

CABINET

At a meeting held on Tuesday, 12 June 2018

Present:-

Councillor Mrs H F Mallory (Vice-Chair, in the Chair);
Councillors W Chatt, M J Cockerill, A Jenkinson, J Nock, Mrs H Phillips 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 15 May 2018 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 18/127). In response to a question about the poor state of the toilets at the Open Air Theatre, the Portfolio Holder for Leisure, Councillor Jenkinson explained that these facilities which were intended for use only at events had been used by builders during the previous three and half months and been left open. It was not intended that they be used by the public other than during events. The toilets would be returned to an acceptable standard in time for the summer season.

RESOLVED that the Forward Plan be approved.

5. PROGRESS OF SCRUTINY OF EXECUTIVE DECISIONS

The Chief Executive reported that the Cabinet's response to the Scrutiny Review of Fishing at Scarborough Harbour at its meeting on 15 May was called in by Members and considered by the Overview and Scrutiny Board on 30 May. The Board resolved that:

(i) the Overview and Scrutiny Board requests the Cabinet to reconsider its decision taken on 15 May 2018 on the basis that the Scarborough Harbour Task Group has fulfilled its remit in relation to its review of the fishing sector, and that further reviews of aspects of the Harbour other than fishing would be undertaken in due course;

(ii) the wording of the resolution of Cabinet minute 10 (Review of the Fishing Sector at Scarborough Harbour (Overview and Scrutiny Board) be revised to reflect (i) above;

(iii) an executive/scrutiny protocol be developed to provide clarity on the working relationship between both arms of the Council including in relation to scrutiny reviews; and

(iv) the next phase of the Harbours' reviews be agreed in order to further the Strategic Business Plan for Scarborough Harbour.

The Portfolio Holder for Major Projects, Councillor Cockerill proposed the following response:

‘Whilst the Cabinet minutes of 15 May stand as an accurate record of that meeting, the Cabinet reiterates the thanks that were extended to the Task Group for their work on this review recorded in those minutes, and looks forward to the future support of the O&S Board and specifically that an executive/scrutiny protocol be developed to provide clarity on the working relationship between both arms of the Council including in relation to scrutiny reviews, and the next phase of the Harbours’ reviews be agreed in order to further the Strategic Business Plan for Scarborough Harbour.’ This was agreed by the Cabinet.

6. REQUEST FROM HOME OFFICE TO BECOME AN ASYLUM SEEKER DISPERSAL AREA

The Cabinet considered a report by the Director (NE) (Reference 18/102) in respect of a request from the Home Office for the Borough to become an Asylum Seeker Dispersal Area. Members were advised that this request to all North Yorkshire councils had been made following heavy criticism by a Parliamentary Select Committee in January 2017 of current asylum dispersal arrangements including that too few councils participated in the scheme thereby placing an unfair financial burden on the councils that did. Currently, the Home Office was making a request, but the Secretary of State did have the power to impose the scheme on local authorities. Officers had been in negotiations with both the Home Office and the scheme provider G4S to develop a draft countywide dispersal agreement which included both placing a limit of 50 asylum seekers throughout North Yorkshire in an initial two year period, and a limit of 20 in any single district. Although there was no funding available from the Government to the Council to cover any costs associated with asylum dispersal, Members were asked to consider the request within the national context outlined above, and to balance local concerns around participation against the humanitarian purpose to the asylum process and the common good.

RESOLVED that the Cabinet:

- i Note the request from the Home Office to extend dispersal arrangements for asylum seekers into North Yorkshire along with the implications of these arrangements for the Borough; and
- ii Refer the decision to full Council **either** to agree to participate in a North Yorkshire wide scheme on the negotiated terms highlighted in the report **or** to reject the request on the understanding that the Secretary of State has the power to impose asylum dispersal on the Borough.

Reasons

To enable full Council to reach a decision on this important and sensitive matter.

7. ANNUAL REPORT AND IMPROVEMENT PLAN 2018/19

The Cabinet considered a report by the Director (LD) (Reference 18/121) in respect of the Council’s Annual Report and Improvement Plan 2018/19. The

Portfolio Holder, Councillor Nock commended the report and the major achievements and encouraging performance outlined therein. With the permission of the Chairman, both Councillors Randerson and Vesey addressed the meeting. Councillor Randerson queried the completion date of 2021 for the new school in Eastfield cited under Priority Projects which officers would check. The Cabinet noted and would look into the concerns Councillor Vesey raised around the provision of public conveniences on the South Cliff and Foreshore in Scarborough.

RESOLVED that the Cabinet:

- (i) Notes the significant achievements made over the last 12 months, including:
 - a. Commencement of the Sirius Minerals Mining Project, anticipated to generate over 1,000 jobs
 - b. Opening of the Scarborough Sports Village, with attendances well above target
 - c. Delivery of major events, including the Tour de Yorkshire
 - d. Improvements to Scarborough Open Air Theatre, increasing capacity of the venue and attracting major acts
 - e. Approval for major retail developments in Whitby
 - f. Securing of funding and commencement of Flood prevention and Coastal protection works in all areas of the Borough.
- (ii) Recommends to Council that approval be given for publication of the Annual Report and Improvement Plan 2018/19

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.

8. INTRODUCTION OF A PUBLIC SPACE PROTECTION ORDER FOR SCARBOROUGH - CAR CRUISING

The Cabinet considered a report by the Director (RB) (Reference 18/122) which proposed a new Public Spaces Protection Order for Scarborough in respect of car cruising. Members welcomed this report noting the Council's support for events, but not of an unregulated nature such as car cruising which put people's lives at risk. Members were advised that the proposals in the report had followed an extensive consultation exercise which had revealed strong views on both sides of the argument. The PSPO constituted a proportionate response to this problem. It was not a panacea, but would serve as a deterrent to reduce this type of anti-social activity. In reply to a question, the Director, Mrs Dixon explained that the Council would work with the Police to initiate prosecutions and would consider more serious sanctions for persistent offenders.

RESOLVED that the Council be recommended to:

- (a) approve the making of the Scarborough Public Spaces Protection Order ('the Order') as set out at Appendix A of the report;
- (b) approve the use of fixed penalty notices for offences under the Order;

- (c) approve that the fixed penalty for offences under the Order be £100;
- (d) delegate authority to the Directors:
 - (i) to enforce, and issue fixed penalty notices for offences under, the Order;
 - (ii) to authorise in writing any Officer of the Council to enforce, and issue fixed penalty notices for offences under, the Order.

Reasons

To provide an additional tool to address the issue of anti-social behaviour in relation to car cruises across the Borough.

9. THE LIVING WAGE - ANNUAL REVIEW

The Cabinet considered a report by the Chief Executive (Reference 18/123) which provided an update on the implementation of the UK Living Wage in light of the two-year national pay deal agreed with the trade unions on 10 April 2018, and outlined the implications to the Council of either retaining the status quo or adopting the higher UK Living Wage rate of £8.75 per hour. The Portfolio Holder, Councillor Turner welcomed the report, acknowledging the amount of work which had gone into reaching this position, and proposed that the Cabinet support the adoption of the current UK Living Wage rate to be backdated to 1 April 2018. Other Cabinet Members also commended the report and the decision to defer the review of the Council's Living Wage supplement until the national pay deal was known. They noted the additional cost of some £5,500 per annum of applying the UK Living Wage rate, and supported Councillor Turner's proposal. With the permission of the Chairman, Councillors Randerson and Colling addressed the meeting, adding their support to the proposal, and thanking Councillor Turner for the stance she had taken.

RESOLVED that the Council be recommended to approve the adoption of the current UK Living Wage rate of £8.75 per hour to be backdated to 1 April 2018.

Reasons

This report provides an update on the implementation of the UK Living Wage and invites Members to consider a number of issues as part of the annual review that is required to be undertaken in relation to the continued payment of the UK Living Wage.

10. REVIEW OF THE COUNCIL'S CUMULATIVE IMPACT ASSESSMENT 2018-2021

The Cabinet considered a report by the Director (LD) (Reference 18/110) in respect of a review of the Council's Cumulative Impact Assessment. Members were advised that in light of amendments to the Licensing Act 2003, officers had produced a draft Cumulative Impact Assessment (CIA) following a comprehensive review of the existing Cumulative Impact Policies in respect of Scarborough and Whitby. Key outcomes of the review based on evidence received from North Yorkshire Police in the form of crime pattern analyses,

were the proposals to reduce the size of the Scarborough Town Centre Cumulative Impact Zone, not extend the Scarborough Town Centre Cumulative Impact Zone to the Falsgrave area, and rescind the Whitby Town Centre Cumulative Impact Zone. Some Cabinet Members spoke against rescinding the Whitby Town Centre Cumulative Impact Zone because of its contribution to meeting licensing objectives in that area. In reply, the Senior Licensing Officer explained that this draft assessment was evidence-based, the CIZ was one of many tools available to the Council and its partner agencies, and the proposals would be subject to public consultation before going any further.

RESOLVED that the Cabinet:

- a) Approve the Council's revised draft Cumulative Impact Assessment attached as an Appendix to this report prior to going out to formal public consultation.
- b) Agree, subject to consultation, to rescind the Cumulative Impact Zone in respect of Whitby Town Centre.

Reasons

Recent amendments to the Licensing Act 2003 have placed a legal obligation upon Licensing Authorities to review and subsequently consult upon Cumulative Impact Assessments every 3 years. This is to ensure the assessment remains relevant and properly reflects the area to which it applies. The existing Cumulative Impact Policy forms part of the Statement of Licensing Policy introduced in 2013 and is therefore in need of review.

11. LAND AT WHITBY HARBOUR

The Portfolio Holder for Major Projects, Councillor Cockerill provided a verbal update to the meeting. Members were advised that the task to clearly identify the classification of certain areas of Borough Council land in and around Whitby Harbour had involved a great deal of work both internal and external, and at not insignificant cost in both time and money. This has turned out to be a very complex matter including the effect on the signing off of accounts. Councillor Cockerill had hoped that the situation would have been clarified by now but the work was still ongoing. He then related a note from the Council's independent external auditors, Mazars: 'In response to the legal view expressed by the complainant's legal advisor we shared this with the National Audit Office as the legal view from the complainant potentially had wider implications for the audit regime. The National Audit Office have now responded and we are considering the implications of this response and plan to discuss this with officers on Friday 15th June. After that we will consider the need for additional legal advice whilst this is all taking time we are focused on limiting the cost to the Council and ensure the best possible outcome for tax payers.' Councillor Cockerill had nothing further to add but looked forward to receiving the formal clarification that would allow this matter to be resolved.

12. WHITBY PIERS REFURBISHMENT PROJECT

The Cabinet considered a report by the Director (LD) (Reference 18/128) in respect of the Whitby Piers Refurbishment Project.

RESOLVED that the Cabinet:

1. Note that the S151 officer has used his authority in the Constitution to accept funding from the European Structural Investment Fund (£2.7m) and Local Enterprise Partnership (£500k) towards the Whitby Piers Refurbishment Project and North Yorkshire County Council ((£1.9 m) towards direct costs and the provision of contingency reserves across both the Whitby Piers and Spa Cliff Stabilisation schemes..
2. Delegate authority to the Leader to enter into contract with Balfour Beatty Civil Engineering Limited to design and construct the works following discussions with the Risk Champions.

Reasons

To enable the Whitby Piers Project to proceed as quickly as possible once the contract negotiations are concluded.

13. EXCLUSION OF THE PUBLIC

The Chairman noted that the two remaining reports on the agenda included a private and confidential appendix (for Item 14) and private and confidential content in the main body of the report (for Item 15), 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.

14. PERFORMANCE MANAGEMENT FRAMEWORK - QUARTER 4 REPORT 2017/18

The Cabinet considered a report by the Director (LD) (Reference 18/124) in respect of the Council's performance for a rolling 12 month period to the end of the fourth quarter, 2017/18.

RESOLVED that the Cabinet note the contents of the report and in particular the good/satisfactory levels of performance being achieved by services at the current time in particular:

1. The significant reduction in the levels of sickness absence across the Council
2. The continuing improvement in response times to complaints and Freedom of Information requests; and
3. 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 fourth quarter/year end of 2017/18, including monitoring of Performance Indicators, Critical Success Factors and the Council's Significant Partnerships.

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.

15. SCARBOROUGH SPA ROOF REFURBISHMENT - SELECTION OF CONTRACTOR

The Cabinet considered a report by the Director (NE) (Reference 18/125) in respect of the refurbishment of the roof of the Scarborough Spa.

RESOLVED that the Cabinet delegate the following decisions to the Director (LD) in consultation with the Portfolio Holder for Major Projects:-

- (i) approve the appointment of KFB (Scarborough) Ltd to undertake the Scarborough Spa Complex roof refurbishment works for a contract value of up to £1,099,089.20;
- (ii) authorise officers to enter into contract with KFB (Scarborough) Ltd in respect of the scheme detailed in recommendation (i).

Reasons

To appoint the contractor that provided the most economically advantageous tender to the Council for the spa roof refurbishment works.

To document the legal contract between the Council and the contractor.

Chairman