

Minutes of the meeting of the **Cabinet** held in Committee Room 2 at East Pallant House East Pallant Chichester on Tuesday 6 November 2018 at 09:30

Members Present Mr A Dignum (Chairman), Mrs E Lintill (Vice-Chairman),

Mr J Connor, Mrs J Kilby, Mrs S Taylor and Mr P Wilding

Members Absent Mr R Barrow

Officers Present Mr N Bennett (Divisional Manager for Democratic

Services), Mrs J Dodsworth (Director of Residents' Services), Mr D Henly (Senior Engineer (Coast and

Water Management)), Mr T Horne (Principal

Environmental Health Officer), Mrs J Hotchkiss (Director of Growth and Place), Mr P Jobson (Taxation Manager),

Mr T Radcliffe (Human Resources Manager), Mrs M Rogers (Benefits Manager), Mrs L Rudziak

(Director of Housing and Communities), Mrs D Shepherd (Chief Executive), Ms A Stevens (Divisional Manager for Environmental Protection), Mr G Thrussell (Legal and Democratic Services Officer) and Mr J Ward (Director of

Corporate Services)

593 Chairman's Announcements

Mr A Dignum greeted the members of the public and Chichester District Council (CDC) members and officers and the two press representatives who were present for this meeting.

The emergency evacuation procedure was read out.

There was an apology for absence from Mr R Barrow (Cabinet Member for Residents Services).

All other members of the Cabinet were present.

There were no late items for consideration.

Mr Dignum had no specific announcements to make.

[Note Hereinafter in these minutes CDC denotes Chichester District Council]

[Note Minute paras 594 to 605 below summarise the Cabinet's discussion of and decision on agenda items 2 to 13 inclusive but for full details of the items considered in public session please refer to the audio recording facility via this link:

http://chichester.moderngov.co.uk/ieListDocuments.aspx?Cld=135&Mld=979&Ver=41

594 Approval of Minutes

The Cabinet received the minutes of its meeting on Tuesday 2 October 2018, which had been circulated with the agenda.

There were no proposed changes to the minutes.

Decision

The Cabinet voted unanimously on a show of hands to approve the aforesaid minutes without making any amendments.

RESOLVED

That the minutes of the Cabinet's meeting on Tuesday 2 October 2018 be approved.

595 **Declarations of Interests**

There were no declarations of interests made at this meeting.

596 Public Question Time

Five public questions had been submitted for this meeting, details of which appear below.

All five questions related to the same subject (which was not an agenda item for this meeting), namely the proposal for a temporary ice rink in the city of Chichester during the forthcoming Christmas season.

The text of the questions had been circulated to CDC members, the public and the press immediately prior to the start of this meeting. Mr A Dignum (Leader of the Council) invited each person in turn to come to the designated microphone in order to read out the question before he provided an oral response.

In view of the number of the questions, Mr Dignum first took the opportunity to explain how public question time was conducted at Cabinet meetings.

He said that members and officers were always pleased to receive public questions at Cabinet meetings as this was an important means whereby the residents or non-domestic ratepayers of Chichester District were able to engage in the democratic process. Although on this occasion there were five questions about a subject which, rather unusually, did not feature on the agenda, nevertheless this was the public's chance to attend and on due notice ask questions of their elected representatives

about matters of local concern. As with other CDC committees and the Council (the Planning Committee had a separate procedure) 15 minutes were set aside at the start of each meeting before the main published business for public questions. It was requested that questions be kept as concise as possible. Unfortunately in recent times there had been a growing trend for questions to take the form of long preambles or statements, which was to be discouraged. However, that was not the case with any of today's questions, which was appreciated. He summarised how each question (and any supplementary question) would be asked and answered.

The questions (with the date of submission shown within [] at the end of the text), any supplementary questions and the answers given by Mr Dignum were as follows.

(1) Sophie Hull

'Re: Planning application for a temporary change of use of part of Priory Park to a Christmas ice rink with ancillary food and drink uses, including installation and removal of ancillary temporary structures on land at Priory Park Priory Lane Chichester West Sussex [18/02538/FUL]

Are all the members of the Cabinet aware that a group of Regular Users of the Park and nearby Residents of Priory Park ('Users and Residents') have instructed a barrister of Lincoln's Inn London and Pallant Chambers concerning the above-mentioned planning application and have written to Diane Shepherd Chief Executive Chichester District Council a letter written in the spirit of pre-action judicial review protocol? A request has been made for a substantive reply by 4 pm on 14 November 2018 and confirmation that the Council will not issue a decision notice before the receipt of the substantive response.'

[Sunday 4 November 2018]

Response

Mr Dignum (Leader of the Council) said that Cabinet members were aware of the letter dated 31 October from a group of Users of the Park and nearby Residents of Priory Park. The letter was under consideration by the Council's Principal Solicitor and the Divisional Development Manager and a reply would be sent as soon as possible.

Notwithstanding that, elements of the proposals had been subject to further amendment by the applicant since the Planning Committee meeting on 17 October 2018. It was considered by officers that those changes amounted to new significant material considerations and so, in accordance with the Planning Committee resolution, the application was to be reported to the next meeting of the Planning Committee on 14 November 2018 for determination.

Supplementary Question

Mrs Hull did not wish to ask a supplementary question

(2) Tom Bottrill

'I refer to the event management plan provided by the organiser which clearly states that "all temporary structures are being sourced by industry leading experts and will be installed in accordance with the manufacturer's recommendations".

It is noted that English Heritage prohibit ground disturbance below a depth of 40cm.

The manufacturer says they do not have a specific ballast design available for these structures as "free standing" marquees. For the marquee to "comply" with their supplied structural calculations the structure would have to be staked into the ground with 100cm steel ground anchors.

If the organiser is planning on using ballast to anchor the large structure then the recommendation from the manufacturer and the institute of structural engineers would be for a <u>site specific</u> set of structural calculations to be produced by a certified structural engineer in order to ensure that it complies with British and European wind loading standards (BS 6399 Part 2 and DIN-EN 13782).

Questions of safety have been raised about the anchoring of the large temporary structure and justly so given the risk to the public and length of time it will be in situ at a time of year where strong winds and inclement weather are apparent. As hirers of the Park are you totally satisfied that the site management plan for this commercial enterprise is complete and there is robust evidence that the organiser has taken full care in complying with minimum safety standards?'

[Friday 2 November 2018]

Response

Mr Dignum (Leader of the Council) said that CDC had strict requirements for the hire of land for events. All events had to comply with recognised health and safety standards and a detailed events management plan with risk assessment was required. Hire of CDC land also required compliance with the Code of Practice for outdoor events, having adequate welfare facilities and safeguarding arrangements in place, as well as having appropriate insurance cover. Subject to planning permission and a premises licence being granted, final details of the event management plan would be considered by officers and would have to comply with any planning or licence conditions before a hire of land agreement was entered into by officers.'

Supplementary Question

Mr Bottrill referred to the fact that a new design had been proposed for the rink the previous day. The organiser had supplied calculations but those were generic and did not accord with the revised design. It was recommended that the design be checked by a chartered structural engineer and he asked if CDC would ensure that that happened.

Response

Mr Dignum (Leader of the Council) said that he was sure officers would look at all those factors if the revised planning application was permitted by CDC's Planning Committee.

(3) Edward Milward-Oliver

'My question relates to the proposal to install and operate a temporary ice rink in Priory Park.

The quantity of fuel consumed to run the 24-hour generator for an ice rink is very weather-dependent and a key factor in terms of a Christmas ice rink making or losing money. I am told an average size rink can burn upwards of £100,000 of fuel through that period. When it's warm, a generator burns more fuel, but there tend to be fewer paying visitors. A couple of degrees above zero can make a huge difference to running costs and margins, and this can't be accurately predicted. Over the past decade, the mean temperature for December in the South of England has ranged from 0C in 2010 to 10.1C in 2015.

According to the published information I have seen, the District Council's commercial partner or partners – and there is some confusion who that might be since Edward White as an individual is the applicant for planning permission, S3k Limited is the applicant for the premises licence, and Chice LLP in a letter to Sussex Police dated 2 November says it is the event promoter – none of these has direct experience running and operating a temporary ice rink. Assuming that the commercial partner or partners will be meeting the daily running costs of the proposed rink, is the District Council satisfied that they have the financial means to meet a significant rise in fuel costs in the event of higher than anticipated ambient temperatures during the two months the proposed ice rink is operational?'

[Friday 2 November 2018]

Response

Mr Dignum (Leader of the Council) clarified that CDC would be contracting with S3K, the planning applicant, and the licence applicant was not part of CDC's land-holding consideration; these were separate matters which are considered by the relevant committees.

Subject to planning permission and a premises licence being granted, final details of the event management plan would be considered by officers and would have to comply with any planning or licence conditions before entering into a hire of land agreement. The finances of the company had been assessed by officers. In line with all other hire of land for events, the risks associated with costs for staging the event would lie with the contractor and not with CDC.'

First Supplementary Question

Mr Milward-Oliver queried the range of fuel consumption assumed in the business plan submitted

Response

Mrs Shepherd (Chief Executive) said that it was for the contractor to assess its own financial risk and if it incurred a loss that was not a matter for CDC.

Second Supplementary Question

Mr Milward-Oliver said that his concern was that half-way through the ice rink event the organiser got into financial difficulties and CDC was left with a substantial loss.

Response

Mrs Shepherd (Chief Executive) said that she did not believe that would be the case. The applicant has been satisfactorily financially vetted by CDC's Financial Services officers. It was for the applicant to establish its business case by taking all relevant factors into account including how such events were organised elsewhere in the country.

(4) Guy Knight

'In Great Yarmouth in 2017, the Christmas Ice Rink achieved its goal of increasing town centre footfall but cost £200,000 and brought in £81,000 resulting in a loss of £119,000. Local traders are quoted as being doubtful the increased footfall translated into additional trade. Canterbury's city centre ice rink last year was cancelled by the operator when escalating costs rose from £80,000 to £120,000.

We would like clarification on whether the event is being run by Edward White, S3k Limited or by CHiCE LLP, the latter whom has answered the concerns raised by the police and appears to have been set up specifically for this event. CHiCE LLP would pose a greater risk as an LLP can walk away with no liabilities.

So our question is: what has the Council done to confirm that its commercial partner, be it Edward White, S3k Limited or CHiCE LLP, has the financial means to deliver the proposed ice rink in accordance with the attendant planning and licensing conditions, and are they in a position to meet any losses.'

[Friday 2 November 2018]

Response

Mr Dignum (Leader of the Council) said that to clarify situation, CDC would be contracting with S3K. The planning applicant and the licence applicant was not part of CDC's land-holding consideration; those were separate matters which were considered by the relevant committees. CDC had strict requirements for the hire of land for events. All events had to comply with recognised health and safety

standards and a detailed events management plan with risk assessment is required. Hire of CDC land also required compliance with the Code of Practice for outdoor events, having adequate welfare facilities and safeguarding arrangements in place, as well as having appropriate insurance cover. Subject to planning permission and a premises licence being granted, CDC would require the proposed contractor S3K Limited to finalise details of the event management plan which would be considered and would have to comply with any planning or licence conditions before a hire of land agreement was entered into. The hire of land agreement and insurance for the event would be in the name of the proposed contractor. A deposit for the event would also be obtained and used for reinstatement of the land if satisfactory reinstatement was not undertaken.

First Supplementary Question

Mr Knight asked what council services CDC would have to cut to make up the shortfall in the event that the applicant chose to walk away from the ice rink event for financial reasons.

Response

Mrs Shepherd (Chief Executive) said CDC did not expect a major loss to be incurred and she pointed out that if required CDC would use the deposit to reinstate the land.

Second Supplementary Question

Mr Knight asked what was the amount of the deposit taken by CDC.

Response

Mrs Shepherd (Chief Executive) said that she could not disclose that detail at this time as it was commercially sensitive information between CDC and the contractor.

(5) Mike Sullivan – Friend of Priory Park

'Priory Park and the Ice Rink

I understand that a financial appraisal was done of the application for the ice rink in Priory Park. At what date was this done? Was this date before the event operator was accepted by CDC as its commercial partner or afterwards? What was the scope of this appraisal?

Given that the application process was very late in starting, were any assurances given by CDC to the event operator, as it would appear he had ordered equipment before the planning application process had begun?

What consideration was given to the hirers of the Guildhall and how and when were they notified that their bookings would be affected by the ice rink? I understand that most did not find out until the proposal was reported in the press.

Were the facts that Priory Park is also a war memorial and the significance of the Centenary of the Park's donation to the citizens of Chichester ever taken into account?

Also, what is the charge going to be for an ice skating session and for hiring skates and how does this compare with the Bognor Regis ice rink, which is just seven miles away with cheaper car parking? Was this competition for customers taken into consideration in the financial appraisal? (Bognor last year - incl skate hire: £7.50 adults, £6.50 under 14s and OAPs)'

[Sunday 4 November 2018]

Response

Mr Dignum (Leader of the Council) replied that no assurances had been given to the operator and it would be working at risk. No final decision had been made on the hire of land for an ice skating rink in Priory Park and therefore no agreements for hire of land had been entered into. The hire of land agreement was subject to the relevant permission for planning and licensing being obtained.

Subject to those permissions being granted, CDC would, in line with normal policies and procedures, finalise terms and conditions for the hire of the land before entering into a formal agreement with the contractor. A financial assessment of the organisation had been undertaken based on the risks to CDC. In line with other hire of land agreements a deposit to cover the cost of reinstatement of the ground would be obtained.

All bookings in the Guildhall were proceeding and should the ice skating rink be delivered, the contractor of the ice rink would make adaptations at these times to accommodate those bookings. In fact there was only one booking during that period.

Priory Park was gifted to the Corporation of Chichester in September 1918 by the Duke of Richmond for their leisure and as memorial to the fallen in the First World War. The Park was passed to CDC's ownership as successor authority to the former corporation of Chichester. There were no restrictions recorded on the title that would prevent the proposed event taking place.

The charges for ice skating and skate hire would be set by the contractor.

Supplementary Question

Mr Sullivan asked if CDC had received any indication what the charges to users would be.

Response

Mr Dignum (Leader of the Council) and Mrs Shepherd (Chief Executive) replied that they were wholly unaware of such details.

The immediately foregoing response concluded public question time.

Mr Dignum thanked all residents for their questions and contributions.

597 Absence Management Policy

The Cabinet received and considered the agenda report and its appendix in the agenda supplement.

This item was presented by Mr P Wilding (Cabinet Member for Corporate Services).

Mr T Radcliffe (Human Resources Manager) was in attendance for this matter.

Mr Wilding summarised sections 3 and 5 of the report and referred to the trigger points in the table in section 4.0 of the draft Absence Management Policy in the appendix (page 3 of the agenda supplement). He was pleased to say that sickness absence was currently on a downward trend.

Mr Radcliffe echoed Mr Wilding's point about the reduced level of sickness absence, which was nearing the target of eight days per annum per member of staff. The revised policy was one of several steps being taken to address staff absence and welfare, which included stress risk awareness/assessment and manager training. Sickness absence rate levels were also falling at CDC's Chichester Contract Services. Whilst sickness absence had been unacceptably high, it was hoped that there would be further improvements in the currently decreasing levels.

Mrs Lintill said that the improved trend was to be welcomed but emphasised the need to have due regard to staff welfare at the informal as well as the formal stages of the absence management process.

Decision

The Cabinet voted unanimously to make the recommendation set out below.

RECOMMENDATION TO THE COUNCIL

That the revised Absence Management Policy be approved.

598 Determination of the Council Tax Reduction Scheme for 2019-2020

The Cabinet received and considered the agenda report and its three appendices in the agenda supplement.

This item was presented by Mr P Wilding (Cabinet Member for Corporate Services).

Mrs M Rogers (Business Suport Manager Revenues and Performance) was in attendance for this matter.

Mr Wilding summarised sections 3 and 5 of the report, with particular reference to three of the amendments which were being proposed to simplify the scheme and reduce the administrative cost (section 5.1).

Mrs Rogers did not wish to add to Mr Wilding's introduction.

In reply to members' questions and comments, Mrs Rogers explained the steps taken by staff (which included notification letters) to explain the changes to housing benefit entitlement, the introduction of Universal Credit and the Council Tax Reduction Scheme to customers who would or might be unaware because they could not or did not access CDC's online facilities.

Decision

The Cabinet voted unanimously to make the recommendation set out below.

RECOMMENDATION TO THE COUNCIL

That the Council Tax Reduction Scheme for 2019-2020 be approved.

599 Non-Domestic Rates Discretionary Scheme 2017-2021

The Cabinet received and considered the agenda report and its appendix in the agenda supplement.

This item was presented by Mrs E Lintill (Cabinet Member for Community Services).

Mr P Jobson (Revenues Operations Manager Revenues and Performance) was in attendance for this matter.

Mrs Lintill summarised the report with particular reference to sections 3 and 5, including how it was proposed to distribute CDC's full allocation to eligible businesses as efficiently and effectively as possible for the next three years to 2020-2021 and in so doing utilise the underspend for 2018-2019 (in many cases businesses had been reticent to apply because of the state aid rules).

Mr Jobson provided an oral update (as intimated in para 8.4 of the report) on the recent consultation. West Sussex County Council had noted with approval the proposed changes. Sussex Police had no comments; it was a statutory consultee but the scheme had no financial implications for it. The underspend in the first year, due principally to the state aid rules, was disappointing but the proposed changes would address that issue.

Decision

The Cabinet voted unanimously to make the recommendation set out below.

RECOMMENDATION TO THE COUNCIL

That the amended Non-Domestic Rate Discretionary Scheme for 2017-2021 be approved.

600 Funding of East Beach Outfall Replacement

The Cabinet received and considered the agenda report.

This item was presented by Mr J Connor (Cabinet Member for Environment Services).

Mr D Henly (Senior Engineer Environment) was in attendance for this matter.

Mr Connor explained that in 1948 the existing surface water drainage outfall located at East Beach Selsey was constructed by CDC's predecessor to replace an earlier and malfunctioning pipe. In recent years the need to maintain the outfall had increased appreciably. Accordingly the Cabinet had resolved on 4 September 2018 to award the contract to replace the outfall system and the funding for the project would in part be met by £100,000 from the community infrastructure levy (CIL). Since that decision (a) Southern Water had indicated that it would contribute £40,000 to the project and (b) the internal funding arrangements had been reviewed and it was agreed that it would not be appropriate to utilise CIL funding to rectify an existing failing asset rather than, as required under CIL, to fund growth and new development.

Mr Henly advised that Southern Water had stated in an e-mail that it would make the aforementioned £40,000 contribution; a formal confirmatory letter was awaited.

Decision

The Cabinet voted unanimously to make the resolution set out below.

RESOLVED

That £100,000 from reserves be released to replace the approved funding from the Community Infrastructure Levy with the balance funded from revenue resources to the extent that it is not otherwise met from external grant from Southern Water to fund the replacement of the East Beach surface water outfall.

601 Proposed Fees and Charges for the New Animal Welfare Licensing Regime

The Cabinet received and considered the agenda report and its appendix.

The fourth agenda supplement substituted the correct hypertext link to the first background paper in para 12.1 of the report.

This item was presented by Mr J Connor (Cabinet Member for Environment Services).

Mr T Horne (Principal Environmental Health Officer) and Mrs A Stevens (Divisional Manager Environmental Protection) were in attendance for this matter.

Mr Connor summarised the report as follows. Citing examples, he said that public interest in animal welfare remained high. The new regulations which came into force in October 2018 repealed legislation which in part dated back to the 1940s. They

introduced animal welfare standards and controls which would govern management, operation and training of those working in this sector and were fit for purpose in the twenty-first century. A number of animal-related activities were now covered under an animal activity licence, with associated new national licence conditions and guidance for operators and inspectors and the introduction of a risk-based inspection programme. The proposed fees and charges had been at long last been overhauled and were based on DEFRA guidance and in keeping with a county-wide fee-setting structure which had been devised. The details of the new fee structure were set out in the appendix to the report. It should be noted that whilst the new fees appeared to be higher than those for existing licences, most of the new licences would ordinarily (subject to compliance) continue for two to three years instead of the hitherto annual renewal. Drawing an analogy with regulation of the food industry, it was anticipated that this new regulatory system would create incentives for operators to attain the very highest standards in animal welfare.

Mrs Stevens informed the Cabinet of an amendment to the table of fees and charges in the appendix to the report: in the penultimate row the sum of £140 should not be listed in the existing licence fee column but instead in the proposed licence fee column.

Mr Horne and Mrs Stevens did not add to Mr Connor's introduction but they responded to questions and comments by the Cabinet on points of details with respect to (a) the increase in fees and charges; (b) enforcement of the new regulatory regime; and (c) in the case of, say, dog care services, the regulations and penalties for infringements would apply to businesses but not to the casual and occasional looking after a friend's or relative's dog.

With Mr Dignum's permission, Mrs C Apel (Chichester West), who was present as an observer, asked if the new regulations would apply to wildlife sanctuaries. Mrs Stevens undertook to provide a written response to all CDC members.

[Note All CDC members were e-mailed by Democratic Services on behalf of Mrs Stevens later on the day of this meeting advising that the regulations did not extend to wildlife sanctuaries]

Decision

The Cabinet voted unanimously to make the recommendation set out below, which included the foregoing amendment to the table of fees and charges in the appendix.

RECOMMENDATION TO THE GENERAL LICENSING COMMITTEE

That the new fees and charges in relation to the administration and enforcement of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 be agreed as set out in the appendix (as amended) to the agenda report.

[Note The amendment to the appendix related to the penultimate field (Rescore visit) in the table, where the figure of £140 should be moved from the Existing Licence Fee column to the Proposed Licence Fee column]

602 Temporary Appointment to Bury Parish Council

The Cabinet received and considered the draft decision of appointment circulated with the agenda, which was supplemented by an oral report by Mr N Bennett (Divisional Manager Legal and Democratic Services and the Monitoring Officer).

With reference to the summary set out on the agenda front sheet, Mr Bennett explained the statutory provision in section 91 (1) of the Local Government Act 1972 to create a temporary expedient to remedy an inquorate situation faced by a parish council, such as was currently affecting Bury Parish Council (BPC), and the proposal to appoint Mr H Potter, the CDC ward member for Boxgrove, to BPC until such time as its subsisting councillor vacancies had been filled.

Decision

The Cabinet voted on a show of hands unanimously to make the resolution set out below.

RESOLVED

That Henry Potter, the Chichester District Council member for the Boxgrove ward, be appointed pursuant to section 91 (1) of the Local Government Act 1972 as a parish councillor with the Bury Parish Council until such time as vacancies at the Bury Parish Council have been filled.

603 Late Items

As stated by Mr Dignum during agenda item 1 (minute 593) there were no late items for consideration at this meeting.

604 Exclusion of the Press and Public

In order to consider the confidential exempt matter listed as agenda item 13 (Transfer of Service) Mr Dignum first read out the resolution set out below, which was then duly proposed and seconded.

Decision

On a vote by a show of hands the Cabinet approved unanimously the following resolution.

RESOLVED

That in accordance with section 100A of the Local Government Act 1972 (the Act) the public and the press be excluded from the meeting during the consideration of agenda item 13 (Transfer of Service) for the reason that it is likely in view of the nature of the business to be transacted that there would be disclosure to the public of 'exempt information' being information of the nature described in Paragraphs 1 (information relating to an individual) and 3 (information relating to the financial or business affairs of any particular person (including the authority holding that information)) in Part I of Schedule 12A to the Act and because in all the

circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

605 Transfer of Service

The Cabinet received and considered the confidential exempt agenda report circulated to members and officers only.

The report was presented by Mrs E Lintill (Deputy Leader of the Council and the Cabinet Member for Community Services) and Mrs J Dodsworth (Director of Residents Services).

Mrs Lintill additionally advised the Cabinet of a revised version of the recommendation in para 2.1 of the report, which was now in two paras (as set out in the recommendation to the Council).

The matter was discussed by the Cabinet.

Mrs Dodsworth and Mrs D Shepherd (Chief Executive) responded to members' questions and comments on points of detail.

Decision

The Cabinet voted unanimously to make the amended version of the recommendation in the report as set out below.

RECOMMENDATION TO THE COUNCIL

- (1) That the transfer of the service as outlined in section 5 of the report be approved.
- (2) That the Director of Residents Services be given delegated authority to conclude the final details of the transfer, including the capital receipt and the timing of the transfer, after consultation with the Cabinet Member for Community Services.

[Note The meeting ended at 10:44]]		
CHAIRMAN		DATE	