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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **COUNCIL** held on 27 February 2019 at 6.00 pm

### Present

#### Councillors

P J Heal (Chairman)  
Mrs E M Andrews, Mrs H Bainbridge,  
Mrs J B Binks, K Busch, A Bush,  
R J Chesterton, Mrs C Collis,  
Mrs F J Colthorpe, D R Coren, N V Davey,  
W J Daw, Mrs C P Daw, R M Deed,  
Mrs G Doe, R J Dolley, J M Downes,  
C J Eginton, R Evans, S G Flaws,  
Mrs S Griggs, P H D Hare-Scott,  
T G Hughes, Mrs B M Hull, D J Knowles,  
F W Letch, B A Moore, R F Radford,  
F J Rosamond, Mrs E J Slade, C R Slade,  
T W Snow, J D Squire, R L Stanley,  
L D Taylor and Mrs N Woollatt

### Apologies

#### Councillors

Mrs A R Berry, L G J Kennedy,  
Mrs M E Squires, N A Way and R Wright

#### 114 Apologies

Apologies were received from Councillors: Mrs A R Berry, L G J Kennedy, Mrs M E Squires, N A Way and R Wright.

#### 115 Public Question Time

There were no questions from members of the public present.

#### 116 Declaration of Interests under the Code of Conduct (00-03-48)

Members were reminded of the need to declare any interests when appropriate:

The following Members declared interests:

Councillor	Interest	Reason
C J Eginton	Personal - Cabinet Minute 121,122	Through his position in the Council, he sat on the Governance Board for the Culm Garden Village
R J Chesterton	Personal - Cabinet Minute 121,122	Through his position in the Council, he sat on the Governance Board for the Culm Garden Village

C J Eginton	Personal – Cabinet Minute 138	As he owned a shop in Tiverton
C J Eginton	Personal – Cabinet Minute 148	As he received a pension from Lloyds Banking Group
C J Eginton	Personal – Cabinet Minute 153	As he owned a shop in Tiverton
Mrs E M Andrews	Personal – Cabinet Minute 131	As Vice Chairman of the CCA and a Garden Village Representative
Mrs N Woollatt	Personal – Cabinet Minute 131	As she lived nearby to 2 of the proposed relief road routes and close to Station Road

#### 117 Minutes (00-04-50)

The minutes of the meeting held on 19 December 2018 were agreed as a correct record and signed by the Chairman.

#### 118 Chairman's Announcements (00-05-23)

The Chairman informed the meeting that he had attended the following events:

- The awards ceremony at Petroc
- The reopening of the Lords Meadow Leisure facilities
- He had chaired the State of the District debate which he felt had been a successful event
- Teignbridge District Council Civic Service
- The Tiverton Army Cadet Drill Hall where he had witnessed an award being presented to the team and wished his congratulations to be recorded.

#### 119 Petitions (00-08-06)

There were no petitions from members of the public.

#### 120 Notices of Motions (00-08-30)

##### (1) Motion 533 (Councillor R B Evans – 13 February 2019)

The Council has before it a **MOTION** submitted for the first time:

##### Background

Members are aware that a number of planning applications need to go to Planning Committee for consideration; these applications have an array of detail and associated information for members to consider along with an officer recommendation and report.

Within this suite of reports there is often a detail on affordable housing and the section 106 agreement outlining jointly agreed contributions that will be applied to the build should the application be successful, these agreements are evidently part of the

detail members are asked to consider and naturally will assist members in making their informed decision .

It has become apparent that after approval has been received, it is not uncommon for developers/ applicants to seek to alter such agreements retrospectively via negotiations with officers, common reasons cited are funding/ budget related.

This motion is sought to be applied to any planning application that has been considered by the planning committee and evidently agreed where a retrospective application to alter the affordable housing or the section 106 agreement is then received.

### **Proposed motion**

Any planning application that is approved by Committee giving specific affordable housing provision and or a detailed section 106 agreement as part of the information for members to consider that subsequently receives any application to alter all or part of these agreements must be referred to the relevant ward member/s for their consideration and input.

Should both the officer dealing and the ward member/s agree to the changes these can be allowed to form the new affordable housing agreement and or section 106 agreements.

Should the ward member/s and officer dealing fail to agree on the proposed changes or cannot negotiate agreeable alternatives then the application to change the affordable housing and or section 106 agreement should be referred back to the committee for their consideration and agreement / disagreement .

The **MOTION** was **MOVED** by Councillor R B Evans and seconded by Councillor R J Dolley.

In accordance with Procedure Rule 14.4, the Chairman of the Council ruled that the **MOTION STAND REFERRED** to the Planning Committee for consideration and report.

## **121 Report - Cabinet meeting held on 3 January 2019 (00-08-50)**

The Leader presented the report of the meeting of the Cabinet held on 3 January 2019

### **1. Tax Base Calculation (Min 120)**

The Leader **MOVED** seconded by Councillor P H D Hare-Scott:

**THAT** the recommendations of the Cabinet as set out in Minute 120 be **ADOPTED**.

Upon a vote being taking, the **MOTION** was declared to have been **CARRIED**.

Notes:

- i) Councillors R J Chesterton and C J Eginton declared personal interests in Minutes 121 and 122 as through their positions in the Council, they sat on the Governance Board for the Culm Garden Village;
- ii) Councillor K I Busch requested that his abstention from voting be recorded.

## 122 Cabinet - Report of the meeting held on 31 January 2019 (00-10-00)

The Leader presented the report of the meeting of the special meeting of the Cabinet held on 31 January 2019.

### Notes:

- i) Councillor Mrs E M Andrews addressed the Council with regard to Minute 131, Cullompton Town Centre Relief Road Route. The Cabinet Member for Planning and Regeneration responded;
- ii) Councillor Mrs N Woollatt drew attention to the Devon County Council Cabinet meeting due to take place in March;
- iii) Councillor Mrs Andrews declared a personal interest in Minute 131 as she was Vice Chairman of the CCA and a member of one of the Garden Village stakeholder groups;
- iv) Councillor Mrs N Woollatt declared a personal interest in Minute 131 as she lived nearby to 2 of the proposed routes for the relief road and close to Station Road.

## 123 Cabinet - Report of the meeting held on 7 February 2019 (00-23-48)

The Leader presented the report of the meeting of the Committee held on 7 February 2019.

### **(1) Unauthorised Encampment Procedure for Managing or Enforcing Unauthorised Encampments (Minute 143)**

The Leader **MOVED**, seconded by Councillor R L Stanley:

**THAT** the recommendation of the Cabinet as set out in Minute 143 be **ADOPTED**.

Upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

### **(2) National Non Domestic Rates (Minute 145)**

The Leader **MOVED**, seconded by Councillor P H D Hare-Scott:

**THAT** the recommendation of the Cabinet as set out in Minute 145 (a) – (c) be **ADOPTED**.

Upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

### **(3) Budget (Minute 146)**

The Leader **MOVED**, seconded by Councillor P H D Hare-Scott:

**THAT** the recommendation of the Cabinet as set out in Minute 146 (a) – (h) be **ADOPTED**.

The Chairman **MOVED** in accordance with Procedure Rule 19.7:

“**THAT** the vote in respect of this **MOTION** shall be by Roll Call”

A roll call of Members present at the meeting was then taken.

Those voting **FOR** the **MOTION**: Councillors Mrs H Bainbridge, Mrs J B Binks, A Bush, K I Busch, R J Chesterton, Mrs C A Collis, Mrs F J Colthorpe, D R Coren, N V Davey, Mrs C P Daw, W J Daw, R M Deed, Mrs G Doe, R J Dolley, C J Eginton, R Evans, S G Flaws, Mrs S Griggs, P H D Hare-Scott, P J Heal, T G Hughes, Mrs B M Hull, D J Knowles, F W Letch, B A Moore, R F Radford, F J Rosamond C R Slade, Mrs E J Slade, J D Squire, R L Stanley and Mrs N Woollatt.

Those **ABSTAINING** from voting: Councillors: Mrs E M Andrews, J M Downes, T W Snow and L D Taylor.

The **MOTION** was declared to have been **CARRIED**.

Note: The Leader and the Cabinet Member for Finance praised the finance team for their work with the budget.

### **(4) Capital Programme (Minute 147)**

The Leader **MOVED**, seconded by Councillor P H D Hare-Scott:

**THAT** the recommendation of the Cabinet as set out in Minute 147 (a) – (b) be **ADOPTED**.

The Chairman **MOVED** in accordance with Procedure Rule 19.7:

“**THAT** the vote in respect of this **MOTION** shall be by Roll Call”

A roll call of Members present at the meeting was then taken.

Those voting **FOR** the **MOTION**: Councillors: Mrs H Bainbridge, Mrs J B Binks, A Bush, K I Busch, R J Chesterton, Mrs C A Collis, Mrs F J Colthorpe, D R Coren, N V Davey, Mrs C P Daw, W J Daw, R M Deed, Mrs G Doe, R J Dolley, J M Downes, C J Eginton, R Evans, S G Flaws, Mrs S Griggs, P H D Hare-Scott, P J Heal, T G Hughes, Mrs B M Hull, D J Knowles, F W Letch, B A Moore, R F Radford, F J Rosamond C R Slade, Mrs E J Slade, T W Snow, J D Squire, R L Stanley, L D Taylor and Mrs N Woollatt.

Those **ABSTAINING** from voting: Councillor Mrs E M Andrews.

The **MOTION** was declared to have been **CARRIED**.

**(5) Treasury Management Strategy and Annual Investment Strategy (Minute 148)**

The Leader **MOVED**, seconded by Councillor P H D Hare-Scott:

**THAT** the recommendation of the Cabinet as set out in Minute 148 be **ADOPTED**.

Upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

**(6) Capital Strategy (Minute 149)**

The Leader **MOVED**, seconded by Councillor P H D Hare-Scott:

**THAT** the recommendation of the Cabinet as set out in Minute 149 be **ADOPTED**.

Upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

**(7) Policy Framework (Minute 150)**

The Leader **MOVED**, seconded by Councillor C R Slade:

**THAT** the recommendation of the Cabinet as set out in Minute 150 be **ADOPTED**.

Upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

**(8) Establishment (Minute 151)**

The Leader **MOVED**, seconded by Councillor R J Chesterton:

**THAT** the recommendation of the Cabinet as set out in Minute 151 be **ADOPTED**.

Upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

**(9) Pay Policy (Minute 152)**

The Leader **MOVED**, seconded by Councillor C R Slade:

**THAT** the recommendation of the Cabinet as set out in Minute 152 be **ADOPTED**.

Upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

Notes:

- i) Councillor C J Eginton declared a personal interest in Minute 138 as he owned a shop in Tiverton;
- ii) Councillor C J Eginton declared a personal interest in Minute 148 as he received a pension from Lloyds Banking Group;
- iii) Councillor C J Eginton declared a personal interest in Minute 153 as he owned a shop in Tiverton;

124 **Council Tax Resolution 2019/2020 (00-34-37)**

The Chairman **MOVED**,

“**THAT** the Council Tax for 2019/20 be increased by 2.996% being £203.84 (in accordance with the revised referendum limit ability of 3% or £5 per Band D property)”

With regard to the draft Council Tax resolution in respect of the year 2019/20:

The Chairman **MOVED** the resolutions to confirm the requirement from the Collection Account for the year 2019/20.

The Chairman then **MOVED** in accordance with Procedure Rule 19.7:

“**THAT** the vote in respect of this item shall be by Roll Call”

A roll call of Members present at the meeting was then taken.

Those voting **FOR** the **MOTION**: Councillors: Mrs E M Andrews, Mrs H Bainbridge, Mrs J B Binks, A Bush, K I Busch, R J Chesterton, Mrs C A Collis, Mrs F J Colthorpe, D R Coren, N V Davey, Mrs C P Daw, W J Daw, R M Deed, Mrs G Doe, R J Dolley, J M Downes, C J Eginton, R Evans, S G Flaws, Mrs S Griggs, P H D Hare-Scott, P J Heal, T G Hughes, Mrs B M Hull, D J Knowles, F W Letch, B A Moore, R F Radford, F J Rosamond C R Slade, Mrs E J Slade, T W Snow, J D Squire, R L Stanley, L D Taylor and Mrs N Woollatt.

The **MOTION** was declared to have been **CARRIED** and it was accordingly:-

**RESOLVED** that the recommendations within the report be approved.

Note: \*Report previously circulated, copy attached to the minutes.

125 **Reports - Scrutiny Committee - Report of the Meeting held on 14 January 2019 (00-38-48)**

The Chairman of the Scrutiny Committee presented the report of the meeting of the Committee held on 14 January 2019.

The Council had before it questions referring to Minute 120 submitted by Councillor Mrs N Woollatt in accordance with Procedure Rule 13.2, together with a response from the Deputy Chief Executive (S151).

Councillor Mrs N Woollatt made the following statement following responses to her questions: she understood that mistakes could happen, she was surprised that she had been given an incorrect answer with regard to question 2 and with regard to question 3, the decision maker was given incorrect information which had not been amended on the decision form and that the correct information could have been added to the Monitoring Officer's report at agenda item 11.

**126 Scrutiny Committee Report - 18 February 2019 (00-47-05)**

The Chairman of the Scrutiny Committee presented the report of the meeting of the Committee held on 18 February 2019.

**127 Audit Committee - Report of the meeting held on 22 January 2019 (00-47-47)**

The Chairman of the Audit Committee presented the report of the meeting of the Committee held on 22 January 2019.

**(1) Financial Regulations Review (Minute 60)**

The Chairman of the Audit Committee **MOVED**, seconded by Councillor P H D Hare-Scott:

**THAT** the recommendation of the Committee as set out in Minute 60 be **ADOPTED**.

Upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

**128 Environment Policy Development Group - Report of the meeting held on 8 January 2019 (00-48-59)**

The Chairman of the Environment Policy Development Group presented the report of the meeting of the Group held on 8 January 2019.

**129 Homes Policy Development Group - Report of the meeting held on 15 January 2019 (00-49-39)**

The Chairman of the Homes Policy Development Group presented the report of the meeting of the Group held on 15 January 2019.

**130 Economy Policy Development Group - Report of the meeting held on 10 January 2019 (00-50-21)**

The Chairman of the Economy Policy Development Group presented the report of the meeting of the Group held on 10 January 2019.

**131 Economy Policy Development Group- Report of the special meeting held on 29 January 2019 (00-51-53)**

The Chairman of the Economy Policy Development Group presented the report of the special meeting of the Group held on 29 January 2019.

**132 Community Policy Development Group - Report of the meeting held on 22 January 2019 (00-51-30)**

The Chairman of the Community Policy Development Group presented the report of the meeting of the Group held on 22 January 2019.



**133 Planning Committee - Report of the meeting held on 9 January 2019 (00-52-12)**

The Chairman of the Planning Committee presented the report of the meeting of the Committee held on 9 January 2019.

**134 Planning Committee - Report of the meeting held on 6 February 2019 (00-52-52)**

The Chairman of the Planning Committee presented the report of the meeting of the Committee held on 6 February 2019.

**135 Special Urgency Decisions (00-53-40)**

The Council had before it and **NOTED** a \* report of the Leader (and Monitoring Officer) reporting special urgency decisions taken in the preceding quarter.

The Chairman informed the meeting that one urgent decision had been made.

Consideration was given to:

- the timing of the report and the delay in reporting a decision that was made the day before the previous meeting of the Council.
- Whether the decision form contained all of the correct information
- Concerns regarding the borrowing arrangements
- Why the decision was urgent
- The risk of such an arrangement
- The due diligence tests that were taking place and if the decision moved away from the principle agreed then another decision would be required.

Note: \* Report previously circulated, copy attached to minutes

**136 Questions in accordance with Procedure Rule 13 (0-08-00)**

There were no questions submitted under Procedure Rule 13.2 that had not been previously answered.

**137 Independent Remuneration Panel Report (1-08-16)**

The Council had before it a \* report of the Group Manager for Legal Services and Monitoring Officer informing Members of a review undertaken by the Independent Remuneration Panel and their recommendations.

The Chairman **MOVED, THAT:**

- a) That the Basic Allowance to be paid to all Councillors remains at the current level of £5011.91 p.a. with any increases being linked to the staff pay award.
- b) That Special Responsibility Allowances be paid to the following Members at the unchanged levels indicated below:

Position	Weighting x basic	SRA
Leader of the Council	3.00	£15035.77
Deputy Leader	1.50	£7518.40
Cabinet Member	1.25	£6264.65
Scrutiny Committee Chair	1.25	£6264.65
PDG Chair	0.75	£3759.20
Audit Committee Chair	0.75	£3759.20
Planning Committee Chair	1.25	£6264.65
Licensing/Regulatory Chair	0.25	£1252.72
Standards Chair	0.25	£1252.72
Chairman of the Council	0.50	£2506.48

- c) To confirm that no Member should be entitled to claim more than **one** Special Responsibility Allowance.
- d) Carers' allowances be calculated on the current basis namely, the actual expenditure up to the national living wage of a person over 25.
- e) That travel allowances be linked to HMRC rates and calculated at the national levels indicated, currently:
- 45p per mile for the first 10,000 miles
  - 25p per mile thereafter
  - 5p per mile per passenger carried (up to a maximum of 4 passengers payable to the driver)
  - 25p per mile for pushbikes
  - 24p per mile for motorcycles
- NB: To be increased in line with HMRC rates from 1 April 2019 once known.
- f) That the subsistence allowances be linked to those of the staff, currently these are as follows:
- Breakfast - £7.50
  - Lunch - £10.35
  - Tea - £4.07
  - Dinner - £12.80
- NB: To be increased in line with HMRC rates from 1 April 2019 once known.
- g) That all claims for travel and subsistence reimbursement be accompanied by an appropriate receipt.
- h) That an annual digital allowance of £150 continued to be paid to Members using digital devices only.

- i) That Members of the Authority are not entitled to pensions and therefore neither the basic allowance nor SRA be treated as an allowance in respect of which pensions are payable.

Upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

Note: \*Report previously circulated, copy attached to minutes.

### 138 **Questions to Cabinet Members (1-09-00)**

Councillor F W Letch addressing the Leader asked if any consultation had taken place in the 3 main towns with regard to the new weed spraying venture. He was not aware that Crediton had been asked and that weed spraying could only take place for 10 weeks in the year, what would the team be doing for the other 42 weeks and would there be a timetable of work? The Town Council already had a contract in place to deal with weed spraying in Crediton which had been precepted for.

The Leader responded stating that no consultation had taken place as issues had arisen in Tiverton and Cullompton since Devon County Council had stopped spraying weeds, it was therefore felt that the District Council should provide the service, if the Crediton area did not wish to use the service, then the Group Manager for Street Scene and Open Spaces should be informed. With regard to the other 42 weeks when the weeds could not be sprayed then they would be addressed manually; There was a programme of works and he urged individual towns and parishes to identify areas of concern and inform the Group Manager for Street Scene and Open Spaces. He would also ask the officer to contact Town and Parish Councils.

Councillor L Taylor again addressing the Leader asked about weed issues in the small towns and associated parishes. Bradninch arranged for its own spraying, could all town and parish councils be advised of the service?

The Leader stated that he would pass on the request.

Councillor F J Rosamond addressing the Cabinet Member for Housing stated that the Chief Executive was speaking at a conference where the Housing Minister would be present, had the Cabinet Member had the opportunity to meet with the Minister yet?

The Cabinet Member stated that he would be attending the conference however; he still wished to meet with the Minister on a one to one basis.

### 139 **Meeting Management**

The Chairman indicated that he would take item 17 as the next item of business.

### 140 **Members Business (1-19-00)**

Councillor F J Rosamond stated that a senior officer from Devon County Council would be attending the next meeting of the Scrutiny Committee to answer questions with regard to broadband issues. If Members had any questions then could they be passed to Member Services.

Councillor R J Dolley welcomed the 5 houses for rent in the Westexe Area, he stated that this highlighted the issues at Palmerston Park, could he please have some answers to his questions about the costs?

Councillor K I Busch informed the meeting of the work that he had been doing in the past 2 years and the ventures he had been involved in.

Councillor Mrs N Woollatt responded stating that she was pleased to see her fellow Ward Member and commended him on the work that he had been doing, however this was not in his role as a Ward Member and that her casework had increased since his absence.

#### 141 **Access to Information - Exclusion of the Press and Public (1-30-00)**

Prior to considering the following item on the agenda, discussion took place as to whether it was necessary to pass the following resolution to exclude the press and public having reflected on Article 15 15.02(d) (a presumption in favour of openness) of the Constitution. The Cabinet decided that in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

It was therefore:

**RESOLVED** that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 6 respectively of Part 1 of Schedule 12A of the Act, namely information which reveals that the authority proposes –

a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

b) To make an order or direction under any enactment

(Proposed by the Chairman)

#### 142 **Potential Dissolution of a Parish Council**

The Council had before it a \*report of the Returning Officer and Group Manager for Legal Services and Monitoring Officer regarding a Parish Council.

The Chairman **MOVED** that:

The recommendation within the report be approved.

Following discussion and upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

Note: \*Report previously circulated.

(The meeting ended at 7.47 pm)

**CHAIRMAN**

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## WRITTEN QUESTIONS – FULL COUNCIL – 27 FEBRUARY 2019

### 1. MINUTE 120 – SCRUTINY COMMITTEE 14 JANUARY 2019

Questions submitted by Councillor Mrs N Woollatt and the responses of the Chief Executive and Deputy Chief Executive (S151)

*I specifically asked during that meeting for a response to the issue of inaccurate information being published in the Decision Recording form (i.e. stating that the project had the benefit of planning permission when it had no planning permission at that time, outline or otherwise). I was told Members would receive a response and that was minuted. I have not been given any response to my query. The information still remains published as fact and is included as one of the reasons for the decision.*

1. Please will Council explain why the notice stated that the project had the benefit of planning permission when it did not?
2. Why was I told by the Chief Executive in an email of 21.12.18 , in response to my raising this issue of no planning permission, that the site had the benefit of outline planning permission when it did not?
3. Were the decision makers informed that the site had planning permission when they were making their decision?

## RESPONSES

1. *The Council received a new planning application 19/00244/MOUT on 27 November 2018 for a NHS Hub surgery building. This is now likely to be considered by the Planning Committee at a meeting on 3 April 2019; prior to this the area was covered by an application 06/02670/MOUT which covered the overall site for mixed use on the land to the south of Exeter Road. However, this earlier application lapsed on the 15 October 2013. Therefore at the point of completing the urgent business decision the site in question did not have the benefit of a live planning permission. I apologise for this error, however it would remain that the Council would not enter into any loan arrangement until after planning permission for this development was granted.*
2. *While the site had previously secured outline planning consent, this has now lapsed. This was not highlighted to the Chief Executive until after he had responded to Cllr Mrs Woollatt on 21.12.18.*
3. *As previously mentioned in my response to question 1, the urgent decision specified that the site had planning permission, so this is what the decision makers used when making their “in principle” decision, subject to officers finalising all the relevant due diligence that would be necessary.*

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