

NOTICES OF MOTION

Report of the County Solicitor

Recommendation: that consideration be given to any recommendations to be made to the County Council in respect of the Notices of Motion set out hereunder having regard to the relevant factual briefing/background papers and any other representations made to the Cabinet.

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The Notices of Motion submitted to the County Council by the Councillors shown below have been referred to the Cabinet in accordance with Standing Order 8(2) - for consideration, reference to another committee or to make a recommendation back to the Council.

A factual 'Briefing Note/Position Statement' prepared by the relevant Director is included, to facilitate the Cabinet's discussion of each Notice of Motion.

### **(a) Bus Passes- Councillor Brazil**

'Pensioners can travel free on buses after 9.30am. This council will introduce an enhanced bus pass which will allow those aged 80 and over or registered blind to travel free before 9.30am. A similar scheme is available in Plymouth'.

### **Briefing Note / Position Statement from the Director of Climate Change, Environment and Transport**

The key premise of the National Concessionary Travel Scheme is that it is a universal scheme. Within the scheme, a Local Transport Authority can apply discretion on how the scheme is applied.

The County Council currently applies discretionary elements in the following areas:

- DCC provides a Companion Pass for passengers who would not be able to travel independently. The cost of this is around £100K per annum but provides a net benefit over providing personalised transport packages.
- Pre 09.30 travel is permitted on deep rural services where there is not the opportunity to make a later outward journey. The cost of this is minimal as it applies to a handful of routes in the County.
- Travel past 23.00 until the end of the service. This is minimal cost as the pick-up is very low, it does not impact on capacity and avoids passenger/driver disputes.

The suggested change of allowing discretionary free travel prior to 0930 for Bus Pass holders who are over 80 or are registered blind would need to be subject to an Impact Assessment. However, the suggestion appears to go against the universal nature of the scheme and risks discriminating against younger Bus Pass holders or people with different types of disabilities.

The suggested discretion was assessed by officers from our Transport Coordination Service around 10 years ago when Plymouth City Council first introduced theirs. It was found that it would benefit around 36,000 Bus Pass holders, 21% of the total number at the time, and cost in the region of £1.2million based on travel patterns. Work has not taken place on updating these figures. However, taking into account the current overall financial commitments of the County Council now is not the time to introduce additional discretionary expenditure.

The Concessionary Bus Travel budget for 2022/23 is £7.6million.

### **(b) Housing White Paper - Councillor Cllr Atkinson**

Historically, the Government's answer to the housing shortage has been to broaden access to home ownership with schemes such as the discounted sale of council housing to sitting tenants. Effectively, this has provided each buyer with a subsidy of up to £100,000 via discount entitlement. The programme has contributed little to the supply of affordable housing in a locality yet its cost to local government is and has been colossal.

Because such costs have been incurred by means of accepting a below market price for a publicly owned asset rather than by direct government expenditure, the true cost of the scheme to the public purse has never been easily identifiable. However, if the government wishes to pursue its recently declared intention to promote housing association right to buy sales this would change as the associations concerned would expect Treasury compensation for the value of discounts approved.

What has not been identified is where would this money for the extension of the right to buy to Housing Associations would come from. It is worth noting that when this was last proposed in 2015 it was to come from the sale of high value council houses, which proved unworkable and the proposal was dropped.

**This Council believes** that the government should instead focus its policy on increasing the supply of affordable houses through measures such as the following first-time buyer assistance proposals and social housing development proposals:

1. Mandating developers to include below-market price housing for sale (as well as affordable rental) in residential developments on the grounds that the discount is effectively financed by taxing land value
2. Lowering both the income and wealth threshold for home ownership access, to the benefit of lower income households via the shared equity model (e.g. Help to Buy).

3. Enabling development of for-sale housing offers by state agencies such as local authorities or housing associations as a means of providing dwellings that can be sold to qualifying applicants at cost price (i.e. no need to factor-in profit), while also expanding overall housing supply to the benefit of the wider market
4. Provide a subsidy per dwelling to local authorities and housing associations to build houses for rent at social housing and affordable rents in areas where there is a waiting list for such properties and for those who do not qualify for the help to buy provisions in 2 & 3 above.

This **Council resolves** to propose the above measures to the Devon Housing Forum and to make representations supporting such recommendations to the government in response to the White Paper.

### **Briefing Note / Position Statement from the Head of Policy**

Although the Council is not a statutory housing provider it recognises the importance of a balanced housing market for positive health and socio-economic outcomes.

At its meeting on 2 December 2021 (minute \*67 and \*68 refer) Council resolved:

(a) that the County Council assess the potential for it to offer accommodation to new social and key workers to attract them to work for Devon County Council;

(b) that the County Council, as a member of Team Devon (Leaders and Chief Executives), propose to Team Devon that a Devon strategic housing taskforce be established to help draw together the work of existing pan-Devon housing partnerships and focus on tackling homelessness and improving the availability of affordable housing in Devon; and

(c) that the County Council, as a member of Team Devon (Leaders and Chief Executives), proposes to Team Devon that it write to Devon Members of Parliament asking them to support changes to legislation and policy to address the housing problems in Devon described in the Notices of Motion. Team Devon's letter to MPs should propose strengthening the criteria on how a property becomes liable for Business Rates instead of Council Tax. Owners of these properties should have to show that they are commercially letting the property and not just declaring them available for rent.

The Devon Housing Task Force has been established under the leadership of Councillor Judy Pearce (Leader of South Hams District Council) with cross-party membership from Devon, Plymouth and Torbay. The Task Force meets monthly and reports findings to the Team Devon (Leaders and Chiefs) meeting. It has the following objectives:

- Understanding the pan-Devon picture (including Plymouth and Torbay) with the aim of informing emerging 'County Deal' discussions – including affordability, tenure, supply, demand,

- Increasing visibility of the evidence of the Devon housing system and the various financial, taxation and regulatory levers that exist to inform local solutions or lobbying for change
- Responding to relevant Government consultations on housing – for example submitting a Devon Task Force response to the DCMS and DLUHC on a ‘call for evidence’ on holiday lets (linked to a possible tourism registration scheme) as an additional tool to give some control over housing market conditions
- Exploring how we could stimulate/accelerate Community Land Trust activity
- Liaising with MPs and Ministers to make the case for change
- Developing a Devon Housing Commission to have an academically-led study of the future pressures and solutions to solve the housing issues across geographical Devon
- Increasing visibility of the evidence of the Devon housing system and the various financial, taxation and regulatory levers that exist.

The County Council has committed resources to support the ongoing work of the Devon Housing Task Force.

### **(c) Funding for Local Government - Councillor Whitton**

This Council

- Notes the National Audit Office figures show central Government funding for local authorities in England has been cut by 52.3 percent overall in real terms between 2010-11 and 2020-21; in Devon County Council it has been closer to 75%.
- Believes the Government must address the financial challenges arising from this decade of underinvestment together with the additional financial pressures local authorities now face because of such factors as increasing fuel and staffing costs, increased social care referrals, high vacancy rates across frontline services and other challenges associated with covid-19, and loss of income.
- Notes recent Local Government Association analysis that social care-providing authorities are spending more than 60 percent of their outgoings on these essential care services.
- Believes we need locally led initiatives to improve equality, sustainability and resilience, including providing genuinely affordable, energy efficient homes, supporting socially necessary bus services, providing adult and child social care, support for older people, looked-after children, care leavers, people with disabilities or special educational needs, survivors of domestic violence and low-income families in crisis.
- Believes the government must take action to ensure the financial stability of local government and its ability to plan, sustain and improve community and essential frontline services.
- Believes the need for the government to address the financial pressures on local authorities and their ability to deliver frontline services is urgent and immediate.

## **This Council resolves**

To call on the Government to develop a national funding strategy that will provide Devon and other local authorities with the funds required to protect and restore spending on social care, community and frontline services to sustainable levels and reset local economies in the autumn budget.

## **Briefing Note / Position Statement from the Director of Finance and Public Value**

The County Council supports the Local Government Association and County Councils Network in seeking the earliest possible resumption of the Fair Funding Review by Government.

Reform of local government finance that recognises the true costs of delivering public services in rural areas, and that addresses the needs of Devon's urban, rural and coastal communities is more pressing than ever.

With our District partners in Team Devon, and in Plymouth and Torbay unitary councils, we continue to champion the case for the devolution of real power and finance from central Government to democratically accountable local government which is best placed to meet those needs.

The financial pressures facing the County Council, indeed the whole local government sector, are unprecedented so it is vital that this year's local government settlement provides councils with the funding needed to deliver the services our residents rely on.

The County Council believes there are practical measures Government can implement quickly which will also help ease some of these pressures.

We would welcome a delay to the charging reforms to adult social care services. Whilst we agree with the reforms, it is essential they are fully costed and adequately funded. By delaying the reforms but retaining and reinvesting funding earmarked for these proposals in local government, it would help ease the inflationary and workforce pressures facing our social care services.

We are urging the Government to rebalance funding between health and social care, by allocating more of the £13bn committed to tackling the NHS backlog to councils who can work with NHS partners to invest more money in preventative social care and help ease the pressure on our hospitals.

The County Council is also actively lobbying for Government to either approve our SEND Safety Valve Intervention Fund proposals as a matter of urgency or at least grant temporary respite by allowing the deficit to be rolled forward a further year.

The Leader and Cabinet colleagues are working with Devon's Members of Parliament to champion Devon's case in Government. We are strong supporters of the County Councils Network's 5-Point Plan campaign and we co-ordinating our communications and lobbying with CCN to maximise our impact.

We will continue to work alongside local government partners to stand up for Devon and the wider South West.

Members may be interested to know that the reference in the Notice of Motion to a 53.2% reduction in Government funding for local authorities can be found in the National Audit Office's November 2021 report [The local government finance system in England: overview and challenges \(nao.org.uk\)](https://www.nao.org.uk/publications/2021/november/the-local-government-finance-system-in-england-overview-and-challenges).

In the County Council's 2021/22 Budget Book\*, Finance officers reported that "In the eleven years up to and including 2021/22 the authority's core funding from Government has reduced in cash terms by just over £180 millions or 72% in real terms." [\\*Budget Book 20212022.pdf \(devon.gov.uk\) p 91.](#)

However, these two figures are not directly comparable. The NAO report refers to 'Government funded spending power' whereas the County Council Budget Book refers to 'core funding'. The key difference is that 'spending power' includes new grants over the period such as the Better Care Fund whereas core funding does not (the rationale being that new grants usually come with new responsibilities). There may also be differences in the methodology for the discount rate to derive the real term effect.

#### **(d) Second Homes and Council Tax Premium - Councillor Brazil**

This Council will adopt a 100% Council Tax premium on second homes as soon as legislation allows.

#### **Briefing Note / Position Statement from the Head of Policy**

The County Council is part of the Devon Housing Task Force which is a Member-led, cross Council group that is looking at the collective action that authorities can take to deal with the housing issues across the County. The Task Force has been looking at a range of measures including Council Tax premiums on second homes that could help mitigate the strain on housing availability and affordability.

The statutory responsibility for setting Council Tax policy lies with the 'billing authorities' which in Devon is the eight district councils. The County Council as the major preceptor is a consultee to each of the district council tax schemes but cannot require the statutory billing authorities to adopt a particular policy such as a premium on second homes.

#### **(e) Pedestrian Priority in Highways Policies - Councillor Wrigley**

In January 2022 the new version of the Highway code reinforced the principles that pedestrians have higher priority than cars, as do cyclists and others.

In Devon County Highway discussions, too often the impression is given that car drivers have priority of consideration in the design of road layout, speeds and other considerations.

This Council asks for a systematic review and re-appraisal of priorities in Highways policies such that pedestrians are actively and always considered first, and vehicle traffic takes second place, in line with the new highway code.

In particular this should be emphasised in the considerations of speed limits and restrictions, pedestrian crossings, parking restrictions and in consultation responses for planning of new developments. Consideration of pedestrians must include safety and the perception of safety from a pedestrian point of view.

Council asks for this review to be done within 6 months and to receive reports on changes required in currently applied policies or demonstration of how pedestrian considerations and experience is prioritised.

## **Briefing Note / Position Statement from the Director of Climate Change, Environment and Transport**

Each of the 'Place' based services across the Climate Change, Environment and Transport directorate focuses on both the safety and priority of vulnerable road users, particularly pedestrians throughout the various roles they deliver.

### **Transport Planning**

The current Local Transport Plan aims to provide safe and attractive environments in which to encourage walking and cycling to ensure active travel is a realistic alternative to the motor car. The document is due to be refreshed and the team are expecting guidance from the Government early in the new year.

Through conversations with peers via the ADEPT (Association of Directors of Environment Economy Planning and Transport) network there is an expectation that there will be greater focus on;

- Decarbonisation;
- Levelling up; and
- Experience of the user

This emphasis on the 'experience of the user' will provide opportunity to reinforce the hierarchy of modes as laid out by the new Highway Code.

### **Highway Design**

With regard to the design of new capital schemes and improvements, the safety of all users is inherent to this process, with priority given to pedestrians and vulnerable users. There are key design documents and codes of practice such as Manual for Streets and Designing for Disabilities that guide designers and provide advice.

Manual for Streets demonstrates the benefits that flow from good design and assigns a higher priority to pedestrians and cyclists, setting out an approach to residential streets that recognises their role in creating places that work for all members of the community.

In addition to design guidance and in line with best practice laid out in the Design Manual for Roads and Bridges published by the DfT, the Road Safety Audit process is required whenever there is a temporary or permanent change to the highway. These audits are carried out by qualified safety auditors who are independent of the design. These audits offer an impartial review of changes to the highway with the sole focus of safety.

## **Highway Maintenance and Operation**

From the perspective of maintaining and operating the highway network, the majority of the policies are focused on assets and how they are maintained, rather than road users, whether they be walking, riding or driving.

The Highways Safety Inspection Manual that underpins the routine safety inspections has a lower intervention level for defects recorded on the footway than the carriageway. For example, a pothole on a footway is considered a safety defect if it is 20mm deep with a vertical face and 50mm in any horizontal direction whereas in a carriage way the dimension increase to 40mm deep with a vertical face and 300mm in any direction. The manual makes clear that there are areas of carriageway such as pedestrian crossings and pedestrianised zones that shall be inspected as footways.

Our policy for setting of speed limits is informed by national guidance which recognises the importance of lower speed limits in areas where there are greater numbers of pedestrian movements; a 30mph speed limit being the norm in our communities with 20mph speed limits applied where there are significant numbers of vulnerable road users. Cabinet recently agreed to trialling a different approach with case studies in 5 communities to ensure that our approach to the application of 20mph speed limits is effective. The findings from these trials will be published in a report after 12 months of post implementation study.

Where residents have concerns about drivers complying with speed limits this is subject to multi-agency review via our Speed Compliance Action Review Forum (SCARF). At these meetings representatives from Road Safety, Traffic Management and Neighbourhood teams meet with Police representative and review data to consider whether intervention is required.

## **Development Management**

The primary highway guidance for the assessment of development proposals is the Manual for Streets, as referenced above in relation to capital schemes. A revised and updated version of the Manual for Streets is expected shortly. All developer changes to the highway are subject to the Road Safety Audit process. As the Devon Local Planning Authorities Local Plans come forward for review the recent and impending changes in respect of vulnerable road users are expected to be taken forward in revised transport and access policies.



## **Vision Zero South West**

The regional road safety partnership Vision Zero South West (VZSW) delivers an externally funded programme of behavioural change and enforcement measures. The VZSW strategy aims to reduce road injury numbers for all road users. But also identifies and prioritises the highest risk road user groups like pedestrians for supporting initiatives. VZSW will not seek to set local policy for partner highway authorities like Devon County Council, and it will not be able to fund highway infrastructure improvements. But the partnership will actively support all policies that contribute towards improving safety for pedestrians through education, training, publicity and enforcement activities.

### **(f) Environmental Protections - Councillor Bailey**

This Council is strongly opposed to the reckless ripping up of environmental protections by the Conservative Government including the creation 38 new investment zones which have been described by the RSPB as “an attack on Nature”. This Council urges the Government to uphold the legal protections which are vital for wildlife particularly as the UK is one of the most nature depleted countries in the world (it is in the bottom 10% of the world’s countries well below China and the last among the G7 group of nations).

### **Briefing Note / Position Statement from the Director of Climate Change, Environment and Transport**

A coalition of 66 conservation charities, operating collectively as Wildlife and Countryside Link, is campaigning on what is perceived as a current government threat to environmental protection. They highlight three specific points:

1. The potential removal or weakening of important laws that protect nature and ensure standards for water quality, pollution and pesticides. This stems from The Retained EU Law Bill, introduced to Parliament on 22 September, which is intended to ‘save, repeal, replace, restate or assimilate’ the retained EU law applying in the UK. Of the 2,400 relevant provisions, 570 of these sit with Defra, such as the legislation intended to protect our most important wildlife sites. This legislation will either be dropped from UK law or will have to be rewritten by 2023 (or, potentially, by an extended deadline in 2026).
2. The Growth Plan published on 23 September contained a commitment to introduce a Planning and Infrastructure Bill, designed to accelerate infrastructure delivery by “*minimising the burden of environmental assessments*” and by “*reforming habitats and species regulation*”. The same Growth Plan confirmed plans to introduce ‘Investment Zones’, areas where planning liberalisation would apply to deliver growth and unlock housing.
3. A signalled review of Environmental Land Management (ELM), the new post-Brexit system of paying farmers for environmental public goods, intended to support the rural economy, address the climate and ecological

crisis and ensure future food security. Although Defra has now said that ELM will not be scrapped, there is remaining concern over the amount of funding different ELM schemes will receive and whether alternatives to ELM funding will be introduced.

Other perceived policy threats now facing nature which have been apparent through recent government announcements and associated media speculation include proposals for new offshore drilling and the expected financial cuts to public bodies. So, in addition to the specific points highlighted above, there is strong public concern about a fundamental de-prioritisation of the environment, in the alleged interests of growth. This appears to mark a significant shift away from the ideals set out in the 25 Year Environment Plan and the specific provisions of the Environment Act 2021.

### **(g) Glyphosate Use on all Council Owned Land - Councillor Hodgson**

This Council will ban the use of the pesticide Glyphosate on all Council owned land from January 1st 2023.

### **Briefing Note / Position Statement from the Director of Climate Change, Environment and Transport**

The use of glyphosate on County Council owned land and through its services has been raised as an issue on several occasions. The resulting reviews have identified limited instances where glyphosate or other herbicides are, routinely, applied.

Glyphosate is currently approved for use in Great Britain, as it is elsewhere in countries in the European Union (EU). A UK ban on the chemical was set to come into effect on 15 December 2022, aligned with the decision from the European Commission. However, following its departure from the EU, Britain now makes its own regulatory decisions. According to the Plant Protection Production Regulations 2019 as part of the EU exit strategy, all products set to expire under EU legislation are granted a three-year extension. Therefore, glyphosate can now legally be used until at least 15 December 2025.

In terms of DCC services, the main use of glyphosate is through a small number of highway maintenance activities. The approved weed control / clearance policy and procedures for highways identify the following operations where herbicides, including glyphosate, may be used where necessary:

- Limited control of excessive weed growth on hard surfaces such as carriageways, footways and cycle ways where the size and density of the weed growth may create a hazard to the highway user or result in serious damage to the structure or surface, on a reactive basis
- Control weeds in granular bed drainage systems on the Priority Network (French drains)
- Control weeds prior to footway construction or highway maintenance works as a preventative measure

- Control weeds in escape lanes or arrester beds.

However, attempts are made to reduce such herbicide use. For example, manual control methods are often used to remove excessive weeds on hard areas. Herbicide use is, sometimes, the only practical option, for example in treating invasive and non-native weeds such as Japanese Knotweed and Giant Knotweed.

Glyphosate will also be used on County Council owned land forming part of its Farms Estate, with this being at the discretion of individual tenants. The County Council is unable to ban such herbicide use for existing tenants and would not want to do so for new tenants while it remains a licenced and freely available product and until there is a suitable alternative on the market which will not disadvantage them.

However, the desirability of reducing direct pesticide use, including glyphosate, through County Council services is recognised by its Environmental Policy which states that the authority will, "*only use pesticides if absolutely necessary where practical alternatives are not available.*"

Footnote: *The term 'pesticide' is used in reference to a variety of chemical and biological products used to kill or control living organisms such as insects, diseases, and plants.*

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This Report has no specific equality, environmental, legal or public health implications that will not be assessed and appropriate safeguards and/or actions taken or included within the detailed policies or practices or requirements in relation to the matters referred to herein.

MARIA PRICE

[Electoral Divisions: All]

**Local Government Act 1972: List of Background Papers**

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| <b><u>Background Paper</u></b> | <b><u>Date</u></b> | <b><u>File Reference</u></b> |
|--------------------------------|--------------------|------------------------------|
| <b>NIL</b>                     |                    |                              |