

CABINET

12 July 2017

Present:-

Councillors J Hart, S Barker, J Clatworthy, R Croad, A Davis, S Hughes, A Leadbetter, J McInnes and B Parsons

Members attending in accordance with Standing Orders 8 and 25

Councillors J Brazil, F Biederman, A Connett, A Dewhirst, R Gilbert, B Greenslade, R Hannaford and A Saywell

* 26

Minutes

RESOLVED that the minutes of the meeting held on 14 June 2017 be signed as a correct record.

* 27

Items Requiring Urgent Attention

There was no item raised as a matter of urgency.

* 28

Chairman's Announcements

The Chairman advised Members that this was to be the last Cabinet meeting to be attended by Mr Rob Hooper, the Council's Democratic Services & Scrutiny Manager, after nearly 47 years of public service: the Chairman and Political Groups paid tribute to Mr Hooper thanking him for his service and wishing him well for the future. Mr Hooper responded.

* 29

Petitions

There was no petition received from a Member of the Public or the Council.

* 30

Question(s) from Members of the Council

In accordance with the Cabinet Procedure Rules, the Leader and/or relevant Cabinet Member responded to 2 questions from Members of the Council on the Longhouse Community and Brown Signs, responding orally to any supplementary questions arising from the above.

[NB: A copy of the questions and answers are appended to these minutes and are also available on the Council's Website at <http://www.devon.gov.uk/dcc/committee/mingifs.html> and any supplementary questions and answers may be observed through the webcast of this meeting – see Notes below].

* 31

Okehampton New Primary School

(Councillors Connett and Hannaford attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet considered the Joint Report of the Head of Planning, Transportation and Environment and the Head of Education and Learning (PTE/17/36) seeking approval to the process of selecting a provider for a new 210 place primary school (increasing to 420 places) with early years provision to serve the expanding area of Okehampton.

Members were reminded that a decision had been taken previously by the Cabinet Member to seek expressions of interest for a proposer for a new primary school with early years provision from September 2018 and the Head of Service's Report now submitted provided

additional information on timings and funding, seeking endorsement to obtaining contributions from future housing development to enable the proposal to proceed and the submission of a planning application and invitation to tender.

The current West Devon Local Plan and emerging Plymouth & South West Devon Local Plan both confirmed the need for a new primary school in the east of Okehampton to mitigate the impact of development; the principle of a new school in Okehampton had also been incorporated in the County Council's Education Infrastructure Plan 2016-2033 (Min*86, Cabinet, 12 October 2016).

The Council had previously agreed to commit expected Section 106 contributions through the DfE Basic Needs Grant for the purchase of a school site and assurances had been sought from West Devon Borough Council that further contributions would be required from future developments to support the delivery and expansion of the new school.

Local Authorities could assess proposals against its specification for the new school sponsor and recommend a preferred proposer to the Regional Schools Commissioner who would make the final decision on behalf of the Secretary of State: the Head of Service would determine the Council's preferred proposer in consultation with the Cabinet Member for Children's Services and Schools.

The process for the selection of an appropriate proposer would ensure the Council exercised its Public Sector Equality Duty. Prospective proposers would need to commit to the Council's policies and practices and comply with relevant policies on Admissions, Transport and Special Educational Needs. The Head of Service's Report referred to the Impact Assessment for this scheme which had been circulated previously – and which would have to be provided to the Secretary of State to meet her duties under the Academies Act - in order that Cabinet might, as part of its determination of the next steps in the process, have full regard to the responsibilities placed upon it to exercise its Public Sector Equality Duty under s149 of the Equality Act 2010, where relevant. That Assessment recognised that the proposal – which was consistent with the Council's Education Infrastructure Plan - would mean that children in the area would be able to be placed in a local school (in line with the principle of local schools for local children for community and environmental reasons), that other schools would not be disadvantaged by the impact of the new development and that no unmanageable impacts had been identified.

The matter having been debated and the options and/or alternatives and other relevant factors (e.g. financial, risk management, equality and legal considerations and Public Health impact) set out in the Head of Service's Report and/or referred to above having been considered:

It was **MOVED** by Councillor McInnes, **SECONDED** by Councillor Hart, and

RESOLVED

(a) that having previously agreed to 'forward fund' Section 106 Contributions through Department for Education (DfE) Basic Needs Grant, to purchase a new primary site in Okehampton, approval be now given to complete the full selection process for a New School Proposer for a 210 place primary school with early years provision increasing to 420 places to serve the expanding community of Okehampton;

(b) that approval be also given to the principle of forward funding the new primary school for Okehampton, the submission of a full planning application, and the scheme proceeding to tender stage; and

(c) that Cabinet endorse the view that all future housing development in Okehampton needs to make a fair and proportional contribution to support the delivery of the new school site and buildings.

[NB: The Impact Assessment referred to above may be viewed at: <http://new.devon.gov.uk/impact/> or : <https://new.devon.gov.uk/impact/new-schools-procedure-june-2017.>]

* **32** **Marland Residential School: Change of Boarding Provision**

(Councillor Connett attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet considered the Report of the Head of Planning, Transportation and Environment (PTE/17/37) on a proposal to change residential provision from termly to weekly boarding.

The Governing Body of Marland had proposed changing boarding provision from a Termly (7 Day/Night boarding) to a Weekly (5 Day/4 Night boarding) basis for pupils with Social, Emotional and/or Mental Health issues with effect from September 2017, to better target resources, continue to raise educational standards and align with changes in parental/carer demand.

The Governing Body had consulted on the change in the residential boarding provision at the school and was now seeking approval to implement this change. In accordance with statutory requirements, a Brief Notice and Full Proposal had been published in May 2017 with a formal four week representation period. No responses had been received.

The Head of Service acknowledged that Marland School had experienced a significant change in recent years from both new admission students and parent/carers who had expressed preference for a weekly placement rather than the current termly default offer, notwithstanding that the primary aim of all student referrals was educational. Nonetheless children's needs were becoming more complex and as development continued throughout Devon the pressure for these places would undoubtedly increase and the change in provision would ensure that demand was met within this School.

The Head of Service's Report also incorporated an Impact Assessment relating to the possible impacts of the proposal, which had been circulated previously for the attention of Members at this meeting in order that as part of its determination of the next steps in the process the Cabinet might have full regard to the responsibilities placed upon it to exercise its Public Sector Equality Duty, under s149 of the Equality Act 2010, where relevant. The Assessment recognised the positive impact of the Strategy and that no unmanageable impacts had been identified.

The matter having been debated and the options and/or alternatives and other relevant factors (e.g. financial, environmental, risk management, equality and legal considerations and Public Health impact) set out in the Head of Service's Report and/or referred to above having been considered:

It was **MOVED** by Councillor McInnes, **SECONDED** by Councillor Hart, and

RESOLVED

(a) that approval be given to implementing the Governing Body's proposal to convert from Termly to Weekly residential boarding provision at Marland School with effect from September 2017;

(b) that the Torridge HATOC be asked to explore the Parish Council's suggestion for a passing place to be provided between Broomhill Farm and Beacon Hill.

[NB: The Impact Assessment referred to above may be viewed at: <http://new.devon.gov.uk/impact/>].

* **33** **Modbury Flood Improvement Scheme**

(Councillors Gilbert and Hannaford attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet considered the Report of the Head of Planning, Transportation and Environment ([PTE/17/38](#)) seeking approval to essential flood improvements required at Modbury to significantly reduce the ongoing risk funded jointly by the County Council, Defra Flood Defence Grant in Aid and Local Levy.

The Head of Service's Report acknowledged that the town of Modbury had experienced repeat flooding over recent years with the worst occurring in July 2012 and 2014; many properties having suffered further internal flooding on numerous occasions, prior to and since that significant event.

The Cabinet was now being recommended to approved a detailed scheme to significantly reduce the ongoing risk of flooding in Modbury and on the A379 through a number of improvements at various locations upstream of the town to reduce runoff, attenuate flows and restrict the residual flows through the built up area. The main elements of the scheme were to:

- construct three earthworks bunds to create flood storage within existing green areas of Modbury; to capture and restrict flows to the town by temporarily storing excess water which would be released slowly once water levels had dropped;
- excavate a series of cut-off ditches around field boundaries to reduce flows and direct flows to where they would be managed by the earthworks bund, and
- modify upstream watercourses, improve gullies and drainage and minor surface works to direct water away from properties.

The matter having been debated and the options and/or alternatives and other relevant factors (e.g. financial, sustainability, carbon impact, risk management, equality and legal considerations and Public Health impact) set out in the Head of Service's Report and/or referred to above having been considered:

It was **MOVED** by Councillor Croad, **SECONDED** by Councillor Hart and

RESOLVED

(a) that approval be given to the Modbury Flood Improvement scheme at an estimated cost of £1,132,088;

(b) that approval be also given to increasing the Planning, Transportation and Environment capital programme by £427,784 in 2017/18 and £500,000 in 2018/19; funded through £150,000 from the Council's revenue budget for flood prevention works, £100,000 from the Planning, Transportation and Environment revenue flood risk management budget, £150,000 from external contributions and £527,784 from external grants;

(c) that approval be also given to acquire title and/or rights over the necessary land as required in order to deliver the scheme.

* **34** **Brynsworthy Waste Transfer Station, Barnstaple**

(Councillors Biederman and Greenslade attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet considered the Report of the Acting Chief Officer for Highways, Infrastructure Development and Waste ([HCW/17/59](#)) seeking approval to the development of a residual

waste transfer station at Brynsworthy, Barnstaple as part of the procurement exercise to deliver a new residual waste service in the North Devon & Torrridge area from February 2019.

The Cabinet noted that the disposal of residual waste (i.e. that not recycled or composted) from the North Devon and Torrridge District Council areas was currently undertaken at Deepmoor landfill site, Torrington, under contract with Viridor/Devon Waste Management.

The Acting Chief Officer advised Cabinet that notice to terminate the contract by Viridor/DWM had been given earlier this year and procurement regulations meant that the service would need to be retendered and a new provider in place from February 2019. A procurement exercise to deliver a new residual waste disposal service for the North Devon and Torrridge areas had therefore been initiated as detailed in the Head of Service's Report for the design, build, finance and operation of the Brynsworthy waste transfer station. It was proposed that the Transfer Station would revert back to the ownership of the County Council at a specified point within the contract term.

Members were reminded that following a previous unsuccessful procurement exercise in 2014, it had become clear that the County Council needed to find a site for a waste transfer station which it could offer to the market in order to create a competitive market. A number of sites had been examined culminating in the selection of the site at Brynsworthy which was adjacent to the waste site identified in the adopted Devon Waste Local Plan for an Efw plant and close to the main population centres of Barnstaple and Bideford as well as the principal road network. The site had now received planning permission and a heads of terms agreement had been secured with the landowner.

The Acting Chief Officer's Report also incorporated an Impact Assessment relating to the possible impacts of the proposal, which had been circulated previously for the attention of Members at this meeting in order that as part of its determination of the next steps in the process the Cabinet might have full regard to the responsibilities placed upon it to exercise its Public Sector Equality Duty, under s149 of the Equality Act 2010, where relevant. No unmanageable impacts had been identified.

The matter having been debated and the options and/or alternatives and other relevant factors (e.g. financial, environmental, risk management, equality and legal considerations and Public Health impact) set out in the Head of Service's Report and/or referred to above having been considered:

It was **MOVED** by Councillor Davis, **SECONDED** by Councillor Hart, and

RESOLVED

(a) that approval be given the development of a Waste Transfer Station at Brynsworthy, Barnstaple to serve the North Devon and Torrridge areas;

(b) that approval be also given, subject to financial review of the outcome of procurement exercise, to increase the project approval of £4,000,000 to a total of £4,400,000 including site acquisition, planning and construction, funded by capital receipts;

(c) that the Acting Chief Officer for Highways, Infrastructure, Development and Waste be authorised, in consultation with the County Treasurer and the Cabinet Member for Infrastructure Development and Waste and the Cabinet Member for Resources and Asset Management, to agree a financial contribution of up to £4,000,000 million towards the capital cost of the facility;

(d) that the County Solicitor be authorised to execute all necessary legal agreements required to be entered into by the Council in respect of the development of a waste transfer station at Brynsworthy, Barnstaple.

[NB: The Impact Assessment referred to above may be viewed at: <http://new.devon.gov.uk/impact/>].

* **35** **Treasury Management Stewardship Outturn Report**

(Councillor Hannaford attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet considered the Report of the County Treasurer (CT/17/62) outlining the Treasury Management action taken during the last financial year (in line with the CIPFA Code of Practice previously adopted by the Council) which had also been considered and endorsed by the Corporate Infrastructure and Regulatory Services Scrutiny Committee on 27 June 2017.

The Annual Report reviewed performance over the 2016/17 financial year with a view to identifying any issues arising from the Council's Treasury and Debt Management during that period and to provide assurance that agreed policy had been implemented.

The Report revealed that:

- no long term borrowing had been undertaken during 2016/17 and only three short term loans had been taken out each for a 30 day period to preclude any temporary shortfall in cash;
- investment income targets had been achieved and prudent management of the Council's short term cash reserves had also delivered a surplus;
- all lending had been carried out in accordance with the Council's Treasury Management Strategy and
- there had been no opportunity to repay any outstanding debt without incurring premium penalties

The matter having been debated and the options and/or alternatives and other relevant factors (e.g. financial and legal considerations) set out in the County Treasurer's Report and/or referred to above having been considered:

It was **MOVED** by Councillor Clatworthy, **SECONDED** by Councillor Hart, and

RESOLVED that the Annual Treasury Management Stewardship Report be noted and welcomed.

* **36** **Question(s) from Members of the Public**

There was no question from a Member of the public.

* **37** **Annual Childcare Sufficiency Report**

(Councillor Hannaford attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet considered the Report of the Head of Education & Learning (EL/17/24) together with the fourth Childcare Sufficiency Assessment Annual Report and Summary outlining how the Council was meeting its statutory duty to secure sufficient early years and childcare places and identifying future challenges and planned action to meet that duty.

As indicated in the Head of Service's Report, the Annual Report showed, inter alia, that the Council had met its statutory requirement and the was sufficient early years and childcare provision within Devon although the rural/urban spread of different types of provision varied; that the level of early years provision had again increased; that the percentage of funded places taken up by 2 year olds had continued to increase; that there continued to be a high percentage of 3 and 4 year olds taking up early years funding (98.5%) and the percentage of providers graded as Good or Outstanding by Ofsted had again increased to 97.9%.

The Cabinet Member for Children's Services and Schools expressed his thanks to all staff involved in achieving such excellent results and in rising to the challenges facing the service.

The matter having been debated and the options and/or alternatives and other relevant factors and Public Health impact set out in the Head of Service's Report and/or referred to above having been considered:

It was **MOVED** by Councillor McInnes, **SECONDED** by Councillor Hart, and

RESOLVED that the Cabinet welcome and endorse the content of the Annual Childcare Sufficiency Report for 2016/17, to be published on the Council's website.

* **38** **Reference to Committee: North Devon HATOC - Nadder Lane and South Street, South Molton Speed Restrictions**

(Councillors Biederman and Greenslade attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet noted that in considering and endorsing the Report of the Acting Chief Officer for Highways, Infrastructure Development and Waste (HIW/17/46), the North Devon HATOC on 29 June 2017 (Minute 8) resolved that '*(d) that in response to representations received and subject to Cabinet approval to a 'Departure from Policy' being agreed, an amendment to the Traffic Order be advertised to provide an extended minimum Transitional 40mph speed limit on Nadder Lane.*

The Cabinet Member commended the suggestion to Cabinet in view of the exceptional circumstances, which warranted a departure from normal policy and was supported by the Devon & Cornwall Constabulary:

It was **MOVED** by Councillor Hughes, **SECONDED** by Councillor Hart, and

RESOLVED that, in line with the recommendation of the Acting Chief Officer for Highways, Infrastructure Development and Waste, the HATOC's request be approved.

* **39** **Minutes**

It was **MOVED** by Councillor Hart, **SECONDED** by Councillor Clatworthy, and

RESOLVED

(a) that the Minutes of the following be noted:

- Devon Education Forum – 21 June 2017;
- Devon Audit Partnership Committee, 21 June 2017; and
- Devon Authorities Strategic Waste Committee – 28 June 2017;

(b) that the recommendation of the Devon Education Forum (Minute 46(d)) and of the Devon Authorities Strategic Waste Committee (Minute 6(c)) be endorsed.

[NB: Minutes of County Council Committees are published on the Council's Website at: <http://democracy.devon.gov.uk/ieDocHome.aspx?bcr=1>
Minutes of the Devon Education (Schools) Forum are published at: <http://www.devon.gov.uk/schoolsforum.htm>].

* **40** **Delegated Action/Urgent Matters**

The Registers of Decisions taken by Members and under the urgency provisions or delegated powers were available for inspection at the meeting in line with the Council's Constitution and Regulation 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to

Information) (England) Regulations 2012; a summary of decisions taken since the last meeting had been published with the Agenda for this meeting. Decisions taken by Officers under any express authorisation of the Cabinet or other Committee or under any general authorisation within the Council's Scheme of Delegation set out in Part 3 of the Council's Constitution may be viewed at <https://new.devon.gov.uk/democracy/officer-decisions/>.

* **41** **Forward Plan**

In accordance with the Council's Constitution, the Cabinet reviewed the Forward Plan and determined those items of business to be defined as key and framework decisions and included in the Plan from the date of this meeting onwards reflecting the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (at <http://democracy.devon.gov.uk/mgListPlans.aspx?RPId=133&RD=0>).

NOTES:

1. *These Minutes should be read in association with any Reports or documents referred to therein, for a complete record.*
2. *Notice of the decisions taken by the Cabinet will be sent by email to all Members of the Council within 2 working days of their being made and will, in the case of key decisions, come into force 5 working days after that date unless 'called-in' or referred back in line with the provisions of the Council's Constitution.*
3. *The Minutes of the Cabinet are published on the County Council's website.*
4. *A recording of the webcast of this meeting will also be available to view for up to 12 months from the date of the meeting, at <http://www.devoncc.public-i.tv/core/portal/home>*

***DENOTES DELEGATED MATTER WITH POWER TO ACT**

The Meeting started at 10.30 am and finished at 11.25 am



QUESTIONS FROM MEMBERS OF THE COUNCIL Wednesday, 12 July 2017

1. QUESTION FROM COUNCILLOR CONNETT Re: Longhouse Community

What steps is Devon County Council taking to protect publicly owned land at Exminster occupied by a group calling itself 'The Longhouse Community'? What evidence exists that the group has permission from the county council to occupy the land? When did 'The Longhouse Community' occupy the land? When did Devon County Council become aware that the land was occupied by 'The Longhouse Community'? What meetings or discussions has the County Council held with 'the Longhouse Community' to 'regularise' the occupation of publicly owned land through, for example, a formal licence or lease agreement? Since becoming aware of the occupation how many times has the County Council visited or inspected the site occupied by 'The Longhouse Community' to ensure the use is lawful, complies with health and safety requirements and presents no risk or danger to either the users or any other member of the public, given the land occupied is at the base of a long-closed quarry? Is the County Council aware of and/or approved any arrangements for sanitation at the site? To date, how much has been paid by Devon County Council to its land agents for managing this increasingly long-drawn out saga.

REPLY BY COUNCILLOR CLATWORTHY

I am aware that Councillor Connett has been in correspondence with Officers over a number of issues relating to this matter and I have offered to meet with him this week to discuss his concerns and will address the specific issues raised here at that meeting a number of which might not be appropriate for me to respond to in the public domain at this time.

2. QUESTION FROM COUNCILLOR DEWHIRST Re: Brown Signs

On the subject of Brown Signs for the Hare & Hounds Inn in Kingskerswell, can the Leader say what steps he has taken to contact the Mayor of Torbay, since the Mayor returned from his cruise? Will the Leader publicly stand up for this business, unfairly picked on by Torbay Council, and insist that unless Torbay Council allows these signs on our mutual border, Devon County Council will take retaliatory action? In the light of Torbay Council's 'dog-in-a-manger attitude what actions can the Leader suggest that Devon County Council might take to resolve this issue to the satisfaction of this business and to the residents of Kingskerswell? Has Devon County Council refunded the money paid by the Hare & Hounds for these Brown signs? Has Torbay Council paid Devon for the Brown signs erected on Devon's land advertising businesses in Torbay?

REPLY BY COUNCILLOR HART

I met the Mayor of Torbay and the Chief Executive on 21 June 2017 to discuss this issue.

At the meeting it was explained that the installation of brown tourist signs for businesses was contrary to the policy of Torbay Council. They did however offer a generic directional sign pointing to food and drinks premises and they have again offered this compromise.

We have no control over Torbay Council policies. This policy was agreed by their Council and implemented due to the area having over 400 eating establishments and therefore making it impossible to sign each one.

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This Council has done everything possible to support the community and business within our own boundary. It does appear discussions have been exhausted with Torbay on this point.

A refund has been offered and we await a response from the business.

Torbay Council have funded signage for businesses in Torbay on Devon's land.