

## **CABINET**

At a meeting held on Tuesday, 18 July 2017

Present:-

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

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

Councillor Plant declared a personal interest in agenda item 6, Review of the Parks Nursery (Overview and Scrutiny Board) in his capacity as a member of the management committee of the Friends of Pannett Park.

Councillor Turner declared a personal interest in agenda item 6, Review of the Parks Nursery (Overview and Scrutiny Board) in her capacity as a member of the management committee of the Friends of Pannett Park.

### **2. MINUTES**

**RESOLVED** that the minutes of the meeting held on 13 June 2017 be approved as a correct record and signed by the Chairman.

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

The Chairman reported that no public questions had been received.

### **4. FORWARD PLAN**

The Cabinet considered the Forward Plan (Reference 17/168). Following Filey Town Council's Vote of No Confidence in the Borough Council and the Cabinet's request to the Town Council to find a way forward together, Cabinet Members reacted with disappointment to the eleventh hour cancellation of the meeting with the Town Council the previous evening. Cabinet Members were also extremely critical of the baseless and damaging allegations made about them through social media.

**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 13 June.

### **6. REVIEW OF THE PARKS NURSERY (OVERVIEW AND SCRUTINY BOARD)**

The Cabinet considered a report by the Director (LD) (Reference 17/167) in respect of a review of the Parks Nursery commissioned by the Overview and Scrutiny Board. The Chairman of the Task Group, Councillor Randerson

presented the report noting with sadness that according to the evidence they had obtained, it was no longer viable to continue with an in-house Nursery service. He was however pleased to note the Council's commitment to endeavouring to retain all four full-time Nursery staff, and that by outsourcing the supply of plants, the Council would not lose these valuable in-house skills. Cabinet Members thanked Councillor Randerson and other members of the Task Group for an excellent, thorough piece of work, which would enable the Council to continue to provide a high quality Nursery service at a much reduced cost, whilst retaining staff, as Councillor Randerson had indicated. The Cabinet Member for Democracy, Councillor Turner, saw the review as a milestone for the new Overview and Scrutiny Board and a model of how the Board should be working. At the permission of the Chairman, Councillor Siddons, Chairman of the Board, addressed the meeting. He thanked the Task Group for undertaking a difficult review, noted that the Board had taken some time to find its feet, and that the issue of resourcing the scrutiny function had now been recognised by the Council's management, and he looked forward to the Board continuing to contribute in future to the improvement of the Council's services for the people of the Borough. The Cabinet Member for Tourism and Culture, Councillor Jenkinson was similarly grateful to the Task Group and to all those who contributed evidence including the volunteer groups which played such an important role in the Parks service.

**RESOLVED** that the Council be recommended:

- (i) To approve the closure and disposal of the Manor Road Nursery, and to outsource the supply of plants for the Nursery Service;
- (ii) To approve the ring-fence of the capital receipt from the sale of Manor Road Nursery to ensure the redevelopment of Dean Road Depot to a suitable condition, the construction of a new holding facility on this site as well as the construction of an educational hub to facilitate the delivery of a range of services in the future.
- (iii) To adopt transitional arrangements for the Nursery Service until the opening of the new holding facility, and commence a procurement process with a view to buying in finished plants from spring 2018 and utilising the existing nursery as a temporary holding facility; and
- (iv) To approve development work including public consultation to establish horticultural community and educational facilities and activities in Peasholm Park with the necessary staff support.

And more specifically in respect of the Task Group's recommended disposal of Manor Road Nursery and capital works:

- (v) To approve, in principle, the freehold disposal of land and buildings that form the existing Manor Road Nursery, Scarborough as edged red on the attached plan (Appendix 3);
- (vi) To approve a disposal and marketing budget of £10,000 to be funded from the Capital Development Reserve;
- (vii) To note that a further report will be presented to Cabinet following the completion of the marketing campaign for the sale of Manor Road Nursery;

- (viii) To approve a budget of £550,000 for the redevelopment of Dean Road depot and community hub in Peasholm Park in advance of the relocation of the Manor Road Nursery functions;
- (ix) To authorise Officers to appoint an architect to obtain the necessary permissions for the development works at Dean Road depot and Peasholm Park;
- (x) To authorise Officers to tender for the necessary works to Dean Road depot and in Peasholm Park in compliance with the Council's Constitution;
- (xi) To delegate to Director (NE) in consultation with the Portfolio Holder for Project Leadership, Harbours and Flood Protection to enter into relevant contracts for the development works at Dean Road depot and in Peasholm Park;
- (xii) To note that the Council will be undertaking the development of Dean Road depot and the community hub in Peasholm Park at financial risk as the works will need to be completed prior to obtaining a capital receipt for the freehold disposal of Manor Road Nursery.

#### **Reasons**

- To deliver the Council's plant requirements in the most cost effective way in sufficient quantity and within product specification.
- To rationalise the Council's assets and realise efficiencies in the Council's operations by disposing of the Manor Road Nursery site and by locating the Nursery service in the form of a new plant holding facility at Dean Road Depot
- To continue to provide support to local volunteer groups and educational and community activities in respect of the Council's parks and green spaces including through the creation of a new community hub in Peasholm Park, subject to further consultation and feasibility work

#### **7. FINANCIAL AND TREASURY OUTTURN REPORT 2016/17**

The Cabinet considered a report by the Director (NE) (Reference 17/170) in respect of the Council's Financial and Treasury Outturn for 2016/17. Members were advised that despite a challenging financial environment, the Council had achieved a £603k underspend on the 2016/17 budget in addition to accruing monies from a number of other sources including the 2016/17 Business Rates Pool Dividend and one off treasury management savings. These resources would enable the Council to support previously unfunded priority areas of expenditure identified in the 2017/18 budget such as increasing the Council's overall budgeted contribution towards the Coast Protection works from £3m to a total of £5m. Members welcomed this additional funding for Coast Protection works and the new capital schemes such as the load testing and flow reading works on Whitby Piers.

**RESOLVED** that the Cabinet:

- (i) Note the report, and in particular:
  - the £603k underspend on the revenue budget for 2016/17;

- the £1.733m funding that was identified in the 2017 Financial Strategy as likely being available but could not be quantified with certainty until the 2016/17 outturn had been finalised;
  - that additional funding of £537k has been identified from various sources and can now be directed towards funding areas of priority expenditure;
  - the outturn position for capital schemes completed in the period and capital receipts for the 2016/17 year; and
  - the outturn position of the Council's Treasury Management function for the 2016/2017 year.
- (ii) Approve the utilisation of £40k from the existing £3m Coastal Protection Works budget in order to carryout load testing and flow readings at the Whitby Piers.
- (iii) Accept the following grants and contributions:
- £10k from the Filey Lions for the provision of 5 pieces of outdoor gym equipment;
  - £75 from East Ayton Parish Council, £250 from West Ayton Parish Council, £449 from North Yorkshire National Parks Authority and £325 from private contractors for the installation of an interpretation panel for Ayton Castle;
  - £50k (plus indexation) per year (during the period of construction of the Woodsmith Polyhalite mine near Whitby and for the following ten years following its completion) from the North Yorkshire Moors National Park s106 contributions in respect of the development for the promotion of Whitby as a tourism destination;
  - £40k (plus indexation) per year (during the period of the construction of the Woodsmith Polyhalite mine near Whitby) from the North Yorkshire Moors National Park s106 contributions in respect of the development for the purpose of preparing local people for opportunities arising from the development.
- (iv) Note that, following a competitive tender process, the Director (s151) has accepted monies for the naming rights to the Football Stadium at Scarborough Sports Village.

**And recommend that the Council:**

- (v) Approve the following schemes, to be funded from the £2.873m identified above (comprising the £603k, £1.733m and £537k identified in recommendation (i)):
- £30k: to upgrade boilers at the Town Hall;
  - £50k: for a replacement Building Management System at the Town Hall;
  - £250k: to fund permanent works to the 'little' stage at Scarborough Spa;

- £300k: earmarked for works at Peasholm Park, including a new boat deck, kiosk, dredging of the lake and a play area, noting that this will be subject to further reports prior to the works commencing;
- £125k: earmarked for the provision of a new waiting area at the Crematorium including a pathway and a lighting scheme which will allow later services in the Winter months;
- £50k: to create a Community Fund, which will provide funding for 'small' improvement schemes across the Borough;
- £68k: contribution to the Council's Investment Fund;
- £2m: to fund the cost of Coast Protection Works across the Borough; increasing the Council's overall budgeted contribution towards the works to a total of £5m.

(vi) Approve the revised Prudential Indicators for Capital Expenditure and the Capital Financing Requirement.

### **Reasons**

- To utilise the year end surplus in a way that helps the Council to address essential, priority areas of expenditure and future year funding reductions.
- To earmark available resources for essential Coast Protection Works in order to minimise future borrowing requirements.
- To comply with the CIPFA Code of Practice of Treasury Management in Local Authorities by informing Cabinet of the Council's treasury management activities before 30 September following the end of the financial year that the report relates.
- To keep Members informed of Treasury Management activities and performance.

## **8. CRITERIA FOR ALLOCATION OF GRANT PAYMENTS FROM THE COMMUNITY HOUSING FUND GRANT**

The Cabinet considered a report by the Director (NE) (Reference 17/105) in respect of the Council's Community Housing Fund grant scheme. Members were reminded that in February the Cabinet gave approval to accept £1.86 million from DCLG to help deliver community-led housing schemes in the Borough. Reflecting DCLG guidelines, the present report set out criteria for the allocation of the grant that outlined the terms by which payments would be made to communities (or developers) along with a mechanism to calculate the value of such payments.

**RESOLVED** that the Cabinet approves criteria for the allocation of grant payments to organisations from the Community Housing Fund.

### **Reasons**

The Council has received £1.86 million from the Community Housing Fund to support community-led housing schemes and requires a criteria for the allocation of this grant to relevant organisations to deliver community-led housing schemes.

**9. REMEDIAL WORKS TO PILING AT ENDEAVOUR WHARF, WHITBY**

The Cabinet considered a report by the Director (NE) (Reference 17/169) in respect of essential remedial repair works to Endeavour Wharf, Whitby. Updating his report, the Director, Mr Edwards advised that the European Fisheries Funding for this project had now been confirmed at £312,349 necessitating the slightly larger than anticipated draw from the Harbour Reserves of £107,096 to make up the balance. Members welcomed the news that this important scheme could now go forward and acknowledged the Project Manager, Mr Richards' efforts in preparing a successful funding bid.

**RESOLVED** that the Cabinet:

- i. Delegate authority to the Director (NE) to accept European Fisheries Funding (EFF) of £312,349 from the Marine Management Organisation (MMO) as a 75% contribution toward the cost of works to Endeavour Wharf Sheet Pile Repairs;
- ii. Approve expenditure of £107,096 from Harbour Reserves as the Council's financial contribution towards the scheme and note that any overspend will be met from additional contributions from Harbour Reserves if additional funding cannot be secured; and
- iii. Agree entering into an NEC3 Construction Short Contract with Southbay Civil Engineering Limited to undertake remedial to sheet pilings at Endeavour Wharf, Whitby.

**Reasons**

To undertake essential remedial repair works to Endeavour Wharf to maintain the structure's ongoing sustainability.

**10. OPEN AIR THEATRE**

The Cabinet considered a report by the Director (LD) (Reference 17/161) in respect of proposed changes to the operation of the Open Air Theatre. Although the report contained commercially sensitive information, the Cabinet agreed to consider the report in public session. The Portfolio Holder, Councillor Jenkinson introduced the report which he regarded as the next stage in the continuing success story of this venue. He noted the growing popularity of the Open Air Theatre, and that Cuffe and Taylor's acquisition in December 2016 by Live Nation Entertainment, one of the biggest entertainment companies in the world, afforded further exciting opportunities for the theatre. Councillor Jenkinson commented on the Live Nation CEO's recent visit to the venue and how impressed he was by the Council's organisation and management. The Portfolio Holder wished to convey his personal thanks to all staff involved including the Venue Manager, Mr Clark. The Director, Mrs Dixon then provided further details about the proposals which sought to build on the existing success of the venue for the long term, by consolidating the theatre's reputation as a recognised venue for high profile, large scale entertainment and reduce and eventually eliminate the revenue implications to the Council. She started by noting the theatre's continuing growth in attendances, over 72,000 people this year to date, how Cuffe and Taylor had greatly enhanced the media profile of the venue and

Borough, and that according to UKMusic's recognised formula, the theatre's estimated value to the local economy last year was £2.5m. Since then Cuffe and Taylor had become associated with Live Nation, and now this global entertainment company had asked to be formally assigned the benefit of the existing contract on the terms set out in the report. The benefit of Live Nation's involvement was that it brought an enhanced global entertainment presence to the venue and strengthened the financial covenant of the existing contractual arrangement. Live Nation had also agreed to vary the break clause in the contract to give more certainty to the length of their commitment. Mrs Dixon further advised that Live Nation had requested that they and the Council work together to provide a permanent decking solution in front of the stage, to increase the capacity of the venue from 5,454 to 7,456 (seated) or 7,900 (standing), thereby giving a higher revenue income and increasing the venue's flexibility. For example, Little Mix whose recent concert was sold out, would not have played to a smaller capacity. The approval of the capital budget would be referred with the full details in a report to full Council for decision, but the Cabinet's decision at this meeting would enable officers to start the preparatory work over the summer including finalising the design for the decking, undertaking new surveys, and preparing a planning application, enabling these changes to be implemented in time for the 2018 season, subject to full Council approval. The Portfolio Holder for Finance, Procurement and Legal welcomed these exciting proposals whilst requesting that through the competitive tendering process to be undertaken, officers explore the different decking solutions available together with costings. The Cabinet agreed with this amendment to the resolution and echoed Councillor Jenkinson's and Mrs Dixon's thanks to the Venue Manager, Mr Clark and all the staff at the Open Air Theatre.

**RESOLVED** that the Cabinet:

1. note the successful season at the Open Air Theatre ("OAT") to date, including the benefits offered by the increase in capacity at the OAT by the installation of decking across the lake in front of the stage, and the proposals within this report to consolidate the success of the OAT to date and build for the future long term sustainability of the OAT as a recognised venue for high profile and large scale entertainment.
2. approve a variation to the Council's existing agreement ("Agreement") with the promoters of shows at the OAT (formerly known as Cuffe and Taylor) to allow the assignment of the Agreement to Live Nation Music (UK) Limited ("Live") recognising that this improves the strength of the Council's partner in delivering shows at the OAT both in terms of corporate standing and ability to attract large scale and high profile shows for the benefit of the Borough;
3. conditional upon the Council agreeing the recommendations below, and noting the exemption requested, delegate authority to the Director (LD) in consultation with the Portfolio Holder for Tourism and Leisure and the Portfolio Holder for Finance, Procurement and Legal to:

- i enter into a contract to vary the terms of the Agreement to reflect the terms set out in this report and such other terms as they deem appropriate; and
  - ii enter into a contract for the construction of the permanent decking following on from a tendering process and identification of the most cost effective permanent decking solution
4. note that a separate report will be taken to the Overview and Scrutiny Board on the performance of the OAT during the 2017 season in due course

**And recommend that full Council approve:**

1. a capital budget of [restricted figure] for the building of permanent decking at the OAT and the funding of these costs through borrowing on the proviso that these will be recovered over the course of the Agreement either by recovery from any profit received by the Council from the staging of shows at the OAT, or should no profit be receivable, by direct payment from Live; and
2. that the Council's Prudential Indicators be updated to reflect the additional borrowing in respect of this scheme.

**Reasons**

To consolidate the success of the OAT to date and build for the future sustainability of the OAT as a recognised venue for high profile and large scale entertainment whilst reducing the long term revenue impact on the Council:

- to enable permanent decking to be put in place at the OAT thereby increasing capacity and the ability to draw in high profile artists
- to ensure that the OAT continues to build on its success to date and attracts big name acts by using an established external promoter with a global presence in the entertainment industry

**Chairman**