Council's Constitution.

14. EXCLUSION OF THE PUBLIC

The Chairman noted that the following two reports both included private and confidential appendices which might necessitate moving into private session should Members wish to discuss the sensitive information therein. In the event, both items were considered in public.

15. DISPOSAL OF PREMISES AT ROYAL ALBERT DRIVE, SCARBOROUGH

The Cabinet considered a report by the Director (NE) (Reference 17/223) in respect of the disposal of premises at Royal Albert Drive, Scarborough.

RESOLVED that the Cabinet:

- (i) note the offers received following the marketing exercise which are detailed within the Private and Confidential Appendix (P&C1);
- (ii) approve Bidder A as the Council's preferred developer for the subject land at Royal Albert Drive, Scarborough, edged red on the attached plan (Appendix 1);
- (iii) approve the financial offer from Bidder A as detailed in the Private and Confidential Appendix (P&C1);
- (iv) note that Bidder A's offer is subject to legal contract and obtaining planning consent;
- (v) delegate authority to agree the final lease terms to the Director (NE), or alternate as appropriate, following discussion with the Portfolio Holder for Finance, Procurement and Legal;

(vi) note and consider the representations received in respect of the Public Notices displayed on site and in the local press in relation to the disposal of Public Open Space.

Reasons

- To present the offers received following the tender exercise.
- To provide Bidder A the reassurance to progress to the planning stage of the proposed development.
- To achieve a capital receipt from the disposal of the long leasehold interest.
- To provide a mechanism to conclude negotiations of the lease.
- To comply with the Council's Constitution and Section 123 of the Local Government Act 1972 in respect of the disposal of Public Open Space.

16. PERFORMANCE MANAGEMENT FRAMEWORK - QUARTER 1 REPORT 2017/18

The Cabinet considered a report by the Director (LD) (Reference 17/221) in respect of the Council's performance at the end of the first quarter of 2017/18. The Portfolio Holder, Councillor Turner commended the progress made in performance, noting in particular the increase in compliments received for the Council's services.

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 and in particular

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

Reasons

To provide information relating to Council performance for a rolling 12 month period to the end of the first quarter of 2017/18.

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.

Chairman