

CABINET

11 July 2018

Present:-

Councillors J Hart (Chair), R Croad, A Davis, R Gilbert, A Leadbetter, J McInnes and B Parsons

Apologies:-

Councillors S Barker and S Hughes

Members attending in accordance with Standing Orders 8 and 25

Councillors H Ackland, Y Atkinson, F Biederman, C Channon, A Connett, A Dewhirst and S Randall Johnson

* 198

Minutes

RESOLVED that the minutes of the meeting held on 13 June 2018 be signed as a correct record.

* 199

Items Requiring Urgent Attention

There was no item raised as a matter of urgency.

* 200

Announcements

The Chair welcomed Mrs Mayes who was attending the meeting in her capacity as a Co-opted Member of the Council's Standards Committee to observe and monitor compliance with the Council's ethical governance framework.

* 201

Petitions

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

* 202

Question(s) from Members of the Council

In accordance with the Cabinet Procedure Rules, the relevant Cabinet Member responded to one question from a Member of the Council on the use of 'consequence booths' in schools.

[NB: A copy of the question and answer is appended to these minutes and are also available on the Council's Website at <http://www.devon.gov.uk/dcc/committee/mingifs.html>]

KEY DECISIONS

* 203

Sherford Main Street (interim scheme): Approval to Obtain Tenders

The Chair reported that this item would be deferred.

* **204** **A Gateway to Northern Devon – A361/A39 North Devon Link Road: South Molton to Bideford**

(Councillors Biederman, Connett 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/18/23) seeking approval of various matters in relation to the A361/A39 North Devon Link Road: South Molton to Bideford, circulated prior to the meeting in accordance with regulation 7(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

The Report followed the Cabinet paper dated October 2017 regarding the A361/A39 North Devon Link Road (NDLR) project, reporting on the outcome of the Outline Business Case (OBC) submission and progress made to delivering the Scheme. The Report sought approval to proceed with a planning application, land acquisition, tender and preparation of a Full Business Case to the Department for Transport (DfT).

Previous reports had documented scheme progress up to the submission of the OBC. The Cabinet noted that background detail on the project prior to the OBC submission could be found on the scheme website at: <https://new.devon.gov.uk/ndlr/project-documents>

The scheme to improve the North Devon Link Road (NDLR) was summarised in Table 1 and comprised 7.5km of widening (between Portmore Roundabout to Landkey Junction, Landkey Junction to Swimbridge and Swimbridge to Filleigh Cutting) and to upgrade the performance of the NDLR between South Molton and Barnstaple (16km) and various junction improvements (Buckleigh Road, Heywood Road, Westleigh, Bishop's Tawton, Landkey, West Buckland, Hacche Lane and Borner's Bridge) and to support sites identified for housing and employment opportunities in South Molton, Barnstaple and Bideford.

The Report also outlined the current position in respect of planning and the outcome of the Pre-Application Screening Request which meant a planning application for Portmore Roundabout to Filleigh Cutting would be submitted in October 2018 and improvements to the remaining six junctions would be under permitted development.

Cabinet noted that private land would be required for the scheme and all identified landowners had been contacted and / or visited. It was intended that, where possible, land would be acquired through negotiation. However, the Compulsory Purchase Order (CPO) process would run in parallel with negotiations.

The tender documents would comprise two packages: the road widening works and the junctions. The tender process would begin in late 2018 and run through to mid 2020 ready for the submission of the Full Business Case. This would allow construction to start in late 2020. Construction would be phased over a 3 year period with works grouped and phased to minimise disruption.

Three public consultations were undertaken prior to the submission of the OBC, all of which showed considerable support for a scheme, the results of which were summarised in Section 3 of the 2017 Cabinet Report.

The NDLR scheme had been allocated £83.1m from the DfT Local Majors Fund which was subject to a final decision by the DfT in 2020. The grant award was capital in nature, and any revenue costs would need to be met from existing resources. The total funding of £93.115m was being met from the DfT Local Majors Fund of £83.115m, the County Council £5m and Developer Funding Contributions of £5m.

Environmental impact considerations at the submission of the OBC were set out in Section 7 of the [2017 Cabinet report](#). A full Environmental Impact Assessment would be produced prior to the submission of a planning application in Autumn 2018.

An additional supplementary Report was circulated giving updated information in relation to the spending profile following a meeting with the DfT on 2 July 2018.

In progressing this particular scheme, the Head of Service had prepared an updated Impact Assessment, which had been circulated to Cabinet Members for their attention at this meeting and was available at <https://new.devon.gov.uk/ndlr/project-documents> and at <https://new.devon.gov.uk/impact/published/>.

The Cabinet noted the social impacts on commuters, journey times, safety, the impacts on agricultural land and properties. An assessment of the anticipated environmental impacts had been considered in the Environmental Assessment Report and the Economic Case Chapter in the Outlined Business Case at <https://new.devon.gov.uk/ndlr/project-documents>. However, this considered issues such as noise, air quality, greenhouse gases, landscape, cultural heritage, townscape, biodiversity, water / flood risk, ground water, geology and soils etc. The mitigation strategies and principles were outlined in full in chapter 13 of the Environmental Assessment Report.

The Report outlined the risk and mitigation measures, assuring the Cabinet that the proposal had been assessed and all necessary safeguards taken/included. Risk costs had been included in the scheme estimate.

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 Davis, **SECONDED** by Councillor Hart, and

RESOLVED

(a) that the preliminary scheme layout shown on the scheme plans (attached to the Report in Appendix I) be approved and that delegated power be given to the Head of Planning, Transportation and Environment, in consultation with the Cabinet Member for Infrastructure, Development and Waste and relevant local Member(s), to make minor amendments to the scheme details and to progress towards a Full Business Case;

(b) that the Scheme be progressed through the required Statutory Consents and Approval Processes, including a Planning Application and environmental permit;

(c) that the commencement of the acquisition of land through negotiation and/or a Compulsory Purchase Order (CPO) be approved; and

(d) that the Scheme proceeds to tender and preparation of a Full Business case to submit to the Department for Transport.

* 205

South West Exeter Housing Infrastructure Fund Bid

(Councillors Atkinson, Biederman, Connett, Dewhirst 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/18/24), seeking approval to submit a bid to the Housing Infrastructure Fund, circulated prior to the meeting in accordance with regulation 7(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

The Report outlined that a successful Expression of Interest was submitted to the Ministry of Housing, Communities and Local Government (MHCLG) in September 2017 for funding from the Housing Infrastructure Fund (HIF) towards infrastructure to support development at South West Exeter, with a package totalling £44.7 million. In March 2018, the Council was advised the Expression of Interest was successful and was invited to submit a full bid. The Report,

therefore, sought approval to proceed with submitting a full bid to the MHCLG in time for the 10 September 2018 deadline.

The Report outlined the purpose of the HIF which was a Government capital grant scheme of £4.8 billion which had been identified to support the delivery of infrastructure related to the building of new homes.

It also explained the South West Exeter area in terms of its strategic allocation of 2,500 dwellings and 5 hectares of employment on the edge of Exeter, which also spanned two administrative areas – Teignbridge District Council and Exeter City Council. The site was complex, straddling a key arterial road (the A379), was close to the Exe Estuary Special Protection Area and multiple land ownerships.

There were two streams to the HIF – marginal viability funding and forward funding, the former allowed lower tier authorities to bid for up to £10 million to unlock development and the forward funding stream was for higher tier authorities and allowed bids of up to £250 million.

The table within the Report identified the infrastructure expected to be included in the final submission for the HIF bid, which included pedestrian/cycle bridge to provide a crossing of the A379 (£2.5m), servicing of school site to enable delivery of the approved Free School (£2m), electricity upgrade – new primary sub-station to provide additional capacity (£2m), contributions towards Marsh Barton Rail Station (£2m), three new signal junctions on the A379 and widening of 1.5km of highway (£10m), southern spine road through multiple landownerships to unlock all parcels south of the A379 and provide an early public transport corridor (£12m), capacity upgrade to 'Devon Hotel' roundabout on the A379 to deliver sufficient capacity for development and maintain access to large development site (£2.5m), realignment of Chudleigh Road and new signal junction to address a safety concern and unlock development to the north of the A379 (£6m), provision of foul drainage along the A379 (£2m), Alphington Village enhancements (£0.5m), new access roundabout on the A379 (£2.5m) and Suitable Alternative Natural Green Space (SANGS) to mitigate the impact on the Exe Estuary (£2.7m), totalling £46.7m (with further work being undertaken to progress design and more detailed cost estimates).

The Cabinet noted that any risks associated with overspends were expected to rest with the County Council and developers. Environmental impacts of the scheme had also been considered, although there would be a need to consider the detailed impacts of individual elements, which would be undertaken through detailed design.

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 Davis, **SECONDED** by Councillor Hart, and

RESOLVED

(a) that the proposal to submit a bid to the Housing Infrastructure Fund, administered by the Ministry of Housing, Communities and Local Government, to assist in delivering infrastructure to support development at South West Exeter be approved;

(b) that the Cabinet delegate authority to the Head of Planning, Transportation and Environment in consultation with the Cabinet Member for Infrastructure, Development and Waste to agree the final contents of the submission;

(c) that the proposal to enter into a legal agreement with developers and land owners to secure appropriate repayment of the Housing Infrastructure Fund to the County Council be approved; and

(d) that agreement be given to progress negotiations with the Education and Skills Funding Agency to deliver a new all through school, which will require planning permission and the acquisition of land.

* **206** **Exeter, Upper Northbrook Surface Water Flood Improvements**

(Councillors Biederman, Connett 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/18/25) seeking approval of the Exeter, Northbrook Upper Flood Improvement Scheme, circulated prior to the meeting in accordance with regulation 7(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

The Report highlighted the history of flooding in the upper Northbrook area of Exeter and the ongoing high risk of future flood events. It also detailed the proposed scheme options that aimed to significantly reduce the ongoing risk of flooding.

The DCC Preliminary Flood Risk Assessment (2011), established that Exeter had the largest number of properties at risk of surface water flooding, within the County, therefore detailed investigations and hydraulic modelling had been undertaken for Exeter. The results (and other evidence) showed that works in Exeter could be fully justified.

The complex nature of surface water flooding mechanisms and numerous locations of works required meant a phased delivery of flood improvement works over forthcoming years would be required. The Report therefore covered phase one of the proposed works (Upper Northbrook catchment, mainly in Beacon Lane and the Georges Close area of Whipton and Old Tiverton Road), as shown in Annex 1.

A number of improvements at various locations upstream of the residential areas were being proposed to reduce runoff, attenuate flows and restrict the residual flows through the built-up area. This included work at Beacon Lane (Annex 2 of the report outlined the detail), Georges Close, Whipton (Annex 3) and Old Tiverton Road (See Annex 4).

A business case promoting the scheme to the Environment Agency would be submitted to request funding support from Defra's Flood Defence Grant in Aid and Local Levy with the remaining funding provided by contributions sought from South West Water, and Exeter City Council, as well as by DCC's own dedicated flood risk budgets.

All the flood improvements mentioned in the Report would be developed in accordance with the Equality and Environmental Assessments produced in support of the Devon Local Flood Risk Management Strategy. All elements of the scheme had been assessed at the appropriate stage using the corporate, integrated assessment tool, with relevant equality and environmental impacts identified and acted on as necessary.

An environmental appraisal of the proposals indicated that, with appropriate mitigation, there would be limited impact upon landscape, historic and ecological interests.

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 the Exeter, Northbrook Upper Flood Improvement Scheme at an estimated cost of £450,000, be approved, but noting the scheme will not proceed until all funding is secured; and

(b) that authority to acquire title and/or rights over the necessary land, as required, in order to deliver the scheme, be given.

MATTERS REFERRED

* **207** **Treasury Management Stewardship Annual Report: Approval to Annual Report (following consideration by the Corporate Infrastructure and Regulatory Services Scrutiny Committee)**

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

The Cabinet considered the Report of the County Treasurer (CT/18/48) 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 12 June 2018 (Minute *74 refers).

The Annual Report set out the outturn position, reviewing performance and informing Members of any key matters arising from the Council's Treasury and Debt Management activities during the 2017/18 Medium Term Financial Strategy.

The Report revealed that no long term or short-term borrowing had been undertaken during 2017/18 and it was not envisaged that any new long-term borrowing would be required over the next three-year period (but this would be reviewed annually). Also, there had been no opportunities during 2017/18 to repay outstanding debt without incurring substantial premium penalties, which would negate the benefit of repaying the debt. In terms of investment income, £1.35 million was achieved in 2017/18 against a full year budget of £750,000 which represented a return of 0.74%, including the Property Fund investment.

The Cabinet noted that successful prudent management of the Council's short-term cash reserves had delivered a surplus of £600,000 for the 2017/18 financial year.

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 Hart, **SECONDED** by Councillor McInnes, and

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

* **208** **Children's Scrutiny Committee - Children & Young People's Emotional Health & Wellbeing Task Group (Minute 64)**

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

The Cabinet noted that at its meeting on 4 June 2018 (minute *64 refers), the Children's Scrutiny Committee received and considered the Report of the Scrutiny Task Group relating to the Children and Young Peoples Emotional Health and Wellbeing.

The Committee RESOLVED

(a) that the report and intention of the recommendations be endorsed; and

(b) that the Chair of the Children and Young People's Emotional Health and Wellbeing Task Group work with Officers to review the phrasing of the recommendations to ensure that they are 'SMART' (Specific, Measurable, Achievable, Relevant and Time-Bound) before being commended to the Cabinet'.

Cabinet noted that Officers had met with Scrutiny Members to propose the SMART action plan, which had been circulated with the agenda for this meeting. They further noted the importance of the early intervention agenda.

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

RESOLVED that Cabinet note that Officers have already met with Scrutiny Members to propose the SMART actions in response to the recommendations, appended to this agenda, and Cabinet endorses both the Scrutiny recommendations and accompanying action plan.

* **209** **Health and Adult Care Scrutiny Committee - Better Care Fund Task Group (Minute 66)**

(Councillors Ackland, Biederman, Connett, Hannaford and Randall-Johnson attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet considered the Report of the Scrutiny Task Group on the Better Care Fund (Minute *66) and noted that the Health and Adult Care Scrutiny Committee had, at its meeting on 7 June 2018, **RESOLVED**

(a) that the Cabinet, Northern, Eastern and Western (NEW) Devon CCG and South Devon and Torbay CCG be requested to endorse the Report and adopt the recommendations detailed; and

(b) that the Cabinet and the Clinical Commissioning Groups be asked to provide a unified response and report back on progress to the November meeting of this Committee.

It was **MOVED** by Councillor Leadbetter **SECONDED** by Councillor Hart and

RESOLVED

(a) that Cabinet welcomes the Report from the Task Group on the Better Care Fund which provides great insight into the complexities and opportunities around the BCF, recognises the hard work of operational and commissioning staff across the authority and the NHS in delivering integrated care in Devon and makes clear recommendations for further improvement; and

(b) that Cabinet endorses the Report and that Council Officers be asked to coordinate a single integrated response across all partners for the November meeting of the Health and Adult Care Scrutiny Committee.

* **210** **Health and Adult Care Scrutiny Committee - Public Health Annual Report 2017/18 (Minute 62)**

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

The Cabinet considered the reference from the Health and Adult Care Scrutiny Committee, who at its meeting on 7 June 2018, whilst considering the Public Health Annual Report 2017/18 (Minute *62) had **RESOLVED**

'that the Cabinet be called upon to continue to lobby Government (Department of Health and Social Care; and the Treasury) for a fair Public Health Grant for Devon and that all Devon MP's be briefed accordingly'.

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

RESOLVED that as part of the County Council's continuing campaign for fair funding for Devon, the following further actions be taken:

(a) that the Leader of the Council writes to the Secretary of State for Health and Social Care urging the Government to implement a fair funding formula for public health in Devon that will support the vital role of preventative care in relieving pressures on NHS acute services, and in improving the health and wellbeing (including social and economic wellbeing) of our society;

(b) that the County Council briefs Devon MPs, individually, on the case for fair public health funding in Devon and seeks their support to lobby Government on this matter, and;

(c) that the County Council investigates the opportunity for joint campaigning with similarly affected local authorities.

211 **Corporate Infrastructure and Regulatory Services Scrutiny Committee - Air Quality and Congestion Task Group (Minute 72)**

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

The Cabinet considered the Report of the Task Group on Air Quality and Congestion (Minute *72), and noted that the Corporate Infrastructure and Regulatory Services Scrutiny Committee had, at its meeting on 12 June 2018, **RESOLVED**

'that the Task Group and recommendations be commended to the Cabinet with a view to undertaking further work on this issue as appropriate'.

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

RESOLVED

(a) that the Scrutiny Task Group be thanked for their Report on Air Quality and Congestion;

(b) that Cabinet welcomes the Report and is pleased to see that the five recommendations outlined in the report follow a long-term behaviour change approach to tackling the identified challenges;

(c) recommendations 1,2 3, and 5 of the Report be supported and the Head of Planning, Transportation and Environment be asked to progress work to deliver on these. The recommendations align with current Council strategy for tackling air quality and offer good value for money;

(d) on recommendation 4, the Head of Planning, Transportation and Environment be asked to undertake a high-level evidence-based appraisal of the viability of a bus pass for young people. However, it be noted that the Task Group Report does not provide sufficient evidence to warrant such a scheme at the present. Such a pass would be costly (in the region of £6m a year) and would target a group that already show some of the most sustainable travel behaviours across the whole population.

STANDING ITEMS

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

There was no question from a Member of the public.

* **213** **Minutes**

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

RESOLVED that the Minutes of the following and any recommendations to Cabinet therein be approved:

Standing Advisory Council on Religious Education - 5 June 2018

Devon Education Forum – 20 June 2018

Devon Audit Partnership - 20 June 2018

* **214** **Delegated Action/Urgent Matters**

The Registers of Decisions taken by Members 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/>

* **215** **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 (including the addition of the Community Health and Care Services Award (Part 2) 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 12.27 pm



QUESTIONS FROM MEMBERS OF THE COUNCIL Wednesday 11 JULY 2018

1. QUESTION FROM COUNCILLOR DEWHIRST Re: Consequences Booths

Can the Cabinet Member for Children's Services and Schools identify any schools in Devon that use "Consequences Booths"? MP Paul Williams, who is a GP, reported in Parliament that children were suffering growing anxiety and nightmares over the use of these harsh isolation booths for the entire day, often for trivial reasons, in some schools.

REPLY BY COUNCILLOR MCINNES

Devon LA does not keep records on the how schools apply sanctions within the school environment and are therefore not able to provide the specific information requested. Some schools have for a number of years used Isolation rooms but I am not aware of any that are using consequences booths. The information below is designed to provide some background information in relation to the matter.

The management of pupils behaviour within school settings is the responsibility of the Governing body. Governing bodies of maintained schools and the proprietors of Academies have a duty requiring them to make arrangements to ensure that their functions are carried out with a view to safeguard and promote the welfare of children. Headteachers, proprietors and governing bodies must ensure they have procedures in place to support staff in managing behaviour, including the use of rewards and sanctions. These procedures must be set out in a behaviour policy which should be published on the schools website (Maintained schools must publish it).

DfE guidance states that:

"A clear school behaviour policy, consistently and fairly applied, underpins effective education. School staff, pupils and parents should all be clear of the high standards of behaviour expected of all pupils at all times. The behaviour policy should be supported and backed-up by senior staff and the head teacher."

They go on to give examples of sanctions which can be applied and also state that:

"Schools can adopt a policy which allows disruptive pupils to be placed in an area away from other pupils for a limited period, in what are often referred to as seclusion or isolation rooms. If a school uses seclusion or isolation rooms as a disciplinary penalty this should be made clear in their behaviour policy. As with all other disciplinary penalties, schools must act reasonably in all the circumstances when using such rooms (see paragraphs 14 and 15). Any use of isolation that prevents a child from leaving a room of their own free will should only be considered in exceptional circumstances. The school must also ensure the health and safety of pupils and any requirements in relation to safeguarding and pupil welfare."

It is for individual schools to decide how long a pupil should be kept in seclusion or isolation, and for the staff member in charge to determine what pupils may and may not do during the time they are there. Schools should ensure that pupils are kept in seclusion or isolation no longer than is necessary and that their time spent there is used as constructively as possible".

