



Minutes of the meeting of the **Cabinet** held in the Old Court Room The Council House (Chichester City Council) North Street Chichester on Tuesday 9 May 2017 at 09:30

Members Present Mr A Dignum (Chairman), Mrs E Lintill (Vice-Chairman), Mr R Barrow, Mrs P Hardwick, Mrs G Keegan, Mrs P Plant, Mrs C Purnell and Mrs S Taylor

Members Absent

Officers Present Mr S Carvell (Executive Director), Mr T Day (Environmental Coordinator), Mr M Allgrove (Planning Policy Conservation and Design Service Manager), Mr N Bennett (Legal and Democratic Services Manager), Mr J Hoole, Mr P Legood (Valuation and Estates Manager), Mr P E Over (Executive Director), Ms S Payne (Planning Policy Officer), Mr B Riley (Contracts Manager), Mrs D Shepherd (Chief Executive), Mr G Thrussell (Senior Member Services Officer) and Mr J Ward (Head of Finance and Governance Services)

354 **Chairman's Announcements**

Mr Dignum welcomed the members of the public, the press representative and Chichester District Council (CDC) members and officers who were present for this meeting.

The meeting was being held at an alternative venue on this occasion because the committee rooms at East Pallant House were required by CDC's Election Services following the recently held elections mentioned below.

He outlined the emergency evacuation procedure.

He congratulated Mrs Purnell on her election on Thursday 4 May 2017 as the West Sussex County Council member for the Selsey Division and Mrs Keegan on her having been chosen as the Conservative Party candidate to contest the Chichester constituency in the general election on Thursday 8 June 2017. He alluded to the election of four new Chichester District Council members at by-elections also held on 4 May 2017, who would be officially welcomed at the Annual Council meeting on Tuesday 16 May 2017.

There was one late item for consideration under agenda item 9 a) namely Carry Forward Requests, the report in respect of which had been circulated with the second agenda supplement (listed as agenda item 13) after the despatch of the main agenda.

There were no apologies for absence; all members of the Cabinet were present.

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

355 **Approval of Minutes**

The Cabinet received the minutes of its meeting on Tuesday 7 March 2017, which had been circulated with the agenda (copy attached to the official minutes).

There were no proposed changes to the minutes.

Decision

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

RESOLVED

That the minutes of the Cabinet's meeting on Tuesday 7 March 2017 be approved without amendment.

Mr Dignum then duly signed and dated the final (seventeenth) page of the official version of the aforesaid minutes as a correct record.

356 **Declarations of Interests**

The following declaration of interest was made in respect of the agenda items in general:

Mrs Purnell declared a personal interest as a member of West Sussex County Council.

357 **Public Question Time**

No questions by members of the public had been submitted for this meeting.

Three questions from Mr J Brown, one of the CDC members for the Southbourne ward, had been received in advance by Mr Dignum. They related to agenda items 5, 8 and 11. Mr Dignum took them at this stage of the meeting rather than during the respective items. He said that Mr Brown would be entitled in each case to ask a supplementary question. The questions, the officer responses and any supplementary questions and replies are set out below.

Mr Brown read out his question in each case and received from the relevant Cabinet member a response prepared by the appropriate officer.

Question (1) Agenda Item 5: Joint Chichester Harbour Area of Outstanding Natural Beauty Supplementary Planning Document

'Do you have any concerns that the Supplementary Planning Document could preclude possible A27 upgrade or alternative route options? ie Is it possible that, should the new public consultation support some form of northern bypass, or alternatively, a different version of a southern upgrade, any of these proposals might be blocked by anything within the planning document?'

Response

Mrs Taylor read out the following response prepared by officers:

'I can confirm that I have no concerns that the Joint Chichester Harbour AONB SPD would preclude improvement to the A27 Chichester Bypass. The document provides guidance as to appropriate design approaches for development within the AONB. It does not set policy, but amplifies on how policy would be implemented. The impact of any new road on the AONB would have to be considered irrespective of the existence of this document.'

Mr Brown had no supplementary question in respect of this matter.

Question (2) Agenda Item 8: Recreational Disturbance at Pagham Harbour - Revision to the Joint Approach to Mitigation with Arun District Council

'Arun's projected housing numbers within the zone of influence of the Harbour have increased from 855 to 4555. Although the mitigation scheme scales up the number of contributions which will be received, is there evidence that the kind of mitigation measures which were appropriate for a much smaller number of houses remain appropriate for the larger numbers? ie is the impact of five times the number of houses going to be mitigated by five times the contribution? Or is there a 'compounding' impact from increased development which will not be addressed by the additional contributions?'

Response

Mrs Purnell read out the following response prepared by officers:

'Both for the original scheme and the updated scheme (with the increased housing figures), Natural England and RSPB have been fully involved in developing the scheme and Natural England have advised that such a scheme will be compliant with the *Habitats Regulations 2010*. The mixture of mitigation measures proposed for Pagham is based on those already in use for the Solent Recreation Mitigation Project which covers a greater area (PUSH authorities and CDC) and which is subject to significantly higher housing numbers. The Habitats Regulations Assessment of the Arun Local Plan (March 2013) concluded that the recreational disturbance associated with the increased local populace may be of significance but that the mitigation proposed was sufficient to mitigate these impacts.'

Based on the increase in housing figures in Arun, it was agreed between the partners that the provision of wardening should be increased from 0.5 FTE to 1.5 FTE and that this would be sufficient to mitigate for the increased housing numbers in Arun. This was considered by Natural England to be sufficient to meet the requirements of the regulations and allows for the cumulative impact on Pagham Harbour.

Although the housing numbers within the zone of influence for Arun has increased from 855 to 4,555 due to several major developments now planned around Bognor Regis, the figure for Chichester remains the same at 425 dwellings. Should CDC's Local Plan Review result in an increase in the number of dwellings within the zone of influence of Pagham Harbour, then the scheme may need to be revised again. This will be in consultation with all the project partners and will need agreement by Natural England.'

Supplementary Question

Mr Brown asked a supplementary question. He said that his concern arose from his experience in dealing with housing projects where some consultees would enter no objection to a scheme on the basis that there was no evidence to justify an objection notwithstanding that there might in fact be reasons to object.

Response

Mrs Purnell said that the local authorities had worked closely with the RSPB and Natural England and they were all in agreement and all the requirements had been met.

Question (3) Agenda Item 11: Investment Opportunity - Part II

Before Mr Brown asked this question Mr Dignum cautioned him and everyone not to mention any details of the property the subject of this confidential Part II report.

'Although it is sensible for the Council to seek a good return on its investments, and the business case for investing in commercial property to let is well made, is there a long term danger that CDC will contribute to the wider problem of small and/or independent traders which provide much of the character of Chichester being driven out by return-maximising landlords? Has any thought been given to this potential conflict of interest ie between the desire to seek a good return on investment on behalf of the taxpayer and the desire to protect and promote the character of the city?'

Response

Mrs Keegan read out the following response prepared by officers:

'The Council has a long and successful track record of managing such potential conflicts of interest, stretching back as far as the early 1980s when it first introduced a concessionary rent programme at St James's Industrial Estate Chichester. With regard to this particular investment opportunity the conflict will only arise when there

is the potential for a change of tenant ie at lease end or assignment mid-term. There is a very strong indication, for reasons that are set out in the report, that this occurrence will not occur for at least ten years. However, in the event that this issue were to arise the Council's existing governance arrangements would manage the process. This requires any request for a concession to be considered by the Council's Grants and Concession Panel (were such a concession requested by an independent operator) with the full market rent being stated in the lease. In that way there is a transparent arrangement that ensures the Council still obtains the appropriate return on its investment while still supporting the independent sector if deemed appropriate.'

Supplementary Question

Mr Brown asked a supplementary question. He said that would like to raise with Mrs Keegan later outside this meeting his concern relating not to the specific property in this case but how that over the years properties in the city centre had closed down.

Response

Mrs Keegan said that CDC wished to retain the range of individual shops for which the city was renowned and, compared with some other centres, to maintain the balance between those independent retail businesses and the major high street retail outlets. Mr Dignum said that Mrs Keegan had made an important point and he cited Crane Street as a prime example of CDC's commitment to achieving this objective.

[**Note** Minute paras 358 to 365 below summarise the consideration of and conclusion to agenda items 5 to 12 inclusive but for full details (excluding exempt agenda items 11 and 12) please refer to the audio recording facility via this link:

<http://chichester.moderngov.co.uk/ieListDocuments.aspx?CId=135&MId=756&Ver=4>]

358 **Joint Chichester Harbour Area of Outstanding Natural Beauty Supplementary Planning Document**

The Cabinet received and considered the agenda report and its two appendices (copies attached to the official minutes). As stated in the report, the appendices were available to view online only although a hard copy of each had been placed in the Members Room at East Pallant House.

The report was presented by Mrs Taylor.

Ms Payne and Mr Allgrove were in attendance for this item.

Mrs Taylor emphasised the immense importance and value of Chichester Harbour as one of Chichester District's greatest assets. The protection and maintenance of the AONB (designated in 1964) was the responsibility of CDC, Havant Borough Council and the Chichester Harbour Conservancy. The AONB was the subject of

specific policies in the two councils' respective local plans: Policy 43 (Chichester Harbour Area of Outstanding Natural Beauty (AONB)) in the *Chichester Local Plan: Key Policies 2014-2029*. Any future development should be guided by the four principles to protect, conserve and enhance natural beauty and wildlife set out in para 2.1 of the section 2 of the *Joint Chichester Harbour Area of Outstanding Natural Beauty Draft Supplementary Planning Document (SPD)* in appendix 1. Section 3 of the report set out the timeline for the preparation of the SPD, which would replace and possess greater evidential weight than the 2007 *Design Guidelines for new dwellings and extensions (Chichester Harbour Area of Outstanding Natural Beauty)*. Appendix 1 contained the SPD proposed for adoption; appendix 2 set out the consultation representations received and CDC's proposed responses thereto. If adopted the SPD would be a material consideration in planning applications and appeals and section 4 of the report stated what outcomes its adoption would achieve.

Ms Payne and Mr Allgrove did not wish to add to Mrs Taylor's introduction.

Mr Allgrove responded to a question by Mrs Plant on points of detail regarding a representation about increases in the development of a property above the original footprint and silhouette and CDC's response thereto (page 121 of appendix 2).

In view of difficulties experienced by members in accessing at the venue for this meeting the online versions of the two appendices, Mrs Shepherd said that some hard copies would be made available at the Annual Council meeting on Tuesday 16 May 2017 when it considered this matter.

Decision

At the end of the discussion the Cabinet voted unanimously on a show of hands in favour of making the recommendations set out below.

RECOMMENDED TO THE COUNCIL

- (1) That the Joint Chichester Harbour Area of Outstanding Natural Beauty Supplementary Planning Document (as set out in appendix 1 to the agenda report) be adopted.
- (2) That the proposed responses to representations received (as set out in appendix 2 to the agenda report) be approved.

359 Procurement of New Vehicles: Chichester Contract Services

The Cabinet received and considered the agenda report and its two appendices (copies attached to the official minutes).

The report was introduced by Mr Barrow.

Mr Hole and Mr Riley were in attendance for this item.

Mr Barrow summarised sections 3, 4 and 5 of the report and referred to the two appendices for the basis on which contractor D was being recommended as the

preferred tenderer. As to the suitability of the subject vehicles for the future collection of food waste, (a) the introduction of such a service was not currently being contemplated by CDC and (b) these particular vehicles would be deployed for trade waste and so would not be used for food waste in any event. He endorsed the recommendation in para 2.1 of the report.

Mr Hoole confirmed the need to replace the existing vehicles for the reasons and within the timescale set out in the report.

Mr Riley did not wish to add to what had been sent by Mr Barrow and Mr Hoole.

Mr Hoole and Mr Riley answered members' questions on points of detail with respect to: the new vehicles' CO₂ emissions performance; how the tender bidders were identified; the Alcatel process; and the capacity of the asset replacement programme to sustain purchases of subsequent vehicles over the next few years. Mrs Hardwick said that the proposed purchases were in accordance with and would be fully funded from the current asset replacement programme.

Decision

The Cabinet voted unanimously on a show of hands in favour of the resolution below.

RESOLVED

That the contract be awarded to Supplier D for the purchase of two x 26 tonne (Gross Vehicle Weight) refuse collection vehicles at a total cost of £317, 566 excluding VAT (chassis/body and bin lifter) funded from the Asset Replacement Reserve (as set out in para 5.1 of the agenda report).

360 **Recording of Committee Minutes - Pilot Extension**

The Cabinet considered the agenda report (copy attached to the official minutes).

The report was introduced by Mrs Hardwick.

Mr Bennett was in attendance for this item.

Mrs Hardwick explained that when the audio recording of the meetings of certain key committees was introduced in September 2015 it was on the basis of a one-year introductory trial. The pilot period was from January 2016 to January 2017. There had been certain teething problems with the system, which officers and the contractor had to address; these had related to the hardware, the Wi-Fi and the physical layout of the equipment. Consequently during the trial officers had not had complete confidence in the system and at least two meetings were not recorded at all due to problems with the system. For this reason the system had not been widely advertised to potential users such as the public, parishes etc. Inevitably the apparent use of the system during this period was unsurprisingly low. However there were benefits in terms of improving transparency, accountability and open government. The report said that it was premature to assess the trial because of the

initial difficulties that have been experienced and that to change contractor now would be costly and risk another period of adjustment to and acquaintance with a new system. Accordingly it was being recommended that the current trial be extended for one year and thereafter for a full review to be undertaken once the system was fully operational and had been appropriately advertised to potential users.

Mr Bennett did not wish to add to Mrs Hardwick's presentation.

In reply to members' questions on points of detail, Mr Bennett said that (a) there had been 101 visits to the audio recording facility, many of which would have been by CDC officers checking the recording was working and its quality and (b) the problems experienced were not the contractors' fault, who had been very helpful in seeking solutions to the technical issues. The further review would be in January 2018.

Decision

The Cabinet voted unanimously on a show of hands in favour of the resolution below.

RESOLVED

That a one-year extension to the pilot to audio record and publish the Council, the Cabinet, the Planning Committee, the Overview and Scrutiny Committee and the Corporate Governance and Audit Committee meetings online be approved.

361 **Recreational Disturbance at Pagham Harbour - Revision to the Joint Approach to Mitigation with Arun District Council**

The Cabinet considered the agenda report and its three appendices (copies attached to the official minutes).

The report was presented by Mrs Purnell.

Mr Day was in attendance for this item.

Mrs Purnell referred to the internationally important status of the Pagham and Chichester Harbours. As set out in para 5.1 of the report, the significant increase in the projected housing numbers for Arun District with the consequential need for improved mitigation measures to address the greater incidence of recreational disturbance had necessitated a revision of the joint CDC/Arun District Council mitigation scheme for Pagham Harbour. As stated in paras 5.2 and 6.1, the revised scheme would adopt the Bird Aware Solent mitigation scheme's definition of the 'in perpetuity' period.

Mr Day did not wish to add to Mrs Purnell's introduction.

In reply to questions on points of detail by Mrs Taylor, Mr Day explained (a) the charging and collection arrangements where housing development would be on land within the area of both the Chichester Harbour and Pagham Harbour SPA mitigation

schemes and (b) where there were changes to housing numbers occurring in the Chichester Harbour area, this would then necessitate changes by all the signatory authorities to the Bird Aware Solent mitigation scheme.

Decision

The Cabinet voted unanimously on a show of hands in favour of the resolutions below.

RESOLVED

- (1) That the revisions to the joint scheme of mitigation for Pagham Harbour Special Protection Area in appendix 1 to this report be endorsed.
- (2) That the reduced level of developer contributions to the joint scheme set out in appendix 2 to this report be approved.
- (3) That the increased expenditure of the joint section 106 funds on the scheme of mitigation as specified in para 5.2 of this report be approved.
- (4) That the Head of Housing and Environment Services be authorised to enter into an agreement with the Royal Society for the Protection of Birds and Arun District Council to deliver mitigation measures for a five-year period, with the option to extend this to ten years.

362 Late Items

As announced by the Leader of the Council at the start of this meeting (see minute 354 above) there was one late item for consideration, namely Carry Forward Requests.

The Cabinet considered the agenda report and its appendix which had been circulated by way of the second agenda supplement (copies attached to the official minutes).

Mrs Hardwick presented the report.

Mr Ward, who did not seek to add to Mrs Hardwick's introduction, was available to answer any questions about this item.

Mrs Hardwick said that this was the standard list of budget carry over requests. The list in the appendix had already been filtered by several layers of management. The process was as follows: budget managers generated the requests, as unspent balances which they exceptionally wished to carry over in the interests of CDC; Mrs Shepherd and Mr Ward had gone through these requests and filtered any they did not support; the Corporate Governance and Audit Committee had reviewed the resulting list and supported the same as being appropriate requests. By way of clarification she explained that the Housing and Environment request was in practice a request to shift an underspend on homelessness and advice salary to fund the Corporate Policy team officer who was working on the pay review project. She was

content that the list of items totalling £120,800 was reasonable and the reasons for the requests were valid, which she commended for approval.

There was neither a discussion of nor any questions about this matter.

Decision

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

RESOLVED

That as recommended by the Corporate Governance and Audit Committee at its meeting on 30 March 2017 the requests totalling £120,800 for budgets to be carried forward in 2017-2018 be approved.

363 **Exclusion of the Press and Public**

Decision

It was proposed, seconded and unanimously supported that the following resolution should be passed to exclude the press and the public from the meeting during the consideration of agenda items 11 (Investment Opportunity) and 12 (Land in Ellis Square Selsey – Land Disposal).

RESOLVED

That the public and press be excluded from the consideration of the reports and their appendices for agenda items 11 (Investment Opportunity) and 12 (Land in Ellis Square Selsey – Land Disposal) on the grounds that it is likely that there would be in respect of that item a disclosure to the public of 'exempt information' of the description specified in Paragraph 3 (information relating to the financial or business affairs of any particular person (including the authority holding that information)) of Part I of Schedule 12A to the *Local Government Act 1972* and because in all the circumstances of the case the public interest in maintaining the exemption of that information outweighs the public interest in disclosing that information.

364 **Investment Opportunity**

The Cabinet received and considered the confidential Part II report and its two appendices which were circulated to CDC members and relevant officers only.

Mrs Keegan presented the report.

Mr Legood was in attendance for this item.

Mr Legood did not add to Mrs Keegan's introduction.

During the discussion Mrs Keegan, Mr Legood, Mr Over and Mr Ward responded to members' questions on points of detail.

Decision

The Cabinet voted unanimously on a show of hands in favour of the recommendation and the resolution below.

RECOMMENDATION TO THE COUNCIL

That the release of the sum and from the funds as stated in the agenda report to make the subject acquisition be approved.

RESOLVED

That the Head of Commercial Services be authorised, following completion of due diligence and consultation with the Cabinet Member for Commercial Services, to approve the final terms of this acquisition.

365 Land in Ellis Square Selsey - Land Disposal

The Cabinet received and considered the confidential Part II report and its appendix which were circulated to CDC members and relevant officers only.

Mrs Keegan presented the report.

Mr Legood was in attendance for this item.

Mr Legood did not add to Mrs Keegan's introduction.

During the discussion Mrs Keegan, Mr Legood, Mr Over and Mr Bennett responded to members' questions on points of detail.

Decision

The Cabinet voted unanimously on a show of hands in favour of the resolutions below.

RESOLVED

- (1) That the freehold sale of the site shown on plan 5256 (attached as appendix 1 to the agenda report) be approved on the terms detailed in para 5.1 of the report.
- (2) That the Head of Commercial Services be authorised to approve the final detailed terms of disposal.
- (3) In the event that the sale recommended in para 5.1 of the report does not proceed, the Head of Commercial Services be authorised to conclude a sale to an alternative party, on terms no less favourable than those set out in the report, after consultation with the Cabinet Member for Commercial Services.

[Note The meeting ended at 10:58]

CHAIRMAN

DATE