

**MINUTES OF THE MEETING OF THE CABINET, HELD ON FRIDAY 16 JUNE 2017 AT
10.34 A.M. IN THE ESSEX HALL, TOWN HALL, CLACTON-ON-SEA**

PRESENT:

Councillor N R Stock OBE
Councillor G V Guglielmi
Councillor T M Ferguson
Councillor P B Honeywood
Councillor L A McWilliams
Councillor M J Talbot
Councillor N W Turner

PORTFOLIO:

Leader of the Council (Chairman) & Portfolio Holder for Planning and Regeneration
Deputy Leader of the Council & Portfolio Holder for Resources and Corporate Services
Portfolio Holder for Tourism and Leisure (except item 41 (part))
Portfolio Holder for Housing
Portfolio Holder for Leisure and Partnerships
Portfolio Holder for Environment
Portfolio Holder for Commercialisation, Seafronts and Parking

Group Leaders Present by Standing Invitation: Councillors J D Bray (Leader of the Independent Alliance Group) and I J Henderson (Leader of the Labour Group)

In Attendance: Chief Executive (Ian Davidson), Corporate Director (Corporate Services) (Martyn Knappett)(except items 42 – 48), Corporate Director (Operational Services) (Paul Price), Corporate Director (Planning and Regeneration)(Ewan Green), Head of Governance and Legal Services & Monitoring Officer (Lisa Hastings), Head of Finance, Revenues & Benefits (Richard Barrett), Head of People, Performance and Projects (Anastasia Simpson), Committee Services Manager (Ian Ford), Communications and Public Relations Manager (Nigel Brown), Senior Solicitor (Litigation and Governance)(Linda Trembath)(except items 42 (part) – 48) and Technical Officer (Andy Nepean)

33. WELCOME AND APOLOGIES FOR ABSENCE

The Leader of the Council welcomed Ewan Green who had recently been appointed to the post of Corporate Director (Planning and Regeneration) and was having an Induction Day. The Leader outlined to Cabinet Ewan's previous local government experience and informed Members that Ewan would formally start on 31 July 2017.

The Leader also placed on record his congratulations to Councillor Watling on his election as the Member of Parliament for the Clacton Constituency. Councillors I J Henderson and Bray both welcomed the fact that Councillor Watling, as a local resident had been elected as Clacton's MP.

Apologies for absence were submitted on behalf of Councillors J A Broderick (Leader of the Holland-on-Sea Residents' Group), M E Stephenson (Leader of the UKIP Group) and G F Watling MP (Cabinet Member without Portfolio).

34. DECLARATIONS OF INTEREST

There were none on this occasion.

35. ANNOUNCEMENTS BY THE LEADER OF THE COUNCIL

There were none on this occasion.

36. ANNOUNCEMENTS BY CABINET MEMBERS**Fire at Grenfell Towers, West London**

The Housing Portfolio Holder (Councillor Honeywood) read out the following statement to Cabinet -

“Following the terrible events which are still unfolding in West London I would like to reassure Cabinet and the public that we are working with the Essex Fire Authority to undertake a thorough audit of all higher rise properties that we manage but are confident that we already have a systematic inspection regime in place to ensure the safety of all residents living in both high and low rise council properties. The fire service will initially be concentrating on blocks over 10 storeys in height and working down to 4 storey blocks, based on a risk matrix. We have a few 4 storey blocks and three 5 storey units in Walton, comprising two maisonettes and a single flat. I understand that the fire service has already visited the 5 storey flats yesterday to familiarise themselves prior to robustly checking the risk assessment – I am awaiting an update on this from my officers and the fire service.

Whilst it is too early to speculate about how the fire was able to spread so quickly and to such tragic consequences, many commentators are suggesting that the aluminium cladding system used at Grenfell Towers in some way contributed to its rapid spread.

I would like to reassure Cabinet that we have no such cladding systems in place at any of our properties, all cladding being concrete based.

An independent risk assessment was undertaken of all properties in 2009 and I have spoken to the Director covering this area of operation and whilst I am aware that records are updated as works are undertaken I have agreed that we will revisit this risk assessment as a belt and braces approach so as to provide the level of reassurance that our residents would want and deserve.

We have a few blocks of less than 4 storeys which are currently not covered by fire alarm systems and I understand that we are already putting a programme in place to ensure these blocks are reviewed as part of our overall review of the risk assessments.”

37. MATTERS REFERRED TO THE CABINET BY THE COUNCIL

There were no matters referred to the Cabinet by the Council on this occasion.

38. MATTERS REFERRED TO THE CABINET BY A COMMITTEE – REFERENCE FROM THE SERVICE DEVELOPMENT AND DELIVERY COMMITTEE – A.1 – DECLINE IN FLY TIPPING PERFORMANCE

Cabinet was informed that, at the meeting of the Service Development and Delivery Committee held on 3 April 2017, Members had been informed about the decline in fly tipping performance by the Council’s Head of Environmental Services (John Fox) and Street Scene Officer (Jon Hamlet).

The following areas were covered:

- (1) The varying levels of fly tipping – a black bin bag to a tipper load;
- (2) The Council’s target for clearing 90% of all reported fly tipping incidents within 72 hours;
- (3) Clearing carried out by Veolia, who the Council had a contract with;
- (4) Reasons why performance may vary;

- (5) Grouping of workload where possible to help performance;
- (6) Statistics;
- (7) Difficulties/issues experienced; and
- (8) Causes of delays.

The Committee had agreed that Cabinet be recommended to –

- (a) *the Service Development and Delivery Committee being concerned about the extent of fly-tipping, which is a criminal offence, around the District request Cabinet to investigate the extent of the Council's surveillance powers and the extent of the penalties the Council could expect to be imposed if a prosecution is successful; and*
- (b) *an analysis be undertaken to understand the cost of surveillance versus possible fines that could be imposed.*

The Cabinet had before it the following comments and recommendations of the Environment Portfolio Holder made in response to the recommendations of the Service Development and Delivery Committee (SDDC):

“COMMENTS:

“I thank SDDC for its recommendation.

Fly-tipping is the dumping of waste in or on any land without a licence or knowingly causing or permitting that waste to be dumped in such circumstances: it is a criminal offence.

On conviction in the Magistrates' Court an offender is liable to a term of imprisonment not exceeding 12 months, or a fine not exceeding £50,000, or both.

On conviction in the Crown Court an offender is liable to a term of imprisonment not exceeding 5 years, or an unlimited fine, or both.

Fixed penalty notices (FPN) can be issued to offenders. In issuing FPNs or prosecuting, the burden of proof is on the Authority issuing the FPN or prosecuting and, as these are criminal offences, the standard of proof is high and requires that the prosecution prove the case “beyond all reasonable doubt” or “so that you are sure”. Therefore, suitable evidence is necessary to prove the Council's case.

A power by constables or authorised officers of an enforcement authority to search and seize vehicles used in the fly-tipping is available following which there is a duty on the authority to deal with the seized property in accordance with the appropriate regulations.

Covert surveillance is carried out without the subject's knowledge that they are being watched, whereas overt surveillance is performed using devices that are visible and obvious, and with appropriate signs being displayed.

Covert surveillance falls in to two categories and is regularised by Regulation of Investigatory Powers Act 2000 (RIPA):

- (i) *intrusive surveillance which can only be carried out by the police or other law enforcement agency, e.g. HMRC; or*
- (ii) *directed surveillance which is covert but not intrusive and is undertaken for the purpose of a specific investigation or operation. Covert surveillance must be*

authorised, both internally and externally on application to a Magistrate, and must be for the purpose of investigating crimes which, for example, carry a term of imprisonment of 6 months or more. Surveillance for which authority is sought cannot be commenced until Judicial authority has been given.

Overt Surveillance falls outside of RIPA however, before undertaking the same, best practice advises that details of the surveillance operation are authorised and details of the investigation are recorded including expected duration, any premises, vehicles or equipment that may be used.

The Council has in place a Covert Surveillance Policy and Procedure Manual, adopted by Cabinet in 2015 and procedures in place to record and use overt surveillance.”

RECOMMENDATIONS TO CABINET

- (a) that SDDC be thanked for its recommendation; and*
- (b) to support the Portfolio Holder for Environment chairing an officer working group set up to identify fly-tipping hot spots, discuss proactive enforcement tools including use of overt surveillance, engagement with Town and Parish Councils and more publicity to raise awareness of the public’s responsibilities in arranging disposal of waste.”*

Having considered the recommendations of the Service Development and Delivery Committee and the comments and recommendations of the Environment Portfolio Holder:

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

RESOLVED that the recommendations of the Environment Portfolio Holder be approved.

39. MATTERS REFERRED TO THE CABINET BY A COMMITTEE – REFERENCE FROM THE SERVICE DEVELOPMENT AND DELIVERY COMMITTEE – A.2 – ESSEX COUNTY COUNCIL’S PROPOSED CONTRIBUTION TO THIS COUNCIL’S CLEAR-UP COSTS IN THE EVENT OF INCREASED FLY-TIPPING

Cabinet was informed that, at the meeting of the Service Development and Delivery Committee (SDDC) held on 3 April 2017, Members had been informed about Essex County Council’s (ECC) proposed contribution to this Council’s clear-up costs by the Council’s Head of Environmental Services (John Fox) and Street Scene Officer (Jon Hamlet), in the event of increased incidents of fly tipping as a consequence of their recent policy change at recycling centres.

SDDC had been informed that, as of November 2016, ECC had changed the rules at recycle centres which had resulted in business waste being refused and restrictions put in place and that there had been concerns that, as a result of this, there would be an increase in fly tipping in the District.

SDDC had also been informed that, at many of the recycling centres in the District, businesses had been dumping their waste when they should have been taking it to a site specifically set aside for disposal of business waste and paying for it.

Councillor Talbot, the Portfolio Holder for the Environment, informed the Committee that there was a verbal agreement in place that ECC would pay the cost of clearing up an increase in fly tipping if it should occur.

The Council's Street Scene Officer (Jon Hamlet) had informed SDDC that the Council had been monitoring the figures in relation to fly tipping and that at this early stage it was difficult to spot any differences in trend since the new rules had come into place. Mr Hamlet confirmed that the figures would be checked and monitored on a month-by-month basis.

The Committee had agreed that Cabinet be recommended to recognise that TDC's Environmental Services Team had a good working relationship with ECC.

The Cabinet had before it the following comment of the Environment Portfolio Holder made in response to the recommendation of the Service Development and Delivery Committee (SDDC):

“SDDC’s comment is welcomed and duly noted.”

Having considered the recommendation of the Service Development and Delivery Committee and the comment of the Environment Portfolio Holder:

It was moved by Councillor Talbot, seconded by Councillor G V Guglielmi and:

RESOLVED that the comment of the Environment Portfolio Holder be endorsed.

40. LEADER OF THE COUNCIL’S ITEMS

There were none on this occasion.

Cabinet Members’ Items – Report of the Portfolio Holder for Commercialisation, Seafronts and Parking

41. ADOPTION OF A PUBLIC CONVENIENCES STRATEGY FOR TENDRING – REVIEW OF PUBLIC CONVENIENCES (Report A.3)

There was submitted a report by the Portfolio Holder for Commercialisation, Seafronts and Parking (Report A.3), which sought Cabinet’s decision on -

- a) whether to adopt the Public Convenience Strategy for Tendring;
- b) whether to adopt proposals for the rationalisation and improvement of existing provision; and
- c) whether to delegate further details to Officers to facilitate the delivery of the foregoing.

It was reported that the overall vision of the Public Convenience Strategy for Tendring was to provide -

“Accessible, safe, high quality public conveniences for residents and visitors alike.”

Members were informed that the Strategy set out to deliver options for future service provision that supported:

- a thriving local tourism sector
- town centres and businesses
- healthy and active lifestyles of residents and particularly the most vulnerable
- crime reduction initiatives.

Cabinet was aware that a comprehensive review of existing public conveniences had been carried out by the Commercialisation Portfolio Holder's Working Party in October 2016. The recommendations of that working party support the Council's vision for community leadership and the proposed rationalisation of existing service provision would help secure future service improvements as outlined in the Public Convenience Strategy.

The working party's investigations and recommendations included suggestions previously put forward by other Council Committees, including the Service Development and Delivery Committee and the Corporate Management Committee.

Cabinet was informed that recommendations put forward in the report sought to:

- adopt a strategy for public conveniences in Tendring (Appendix A of the report);
- introduce the principle of charging for public conveniences as a basis for reinvesting in public conveniences;
- reduce annual revenue budgets by the agreed closure of facilities as listed in Appendix B of the report; and
- to gain further capital investment for the improvement of remaining facilities.

Cabinet was further advised that the proposals and recommendations in the report, if agreed, would deliver:

- £60,000 budget saving in 2017/ 2018 and £100,000 from 2019/2020 onwards;
- additional future income to the Council and additional savings over the longer term;
- a strategic approach to service provision that would support corporate priorities; and
- establish principles which could be used in considering the provision of facilities across the District as may be required given future budget pressures.

With the permission of the Leader, Mr Dan Casey, a resident of Jaywick, presented a petition objecting to the proposed closure of the public conveniences at Garden Road, Jaywick

Having considered the information submitted and the advice of Officers contained within the report:

It was moved by Councillor Turner, seconded by Councillor G V Guglielmi and:

RESOLVED that Cabinet notes the contents of the report and –

- (a) adopts the Public Convenience Strategy for Tendring, as attached as Appendix A to the report;
- (b) agrees the rationalisation of existing public convenience provision, as outlined in Appendix B to the report, including the demolition of identified buildings as well as selective refurbishment work of identified assets amounting to £0.070m as included in the 2017/2018 Capital Programme;
- (c) delegates authority to the Corporate Director (Operational Services) to undertake the necessary activities to facilitate and implement the proposals for rationalisation as outlined in Appendix B;
- (d) agrees that the Property Dealing Procedure be initiated for all other facilities identified for closure in line with existing policies;

- (e) that subject to (d) above, Cabinet notes that further reports may be brought forward to consider further refurbishment of remaining facilities in accordance with the Strategy;
- (f) agrees to introduce charging at the Rosemary Road, Clacton-on-Sea facility with the associated refurbishment work of up to £0.070m to be included in the Capital programme for 2017/18 funded from the Public Convenience Earmarked Reserve;
- (g) that subject to (f), delegates authority to the Corporate Director (Operational Services) to undertake the necessary activities to facilitate the refurbishment and introduction of charging at the Rosemary Road, Clacton-on-Sea facility including the level of charge to be on levied on the reopening of the site to reflect demand and the need to maximise income opportunities;
- (h) delegates authority to the Portfolio Holder for Commercialisation, Seafronts and Parking, in consultation with the Leader of the Council and the Corporate Director (Operational Services) to:
- close further public conveniences that do not meet the agreed strategic objectives such as may be highlighted through low usage, disrepair due to ageing infrastructure or anti-social behaviour;
 - review opening hours of facilities as a means of reducing the impact of crime and to support service budgets;
 - in addition to the Rosemary Road, Clacton-on-Sea Public Convenience, agree which further sites may charge including the fee charged and period of charging (such fees and charges will become incorporated within the Council's budgetary and reporting cycle);
 - select which sites are prioritised for major refurbishment;
 - enter into agreements with Town / Parish Councils, other groups or commercial organisations, where appropriate, in relation to the ongoing operation and / or maintenance of public conveniences; and
 - seek out and implement, where necessary, works to support other income streams from sponsorship, advertising and other sources.
- (i) notes the receipt of the petition submitted by Mr Dan Casey, a resident of Jaywick, objecting to the proposed closure of the public conveniences at Garden Road, Jaywick;
- (j) notes the history of the High Lighthouse, Harwich Public Conveniences reported to the meeting by Councillor I J Henderson; and
- (k) instructs Officers to undertake discussions with local residents and any other interested parties as to the possible transfer of the public conveniences at Garden Road, Jaywick.

Cabinet Members' Items – Report of the Portfolio Holder for Resources and Corporate Services

42. FINANCIAL OUTTURN 2016/17 (Report A.4)

There was submitted a report by the Portfolio Holder for Resources and Corporate Services (Report A.4), which provided Cabinet with an overview of the financial outturn for the year 2016/17 and sought Cabinet's approval for:

- Revenue and capital commitments to be carried forward to 2017/18;

- Funding of the 2016/17 General Fund and HRA Capital Programmes; and
- The reserves position at the end of 2016/17.

Having considered the information submitted:

It was moved by Councillor G V Guglielmi, seconded by Councillor Stock and:

RESOLVED that Cabinet -

- (a) notes the financial outturn position for 2016/17 as set out in item A.4 of the Report of the Resources and Corporate Services Portfolio Holder and its appendices;
- (b) approves the General Fund Revenue Commitments of £11.448m to be carried forward from 2016/17 to 2017/18 as set out in Appendix A of the above-mentioned report;
- (c) approves that the overall General Fund Outturn Variance of £1.434m be carried forward via the Revenue Commitments Reserve for further consideration as part of the Initial Financial Strategy for 2018/19 later in the year;
- (d) approves the financing of General Fund capital expenditure for 2016/17 as detailed in Appendix D of the aforementioned report;
- (e) approves the General Fund capital budgets of £10.907m to be carried forward from 2016/17 to 2017/18 and the associated carry forward of the revenue contribution to capital of £1.925m;
- (f) approves the movement in uncommitted and earmarked General Fund reserves for 2016/17 as set out in Appendix E to the aforesaid report;
- (g) in respect of the HRA, approves the movement on HRA balances for 2016/17 including any commitments set out within Appendices I and J along with recharges to the HRA from the General fund of £2.203m for the year and the financing of the HRA capital expenditure as set out in Appendix J to the above report;
- (h) delegates authority to the Council's Section 151 Officer, in consultation with the Resources and Corporate Services Portfolio Holder, to adjust the outturn position for 2016/17 along with any corresponding adjustment to earmarked reserves as a direct result of any recommendations made by the Council's External Auditor during the course of their audit activities relating to the Council's 2016/17 accounts; and
- (i) following additional flexibilities given to Local Authorities by the Government, agrees to planning fees being increased by 20% from 1 July 2017 with the necessary budget adjustments being made to reflect the increase in income and associated ring-fencing arrangements, and that further information is provided to a future Cabinet meeting as to how the additional income is to be used to improve the Planning Service.

43. PERFORMANCE REPORT – 2016/17 OUTTURN REPORT (Report A.5)

There was submitted a report by the Portfolio Holder for Resources and Corporate Services (Report A.5), which presented the Performance Report for the period 2016/17 Outturn.

Cabinet was aware that the Performance Report 2016/17 Outturn position set out the detailed actions and targets for the delivery of the Council's priorities throughout the year.

It was reported that three of the indicators and projects highlighted in the report were deemed 'non measurable' as the Council's role was that of 'influence' only. Of the 14 indicators and projects where performance was measured, 10 (71%) were on, or above, their expected target and 4 (29%) were not currently in line with the expected performance. Explanations of the performance and the supporting data were included under each topic in the report.

Cabinet was informed that this report had been submitted to the Corporate Management Committee at its meeting held on 15 May 2017.

Having considered the information provided:-

It was moved by Councillor G V Guglielmi, seconded by Councillor Turner and:-

RESOLVED that the contents of the report be noted.

44. TERMS FOR A NEW LEASE OF CLACTON FOOTBALL CLUB, RUSH GREEN ROAD, CLACTON-ON-SEA (Report A.6)

There was submitted a report by the Portfolio Holder for Resources and Corporate Services (Report A.6), which sought Cabinet's agreement, in principle, to the granting of a new lease of the Clacton Football Club site in Rush Green Road, Clacton-on-Sea.

It was reported that in 2004 an 84 year Lease had been granted to Total Project Limited in order to run a Football Club at the Rush Green site. In 2014 that company had been dissolved and a new Company set up, FC Clacton Community Society. The Lease had not been assigned from Total Project Limited to FC Clacton Community Society prior to the company being dissolved and the Lease had therefore come to an end.

In order for FC Clacton Community Society to continue to use this site, it was proposed by Officers to grant them a new 25 year Lease in accordance with the Heads of Terms set out in item B.1 of the Report of the Resources and Corporate Services Portfolio Holder.

Having considered the information submitted and the advice of Officers contained within the report:

It was moved by Councillor Stock, seconded by Councillor G V Guglielmi and:

RESOLVED that Cabinet approves, in principle, the granting of the lease of the Clacton Football Club site in Rush Green Road, Clacton-on-Sea to FC Clacton Community Society subject to its decision to be taken later in the meeting as to the terms of that lease.

45. MANAGEMENT TEAM ITEMS

There were none on this occasion.

46. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor Stock, seconded by Councillor G V Guglielmi 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 Item 15 on the grounds that it involves the likely disclosure of exempt information as defined in the relevant paragraph(s) of Part 1 of Schedule 12A, as amended, of the Act.

47. REPORT OF THE RESOURCES AND CORPORATE SERVICES PORTFOLIO HOLDER – B.1 - TERMS FOR A NEW LEASE OF CLACTON FOOTBALL CLUB, RUSH GREEN ROAD, CLACTON-ON-SEA

RESOLVED that Cabinet

- (a) approves the terms proposed for the new 25 year Lease as set out in Appendix A to item B.1 of the Report of the Resources and Corporate Services Portfolio Holder; and
- (b) authorises the Corporate Director (Corporate Services) to enter into a lease of the Rush Green Football Ground to FC Clacton Community Society on the terms set out and such other terms as he sees fit.

DATE AND TIME OF NEXT SCHEDULED MEETING

The next scheduled meeting of the Cabinet was due to take place on Friday 14 July 2017 at 10.30 a.m. in the Essex Hall, Town Hall, Station Road, Clacton-on-Sea.

The meeting was declared closed at 12.04 p.m.

Chairman