

## **CABINET**

At a meeting held on Tuesday, 13 November 2018

Present:-

Councillor D J Bastiman (Chairman) in the Chair;  
Councillors M Smith, W Chatt, M J Cockerill, Mrs H F Mallory, 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 16 October 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 18/268). Councillor Turner under her Communities portfolio advised that a report to accept grant funding for Scarborough Construction Skills Village would be submitted to the Cabinet in December.

**RESOLVED** that, subject to the above amendment, the Forward Plan be approved.

### **5. PROGRESS OF SCRUTINY OF EXECUTIVE DECISIONS**

Members were advised that the Cabinet's decision dated 16 October 2018 in respect of the introduction of residents' parking concessions on off-street car parks in the Borough had been called in for scrutiny and considered by the Overview and Scrutiny Board on 12 November. After consideration of the Cabinet's decision to approve the implementation of the proposed scheme on the terms set out in the report and to refer the scheme for review by the Overview and Scrutiny Board after one year, the Overview and Scrutiny Board made the following recommendations to the Cabinet:

1. Maintain free winter car parking (November-March in the selected car parks referred to in the report)
2. Adopt the proposed permit scheme for residents' discounted parking (through offer of a free 'virtual' residents' pass referred to in the report)
3. After one calendar year (January - December 2019), Overview and Scrutiny to review the budgetary (and wider) outcomes of the proposed permit scheme for residents' discounted parking (in time to inform any future winter proposals and budget planning)
4. Scarborough Borough Council (responsible for 'off-street' parking) to continue working with North Yorkshire County Council (responsible for 'on-street' parking) to streamline the various car parking schemes operating within the Borough to support clarity of understanding of parking schemes for the public

Councillor Mallory moved a Cabinet response to the Overview and Scrutiny Board's recommendations which was seconded and approved. Members then commented on the call-in. Councillor Nock decried Councillor Jefferson for not objecting to the County Council's decision to increase the cost of the on-street residents car parking permit from £17 to £30 without consultation. The Cabinet's decision by contrast had been the subject of extensive public consultation. With the permission of the Chairman, Councillor Jefferson responded that she had raised objections and had indeed called for a full review of the residents on-street car parking scheme. Councillor Turner commented that she fully supported the benefits the residents car parking discount scheme would bring, but these benefits came with a cost, and she saw no problem with the proposed £1 winter charge subsidising the scheme. At the permission of the Chairman, Mr James Corrigan addressed the Cabinet. He supported a holistic review of car parking charges but criticised the proposal to introduce a £1 winter charge which he felt would penalise dog walkers. He suggested the introduction of parking meters along Sandside and Foreshore Road to help defray the cost of the residents car parking discount scheme.

**RESOLVED** that the Cabinet recommends to full Council that:

- (i) The Council implements the proposed residents car parking discount scheme for a trial period of 12 months from 1 March 2019. This would be at an estimated cost of £84k to be funded from the predicted 2018/19 outturn underspend.
- (ii) The proposal to implement the winter charging scheme is deferred
- (iii) The Chair of the Overview and Scrutiny Board is requested to establish a Member/Officer Task Group to holistically review car parking charges in the context of the Council's budgetary pressures, and the outcomes of the implementation of the residents car parking discount scheme, specifically the impact on the future Town Centre Strategy. The Task Group would be mindful that the cost of implementing the residents car parking discount scheme for 2019/20 is estimated to be £84k and that funding would be provided for one year, and therefore the Overview and Scrutiny Board's recommendations must look to bridge the funding gap plus any other budgetary pressures to ensure future financial sustainability. Further, the Overview and Scrutiny Board would be required to report to the Cabinet with its recommendations before November 2019, to enable winter charging to be introduced in 2019/20 if required.

## **6. INTERIM REVIEW OF PUBLIC SPACE PROTECTION ORDER - DOG CONTROL**

The Cabinet considered a report by the Director (NE) (Reference 18/303) in respect of an interim review of the 2017 Dog Control Public Spaces Protection Order. Introducing the report, the Portfolio Holder, Councillor Chatt noted how this interim review of the PSPO had been triggered by particular concerns

around the expansion of the seasonal dog exclusion zone on Whitby beach for the 2018 season. The revised PSPO before Members had taken these concerns into account, but also, following further public consultation, proposed a series of amendments to previous restrictions, some in areas of play, which he felt needed further consideration. He therefore moved the recommendation in the report that the 2017 restriction for the Whitby beach area be reinstated reducing the area covered by a seasonal exclusion, but proposed that the rest of the recommendations be deferred pending further examination. Councillor Cockerill proposed a further recommendation that officers commence a review of all the bathing beaches in the Borough in relation to sources of pollution that may be preventing them achieving the Excellent status that was the aim of Yorkshire Water's investment programme of circa £100 million, and that the results and recommendations for action are submitted to Cabinet in the lifetime of the current administration. Other Cabinet Members supported these proposals noting the importance of the message that dog owners should pick up after their dogs.

**RESOLVED** that the Cabinet:

- (i) Instruct officers to commence a review of all the bathing beaches in the Borough in relation to sources of pollution that may be preventing them achieving the Excellent status that was the aim of Yorkshire Water's investment programme of circa £100 million, and that the results and recommendations for action are submitted to Cabinet in the lifetime of the current administration; and

Recommend that the Council:

- (ii) Approve the variation of the 2017 Dog Control Public Spaces Protection Order ('the Order') that the 2017 restriction for the Whitby beach area be reinstated, subject to no challenge being made during the expiry of the statutory appeals process;
- (iii) Defer other proposed variations of the 2017 Dog Control Public Spaces Protection Order pending further examination; and
- (iv) Approve a full consultation exercise on the entire Public Spaces Protection Order in Summer 2020, to include input from the Council's Overview and Scrutiny Board.

### **Reasons**

To ensure the Authority's controls remain fair and proportionate and reflect both Council and the public's priorities.

## **7. FINANCIAL MONITORING REPORT 2018/19 - QUARTER 2**

The Cabinet considered a report by the Director (NE) (Reference 18/266) in respect of the Council's financial performance at the end of Quarter 2 which included an addendum to accept capital grants and contributions in respect of the Church Street Flood Alleviation scheme. Members were advised that a revenue budget surplus of £515k was expected to be achieved this year of which £150k had been allocated as the Council's contribution to the 2019 Tour de Yorkshire cycle race. In respect of the Council's capital budgets and

the ongoing development of Dean Road Depot, it was recommended that £43k from the capital receipt in relation to the Middle Deepdale development be allocated towards the relocation costs of Tourism Services staff from High Eastfield Farm to Dean Road Depot. At the permission of the Chairman, Councillor Tony Randerson addressed the Cabinet expressing his opposition to the capital receipt arising from the Middle Deepdale Development being used in this way, maintaining that the monies should be allocated to his Eastfield ward. The Director, Mr Edwards justified this recommendation in terms of the regeneration of Eastfield and the wider area and that to enable the development of the Construction Business Centre on the High Eastfield Farm site, it made sense to use the capital receipt to help fund the relocation costs of Tourism Services staff from this site to Dean Road Depot.

**RESOLVED** that the Cabinet:

- i) Note the report and in particular that:
  - Despite the setting of an extremely challenging budget a year end surplus of £515k is currently expected to be achieved;
  - As approved by Council (18/195), the 2019 Tour De Yorkshire cycle event (£150k) will be funded from the 2018/19 revenue budget surplus, reducing the uncommitted balance to £365k. In the unlikely event that this causes an in year overspend then this cost would require funding from the Council's General Fund Balance.
  - The surplus is primarily driven by one-off savings specifically in relation to business rates refunds, one off grants and delays in legislative changes to pension auto-enrolment.
  - The majority of income targets are being achieved;
  - The majority of savings identified as part of the 2018/19 budget setting process are being achieved but there are a small number of areas that still require addressing (including some perpetual under achieved budgets). These will continue to be monitored.
  - The capital programme continues to operate within the overall parameters set in terms of contingency levels;
- ii) Approve that any surplus generated this financial year is set aside for the capital strategy / one off priorities.
- iii) Approve acceptance of the following grants and contributions:
  - £30,000 from NYCC to help mitigate the impacts on tourism and commerce following a poor performance in rail services over the summer.
  - £41,170 from the Big Local Programme for the delivery of support worker services to the Barrowcliff Big Local Partnership.
  - £1,100,000 of funding from the LEP (subject to finalising a funding agreement) as a contribution towards the Church Street Flood Alleviation scheme.

- £15,000 from North Yorkshire County Council (subject to finalising a funding agreement) as a contribution towards the Church Street Flood Alleviation scheme.
- iv) Note the acceptance of the funding allocation for the Robin Hoods Bay Sea Wall Scheme.
  - v) Approve the allocation of £43,000 from the capital receipt owed in relation to the Middle Deepdale development as a contribution towards the relocation costs of Tourism Services staff from High Eastfield Farm to Dean Road Depot.
  - vi) Approve allocation of £4,000 of Section 106 towards footpath network upgrades within Valley Park.

### **Reasons**

To provide information relating to the Council's financial performance for the 2018/19 year.

### **8. EXCLUSION OF THE PUBLIC**

The Chairman noted that the remaining report on the agenda included a private and confidential appendix which might necessitate moving into private session should Members wish to discuss the sensitive information therein. In the event, the item was considered in public.

### **9. THE SANDS - HOTEL PHASE**

The Cabinet considered a report by the Director (NE) (Reference 18/306) in respect of the hotel phase of the Sands Development. At the permission of the Chairman, Councillor Mark Vesey addressed the Cabinet, expressing concerns about the delays in the cinema phase of the Sands Development, and more generally about Benchmark Leisure Limited's capacity to deliver on the rest of the development. The Director, Mr Edwards reassured the meeting that the report and risk matrix outlined the safeguards which the Council had put in place to protect the Council during this phase of the development. He also offered to meet with Councillor Vesey to discuss the Sands Development and address his queries in more depth.

**RESOLVED** that the Cabinet:

1. Note that on 22 February 2017 the Leader delegated authority to the Director (NE) to enter into a Supplemental Agreement with Benchmark Leisure Limited (BLL) and Benchmark Properties Limited (BPL) to facilitate the construction of a hotel next to the Water Park on terms principally contained in the Sands Development Agreement and subsequent Supplemental Agreements.
2. Confirm that authority is delegated to the Director (NE) (in consultation with the Leader) to enter into a Supplemental Agreement with BLL and BPL to facilitate this phase of the Sands Development on the terms

principally contained in this report and the draft heads of terms in private and confidential Appendix B noting that:

- i. the Supplemental Agreement for this phase will permit the grant of a long lease in advance of construction of the hotel phase to BLL with an immediate assignment of the lease being permitted to a newly established BLL associated company.
  - ii. Authority is delegated to the Director (NE) (in consultation with the Leader) to agree the development appraisal for this phase which will set out the projected level of profit for this phase as well as BLL's recoverable costs and which are further detailed in private and confidential Appendix B .
  - iii. On the subsequent sale of the hotel phase by the BLL associated company BLL will pay to the Council a pre agreed profit payment or in the absence of a sale the Council will be entitled to recover the surplus rent proceeds from the underlease to the hotel operator calculated on an open book basis.
3. Note that the luxury Spa at the Water Park is due to complete in December 2018 and that for a period of five years from the commencement of the Water Park lease 80% of the improvement sums paid/payable by BLL pursuant to the Water Park lease will be used to part fund the luxury Spa.

### **Reasons**

To enable BLL to enter into a funding contract and access funding for the hotel phase, satisfy the conditions contained in the agreement with the hotel operator and allow BLL to commence development of the hotel phase.

**Chairman**