

## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **CABINET** held on 14 June 2018 at 2.15 pm

### **Present**

#### **Councillors**

C J Eginton (Leader)  
R J Chesterton, C R Slade, Mrs M E Squires  
and R L Stanley

### **Apologies**

#### **Councillor(s)**

P H D Hare-Scott

### **Also Present**

#### **Councillor(s)**

J M Downes, F W Letch, F J Rosamond and N A Way

### **Also Present**

#### **Officer(s):**

Andrew Jarrett (Director of Finance, Assets and Resources), Andrew Pritchard (Director of Operations), Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer), Andrew Busby (Group Manager for Corporate Property and Commercial Assets), Joanne Nacey (Group Manager for Finance), Catherine Yandle (Group Manager for Performance, Governance and Data Security), Christie McCombe (Area Planning Officer) and Sally Gabriel (Member Services Manager)

## 17. **APOLOGIES**

Apologies were received from Cllr P H D Hare-Scott.

## 18. **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT**

The following declarations of interest were received:

Councillor	Subject	Interest and Reason
C J Eginton	Treasury Management	Personal Interest as he received a pension from the Lloyds Bank Group
N A Way	Crediton Office	Personal Interest as a Member of Crediton Town Council
J M Downes	Crediton Office	Personal Interest as a Member of Crediton Town Council
F W Letch	Crediton Office	Personal Interest as a Member of Crediton Town Council

## 19. PUBLIC QUESTION TIME

Mr Welchman referring to Item 13 (Tiverton Eastern Urban Extension Area A – Masterplanning – Land South of West Manley Lane) on the agenda asked that as this is being decided by Cabinet and not the Planning Committee, have the Cabinet been made aware of the support for this proposal? If the Cabinet Members are not aware can the decision be deferred so that the decision can be made by the Planning Committee in a public meeting?

The Cabinet Member for Planning and Economic Regeneration responded stating that Planning Policy was within the Cabinet's remit and in the case of the masterplan the Cabinet would make recommendation to Council. The Planning Committee dealt with planning applications and not planning policy. He explained the process further highlighting the work of the Planning Policy Advisory Group who made recommendation to the Cabinet and as stated previously, if the matter required a Council decision then Cabinet would make recommendation to the Council.

Mr Quinn referring to Item 14 (Revised Data Protection Policy) stated that within Section 5 – Principles of Data Collection, about paragraph 5, reference is made to the different types of personal data processing.

The policy lists 7 types of 'special category' personal data (which require 'sensitive processing') – but fails to include one category listed within the Data Protection Act 2018. The missing category is "Genetic, or Biometric data, for the purposes of uniquely identifying an individual". I should like to know why this data category has not been included in this policy. My questions are: was this category of data left out by mistake? If it was not a mistake, can you give the reasons why this category of data was not included in this policy?

The Chairman indicated that the answer would be provided when the item was discussed.

## 20. MINUTES OF THE PREVIOUS MEETING (00-05-21)

The minutes of the previous meeting were approved as a correct record and signed by the Chairman.

## 21. MEETING MANAGEMENT

The Chairman indicated that he intended (with Cabinet's approval) to take agenda Item 13 (Tiverton Eastern Urban Extension Area A – Masterplanning – Land South of West Manley Lane) as the next item of business this would be followed by Item 14 (Revised Data Protection Policy).

## 22. TIVERTON EASTERN URBAN EXTENSION AREA A – MASTERPLANNING - LAND SOUTH OF WEST MANLEY LANE (00-06-35)

The Cabinet had before it a \* report of the Head of Planning, Economy and Regeneration updating Members on the outcome of the public consultation regarding the proposal to amend the adopted Masterplan Supplementary Planning Document (SPD) by removing housing land parcels on the southern side of West

Manley Lane (within Area A) and seeking approval to revise the adopted Masterplan SPD accordingly.

The Cabinet Member for Planning and Economic Regeneration outlined the contents of the report explaining the background to the proposal before the meeting today. He highlighted the approval of the Masterplan in April 2014 which had been outlined in the Allocations and Infrastructure Development Plan Document (AIDPD), Policy AL/TIV7 and included residential and employment areas of the Eastern Urban extension within the settlement limit of Tiverton. The southern part of the area followed the line of West Manley Lane before extending south towards the former railway line, the principle of development was established within the allocated site. Within the site was a small cluster of low density housing on land parcels south of West Manley Lane with the potential of providing 15 units. Outline planning permission was approved in June 2017 for 700 dwellings on Chettiscombe Trust land and the land parcels south of West Manley Lane initially formed part of the red line area of the application, this was subsequently amended at the request of the Planning Committee to remove it from the red line boundary. Although it was removed from the planning permission, the decision did not amend the masterplan and the Cabinet at its meeting in January 2018 resolved to amend the masterplan to remove the land parcels south of West Manley Lane and that public consultation take place on the revision.

He informed the meeting of the outcome of the consultation process which generally supported the amendment to the masterplan.

Consideration was given to: the decision of the Planning Committee and the general support for the amendment to the masterplan.

**RESOLVED** that the results of the public consultation be **NOTED**; and

**RECOMMENDED** to Council:

- i) That the Tiverton Eastern Urban Extension Masterplan Supplementary Planning Document be amended to encompass the proposed changes as set out in Appendix B and adopted; and
- ii) That the April 2014 Tiverton Eastern Urban Extension Masterplan Supplementary Planning Document be revoked.

(Proposed by Cllr R J Chesterton and seconded by Cllr C R Slade)

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

## 23. **REVISED DATA PROTECTION POLICY (00-15-00)**

The Cabinet had before it a \* report of the Group Manager for Performance, Governance and Data Security updating the existing policy to incorporate the requirements of the Data Protection Act (DPA) 2018 and GDPR.

The Leader outlined the contents of the report stating that the Data Protection Act 2018 received royal assent on 23 May 2018, this presented the first major change to data protection for personal data for 20 years and incorporated the requirement of

the GDPR, the Law Directive and other amendments such as changes to the powers of the ICO and enforcement. He highlighted the training programme which had been established for both Officers and Members.

In answer to the questions posed in public question time, the Group Manager for Performance, Governance and Data Security stated that Mr Quinn was correct, there had been an omission within the policy and that 'Genetic, or Biometric data, for the purposes of uniquely identifying an individual' should be included.

**RESOLVED** that subject to the inclusion of 'Genetic, or Biometric data, for the purposes of uniquely identifying an individual' into the special category data within the principles of data protection section of the policy, the revised Data Protection Policy be approved.

(Proposed by the Chairman)

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

#### 24. **BEREAVEMENT SERVICES FEES AND CHARGES (00-18-47)**

The Cabinet had before it a \* report of the Director of Finance, Assets and Resources setting out the Bereavement Service fees and charges for 2018/19. This report had previously been considered by the Cabinet on 5 April 2018, however, due to a change in Government guidance with regard to fees and charges, it had been resolved that the matter be referred back to the PDG for further consideration.

The Environment Policy Development Group reconsidered the issue at its meeting on 15 May and had recommended that subject to the removal of a charge for 'Exclusive Rights of Burial and Right to Erect a Memorial' for 30 years for those who die under the age of 18, the proposed Bereavement Service fees and charges for 2018/19 be approved.

The Leader outlined the contents of the report highlighting the range of fees and charges associated with burial. He indicated the Government guidance with regard to the establishment of the Children's Funeral Fund for England removing the fees for burials and cremations for those under the age of 18. The PDG had felt strongly with regard to the charging for 'exclusive rights of burial and the right to erect a memorial for 30 years for those who die under the age of 18'

**RESOLVED** that the recommendation of the Policy Development Group be approved.

(Proposed by the Chairman)

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

#### 25. **STREET SCENE EDUCATION AND ENFORCEMENT SERVICE (00-21-57)**

The Cabinet had before it a \* report of the Group Manager for Street Scene and Open Spaces, the Environment Policy Development Group had considered the report and made the following recommendations:

- a) The fine for littering be increased to the statutory maximum of £150.
- b) The time allocated to discretionary duties be varied as specified in paragraph 2, Table 2.
- c) Policies, systems and procedures necessary to enable Fixed Penalty Notices (FPN's) to be served on the relevant person(s) associated with littering from vehicles be introduced.

The Leader outlined the contents of the report highlighting the activity and priorities of the District and Neighbourhood Officers, the performance information available and the proposed increased fines in line with Government policy.

Consideration was given to:

- How the public could be better educated with regard to the disposal of litter
- Specific hotspots where littering was a problem
- Education programmes for schools
- The work of the Litter Busters team
- The 'any bin will do' initiative

**RESOLVED** that the recommendation of the Policy Development Group be approved.

(Proposed by the Chairman)

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

## 26. **TENANT INVOLVEMENT STRATEGY (00-32-53)**

The Cabinet had before it a \* report of the Group Manager for Housing, the Homes Policy Development Group had considered the report and had recommended that the revised Tenant Involvement Strategy be approved

The Cabinet Member for Housing outlined the contents of the report highlighting the proposed revisions to the strategy which aimed at increasing the involvement of tenants and looked at various channels of communication.

**RESOLVED** that the recommendation of the Policy Development Group be approved.

(Proposed by Cllr R L Stanley and seconded by Cllr Mrs M E Squires)

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

## 27. **TENANT INVOLVEMENT POLICY (00-35-06)**

The Cabinet had before it a \* report of the Group Manager for Housing, the Homes Policy Development Group had considered the report and had made the following recommendation: the Tenant Involvement Policy be approved subject to a revision of paragraph 9 on Equality and Diversity to state that:

As a registered provider of social housing, the Council has an equality duty and is bound by the provisions of the Equality Act 2010. This means that the Housing

Service must ensure that there will be no discrimination or unfair treatment on the grounds of gender (or gender reassignment), race, colour, ethnicity or national origin, faith, sexual orientation, marital/civil partnership status, age, disability, politics or trade union membership. We will not tolerate any discriminatory remarks or actions and will challenge anyone who behaves in that manner. Tenants will be excluded from any further involvement if they continue to behave in an offensive or discriminatory manner.

The Cabinet Member for Housing outlined the contents of the report highlighting the proposed changes to the policy, the importance of the Tenants Together Group and the good work that had taken place.

**RESOLVED** that the recommendation of the Policy Development Group be approved.

(Proposed by Cllr R L Stanley and seconded by Cllr C R Slade)

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

## 28. **COMMUNITY HOUSING FUND GRANT POLICY (00-36-39)**

The Cabinet had before it a \* report of the Group Manager for Housing, the Homes Policy Development Group had considered the report and had recommended the Cabinet recommend to Council that:

- a) The Community Led Housing Fund Grant Policy be adopted and endorsed so that it can be used within the Council's District.
- b) That Members support the framework for the allocation of grants as presented within the report.
- c) Should any disagreements occur then the final decision should be delegated to the Director of Operations in conjunction with the Cabinet Member.

The Cabinet Member for Housing outlined the contents of the report highlighting some corrections that were required to the report:

- The reference to "in conjunction with" in recommendation c) should be changed to "in consultation with"
- Paragraph 1.5, remove mention of the 'Home and Communities Agency' and replace with 'Homes England'
- Paragraph 1.11 remove mention of three Cabinet Members and replace with two

He informed the meeting of the Government funding for the project which would aid those local groups who wished to establish community led housing projects and explained the grant funding process.

Consideration was given to:

- How the scheme would be managed and implemented
- How the scheme would be advertised
- The allocation process

**RECOMMENDED** to Council that subject to the corrections above that:

- a) The Community Led Housing Fund Grant Policy be adopted and endorsed so that it can be used within the Council's District.
- b) That Members support the framework for the allocation of grants as presented within the report.
- c) Should any disagreements occur then the final decision should be delegated to the Director of Operations in consultation with the Cabinet Member.

(Proposed by Cllr R L Stanley and seconded by Cllr Mrs M E Squires)

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

## 29. **REVENUE AND CAPITAL OUTTURN 2017/18 (00-42-24)**

The Cabinet had before it a \* report of the Director of Finance, Assets and Resources presenting the revenue and capital outturn figures for the financial year 2017/18.

The Group Manager for Finance explained that the report set out a complete set of management reports that showed the final cash related position on all service areas. Although it was anticipated that the General Fund would be overspent, with additional funding for the Garden Village and Business Rates income (through growth and the benefits of pooling), an overall general fund surplus of £159k had been realised. The Housing Revenue Fund had produced an underspend of £255k which was proposed to be transferred to the Housing Maintenance Fund earmarked reserve. With regard to the Capital Programme, the revised budget for 2017/18 amounted to £24.315m, the spend for the year had been £8.523m leaving an underspend of £15.792m of which £5.874m would be carried forward into the 2018/19 programme.

Consideration was given to:

- The detailed accounting that had taken place
- The move to Carlu Close for the Grounds Maintenance Team
- Individual budget codes

**RESOLVED** that:

- i) The General Fund outturn achieved in 2017/18 which shows an overall underspend of £159k be noted. The surplus be transferred to the Property Maintenance reserve to provide further resilience.
- ii) The net transfers to earmarked reserves of £909k detailed in the General Fund service budget variance reports shown in Appendix 1 & 2 and summarised in Appendix 4 be approved.
- iii) The positive position achieved on the Housing Revenue Account which showed an annual saving of £255k be noted and that the "earmarking" of the extra £255k shown in paragraph 3.3, as well as specific items totalling £3.002m and the utilisation of items totalling £484k identified in Appendix 4 be approved

- iv) The carry forward of £5.874m from the 2017/18 capital programme (see paragraph 5.2) be approved as all of the schemes will be delivered in 2018/19 or later years.

(Proposed by the Chairman)

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

### 30. ANNUAL TREASURY MANAGEMENT REPORT (0053-04)

The Cabinet had before it a \* report of the Director of Finance, Assets and Resources providing Members with a review of activities and the actual prudential treasury indicators for 2017/18.

The Group Manager for Finance explained that the report gave a flavour of what was happening in the financial markets and the following table provided the overall treasury position at 31 March 2018:

TABLE 1	31 March 2017 Principal	31 March 2018 Principal
<b>Total external debt</b>	<b>£43.9m</b>	<b>£42.4m</b>
<b>CFR</b>	<b>£50.6m</b>	<b>£49.4m</b>
<b>Over / (under) borrowing</b>	<b>(£6.7m)</b>	<b>(£7m)</b>
<b>Total investments</b>	<b>£23m</b>	<b>£26m</b>
<b>Net debt</b>	<b>£20.9m</b>	<b>£16.4m</b>

**RECOMMENDED** to Council that the treasury activities for the year be noted.

(Proposed by the Chairman)

Notes:

- i) Cllr C J Eginton declared a personal interest as he received a pension from Lloyds Banking Group;
- ii) \*Report previously circulated, copy attached to minutes.

### 31. REVENUES AND BENEFITS PERFORMANCE REPORT (00-55-22)

The Cabinet had before it and **NOTED** a \* report of the Director of Finance, Assets and Resources reporting on the Council Tax, Non Domestic Rates and Housing Benefit Performance for 2017/18.

He outlined the contents of the report stating that in difficult times, this was a very good news story. 2017/18 had seen some minor changes to the Council Tax



Reduction Scheme, a slight relaxing in some of the preceptors ability to increase their share of the Council Tax and a delay in the local roll-out of Universal Credit. Those challenges had been well managed within the two service areas and we still have seen excellent levels of performance regarding both collection levels and speed of response times.

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

### 32. **RECORDS MANAGEMENT (00-58-37)**

The Cabinet had before it a \* report of the Group Manager for Performance, Governance and Data Security requesting the Cabinet to approve the revised Records Management Policy.

She outlined the contents of the report stating that the policy had been revised in line with the new Data Protection Act 2018 and the GDPR

Consideration was given to: the difference between GDPR and the Data Protection Act 2018

**RESOLVED** that the revised Records Management Policy be approved.

(Proposed by the Chairman)

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

### 33. **PERFORMANCE AND RISK (1-00-54)**

The Cabinet had before it and **NOTED** a report of the Director of Corporate Affairs and Business Transformation providing an update on performance against the corporate plan and local service targets for 2017-18 as well as providing an update on the key business risks.

The Group Manager for Performance, Governance and Data Security outlined the contents of the report stating that this was the outturn report for 2017/18 and highlighted the performance to 31 March 2018.

Consideration was given to a correction to the number of affordable homes delivered which was 115 and not 92.

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

### 34. **NOTIFICATION OF KEY DECISIONS (1-04-21)**

The Cabinet had before it, and **NOTED**, its rolling plan \* for June 2018 containing future key decisions.

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

35. **ACCESS TO INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC (1-04-21)**

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 3 respectively of Part 1 of Schedule 12A of the Act, namely information relating to the financial or business affairs of any particular person (including the authority holding that information)

(Proposed by the Chairman)

36. **CREDITON OFFICE, CREDITON**

Following the meeting on 10<sup>th</sup> May 2018, the Chairman of the Scrutiny Committee had called in the decision of the Cabinet: that subject to contract, to dispose of the Crediton office building to buyer 2 on the terms set out in paragraph 3.5 of the report for the following reasons:

1. the decision appears to have been made, not in haste, but without full recognition of the potential for:
  - further negotiations to take place with Crediton Town Council to see whether a more acceptable offer could be achieved. There is, despite the known financial pressures in local government, no deadline by which the decision had or has to be made - other than the need for a disposal to take place before the end of the 18-month protected period which applies to disposals of assets of community value in order to avoid a further moratorium.
  - the central and valued location of the building to Crediton which, if it were to be transferred to Crediton Town Council, could sustain the well-being and social cohesion of the town
2. it is unclear how the Cabinet took into account the following Corporate Plan objectives:
  - working with local communities to encourage them to support themselves, including retaining and developing their local facilities and services
  - working with town and parish councils

The Scrutiny Committee at its meeting on 21 May 2018

**“RESOLVED** that the Cabinet be requested to reconsider its decision to dispose of the Crediton office building to buyer 2 and that Crediton Town Council be allowed to make a final offer for the building”.

The Cabinet reconsidered the decision made on 10<sup>th</sup> May 2018.

The Cabinet Member for Housing provided information on negotiations to date.

Returning to open session it was:

**RESOLVED** that the original decision stand in that: subject to contract, to dispose of the Crediton office building to Buyer 2 on the terms set out in paragraph 3.5 of the report, because:

- (a) The offer from Buyer 2 is the best offer put forward during the marketing period and it is a clear indication of the best consideration which can be reasonably obtained;
- (b) The offer from Buyer 2, although below the most recent unrestricted valuation, would not require vacant possession and thus save time and money in securing the transfer;
- (c) The Council realises a significant capital receipt and gives up future liability for an asset which is surplus to the Council’s requirements.
- (d) The offer from Crediton Town Council would result in disposal of the office for a capital receipt which was less than 50% of the restricted value.

(Proposed by Cllr R L Stanley and seconded by Cllr C R Slade)

Notes:

- i) Cllr Mrs M E Squires requested that her abstention from voting be recorded;
- ii) Cllrs J M Downes, F W Letch and N A Way declared personal interests as members of Crediton Town Council;
- iii) Report previously considered on 10<sup>th</sup> May 2018, previously circulated.

(The meeting ended at 3.55 pm)

**CHAIRMAN**