

**MINUTES OF THE MEETING OF THE TENDRING DISTRICT COUNCIL,
HELD ON TUESDAY 22 NOVEMBER 2016 AT 7.30PM
IN THE PRINCES THEATRE, TOWN HALL, CLACTON-ON-SEA**

Present: Councillors Chapman (Chairman), Platt (Vice-Chairman), Amos, Baker, Bennison, Bray, Broderick, B E Brown, J A Brown, M Brown, Bucke, Calver, Chittock, Cossens, Everett, Fairley, Ferguson, Fowler, Gray, Griffiths, G V Guglielmi, V E Guglielmi, Heaney, I J Henderson, J Henderson, Hones, Honeywood, Howard, Land, McWilliams, Miles, Newton, Nicholls, Parsons, Pemberton, Poonian, Porter, Raby, M J Skeels, Steady, Stephenson, Stock, Talbot, Turner, Watling, Watson, White, Whitmore, Winfield and Yallop

In Attendance: Chief Executive (Ian Davidson), Corporate Director (Corporate Services) (Martyn Knappett), Head of Governance and Legal Services & Monitoring Officer (Lisa Hastings), Head of Finance, Revenues & Benefits and Section 151 Officer (Richard Barrett), Management and Members' Support Manager (Karen Neath), Committee Services Manager (Ian Ford), Communications Manager (Nigel Brown), Benefits Manager (Jenny Haggis) and Committee Services Officer (Katie Sullivan)

71. CHAIRMAN'S CONGRATULATIONS

The Chairman congratulated the Committee Services Manager, Ian Ford, on reaching the milestone of 1,000 meetings at Tendring District Council.

Members showed their appreciation with a round of applause.

72. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Callender, Coley, Davis, Hughes, Khan, King, Scott and M J D Skeels.

73. MINUTES

RESOLVED, that the minutes of the ordinary meeting of the Council, held on Tuesday 6 September 2016, be approved as a correct record and signed by the Chairman.

With regard to Minute 69, Councillor Broderick requested that it again be noted that she was opposed to any reduction in the number of Councillors from 60 to 48.

74. DECLARATIONS OF INTEREST

Councillors I J Henderson and Honeywood both declared a non-pecuniary interest in relation to the minutes of the meeting of the Standards Committee held on 26 September 2016 and, in particular, Minutes 14 and 17.

75. ANNOUNCEMENTS BY THE CHAIRMAN

The Chairman's and Vice-Chairman's engagements for the period 2 September 2016 to 22 November 2016 were tabled at the meeting.

The Chairman was sad to announce the death of Parish Councillor Peter Dumsday, the Chairman of Weeley Parish Council. All persons present stood in silent tribute to the life of Peter Dumsday.

76. ANNOUNCEMENTS BY THE CHIEF EXECUTIVE

There were none on this occasion.

77. STATEMENTS BY THE LEADER OF THE COUNCIL

There were none on this occasion.

78. STATEMENTS BY MEMBERS OF THE CABINET

There were none on this occasion.

79. PETITIONS TO COUNCIL – PROTECTING OPEN SPACES IN BOCKINGS ELM, CLACTON-ON-SEA

In accordance with the Council's approved scheme for dealing with petitions, the Chief Executive formally reported the receipt of a petition submitted by Mrs Tracey White, as lead petitioner. The petition had been signed by approximately 400 local residents and stated:

"We, the undersigned, are concerned about the increase in arrivals of caravans and camper vans from the travelling community in the Clacton area. We would like the Council to erect concrete bollards or stones along the edge of the field adjoining Woodrows Lane/Purley Way/Mayford Way, with one removable bollard to allow the Council Gardener access to mow the grass and empty the dog waste. The stones should allow mobility scooters and pushchairs through, but not motorised vehicles."

The Chief Executive advised Members that, in accordance with the Council's approved scheme for dealing with petitions, this matter would now be investigated and a report would be prepared and presented to Council.

Members were aware that the next practicable ordinary meeting of the Council would be on 24 January 2017.

Council was informed that, at that meeting, and in accordance with the Council's approved scheme, Mrs White, as the lead petitioner, would be invited to address the Council, present the petition and outline the action that the petitioners would like the Council to take. Members would then discuss the petition and decide what action, if any, should be taken. Mrs White would then be informed, in writing, of the Council's decision and the decision would be published on the Council's website.

It was moved by Councillor Stock, seconded by Councillor Watling and:

RESOLVED - That the receipt of the Petition and the contents of the report be noted.

80. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10.1

The Council had received a question from a member of the public in relation to disruption caused to local residents by construction sites.

Notice of the question had been given in accordance with Council Procedure Rule 10.1.

Question

From Mrs Marguerite Kramer to Councillor Giles Watling, Portfolio Holder for Planning and Regeneration:

“Bearing in mind the problems for residents associated with infill brownfield development sites in residential areas, such as excessive noise, dust, pollution, toxic dust from breeze block cutting, diesel fumes, over-looking from flats, and the potential strain on the local infra-structure: is it reasonable for Tendring District Council to approve such development, which may not be implemented in accordance with the national Construction Code of Practice and national legislation, thus causing harm to local residents, who lose their legal right to the peaceful enjoyment of their property, both during and sometimes after construction (where over-looking takes place)?”

Councillor Watling responded as follows:

“Thank you Mrs Kramer for your question. I do not think that there is one person in this Chamber who would disagree that it can be terribly distressing to have building works going on right next to you. I’ve experienced it and Councillor Turner is going through it right now. But I have to speak as the Portfolio Holder for Planning and, of course, it is not in my remit to comment on individual cases and it is not for me, of course, to influence any decisions made. Those are for the Planning Committee and the Planning department but we all sympathise with you on this.

The Planning department receives many applications for land that is adjacent to other properties and existing development. In the determination of each application the proximity of the proposed development and the long-term impact on neighbouring properties is taken into account. This would include the long-term impact of any over-looking once the development is complete. However, reasonable separation distances have to be taken into account as well and it is unlikely for a development to be refused if the degree of over-looking is not considered to be harmful. As local infrastructure is an important consideration, in-fill sites often locate new development in areas where infrastructure is extant. Planning permission can not be reasonably refused where there are no valid planning grounds to do so. In some cases an Officer or Appeal Inspector will add planning conditions to a decision that are considered reasonable to assist in controlling the manner in which the development is carried out. Conditions added to planning applications sometimes include the parking of vehicles for site operators and visitors, the unloading of plant and materials, the storage of plant and materials during construction and wheel washing facilities with major developments.

The rights of neighbouring development are also protected by statutory powers given to local authorities to deal with noise, dust, pollution and fumes. If a development is causing you statutory nuisance, under the terms of those powers in place then action can be taken to stop works whilst any remediation measures are put in place. Other national legislation of safe working by other public bodies add additional protection for those working on-site and at adjoining properties. With a number of protections in place for development to be carried out in a manner that does not cause a statutory nuisance it would not be reasonable to refuse planning permission at a site when it all other respects it should be granted for development.

I sincerely hope that the development which has caused you problems will soon be completed and you can revert to a peaceful life. I understand that you have some issues and that an Environmental Health Officer has intervened and I believe that a couple of instances have been resolved. I hope you have no more.”

81. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 11.2

The Council had received questions from Members in relation to:

- (1) Process/stages for collecting Council Tax arrears; and
- (2) Level of resources available within the Planning Enforcement section.

Notice of the questions had been given in accordance with Council Procedure Rule 11.2.

Question One

From Councillor Richard Everett to Councillor Tom Howard, Portfolio Holder for Finance, Revenues & Benefits:

“Can the Portfolio Holder for Finance, Revenue and Benefits please set out the process / stages for collection of council tax arrears paying particular intention to the following issues (and the timescales over which they are taken):

*at what point do arrears become counted as overdue;
when communications are sent to individuals in arrears;
at what point do arrears become a debt;
when is court action considered;
at what point is court action commenced;
when, if appropriate, attachment to earnings are commenced;*

and can he advise whether this procedure is different in any way when it involves a Councillor?”

Councillor Howard responded as follows:

“I thank Councillor Everett for his question and I set out the recovery processes involved in the collection of Council Tax as follows which covers the specific points he has raised.

The recovery process follows the relevant legislation applied, regulations and best practice. By default, Council Taxpayers are offered 10 monthly instalments to pay the annual amount due but they can on request an extension to 12 months. After a minimum period of 14 days of an instalment falling due if payment has not been received a Reminder is issued which would also explain the next stage of the recovery process. Following receipt of a Reminder Council Taxpayers are given at least seven days to make payment but in practice they are given slightly longer to the end of the relevant month to make the payment.

If payment is not received by the end of the relevant month a Summons would be issued during the following month for the full amount which, in effect, gives a further 16 days for the outstanding amount to be paid before the Court date.

If payment is not received by the Court date a Liability Order for the full amount will be sought by the Court which in effect confirms the outstanding amount as a recoverable debt. Once a Liability Order is obtained a number of recovery powers become available to the Council which would include Attachment of Earnings, deductions from Member Allowances, enforcement agents and deductions from benefits.

Following the Court hearing an information request is issued to every person where a Liability Order has been obtained giving them the opportunity to secure an arrangement in order to clear the outstanding debt and making them aware of the different types of

enforcement action that can be taken against them if they fail to secure an arrangement or adhere to one if obtained. After a minimum period of 14 days after a Liability Order being obtained the Council would consider which recovery avenue to pursue based on the information held if payment has not been received or an arrangement secured.

If during the above process a Council Taxpayer paid an outstanding amount after the receipt of a Reminder no further recovery action is taken. If they then default again on another instalment later in the year they will get a second Reminder with the same recovery process that I have highlighted. If payment was received before the Summons was issued they would keep the right to instalments. If the same thing happens for a third time in any one year they would receive a final Reminder and lose the right to pay by instalments straight away with the Summons issued if payment was not made on the receipt of this final Reminder.

The process I have just outlined would apply to all Council Taxpayers irrespective of whether they are a Councillor or not.”

Councillor Everett then asked the following supplementary question:

“Thank you for your very, very apt response. Given that your response identifies processes and procedures relating to Councillors and given that an Upper Tribunal has recently made a relevant ruling, the Maughan judgement relating to public interest, would you think it appropriate to refer the general matter of processes and procedures involving Councillors and the payment of Council Tax to the Standards Committee? I feel that advice and guidance to Councillors on the impact of this ruling in the Upper Tribunal might well be useful to some, if not all, of us.”

Councillor Howard responded as follows:

“Thank you Councillor Everett. I am somewhat surprised by your supplementary question as it appears to be pre-prepared and does not appear to relate to my response and appears to be politically motivated. I shall not be commenting on individual cases raised by the Councillor and, indeed, I am not familiar with them in great detail. I will however reiterate that the processes as I outlined in my original answer apply equally to all residents of Tendring and that the Councillors of this Authority will not be treated differently by this Authority than any other resident. Furthermore, you mentioned Standards and that does not fall within the remit of my Portfolio so in that instance I would refer to the Monitoring Officer to comment on that.”

The Council's Monitoring Officer, Lisa Hastings, then confirmed that she would be happy to take this matter to the next meeting of the Standards Committee for a discussion as to whether that Committee wanted to include it within its work programme.

Question Two

From Councillor Jo Henderson to Councillor Giles Watling, Portfolio Holder for Planning and Regeneration:

“Could the Portfolio Holder for Planning, confirm that he is confident that there are enough resources to provide a responsive service to meet the needs of Councillors, Residents and Businesses within the Planning Enforcement department that he has responsibility for?”

Councillor Watling responded as follows:

“Thank you question, Councillor Henderson. It’s a touch of déjà vu here as you asked me a similar question on the fifth of July this year just over four months ago. But for the sake of clarity and to refresh your memory I’ll say it all again anyway. The Council’s planning enforcement powers are not an executive function that I am directly responsible for as the Portfolio Holder for Planning and Regeneration. This function is delegated, as I said before, to the Head of Planning, the excellent Cath Bicknell via the Council’s Planning Committee, chaired by the superb Councillor John White. With their concurrence though I am very happy to answer your query.

The answer to your question is, fundamentally, yes, I am confident that there is sufficient resource within the planning enforcement team to provide an appropriately responsive service. I have not had one complaint from any Officer at any time about a lack of resource.

We all have to appreciate that investigations into planning breaches and achieving resolutions takes time and in some cases it is not achieved as quickly as the parties involved would wish. I am sure that you agree that we must not charge in with draconian measures that we later have to rescind having not taken care and consideration in the first place. That would be unfair, unjust and expensive to this Council. Reports are investigated and any breaches found are addressed. The action taken having regard to the Government’s guidance is designed to be proportionate to the nature of the breach. Informal resolution is sought whenever possible. We want to be responsible. Formal action is taken only where the informal resolution has not proved possible to achieve and the harm caused by the breach is serious.

The planning enforcement team receive hundreds of reports of potential breaches every year. I have a few figures for you. Between 1 April 2016 and 31 October 2016, 189 new cases have been received and 215 have been closed. In addition, 28 Enforcement Notices have been served and seven appeals against Enforcement Notices received. So we are ahead of the game. It almost goes without saying that additional resource within the Team might help deal with more cases quickly and that it is true of almost any activity that I can think of. But then again it might not and at what cost to the taxpayer. I am satisfied that the cases are investigated in line with the proportionate approach promoted by the Government’s guidance and cases are usually resolved through informal means.”

Councillor J Henderson then asked the following supplementary question:

“I thank the Portfolio Holder for his response. I am concerned for the workload on the Officers in the Planning department. I know that they have a very difficult job to do and I do feel that their resources are not enough at the moment. I know of other Councillors and residents who share concerns on responses to emails and telephone calls. Even in the Performance Report on the next Cabinet Agenda it states for Quarter 2 September that it’s behind target. May I ask what you intend to do about it?

Councillor Watling responded as follows:

“Thank you for your supplementary question. I refer you to the fact that I have not had one complaint from any Officer at any time about a lack of resource. I understand your concern about the workload and I refer you again to the figures that I just quoted. 189 new cases have been received and 215 have been closed. In addition, 28 Enforcement Notices have been served and seven appeals against Enforcement Notices received. We are ahead of the game. I do not think that there is any need to adjust the workload that we have at this time.”

82. REPORT OF THE LEADER OF THE COUNCIL

The Council would receive a report on any Cabinet decisions taken as a matter of urgency in accordance with Access to Information Procedure Rule 17.4, Budget and Policy Framework Procedure Rule 6(b) and/or Overview and Scrutiny Procedure Rule 18(i).

There was no such report on this occasion.

83. MINUTES OF COMMITTEES

It was moved by Councillor Stock, seconded by Councillor Turner and:

RESOLVED that the minutes of the following Committees, as circulated, be received and noted:

- (a) Human Resources Committee of Tuesday 28 June 2016;
- (b) Corporate Management Committee of Monday 12 September 2016;
- (c) Service Development and Delivery Committee of Monday 19 September 2016;
- (d) Audit Committee of Thursday 22 September 2016;
- (e) Corporate Management Committee of Monday 26 September 2016;
- (f) Local Plan Committee of Tuesday 27 September 2016;
- (g) Community Leadership and Partnerships Committee of Monday 3 October 2016;
- (h) Service Development and Delivery Committee of Monday 24 October 2016; and
- (i) Local Plan Committee of Thursday 3 November 2016.

It was then moved by Councillor Stock and seconded by Councillor Heaney that:

- (a) the minutes of the meeting of the Standards Committee held on 26 September 2016, as circulated, be received and noted; and
- (b) the recommendation to Council, as contained in Minute No.14 (resolution (f)) of the Standards Committee of 26 September 2016 and as set out below, be approved:

“to amend the Complaints Procedure, as set out in the Constitution to allow the Monitoring Officer, at their own discretion and, in exceptional cases, following consultation with the Chief Executive and the Chairman of the Standards Committee, to decide to refer cases to the Committee for determination where the outcome of an investigation was to recommend no breach of the Code of Conduct.”

It was then moved by Councillor Calver and seconded by Councillor Bray that Councillor Stock's motion be amended to read as follows:

- (a) that the minutes of the meeting of the Standards Committee held on 26 September 2016, as circulated, be received and noted; and
- (b) that the recommendation to Council, as contained in Minute No.14 (resolution (f)) of

the Standards Committee of 26 September 2016 and as set out below, be approved:

“to amend the Complaints Procedure, as set out in the Constitution to allow the Monitoring Officer, at their own discretion and, in exceptional cases, following consultation with the Chief Executive, to decide to refer cases to the Committee for determination where the outcome of an investigation was to recommend no breach of the Code of Conduct.”

Following concerns raised by Members with respect to the original recommendation of the Standards Committee and pursuant to Council Procedure Rule 16.6 (Alteration of Motion), Councillor Stock, with the consent of both the meeting and his seconder, Councillor Heaney, indicated that he was prepared to alter his motion so that it read as follows:

- (a) that the minutes of the meeting of the Standards Committee held on 26 September 2016, as circulated, be received and noted; and
- (b) that consideration of the recommendation to Council, as contained in Minute No.14 (resolution (f)) of the Standards Committee of 26 September 2016 be deferred and that the matter be referred back to the Standards Committee for reconsideration.

Councillor Calver and Councillor Bray both agreed to withdraw the amendment.

Councillor Stock’s motion, as altered, on being put to the vote was declared **CARRIED**.

During the consideration of the above Councillor Calver had asked the Monitoring Officer if the recommendation to Council made by the Standards Committee was legitimate given the fact that it had arisen from consideration of a report that had in fact been submitted to the Standards Committee for its information only. The Monitoring Officer confirmed that the recommendation to Council was legitimate insofar as it related to a matter that fell within the terms of reference of the Standards Committee i.e. the Complaints Procedure.

Councillor Calver had also asked the Monitoring Officer that if Council voted to receive the minutes of the Standards Committee would that mean that Members had endorsed the resolutions within those minutes given that the Labour Group disagreed with many of those resolutions. The Monitoring Officer replied that Minutes of Committees were included on the Council merely for Council to note and also, in accordance with Council Procedure Rules, to allow Members to ask questions of the Chairmen of those Committees on the contents of those Minutes. Committee Minutes were not for Council to endorse.

Councillors Calver and Broderick asked questions of the Chairman of the Standards Committee (Councillor Heaney) on the contents of the Standards Committee minutes to which Councillor Heaney responded.

84. MOTIONS TO COUNCIL

Council had before it the following motion, notice of which had been given by Councillor Nicholls, pursuant to Council Procedure Rule 12:

“Following increasing concerns by people living in the rural villages of Tendring, this Council demands the Police Officer in charge of Tendring Police Division provide sufficient Police Officers to carry out speed enforcement checks within the rural area of Tendring as well as a full Speed Watch training programme for all Town and Parish

Councils.

This request is made in the interest of road safety to stop potential serious and fatal road accidents and in accordance with the seventh priority of the Police & Crime Commissioner's Crime Plan to improve safety on the county's roads.

Council will agree that the Community Safety Manager and Portfolio Holder for Community Safety should both work with the District Police Commander to draw up a plan to tackle this very serious issue."

The Chairman informed Council that, pursuant to Council Procedure Rule 12.4, she would allow the motion to be dealt with at this meeting.

Councillor Nicholls formally moved his motion and Councillor Heaney formally seconded the motion.

Councillor Nicholls then explained his motion. Councillor Bucke then spoke on the motion.

It was then moved by Councillor Stephenson and seconded by Councillor Bray that Councillor Nicholls' motion be amended to read as follows:

"Following increasing concerns by people living in the district of Tendring, this Council demands the Police Officer in charge of Tendring Police Division provide sufficient Police Officers to carry out speed enforcement checks within the rural and built up areas of Tendring as well as a full Speed Watch training programme for all Town and Parish Councils or community groups requiring it.

This request is made in the interest of road safety to stop potential serious and fatal road accidents and in accordance with the seventh priority of the Police & Crime Commissioner's Crime Plan to improve safety on the county's roads.

Council will agree that the Community Safety Manager and Portfolio Holder for Community Safety should both work with the District Police Commander to draw up a plan to tackle this very serious issue."

Councillors Howard, Everett, I J Henderson, Baker, Parsons, G V Guglielmi, Winfield, Bray and Nicholls all addressed the Council on the amendment.

Having listened to the debate and pursuant to Council Procedure Rule 16.6 (Alteration of Motion), Councillor Nicholls, with the consent of both the meeting and his seconder, Councillor Heaney, indicated that he was prepared to alter his motion to incorporate the amendments proposed by Councillors Stephenson and Bray.

Councillor Nicholls' motion, as altered, on being put to the vote, was declared **CARRIED**.

85. RECOMMENDATIONS FROM THE CABINET - THE LOCAL COUNCIL TAX SUPPORT SCHEME 2017/18 - COUNCIL TAX EXEMPTIONS FOR 2017/2018, ANNUAL MINIMUM REVENUE PROVISION POLICY STATEMENT 2017/2018 AND HARDSHIP POLICY

The Council had before it the recommendations submitted to it by the Cabinet in respect of the Local Council Tax Support Scheme 2017/2018, Council Tax Exemptions for 2017/2018, the Annual Minimum Revenue Provision Policy Statement 2017/2018 and Hardship Policy.

It was moved by Councillor Howard and **RESOLVED** that:

- (a) the Local Council Tax Support Scheme (LCTS) remains the same as the current year and that therefore:
 - i) the LCTS be approved with the maximum LCTS award being 80% for working age claimants; and
 - ii) delegation be given to the Corporate Director (Life Opportunities), in consultation with the Revenues and Benefits Portfolio Holder, to undertake the necessary steps and actions to implement the LCTS scheme from 1 April 2016.
- (b) the proposed Council Tax exemptions and discounts, as set out in Appendix B, be approved and that delegation is given to the Corporate Director (Life Opportunities), in consultation with the Revenues and Benefits Portfolio Holder, to undertake the necessary steps and actions to implement the Council Tax exemptions and discounts for 2016/2017.
- (c) the Annual Minimum Revenue Provision (MRP) Policy Statement for 2016/17, as set out in Appendix C, be approved.

86. REPORTS SUBMITTED TO THE COUNCIL BY AN OVERVIEW AND SCRUTINY COMMITTEE

There were none on this occasion.

87. REPORT OF THE CHIEF EXECUTIVE – A.2 – COUNCILLOR M J D SKEELS SNR.

The Chief Executive formally reported that, pursuant to Regulation 9(b) of the Local Government (Committees and Political Groups) Regulations 1990, Councillor Michael John Daniel Skeels has served formal notice on the Council that he wished to be treated as a member of the Conservative political group. That notice had been counter-signed by the Deputy Leader of the Conservative Group (Councillor G V Guglielmi).

In accordance with Section 15(1)(e) of the Local Government and Housing Act 1989 and Regulation 17(b) of the Local Government (Committees and Political Groups) Regulations 1990 a review of the allocation of seats to political groups had subsequently been carried out. No changes to the membership of Committees had been required as a result of that review.

Council noted the foregoing.

88. REPORT OF THE CHIEF EXECUTIVE – A.3 – COUNCILLOR J A BROWN

The Chief Executive formally reported that, pursuant to Regulation 10(b) of the Local Government (Committees and Political Groups) Regulations 1990, Councillor John Anthony Brown had served formal notice on the Council that he no longer wished to be treated as a member of the UKIP political group.

Council noted the foregoing.

89. URGENT MATTERS FOR DEBATE

There were none on this occasion.

90. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor Stock, seconded by Councillor Turner and:

RESOLVED that under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Items 21 and 22 on the grounds that they involve the likely disclosure of exempt information as defined in the relevant paragraph(s) of Part 1 of Schedule 12A, as amended, of the Act.

91. EXEMPT MINUTE OF THE MEETING OF THE AUDIT COMMITTEE HELD ON THURSDAY 22 SEPTEMBER 2016

It was moved by Councillor Stock, seconded by Councillor Turner and **RESOLVED** that the exempt minute of the meeting of the Audit Committee held on 22 September 2016, as circulated, be received and noted.

92. EXEMPT MINUTE OF THE MEETING OF THE STANDARDS COMMITTEE HELD ON MONDAY 26 SEPTEMBER 2016

It was moved by Councillor Stock, seconded by Councillor Turner and **RESOLVED** that the exempt minute of the meeting of the Standards Committee held on 26 September 2016, as circulated, be received and noted.

The meeting was declared closed at 8.42 pm.

Chairman