
**MINUTES OF THE MEETING OF THE CABINET,
HELD ON FRIDAY, 6TH OCTOBER, 2023 AT 10.30 AM
IN THE COMMITTEE ROOM AT THE TOWN HALL, STATION ROAD, CLACTON-ON-
SEA, CO15 1SE**

Present:	Councillor Mark Stephenson	Leader of the Council & Portfolio Holder for Corporate Finance and Governance (Chairman)
	Councillor Ivan Henderson	Deputy Leader of the Council & Portfolio Holder for Economic Growth, Regeneration & Tourism
	Councillor Andy Baker	Portfolio Holder for Housing & Planning
	Councillor Mick Barry	Portfolio Holder for Leisure & Public Realm
	Councillor Mike Bush	Portfolio Holder for Environment
	Councillor Gina Placey	Portfolio Holder for Partnerships (except item 34)

Group Leaders Present by Invitation: Councillors Jayne Chapman BEM (Leader of the Independents Group), Carlo Guglielmi (Leader of the Conservative Group) and Gary Scott (Leader of the Liberal Democrats Group)

Also Present: Councillors Jeff Bray, Zoe Fairley and Graham Steady (Deputy Leader of the Independents Group)

In Attendance: Ian Davidson (Chief Executive), Damian Williams (Corporate Director (Operations and Delivery)), Lee Heley (Corporate Director (Place & Economy)), Gary Guiver (Director (Planning)), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Anastasia Simpson (Assistant Director (Partnerships)), Ian Ford (Committee Services Manager), William Lodge (Communications Manager) and Keith Durran (Committee Services Officer)

28. APOLOGIES FOR ABSENCE

An apology for absence was submitted on behalf of Councillor Peter Kotz (the Portfolio Holder for Assets).

29. MINUTES OF THE LAST MEETING

It was moved by Councillor M E Stephenson, seconded by Councillor Placey and:-

RESOLVED that the minutes of the meeting of the Cabinet, held on Friday 21 July 2023, be approved as a correct record and be signed by the Chairman.

30. DECLARATIONS OF INTEREST

In relation to agenda item 7 (report A.2 – E-Petition: Requested changes to the Council's Waste Management Functions), Councillor Placey stated that she had signed

that e-petition and that therefore she would leave the meeting whilst it was deliberated and decided upon by the Cabinet.

In relation to agenda item 8 (report A.3 – E-Petition: ‘Brightlingsea Stench’), Councillor Barry stated for the public record that he was a member of Brightlingsea Town Council.

31. ANNOUNCEMENTS BY THE LEADER OF THE COUNCIL

There were no announcements made by the Leader of the Council on this occasion.

32. ANNOUNCEMENTS BY CABINET MEMBERS

Tendring4Growth Fortnight

The Portfolio Holder for Economic Growth, Regeneration & Tourism (Councillor I J Henderson) announced that it had been a fantastic fortnight of events. He thanked the Economic Growth Team and all others who had helped to make it a successful fortnight of events culminating in the Awards Night on 5 October 2023, which itself had been tremendously inspiring.

Overall, there had been nine events including for the first time events around coastal tourism and creative & cultural aspects. Particularly inspirational had been the Women in Business event, which had highlighted ambitious women in Essex.

Councillor Henderson referenced the excellent keynote speakers and the role of COLBEA and other organisations who were there to give advice, help and support to local businesses. Overall, it was very encouraging for the future.

Tendring Youth Awards

The Portfolio Holder for Partnerships (Councillor Placey) announced that she had attended the Tendring Youth Awards Night on 3rd October 2023. It had been a night of celebration, which had recognised the hard work and the contribution that young people had made in their local communities. Many of them had overcome personal challenges to improve their lives. Some were young carers. Many were community volunteers. Overall, it had been a fantastic event.

33. MATTERS REFERRED TO THE CABINET BY THE COUNCIL - A.1 - E-PETITION: BEACH HUT LEASE CHANGES

Cabinet was informed that an e-petition submitted by Dale Westall, as lead petitioner, had been received on 30 June 2023. The petition had been signed by 164 persons and stated:-

“We the undersigned petition the Council to have the Cabinet of the Council reconsider its decision that all Beach Hut licenses be changed to leases and further, we petition the Cabinet of the Council that Beach Hut Association members be shown the cost, length, and terms of the leases prior to them being put in place.”

Members were reminded that Beach Hut Licensing was an executive function and that therefore the Cabinet was the appropriate body to consider this matter.

It was reported that, in accordance with the Council's adopted Scheme for Dealing with Petitions the receipt of this Petition had been reported, for Members' information, to the meeting of the Full Council held on 11 July 2023. This matter had now been investigated and a report prepared and presented to the Cabinet on the basis that the Petition contained between 30 and 500 signatures.

The Deputy Chief Executive & Monitoring Officer's written advice and assessment of the Petition was as follows:-

"It's important to refer back to the legal requirements section of the February 2023 Cabinet Report, which confirms that in coming to decisions in relation to management of assets, the Council must act in accordance with its statutory duties and responsibilities. Cases assessing principles of Section 120 of Local Government Act 1972 confirm that the Council is obliged to ensure that the management of its assets are for the benefit of the District.

Option for Beach Hut Agreements - The proposal in the February report was to move away from Licence Agreements to Leases from 1 April 2024. Cabinet had the option however to maintain the status quo and continue to operate Beach Hut agreements through licences. A licence only grants a personal right to use and occupy the site and place the hut in accordance with certain conditions (see current clause 2), it is not transferrable. Some Beach Huts are being sold on the impression that the licence will be transferred to the new owner and this is legally not possible. An application has to be made for a new Licence and the Council has the right to refuse, especially if the Hut is not compliant with the conditions of the former licence but in particular, (see current clause 4.11) the Council has a waiting list for our Beach Hut sites. Licences offer less protection and permits the Council to make changes to terms and conditions, with minimum notice and providing notice to end agreements with 28 days' notice (see current clause 4.4.2).

A lease is a legal interest and grant of a right to the exclusive possession of land for a determinable period of time. It is important for both parties to understand the type of agreement into which they are entering. With Beach Huts changing hands for very significant values, the lease agreements would provide protection to those making sizeable investments. Despite huts being sold for tens of thousands of pounds, licences have no transferable value.

Furthermore, if licences were operated to their terms and conditions, there is no obligation on the Council to provide new licence agreements to any prospective new owner (see current clause 4.11). As such, any 'vacant' licence (following a hut sale) could be offered to those on a waiting list, held by the Council. This would be a significant risk to Beach Hut users, where as a lease would provide increased security of tenure and allow them to assign the benefit of their lease to a new owner. If a decision is taken to continue with Licence Agreements, it is important that the lack of security this provides is clearly highlighted to potential hut owners when considering a purchase.

Ultimately, it is important to ensure the correct legal status is given to the occupation of the Beach Hut sites and in accordance with the intentions of the parties.

The Land Registration Act 2002, together with the Land Registration Rules 2003, sets the categories of leases that are either compulsorily or voluntarily registrable. Section 27(2)(b)(i) of the Land Registration Act 2002 requires leases granted out of existing

registered titles, that are for a term of more than seven years from the date of the grant are compulsorily registrable at the Land Registry.

The decision to approve the Heads of Terms for the Leases has been delegated to the Portfolio Holder for Leisure and Public Realm and consultation prior to these decisions being made could be undertaken, should the Portfolio Holder wish to do so.”

The Assistant Director (Buildings & Public Realm)’s written advice and assessment of the Petition was as follows:-

“The preceding Cabinet adopted the Beach Hut Strategy in February 2023. The broad aims of the strategy are to regularise the management arrangements around beach huts and to establish a sustainable legal, financial and practical position in relation to the operation. The transition from licences to leases is intended to address some key issues and should benefit the Council and hut owners alike.

For the Council:

- *A five-year renewal cycle instead of one*
- *Clearer terms and framework for enforcement*
- *Addressing the uncertainties around the market for beach hut sales*
- *Regularising a position around third party lettings and hires*

For the hut owners:

- *Five-year security instead of one.*
- *A real legal estate that can be transferred or inherited.*
- *Clarity around responsibilities.*

If the strategy overall is successful, all parties will benefit from greater certainty and ability to address issues that have concerned the parties at various of the beach hut locations. Officers recommend that the transition to leases is advisable and is likely to be advantageous to all of the parties.

The beach hut associations have been consulted on the draft lease for commercial huts and the Officer team is engaged in creating a finalised version that reflects the comments received, where appropriate. The team will consult similarly on the leases for non-commercial users. Some resourcing issues have affected progress and ongoing programme is being reviewed. It is not planned that the transition to leases of itself will increase or decrease fees (rents). Of course, time and external factors will lead to general increases but these will not be driven by the nature of the agreement. Future fees (rents) will be set as part of the Council’s annual review processes.”

In addition, Cabinet had before it the following comments submitted by the Leisure & Public Realm Portfolio Holder:-

“I am aware that beach hut owners have been concerned by the proposed changes. I am also convinced that there is genuine need to get beach huts and coastal matters into a sustainable position and that availability of resources has for various reasons, challenged implementation during the current financial year.

I have asked the Officer team to refresh the timeline for the implementation of the strategy, including a phased transition to leases, and to review draft leases to make them as simple as possible, also review the presentation of strategy issues, including the development of simplified guidance and a frequently asked questions document. This in order to reassure hut owners to the extent possible, that changes are on balance positive for all involved.”

Dale Westall, the lead petitioner, had been invited to attend the meeting and to address the Cabinet to outline the reasons for the submission of the e-petition and what action they would like the Council to take. However, Mr Westall did not attend.

Having duly considered and discussed the Petition and in order to comply with the adopted scheme for dealing with petitions, as set out in the Council’s Constitution:-

It was moved by Councillor Barry, seconded by Councillor I J Henderson and:-

RESOLVED that –

- (a) Mr. Westall be thanked for his e-petition; and
- (b) the Leisure & Public Realm Portfolio Holder’s written comments regarding the e-petition be endorsed as Cabinet’s formal response to Mr. Westall’s e-petition.

34. MATTERS REFERRED TO THE CABINET BY THE COUNCIL - A.2 - E-PETITION: REQUESTED CHANGES TO THE OPERATION OF THE COUNCIL’S WASTE MANAGEMENT FUNCTIONS

Earlier on in the meeting, as reported under Minute 30 above, Councillor Placey had stated that she had signed this e-petition and that therefore she would leave the meeting whilst it was deliberated and decided upon by the Cabinet. Councillor Placey therefore accordingly left the meeting for this item.

Members were informed that an e-petition submitted by Sharon Tyler, as lead petitioner, had been received on 18 August 2023. The e-petition had been active in the period from 5 May to 18 August 2023 and had been validly signed by 33 persons.

It stated:-

“We, the undersigned, petition the Council to seek alternative solutions to waste collection in the District, specifically, that the issuing of lilac coloured rubbish bags to volunteer litter picking groups is changed so that these sacks do not go to landfill, wheelie bins are issued for household recycling doorstep collection and that more public bins are installed in Towns and along the Seafronts.”

The petitioners’ stated justification for this e-petition was that:-

“Wheelie bins for recycling rather than boxes would be more effective and make the collection process more efficient. Currently Veolia empty the boxes into a wheelie bin before emptying contents into the lorry. This is inefficient. The boxes and lids often get damaged and blown away or stolen meaning the Council must have a constant supply of new ones. Wheelie bins would be more efficient because the contents are kept safely inside until emptied and they are more robust. We also need more bins in the town and

on the seafront that are separated by litter type to reduce what goes to landfill. There would be an initial cost for household recycling wheelie bins but this would be offset in cost savings made in dealing with litter more effectively. The lilac sacks from litter picking need to be changed so this litter doesn't go directly to landfill."

Cabinet was aware that waste management was an executive function and therefore the Cabinet was the appropriate body to consider this matter.

It was reported that, in accordance with the Council's adopted Scheme for Dealing with Petitions, the receipt of this E-Petition had been reported, for Members' information, to the meeting of the Full Council held on 26 September 2023. This matter had now been investigated and a report prepared and presented to the Cabinet on the basis that the Petition contained between 30 and 500 signatures.

The Assistant Director (Housing & Environment)'s written advice and assessment of the Petition was as follows:-

"The submission of this petition is timely as the Council is embarking on a review of its waste and recycling and street sweeping services in light of the expiry of the current contractual arrangements early in 2026.

The review, involving the creation of a dedicated Board and an all-party councillor working group, will consider the strategy the Council wishes to adopt in respect of waste and recycling and the preferred methods of collection and materials to be collected for recycling. The introduction of wheeled bins for the collection of recycling is something that will be considered as part of this process.

The work undertaken by community litter picking groups is very much appreciated and enhances the service provided by the Council's contractors. The purple coloured bags provided to these groups is intended to differentiate the waste they collect from other waste that might be fly-tipped or inappropriately disposed of. Currently, all litter collected through litter picking and from public waste bins in the District is disposed of to landfill. This is something that will be included in the review of the services already mentioned. Separation of litter picking waste by community litter picking groups into recyclable and residual waste streams is technically possible however would require more work and time at the point of picking and a more complicated collection process.

Along with the level of litter bin provision in the district we will also be considering the feasibility of introducing on street recycling options although other government schemes brought forward in the Environment Act 2021 will place a greater obligation on producers and suppliers to provide recycling opportunities."

In addition, Cabinet had before it the following comments submitted by the Environment Portfolio Holder:-

"It is excellent and encouraging to see so many residents express their interest in how the Council collects and recycles waste in the District. It also highlights the excellent community spirited work undertaken by the many volunteer litter pickers, who I sincerely thank for their efforts in making our communities better places to live and work.

As highlighted by our Assistant Director earlier in this report we are entering an exciting period as we review how we want to collect, manage and recycle the waste produced in

the District from 2026 onwards. We will feed the comments from this petition directly into that process.”

Sharon Tyler, the lead petitioner, had previously informed the Committee Services Manager that she was unable to attend the meeting to put forward her petition.

Having duly considered and discussed the Petition and in order to comply with the adopted scheme for dealing with petitions, as set out in the Council’s Constitution:-

It was moved by Councillor Bush, seconded by Councillor I J Henderson and:-

RESOLVED that –

- (a) Ms. Tyler be thanked for her e-petition; and
- (b) the Environment Portfolio Holder’s written comments regarding the e-petition be endorsed as Cabinet’s formal response to Ms. Tyler’s e-petition.

35. MATTERS REFERRED TO THE CABINET BY THE COUNCIL - A.3 - E-PETITION: 'BRIGHTLINGSEA STENCH'

Earlier on in the meeting, as reported under Minute 30 above, Councillor Barry had stated for the public record that he was a member of Brightlingsea Town Council.

Cabinet was informed that an e-petition submitted by Matthew Court, as lead petitioner, had been received on 31 August 2023. The e-petition had been active in the period from 1 August to 31 August 2023 and had been validly signed by 110 persons. It stated:-

“We the undersigned petition the Council to:-

- *Immediately reopen the investigation into the persistent stench issue in Brightlingsea.*
- *Engage external environmental experts, if necessary, to support and expedite the investigation into the source and nature of the problem.*
- *Provide regular, transparent updates to the public on the progress of the investigation, findings, proposed solutions, and expected timelines.*
- *Actively coordinate with the Environment Agency and any other relevant authorities to advocate for the needs of Brightlingsea residents and seek their intervention if required.*
- *Implement temporary measures to mitigate the impact of the stench on the residents of Brightlingsea while a long-term solution is being found.*
- *Form a community task force, including residents, council members, and experts, to ensure direct community participation in the ongoing efforts to resolve this issue.*
- *Carry out a comprehensive assessment to understand the potential health impacts of the stench on Brightlingsea's residents.”*

The petitioners’ stated justification for this e-petition was that:-

“The persistent stench that has plagued the residents of Brightlingsea for over a year is more than just a nuisance; it’s a matter of public health, well-being, and the quality of life for every person living and working in the affected area, including the school which has its main playing field nearby. It has turned what should be a pleasant environment into a

place where people cannot even open their windows or spend time outside without discomfort.

The initial investigation by Tendring District Council was a step in the right direction, but the premature closure of the investigation without finding a source or solution is deeply disappointing and frankly, unacceptable. This decision gives the impression of a council that is either unable or unwilling to fully address the problem, which is a disservice to the people it is supposed to represent and protect.

This e-Petition is not just about the stench; it's about the role of Tendring District Council and councillors as our elected representatives. It's about how we, as a community, expect our concerns to be addressed, our voices to be heard, and our wellbeing to be prioritised. The actions listed in this petition reflect those expectations.

We understand that finding a solution may not be easy or immediate, but we insist that the council take these necessary steps, engage with the necessary bodies, utilise all available resources, and provide the leadership and representation that Brightlingsea needs and deserves. We look forward to seeing a renewed effort from the Council in tackling this ongoing issue and restoring the quality of life in this part of our beloved town.”

Members were reminded that pollution and environmental health was an executive function and that therefore the Cabinet was the appropriate body to consider this matter.

It was reported that, in accordance with the Council's adopted Scheme for Dealing with Petitions, the receipt of this E-Petition had been reported, for Members' information, to the meeting of the Full Council held on 26 September 2023. This matter had now been investigated and a report prepared and presented to the Cabinet on the basis that the Petition contained between 30 and 500 signatures.

The Assistant Director (Housing & Environment)'s written advice and assessment of the Petition was as follows:-

“The Council has an ongoing investigation into complaints about unpleasant odour in Brightlingsea, most recently during the course of this Summer. Most of the reports received have been anecdotal with limited evidence provided as to where and when the odour is experienced and the impact it has on residents. Since the end of June 2023 there have been 12 individual complainants of which six provided their addresses in the area. None of these complainants have yet returned witness report diaries for consideration. There is not therefore any documented evidence as to the impact the odour is having on local residents.

The Council assesses odour complaints under the statutory nuisance regime set out in the Environmental Protection Act 1990 and so far it has not been possible for officers to witness an odour sufficiently strong and durable as to constitute a statutory nuisance.

The Council has been in correspondence with the Environment Agency (EA) over the matter, especially as they are the regulator for parts of a waste processing site in the Town that has the greatest potential to give rise to the type of odour that is being complained about. All waste processing activities on that site are being undertaken in accordance with their permits that put in place controls around emissions arising as a consequence of the processing activity.

Regular updates have been provided to the Town Council and officers have spent many hours following up reports and making random visits to the area, often out of hours, in an effort to witness the problem.

There is not currently any evidence that anyone has suffered any ill health as a result of the odour and as yet officers have yet to witness the odour or receive documented evidence of when it occurs and who it affects. Investigations will continue but it should be highlighted that even if a definitive source is found this alone may not be enough to justify further statutory action beyond advice and guidance.”

In addition, Cabinet had before it the following comments submitted by the Environment Portfolio Holder:-

“This is a matter I have taken a personal interest in. I have visited the area twice, once with officers and representatives from Brightlingsea Town Council and a second time to meet with residents.

I have therefore witnessed first-hand the detailed and committed work our officers have put into trying to witness and locate the source of the odour. I have also heard from residents about how it affects them. I have experienced an odour very near to the waste processing site that I felt was to be expected given the nature of the activities undertaken on the site. Knowing that activities on the site are regulated both by the EA and the Council gives me reassurance. The odour I experienced was not one so strong or persistent that it could be experienced further away from that site.

As our Assistant Director has said, activities on the site are subject to environmental controls. The Council has been in correspondence with the EA and all activities are being undertaken in accordance with permit conditions that have been monitored and recorded, which include assessments as to whether odour is being generated. Should residents be able to furnish officers with witness report diaries evidencing the dates and times they are affected by the odour these will of course be followed up.”

Matthew Court, the lead petitioner, had been invited to attend the meeting and to address the Cabinet to outline the reasons for the submission of the e-petition and what action they would like the Council to take. Mr. Court attended the meeting and duly put forward the reasons for the submission of the e-petition and outlined the action that they wanted the Council to take.

With the permission of the Leader of the Council, Councillor Chapman BEM, Leader of the Independent Group and a Ward Member and Town Councillor for Brightlingsea, read out the following statement:-

“Thank you for the opportunity to speak and thank you to [Town] Councillor Court for bring this petition to Cabinet today. I do have to stress that I live there. My back garden backs onto this industrial estate so I am just highlighting that.

Brightlingsea Ward Councillors have been active in responding to residents’ concerns and representations on the issue of the odour being experienced around various locations in Brightlingsea.

The matter came to prominence in August 2022 when there was a huge increase in reports being received by the Environment Agency (EA) about an odour being attributed to the Dunmow waste transfer and recycling site in Morses Lane.

Councillor Barry, as the then Mayor, took the lead to organise meetings of all agencies involved at the time with a meeting in the parish hall. He initiated ongoing liaison with the EA, Dunmow management and residents and report back to the Town Council on developments.

Despite a number of site visits and follow ups the EA stated that there was no direct evidence confirming the source of the odour and therefore could not propose any potential control measures. An issue that became apparent was that it was difficult for investigators to witness odour incidents that were generally episodic and short lived, with differential levels of exposure due to changing wind directions.

The level of complaints and reports to agencies diminished over the winter months, although monitoring and regulatory visits continued to be made to the Dunmow site and the EA produced a final briefing note on 29th September 2022.

On 20th June this year the EA received 32 reports of odour and given the nature and extent of the reports informed Essex County Fire & Rescue Service, who attended the area quickly but reported back that they had not been able to identify any odour. This included the use of detection equipment by their Hazardous Materials Officers.

Tendring District Council Environmental Services have been heavily involved since June as is documented in the report before Cabinet. The three Brightlingsea Ward Councillors met with three residents in a meeting chaired by the Town Mayor, Ric Morgan on 3rd August 2023. The outcome of this was an agreement that Councillor Steady would liaise with residents to facilitate information exchanges and continue to update the Town Council and monitor developments. Since the end of June reports of odour have been much reduced with no clear evidence base being identified that locates the source of the odour to a definite reference point to enable remedial measures to be taken. This is the current position and it is clear that Town and Ward Councillors will continue to liaise with residents and relevant agencies to monitor the situation and support residents who continue to be affected by this issue.

As a Town Council, we have written to the supermarket, which is next door, the Colne School and a neighbouring farm. We have spoken to NEEB Holdings who own the industrial estate and they say they have received complaints over the last five years but the last two years the complaints have increased. We have met with some of the businesses and all of the comments that we collated were passed to Graham Steady.”

With the permission of the Leader of the Council, Councillor Steady, a Ward Member and Town Councillor for Brightlingsea, made the following statement:-

“Just an update. As mentioned in the statement, I am liaising with residents and will continue to do so. I have a meeting planned with two residents on Monday to discuss the issue and to keep channels of communication open and transparent. Also, I am looking at an initiative which could help the situation going forward. One thing I have learned from this. There are unexpected coincidences. I understand residents are concerned but the press reports would suggest that the whole of the town is affected by this issue when in actual fact it is not. So once again it will be a big job for the Town and

the District to be able to put forward some positive views onb this subject which we hope to do in the future.”

Having duly considered and discussed the Petition and in order to comply with the adopted scheme for dealing with petitions, as set out in the Council’s Constitution:-

It was moved by Councillor Bush, seconded by Councillor M E Stephenson and:-

RESOLVED that -

- (a) Mr. Court be thanked for his e-petition; and
- (b) the Environment Portfolio Holder’s written comments regarding the e-petition be endorsed as Cabinet’s formal response to Mr. Court’s e-petition.

36. MATTERS REFERRED TO THE CABINET BY A COMMITTEE - REFERENCE FROM THE PLANNING POLICY & LOCAL PLAN COMMITTEE - A.4 - CONSERVATION AREA CHARACTER APPRAISALS AND MANAGEMENT PLANS FOR ARDLEIGH, GREAT HOLLAND AND TENDRING VILLAGE

Cabinet was informed that the Planning Policy & Local Plan Committee (“the Committee”), at its meeting held on 27 July 2023 (Minute 7 referred), had considered a comprehensive report (and appendices) of the Director (Planning). That report had reported to it the Ardleigh, Great Holland and Tendring village Conservation Area Appraisals and Management Plans, prepared for the Council by Essex Place Services.

The report had also sought the Committee’s recommendation to Cabinet that they should be approved for public consultation purposes.

The Committee’s decision at its meeting held on 27 July 2023 had been as follows:-

“RESOLVED that the Planning Policy and Local Plan Committee:

- a) *endorses the new Conservation Area Appraisals and Management Plans for Ardleigh (Appendix 1 to item A.1 of the Report of the Director (Planning)), Great Holland (Appendix 2 thereto) and Tendring village (Appendix 3 thereto);*
- b) *recommends to Cabinet that the above documents forming Appendices 1, 2 and 3 be published for consultation with the public and other interested parties; and*
- c) *requests that in the event that future reviews of a Conservation Area or Areas within a Parish or Parishes coincides with that Parish or Parishes or other qualifying bodies formulating a Neighbourhood Plan then that Parish or Parishes or other qualifying bodies will be consulted by Officers at an earlier stage of the review(s) in order that the said Parish or Parishes or other qualifying bodies can take any material considerations arising therefrom forward as part of the Neighbourhood Plan process.”*

Cabinet had before it the following comment submitted by the Portfolio Holder for Housing & Planning:-

"I thank the Planning Policy and Local Plan Committee for its consideration of these last three Conservation Area Character Appraisals and Management Plans and I sincerely welcome, once again, its recommendation to Cabinet that these be published for public consultation. Reviewing all of the District's Conservation Areas is one of the key actions in the Council's Heritage Strategy and the progress so far has been very good. Ensuring we have an up-to-date appraisal for each and every Conservation Area will enable residents, developers, planners and our Planning Committee to understand the key characteristics that make each area special and which need to be preserved and enhanced when making planning applications and determining them. They will also enable us to reconsider the boundaries of each area and determine whether any Article 4 Directions are needed to provide an extra level of protection and control. I thank and congratulate the Officers and the members of the Committee, past and present for all of their sustained hard work over the last three years in bring these conservation area appraisals to fruition."

Having duly considered the recommendations submitted to Cabinet by the Planning Policy & Local Plan Committee, together with the response of the Housing & Planning Portfolio Holder thereto:-

It was moved by Councillor Baker, seconded by Councillor Bush and:-

RESOLVED that the new Ardleigh, Great Holland and Tendring village Conservation Area Appraisals and Management Plans be approved for consultation with the public and other interested parties.

37. LEADER OF THE COUNCIL'S ITEMS - A.5 - FINANCIAL PERFORMANCE REPORT 2023/24 - GENERAL UPDATE AT THE END OF JULY 2023

Cabinet considered a report of the Leader of the Council & Portfolio Holder for Corporate Finance and Governance (A.5), which provided it with a general update and overview of the Council's financial position against the 2023/24 budget and looking ahead to 2024/25 and beyond.

That report was split over two distinct sections as follows:

1) *The Council's in-year financial position against the budget at the end of July 2023; and*

2) *An updated long term financial forecast*

Members were reminded that previously an additional section had been included within these reports that had undertaken a detailed view of items that would have an impact on the in-year position but also an on-going impact on the later years of the forecast. Although this report set out a number of adjustments to the in-year budget, any longer term impacts remained under review at present. However, they would be revisited as part of developing the forecast for 2024/25 and beyond, and they would be reported within future financial performance reports.

SECTION 1 - In respect of the in-year financial position at the end of July 2023:

It was reported that the position to the end of July 2023, as set out in more detail within the appendices, showed that, overall, the General Fund Revenue Account was underspent against the profiled budget by £1.747m.

Cabinet recalled that, as part of developing the budget for 2023/24, which had been agreed by Full Council in February 2023, a number of adjustments had been made to reflect emerging and/or on-going issues. Therefore, only a limited number of variances had developed during the first four months of this financial year. Where variances had been highlighted, those broadly reflected known issues where further review / consideration might be necessary or reflected the timing of general expenditure and/or income budgets. It was acknowledged that other expenditure or income trends might still emerge / develop over the remainder of the financial year.

Members were made aware that this report also set out a number of further potential issues although no adjustments had been made to the budget at the present time as they remained subject to ongoing review and / or reporting separately later in the year.

It was reported that, in respect of other areas of the budget such as the Housing Revenue Account, capital programme, collection performance and treasury activity, apart from additional details set out in this report, there were no other major issues that had been identified to date. In respect of treasury activity, the transactions undertaken with Birmingham City Council were highlighted in the report along with the commitment to report to Cabinet the outcome of the Birmingham City Council meeting when its Members had considered their Section 151 Officer's Section 114 report.

Members were reassured that any emerging issues would be monitored and updates provided in future reports, which would include their consideration as part of updating the long-term financial forecast.

Cabinet was advised that a number of in-year budget adjustments were proposed as set out in Appendix 1H, with an associated recommendation also included within the report. That same appendix also set out a number of items that had been requested to be carried forward by Services from 2022/23. Those were presented for consideration by Cabinet as they did not meet the criteria relating to carry forwards, but it could still be advantageous to approve them to enable the associated work / projects to be undertaken in 2023/24.

As mentioned within earlier reports, the Chief Executive continued to chair the regular Budget, Performance and Delivery meeting of Senior Managers whereby any emerging issues such as those highlighted within this report and its appendices were identified / discussed.

Cabinet was informed that the net impact of the proposed budget adjustments would be moved to the Forecast Risk Fund. At the end of July 2023, it had been possible to make a contribution to the fund of £0.169m, which supported the requirement set out in the long-term forecast of identifying in-year savings of £0.250m each year.

In addition to the above, it was also proposed that this Council continued to be a member of the Essex Business Rates Pool and Essex Council Tax Sharing Agreement if it remained advantageous to do so in 2024/25.

In respect of the updated long term financial forecast:

It was reported that the forecast had been reviewed and updated at the end of July 2023 and it was set out in Appendix 2A. It continued to reflect the very challenging financial position faced by Local Authorities, which included the inflationary pressures currently being experienced.

Members were advised that the revised forecast also sought to better balance the optimism / pessimism bias that was inherent in any forecasting process and it included the use of one-off funding such as the New Homes Bonus in the short term.

Cabinet was informed that worked remains ongoing within departments and with Portfolio Holders with the aim of remaining 'sighted' on potential future cost pressures. Some of those were included in Appendix 1H where there was already an impact in 2023/24.

It was felt that the long-term approach alongside the Forecast Risk fund provided additional flexibility and time to make better-informed decisions. However, significant on-going savings were still required.

Cabinet was made aware that, based on the updated forecast, ongoing savings of £3.000m were required across 2024/25 to 2026/27. This was significant, especially in the context of the Council's overall net budget being just over £14.000m and it presented the Council with a major challenge.

It was considered that developing the framework against which the required savings could be identified therefore remained a key activity over the coming months alongside the development of the new Corporate Plan. The level of resources required to not only develop the above framework but to deliver the required savings, was not to be underestimated, especially when set against other existing commitments such as delivering the Levelling Up projects and Freeport East. There therefore needed to be a clear focus on the timely development of the plan whilst managing competing resources over the coming months.

Members were told that, although consideration would be given to extending the current forecast period beyond 2026/27, the long-term forecast approach still provided an effective method of managing financial risks, and remained underwritten by the Forecast Risk Fund. As mentioned during the development of the longer-term approach to the budget over recent years, it was important to continue to deliver against this plan as it continued to provide a credible alternative to the more traditional short-term / annual approach.

Cabinet was informed that the challenges faced by the Housing Revenue Account were also significant and included increased expectations and requirements that were likely to emerge from the Social Housing Regulation Act and associated enhanced powers of the Housing Regulator. The HRA 30 Year Business plan would be developed over the coming months with the aim of responding to such challenges as set against the wider context of continuing to provide a financially sustainable position in the long term.

In order to set out the latest financial position for the Council; to respond to emerging issues in 2023/24; and to help develop the budget and long term forecast from 2024/25:-

It was moved by Councillor M E Stephenson, seconded by Councillor I J Henderson and:-

RESOLVED that Cabinet -

- (a) notes the Council's in-year financial position at the end of July 2023 along with the updated financial forecast for 2024/25 and beyond;
- (b) approves the proposed adjustments to the 2023/24 budget, as set out in Section 1 of Appendix 1H to the Report of the Leader of the Council/Corporate Finance & Governance Portfolio Holder and requests Officers to review the potential on-going impact in 2024/25 and beyond, where necessary, as part of developing the forecast and detailed estimates for further consideration by Cabinet later in the financial year;
- (c) notes the outcome of the review of carry forwards from 2022/23 approved under delegation to the Portfolio Holder for Corporate Finance and Governance as set out in Table 1 of the aforesaid report and -
 - i) approves items 1 and 2 set out in Section 2 of Appendix 1H to the aforementioned report;
 - ii) requests Officers to provide additional information relating to items 3 to 6 set out in Section 2 of Appendix 1H to the above mentioned report for inclusion in the Financial Performance Report for Quarter 2 that is scheduled to be presented to Cabinet in November 2023;
- (d) notes the treasury transactions with Birmingham City Council set out in the report and request Officers to provide an update in Quarter 2 setting out the response of Members at the Full Council meeting at Birmingham City Council to their Section 151 Officer's recent Section 114 reports;
- (e) the Council continues to be a member of the Essex Business Rates Pool and Council Tax Sharing Agreement with Essex County Council in 2024/25 if it remains financially advantageous to do so;
- (f) notes the updated financial forecast set out in the report and requests Officers, in consultation with the relevant Portfolio Holders, to further develop the financial forecast proposals alongside the development of the Council's priorities, as part of the wider framework within which to identify the necessary budget reductions to support the Council's long-term financial sustainability; and
- (g) requests that the Resources and Service Overview and Scrutiny Committee be consulted on the latest financial position of the Council, as set out in the report.

38. CABINET MEMBERS' ITEMS - REPORT OF THE ECONOMIC GROWTH, REGENERATION & TOURISM PORTFOLIO HOLDER - A.6 - LEVELLING UP FUND AND CAPITAL REGENERATION PROJECTS - PROGRESSING THE PROJECTS TO PLANNING PERMISSION

Cabinet considered a report of the Economic Growth, Regeneration & Tourism Portfolio Holder (A.6), which sought its consideration of the next steps for the Levelling Up Fund (LUF) Project in Clacton-on-Sea and the Capital Regeneration Project (CRP) in

Dovercourt. The report also sought Cabinet's approval to draw down £1,898,421 from the Council's £2.295m Levelling Up Fund budget for the procurement of professional services to progress the respective project plans through to the submission of applications for planning permission.

Members recalled that it had been announced on 19 January 2023 that the Council's bid to round two of the Government's Levelling Up Fund (LUF) for Clacton Town Centre, the 'Clacton Civic Quarter', had been successful and awarded £19,958,224. In addition, on 15 March 2023 it had been announced that a £6.65m bid for projects in Dovercourt Town Centre had been approved, under the Government's Capital Regeneration Scheme. The schemes were comprised of the following:-

- Clacton Hub (LUF)
- Carnarvon Terrace (LUF)
- Kingsway Improvements (CRP)
- Homes in Dovercourt (CRP)
- Learning and Library Project (CRP)

Cabinet was reminded that the Council had chosen the projects from the Council's plans as set out in the documents 'Love Clacton' and 'Dovercourt Revisited'. Those projects responded to some of the key challenges for the District, including increasing skills, driving economic growth, supporting vibrant town centres, and meeting local housing need, and aimed to improve the quality of life for residents of Clacton and Dovercourt. The projects also aligned with other Council projects, including the Orwell Terrace scheme in Dovercourt, and the recruitment of a Town Centre Manager.

Cabinet recalled further that, on 17 March 2023, it had considered a report entitled 'Financial Performance Report - In Year Performance against the Budget at the end of Quarter 3 2022/23 and Long Term Financial Forecast Update'. In addition to accepting Government funding for the Clacton Civic Quarter LUF scheme, through that report Cabinet had allocated £250,000 of Tendring District Council's match funding allocation for the above bids to support the development of the scheme for Clacton.

Members were reminded that, on 23 June 2023, Cabinet had considered a report entitled 'Clacton Civic Quarter Levelling Up Fund (LUF) Bid, Dovercourt Town Centre Improvement Corridor Capital Regeneration Project (CRP) Bid'. In addition to accepting Government funding for the Dovercourt scheme, through that report Cabinet had allocated usage of the £250,000 which had been drawn down in the March 2023 report, towards early preparations for the CRP scheme and had agreed proposals for delivery of the respective projects in partnership with Essex County Council (ECC).

Cabinet was aware that its June report had further set out that the Council was the responsible authority for both the LUF and CRP projects. As such, the Council would programme manage the overall schemes, reporting to the Officer-led LUF Delivery Programme Board, thence on to the Member-led Regeneration Board, and ultimately to DLUHC and Government. Both Boards had joint membership from the Council and ECC. Furthermore, the report had proposed that this Council would commission the two projects where it owned the land and ran services, namely Carnarvon Terrace (Clacton LUF), and Homes for Dovercourt (Dovercourt CRP).

It was reported that, following a review of that delivery method, it was now proposed that the Council would manage those projects directly. This approach provided good value

for money and enabled the procurement of the professional delivery team to take place within the Council. It would allow the Council to retain control and effectively manage the associated risks. Delivery would take place under the oversight of a Capital Delivery Programme Manager, and recruitment had also taken place for a Project Manager to support delivery. The proposed delivery team would consist of:

TDC Governance [including Corporate resources]

TDC – Capital Programme Management [Across all 5 sites]

- CDM Coordinator
- Local Authority Building Control
- Public Consultation Advisor

TDC Owned Sites [across both sites]:

- Employer's Agent/QS Cost Management – Lead Consultant
- Civil & Structural Engineer
- Mechanical, Electrical and Public Health Engineers
- Fire Consultant, Highways, etc. [other Design Team members]

Each site would then have their own Architects. It was anticipated that the ECC-led sites would have a similar delivery structure.

Cabinet was informed that the LUF and CRP schemes had a combined overall budget of £37,532,319, of which £2,295,060 was a match funding contribution from TDC. Previously, £3,600 of this budget had been spent on procuring footfall data as part of the Government's required monitoring and evaluation process for the bids, and £250,000 had been allocated for project development, as mentioned above. This report recommended drawing down a further £1,898,421 from the remaining match funding of £2,291,460 to commission a project team and allow for the development of the pre-construction information (including surveys, advisors and project design and delivery teams as set out in the finance section). This would develop the LUF and CRP funded schemes up to submission of detailed planning applications for the relevant sites. This structure was considered the most effective method of successfully delivering the projects, whilst managing the accompanying risk.

Members were advised that the estimated budget for the professional team for the duration of the projects had been developed from a high-level indicative cost-model for each scheme to establish overall budgets, which would fund their procurement up to the submission of Planning Applications for the projects.

It was felt that for the Council to effectively oversee the projects, manage the associated risks and budgets, there was a need for strong leadership, experience and technical skills in programme and construction management. As such, the Council intended to extend the services of an experienced programme manager through an agreement with an employment agency and to allocate funding to acquire sufficient specialist legal and financial support.

As previously agreed, the Council would sign funding grant agreements with ECC to commission and deliver the three remaining projects where ECC owned the land and ran services, which were Clacton Hub (Clacton LUF), Harwich Library, and Kingsway Improvements (Dovercourt CRP).

Cabinet was told that a further report would be submitted for its consideration on the detailed projects, and its approval to develop technical designs to the level of detail required to go out to the market for procurement of main build-contracts.

In order to:-

- (1) ensure sufficient funding was allocated to procure a professional team to deliver the LUF and CRP projects up to, and including, the submission of detailed planning applications; and
- (2) ensure the Council was able to adequately oversee the projects and manage the subsequent risk effectively by funding a Capital Programme Manager and Project Manager until completion.

It was moved by Councillor I J Henderson, seconded by Councillor Placey and:-

RESOLVED that Cabinet -

- a) endorses the revised programme delivery method for the Carnarvon Terrace and Homes for Dovercourt schemes, as a change from the previous Cabinet decision, which results in the Council managing these projects directly and not Essex County Council led partners, and recognises the need to allocate resources from total project funding available to these schemes;
- b) approves the allocation of up to £1,898,421 from the Council's remaining Levelling Up Fund Budget of £2.041m to procure professional services in order to deliver the projects through to planning submission, with expenditure from this allocation being in line with the bid submission;
- c) requires that any changes to the projects be made by Officers, in consultation with the Portfolio Holder for Economic Growth, Regeneration and Tourism;
- d) authorises the Corporate Director (Place and Economy), in consultation with the Portfolio Holder for Economic Growth, Regeneration and Tourism, to procure appropriate resources and commission a project team to carry out the associated work including for the design briefs;
- e) approves the necessary exemptions from the Council's Procurement Procedure Rules in order to enable the Corporate Director (Place and Economy) to enter into an agreement with the relevant Employment Agency to extend the engagement of the Capital Programme Manager; and
- f) delegates the agreement of the final design brief and subsequent planning application submission to the Portfolio Holder for Economic Growth, Regeneration & Tourism.

39. MANAGEMENT TEAM ITEMS - REPORT OF THE MONITORING OFFICER - A.7 - SECTION 5 UPDATE

Further to the decision taken by the Cabinet at its meeting held on 21 July 2023 (Minute 27 resolution (d) referred), Members considered a report of the Monitoring Officer which provided an update on the actions taken by this Council in response to a breach of a statutory reporting deadline.

Cabinet was informed that this report was based on the Monitoring Officer's Section 5 report, which had been submitted to the meeting of the full Council held on 26 September 2023. That report to Council was attached as an Appendix to the Monitoring Officer's report (A.7) for Members' information and reference.

It was reported that, since Cabinet's meeting on 21 July 2023, a number of actions / events had occurred summarised as follows:-

- the Council's Statement of Accounts for 2022/23 had been published by 1 August 2023, with the period for public inspection therefore commencing on that date. This had brought to a close the period whereby the Council had remained in breach of the statutory requirement to publish the Accounts by 1 June 2023;
- reference to this issue had been included within the Annual Governance Statement 2023, which formed part of the Statement of Accounts for 2022/23; and
- the Government had now published its intended response to the on-going audit delays. Essentially, the aim behind the Government's proposed approach was to set statutory 'back stop' deadlines that required External Auditors to conclude their audit work and publish either qualified or unqualified opinions based on the level of work they had completed by those statutory deadlines.

Greater detail on those summarised points was to be found in the "Legal Requirements" section of the Monitoring Officer's aforementioned Section 5 report to Full Council.

In order to enable Cabinet to formally receive the required update from the Council's Monitoring Officer on this matter:-

It was moved by Councillor M E Stephenson, seconded by Councillor Baker and:-

RESOLVED that the contents of the Monitoring Officer's update report be noted.

The Meeting was declared closed at 11.57 a.m.

Chairman