

CABINET

At a meeting held on Tuesday, 14 November 2017

Present:-

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

1. DECLARATIONS OF INTEREST

No declarations of interest were received.

2. MINUTES

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

3. PUBLIC QUESTION TIME

The Chief Executive reported that Mr Adrian Perry of the Friends of South Cliff Gardens had registered to ask a question in respect of Agenda Item A6 which would be considered under that item.

4. FORWARD PLAN

The Cabinet considered the Forward Plan (Reference 17/258). Three additions to the Forward Plan were noted: Town Centre Management Policy under the Strategic Planning and Transformation Portfolio (April); Review of the Living Wage under the Human Resources, Democracy, Safer and Stronger Communities Portfolio (December and full Council in January); Land at Whitby Harbour under the Project Leadership, Harbours, Coast and Flood Protection Portfolio (January).

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 17 October.

6. INTRODUCTION OF A PUBLIC SPACE PROTECTION ORDER COVERING THE BOROUGH OF SCARBOROUGH

The Cabinet considered a report by the Director (NE) (Reference 17/244) proposing the introduction of a Dog Control Public Space Protection Order for the Borough of Scarborough. Mr Adrian Perry of the Friends of South Cliff Gardens addressed the meeting with the following question:

‘First, I must clearly state that everyone welcomes responsible dog owners but a dog off the lead in a public garden encourages dog mess which in South Cliff Garden is already at unacceptable levels. Fortunately, we have a lady volunteer who tries to manage the situation with her “Poo Litterpicks”. The current dog orders have all of South Cliff southern gardens as dogs on leads. We think it is wrong that South Cliff Gardens are being downgraded to have only three small isolated areas within the gardens where dogs must be on a lead. Consequently, we are asking for your support in rejecting this proposal

which will adversely affect our gardens. When this matter was previously discussed in Cabinet the Officer stated that the reason for the reduction in protection at South Cliff was because there are too many entrances to the Gardens which makes it difficult to enforce the dogs on lead order. The number of entrances to the whole garden are 13. The areas designated in the proposal have 17 entrances which I would suggest makes enforcement a real nightmare. I have read through the documents and see a great deal of support for our views and find it difficult to understand why the responses have not been acted upon. I would suggest that the consultation is flawed in that I cannot understand why people in Whitby or Filey are asked to comment on Scarborough Parks and vice-versa. Very few people would have any detailed knowledge about other parts of the Borough. However, the questions on fines are universal and prompted a good deal of comment. Last month the Friends were delighted to see that the Cabinet approved Saving South Cliff Gardens - award of HLF grant. Members of our group have been involved with this project from its outset and only last week visited Pannett Park to see how their HLF project has prospered. It clearly has been a very successful exercise in regenerating a neglected park. We have all the same issues and we are determined to have a similar result but we need your assistance. The Friends of South Cliff Gardens cannot support the proposed changes and hope that the current orders will be maintained.

Finally, do you really think that these proposals for South Cliff Gardens will reduce the dog fouling problems when dogs are not controlled?'

Before giving his reply, Councillor Chatt also reported the following comments by ward Councillor Tom Fox on the same issue:

'I am commenting in respect of the South Cliff Gardens, the recognition given in early consultation to the complexities of enforcement of dogs on/off their leads in certain areas of the Gardens. That stated so early in proceedings it is now a surprise to read the lax approach proposed. With the myriad of access points to the Gardens and how the paths interweave it would be an impossibility for those tasked with enforcing any 'order'. The twists and turns of the paths will see dogs off their leads often beyond the reach of their walkers with consequences of straying into areas where leads are required and dogs fouling out of their sight and will walkers know they have crossed the lead on/off boundaries?

To me the sensible approach is not to complicate the order. These are public gardens with complex paths and not wide open grassed areas. Dogs need to be on their leads in this area and I ask that you consider my view at the meeting.'

Reply:

'South Cliff Gardens were previously covered by the dogs on lead requirement. The area covered ran from the Spa Lift to the former Holbeck Hall site. As the area has changed character over the past ten years, officers feel it would be appropriate to mirror the area to the north of the Spa Lift which have no restrictions and so remove much of the area from dogs on lead requirements. We propose to retain the restriction though for: Rose Gardens, the Italian Gardens, and the Clock Tower putting green and formal beds. The

entire area would still be covered by dog fouling legislation and the Dog Warden team will continue to patrol the area to identify fouling offences. The consultation was undertaken through the corporate framework and gives residents, visitors and Parish/Town Councils the opportunity to shape the final PSPO. It would not be appropriate to limit responses or ability to feed in to the process based on where one lived. Scarborough Borough Council takes dog fouling seriously and will continue to do so. Since April we have commenced formal action against 63 individuals for dog related offences and just under half of these are for fouling offences. We regularly take action for dog fouling offences against owners while the dog is exercised on a lead, so retaining the lead requirement would not prevent fouling offences being committed. We have suggested this PSPO runs for the maximum three years but Cabinet could ask for an interim report to review if the proposals are working which could be a compromise?’

Mr Perry then commented on the reply, stating that although it appeared to be reasonable, the standpoint of the dog owner needed to be taken into account. As currently proposed, the new PSPO for the South Cliff Gardens was difficult for dog owners to understand and therefore to abide by. Far better that the dogs on lead restriction be retained for all the area backed up by clear signage.

Members welcomed the report, recognising the difficult balance to be struck between the needs of dog walkers and other residents, but sympathised with the views of Mr Perry and ward Councillor Fox. Councillor Cockerill commented that the simpler the proposed order, the easier to enforce, noting that much work would be taking place in the area of South Cliff Gardens in the coming months following the Council’s recent decision to approve the cliff stabilisation project, and the related Heritage Lottery Fund project. He therefore proposed that in accordance with Mr Perry’s and Councillor Fox’s wishes, the PSPO replicate the dog on lead restrictions of the current order for South Cliff Gardens subject to further review after the completion of these projects. Councillor Cockerill also queried the use of ‘reasonable excuse’ in the policy as a means for dog owners to avoid committing an offence. The Operations, Transport and Countryside Manager, Mr Thompson commented that the wording in the policy was based on good practice in other authorities; however, he would have to take legal advice before providing clarification on this matter. Councillor Turner welcomed in particular the proposals in respect of Tate Hill Beach that dog walkers be permitted to let their dogs off the lead in winter time.

RESOLVED that the Cabinet recommend that the Council:

1. approve the making of the Scarborough Borough Council Dog Control Public Spaces Protection Order (‘the Order’) as set out at Appendix A (subject to the amendment to the Order proposed for South Cliff Gardens to the effect that the current dog on leads restriction in the entire South Cliff Gardens be replicated in the new order and subject to clarification on the matter of ‘reasonable excuse’);

2. approve the use of fixed penalty notices for offences under the Order;
3. approve that the fixed penalty for offences under the Order be;
 - (a) £100 for dog fouling offences; and
 - (b) £75 for all other offences
4. delegate authority to the Directors to;
 - a) issue fixed penalty notices for offences under the Order;
 - b) authorise in writing any Officer of the Council to issue fixed penalty notices for offences under the Order;
 - c) give directions under Part 7 of the Order; and
 - d) authorise in writing any Officer of the Council to give directions under Part 7 of the Order.
5. agree that upon the coming into force of the Order the existing Dog Control Orders are discharged.

Reasons

To provide up to date control measures addressing dog related anti-social behaviour, dog ownership and the responsible exercise of dogs within the Borough.

7. BUDGET STRATEGY 2018-2021 AND BUSINESS RATES POOLING

The Cabinet considered a report by the Director (NE) (Reference 17/254) in respect of the Budget Strategy 2018-2021 and a proposal to become part of a business rates pilot in 2018/19. Members were reminded that from 2010/11 to 2017/18 ongoing savings of circa £17m had to be made from the Council's annual revenue budget, as Government core funding continued to reduce (by an estimated 66% from 2010/11 to 2019/20). Further, the Council had its own cost pressures to absorb. In order to accept the Government's multi-year settlement offer in 2016/17 the Council had to approve an Efficiency Plan, which set out the high level plans to address future year budget deficits. As staffing resources reduced and savings became harder to identify it was becoming apparent that the length of time needed to deliver savings was increasing. The Council was also keen to pursue commercial opportunities, which could generate financial returns to support the revenue budget, rather than relying purely on cuts in service or expenditure. This was likely to require a longer planning period and lead in time to deliver the required financial returns. With that in mind it was proposed that the Council adopt a 3-year budget setting programme, covering the financial years from 2018/19 to

2020/21. As the Government moved towards a funding mechanism based principally on the 100% retention of business rates, it had instigated the Fair Funding Review which would establish the Council's baseline level of retained business rates income under the new scheme. Under the current Rates Retention Scheme, each council was required to pay a 50% levy on their share of growth in business rates income. The major advantage of the North Yorkshire Business Rates pool of which the Council was a member, was that the overall pool levy was reduced to nil when all the authorities were treated collectively as a single authority. The Council, as part of a larger pool of local authorities, had now accepted the Government's invitation to apply to pilot the 100% Business Rates Retention scheme, which was expected to come into effect in 2020/21. The Government had guaranteed that local authorities would not be financially worse off under the pilot, with the Council projected to receive in the region of an additional £240k through the pilot. Decisions on the pilot applications were expected in December. A draft three year budget was therefore under preparation which would be the subject of Member briefings in December, and then a public consultation exercise, before coming back to the Cabinet in the form of a draft Financial Strategy in February. The Chairman, Councillor Mallory encouraged all Members to attend the briefings and to have an input into the draft budget proposals.

RESOLVED that the Cabinet:

- (i) Note the Council's anticipated funding gap for the financial years 2018/19 to 2020/21 and the proposed strategy for addressing the funding gap;
- (ii) Note that the Council has submitted a proposal to the Department for Communities and Local Government (DCLG) to become part of a 100% Business Rates Pool Pilot in 2018/19 alongside North Yorkshire County Council, East Riding of Yorkshire Council, Hambleton District Council, Craven District Council, Selby District Council, Richmondshire District Council and Ryedale District Council;
- (iii) Delegate the authority for entering into the 100% Business Rates Pilot to the Strategic Director (NE) in conjunction with the Portfolio Holder for Finance, Procurement and Legal, should the pilot application be successful.

Reasons

To approve the strategy for addressing the Council's funding gap and put plans in place to address the budget shortfall in a planned and structured way; minimising unplanned cuts in service delivery.

To maximise the Council's income from the Business Rates Retention scheme.

8. FINANCIAL MONITORING TO SEPTEMBER 2017 (2ND PERIOD)

The Cabinet considered a report by the Director (NE) (Reference 17/237) in respect of the Council's financial performance at the end of Quarter 2. The Director was pleased to report a projected surplus of £600k this year of which

£500k was proposed to be used to help balance the revenue budget for the period 2018 to 2021 and provide additional time for savings to be delivered.

i) Note the report and in particular that:

- Despite the setting of an extremely challenging budget a year end surplus of £600k is currently expected to be achieved;
- The majority of income targets are being achieved;
- The majority of savings identified as part of the 2017/18 budget setting process are being achieved but there are some exceptions which still require addressing;
- The capital programme continues to operate within the overall parameters set in terms of contingency levels;

ii) Approve acceptance of the following grants:

- £4,800 from Filey Lions towards the maintenance costs of five pieces of outdoor play equipment over a ten year period.
- £20,000 towards the 2018 Tour De Yorkshire costs from the North Yorkshire Moors National Park Authority

iii) Note the proposal to allocate £500k of the expected year end underspend to help balance the revenue budget for the period 2018 to 2021 and provide additional time for savings to be delivered. This will be factored into the 2018/19 budget proposals.

Reasons

To provide information relating to the Council's financial performance for the 2017/18 year.

9. DISPOSAL OF 10 SKINNER STREET, WHITBY

The Cabinet considered a report by the Director (RB) (Reference 17/250) in respect of the disposal of 10 Skinner Street, Whitby. Members welcomed this report and asked that the sale of the property be used as an opportunity to regenerate this once thriving shopping street.

RESOLVED that the Cabinet:

- (i) approve, in principle, the marketing and subsequent tendering of the freehold interest of 10 Skinner Street, Whitby as outlined red on Appendix 1;
- (ii) approve a marketing budget of £5,000 to be funded from the Capital Development Reserve;
- (iii) note that a further report will be presented seeking final approval for the sale of the freehold interest in the premises following the tender exercise.

Reasons

- To obtain a capital receipt to assist the Council in meeting its corporate objectives.
- To obtain the in principle support of Cabinet to dispose of the freehold interest of the premises.

- To approve disposal costs to conduct the tender exercise.
- To comply with the Council's Constitution

10. LOCAL LETTINGS AGREEMENT FOR SNEATON CASTLE DEVELOPMENT AT WHITBY

The Cabinet considered a report by the Director (NE) (Reference 17/251) which proposed the adoption of a Local Lettings Agreement for the Sneaton Castle Development in Whitby. Members were advised that in a similar way to the Helredale Road development, the LLA was being proposed to address acute local housing need. The various criteria were outlined in the report and would be subject to regular monitoring to ensure that the policy did not have an adverse impact on households with a local connection and in housing need. The Housing Strategy and Development Officer, Mr Burroughs would be happy to provide local ward councillors with allocations data to demonstrate the effectiveness of the policy. Members welcomed the report and the housing need it was designed to meet. In reply to a Member's question, Mr Burroughs confirmed the qualifying catchment area of the LLA which included the surrounding parishes of Newholm, Aislaby, Eskdaleside, Sneaton and Hawsker.

RESOLVED that the Cabinet approve entry into a Local Lettings Agreement in respect of the allocation of affordable rented homes at the Thirteen Development at Sneaton Castle, Whitby.

Reasons

To ensure that additional preference is given to households from Whitby in respect of the allocation of new affordable rented homes being developed by Thirteen Group at Sneaton Castle, Whitby.

Chairman