

COUNCIL

Minutes of the meeting held on 18 April 2013 at 7.00 pm in Council Chamber, Cecil Street, Margate, Kent.

Present: Councillors Dark, Alexandrou, Aldred, Bayford, Binks, Bruce, Campbell, Cohen, Coleman-Cooke, Day, Driver, Dwyer, Edwards, Everitt, Fenner, Gibson, Gideon, D Green, E Green, I Gregory, K Gregory, Grove, Harrison, C Hart, S Hart, Hayton, Hibbert, Hornus, Huxley, Johnston, King, Kirby, Lodge-Pritchard, Marson, Matterface, Moore, Moores, Nicholson, Poole, Roberts, D Saunders, M Saunders, Savage, H Scobie, W Scobie, Sullivan, M Tomlinson, S Tomlinson, Watkins, Wells, Wise, Worrow and Wright

VICE-CHAIRMAN IN THE CHAIR

Councillor Dark, Vice-Chairman of Council, announced that the Chairman was unable to attend this meeting, whereupon Councillor Dark took the chair.

100. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Clark & Wiltshire and an apology for lateness was received from Councillor Savage.

101. DECLARATIONS OF INTEREST

Councillors Gibson declared a significant interest in Item 8 – Motions on notice.

102. MINUTES OF PREVIOUS MEETING

On the proposal of the Chairman, seconded by the Leader, the minutes of the meeting of Council held on 28 February 2013 were approved by Council and signed by the Chairman.

103. ANNOUNCEMENTS

There were no announcements from the Chairman, Leader, Members of the Cabinet or Chief Executive in accordance with Council Procedure Rule 2.1 (iv).

VARIATION OF AGENDA

The Chairman directed that item number 6 on the agenda – “Questions from the Public” be taken before item number 5 – “Petition from the Public”.

104. QUESTIONS FROM THE PRESS AND PUBLIC

In view of question number 6 (Agenda item 6f) being the only question that did not relate to the Pleasurama Site, Ramsgate, the Chairman directed that it be taken first.

STATEMENT BY THE CHIEF EXECUTIVE IN RELATION TO THE PLEASURAMA SITE, RAMSGATE

The Chief Executive made the following statement of facts in relation to the Pleasurama site, Ramsgate in order to inform debate on the petition to be received at Agenda Item 5a (Minute No. 105a refers).

“The existing development agreement from 2009 is still in place and is supported by three long-term, 199-year leases on the site.

“The development agreement requires completion by 2014 with the potential to extend to 2017. Under the current agreement, the freehold for the development would transfer on completion of the development with payment for the site to the Council being made as overage as each unit is sold or leased.

“In July 2012, Members were asked to give consideration as to whether they would consider replacing the current development agreement with one containing a number of changes, including the transfer of the freehold in advance and the payment of all of the overage in a lump sum at the same time. Reflecting Members' concerns, these proposals contained a number of measures to protect the Council's interests.

“However, as the detail of these proposals was unable to be agreed to both parties' satisfaction – that is, to the Council's and developer's satisfaction – these changes are no longer being taken forward.

“Negotiations are still ongoing with the developer and we remain committed to bring this matter back to Cabinet in May in line with the Cabinet decision of January 2013.

“In the meantime, I can confirm that the freehold will not be transferring to the developer until completion of the development and that this position has not changed since the development agreement was first signed.”

Councillor Bayford expressed disappointment that the Chief Executive's intention to make such a statement had not been referred to at the Chairman's Briefing which had taken place the previous day.

(a) **No. 6 - 'Bedroom Tax'**

It was NOTED that the summary at the beginning of the report should refer to “bedroom tax”, not “Pleasurama Site, Ramsgate”.

Cris Johnston asked Councillor D Green the following question:

“Will this Council commit to a policy of no evictions due to the bedroom tax?”

Councillor Green responded:

“Whilst I am Cabinet Member for Housing for this Council, this Council will not send in the bailiffs to recover rent arrears from tenants affected by this policy, provided they are co-operating fully with our officers to resolve their situation. This will include the offer of at least two offers of alternative, smaller accommodation.”

(b) **No. 1 - Pleasurama Site, Ramsgate**

Janet Woods asked Councillor Johnston :

“I hope you are all familiar with the site brief for the Pleasurama site. Given that SFP's original proposal doesn't comply with the Site Brief, would Councillor Iris Johnston, as a cabinet member at the time, please explain the procedure and decision making process that lead to SFP becoming the preferred developer?”

Councillor Johnston replied as follows:

“The history of the Pleasurama site is well documented and the need for Thanet District Council over many years to get best consideration has always been of paramount importance.

“The Ramsgate Renaissance Commercial Development Opportunity (Site E) Planning and Development Brief was circulated and expressions of interest were requested by 7 October 2002, when I was an elected Member here. An advertisement was placed in the Estates Gazette.

The Brief was clear:

- 1.1 On the need for a high quality commercially-led mixed use development
- 1.14 This Brief shall not form part of any contract
- 1.7 Any departure from the Brief should be clearly stated at the time of submission
- 2.1 Refers to preliminary financial proposals in accordance with this Brief
- 3.3 To fulfil identified gaps in the hotel sector within Ramsgate and Thanet
- 3.7 To provide a development which respects and enhances the character of the Royal Harbour, nearby listed buildings and conservation area
- 4.3 The relevant local planning policies, as set out in the Isle of Thanet Local Plan April 1988, to be adhered to.

“Leisure and tourism needs were emphasised and my own concerns at the time were always that we must never allow a gated privately owned development

“5.8 and 5.13 refer to Thanet District Council's ownership of the freehold.

“There is no mention of the freehold being available at any stage. Indeed, I never recalled our administration even considering that offer. This, I believe, came after May 2003, when we lost control of the Council.

“Six submissions were received. Two of those bidders joined together, three were out of time and two were eventually shortlisted by the Working Party in early November 2002.

“A letter from Mr Painter, who was the estate agent involved, dated 7 October 2002 covers the financial indicative offer which concentrates on the relationship with Whitbread.

“SFP Venture Partners Ltd and Westcliff Park Ltd gave presentations to the Ramsgate Renaissance Project Executive Group, which was made up of very senior officers and some elected Members. I wasn't on this Group, but regularly sat in on the deliberations.

“All Members were advised that they could examine the documentation, which was freely available.

“A report came to Cabinet on 21 November 2002 and the recommendation went to full Council on 5 December 2002 that SFP Ventures Partners Ltd be considered.

“A presentation by Mr Terence Painter, the Estate Agent, and Mr Peter Rutter covered a 60-bed hotel with a Brewers Fair Pub, 25 square feet of shops and restaurants and 107 apartments (*which were required to make it viable*).

“This mostly complied, at the time, with the Brief.

“On 5 December, the recommendations that were unanimously agreed by Council, cross-party, were:

1. SFP Ventures Partners Ltd offer and proposals for the site be accepted, subject to satisfactory resolution of the legal documentation;
2. Delegated authority to resolve any amendments to the proposals during negotiation of legal documentation be given to the Director of Support Services, in conjunction with the Leader of Council and the Cabinet Member with Portfolio for Regeneration and Economic Development;
3. Authority be given to employ Eversheds as our Solicitors acting on this matter, with legal costs to be met by the developer.

“Labour lost control of Thanet District Council in May 2003 and I know that Councillor David Green, particularly, worked extremely hard in the Ramsgate community to flag up any concerns that followed on the height of the buildings etc.

“The Environment Agency changed their mind about the flood risk (*it was a big risk at the beginning, but not a risk a few years later*). The shoring up of the cliff face was part of the 106 agreement.

“A development agreement was agreed with SFP on 26 October 2006 and it said then, ‘with the freehold following completion of the development’.

“There has been a lot of conversation about a district auditor report in 2001. I asked the district auditor to interview, but he never did. There are flaws in that report that still concern me. However, what he did find was that the Local Government Ombudsman, the District Auditor and one application for judicial review have all generated a response that the Council has acted correctly and that was stated in the report in 2009 that led to the changes that some people are not happy with.”

(c) **No. 2 - Pleasurama Site, Ramsgate**

Emma Warne asked Councillor Poole the following question:

“I understand that you have received a list of previous developments from SFP. Would you tell us about them, i.e., where and when they were built, what they look like and how they were financed?”

Councillor Poole responded:

“SFP Ventures (UK) Ltd, with whom we have the development agreement and site leases, was set up specifically to deliver the Royal Sands development and as a company it has not delivered other projects.

“The sole shareholder of SFP Ventures has been involved in numerous projects through other companies since 1987 in a number of different roles within the development process. These include:

“House builds and refurbishments at Thetford, several around Ipswich, Campsea Ashe, Coddendam, Elmsett, Rougham, Wrentham, Stutton and others around Suffolk, as well as Hackney, Colchester and Burwell. In addition, there have been offices and warehousing, a hospital wing at Bury St Edmunds, a factory unit at Colchester, and a new technology complex at Framlingham.

“Although not a direct shareholder Cardy Construction, who are based in Canterbury, have a significant investment in Royal Sands as a partner and main contractor, and have a track record of a wide range of development and construction projects over 60 years in the South East.

“The project also involves non-share owning professional and business partners with a wide range of experience in office, industrial, hospitality, hotel and residential projects.”

(d) **No. 3 - Pleasurama Site, Ramsgate**

Geoff Woods asked Councillor Poole the following question:

“Given how extraordinarily accommodating and reasonable TDC have been with SFP and how unreasonable SFP have performed in almost every way, would you provide any reason why TDC would not use its right of absolute discretion to determine all ties with SFP on 22 May 2013?”

Councillor Poole’s answer was:

“The Council can determine the agreement or leases by giving notice, but such an action would be subject to a legal challenge as these are legal contracts between the council and the developer.

“Any decision to determine these contracts needs to be based on an assessment of the likelihood of success in a court action, and such a decision would be based on the specific loss incurred by the council as a result of any breach, as a court would apply such a test. Unless a breach was of an irresolvable nature there would be a clear expectation that it would be dealt with prior to court action, and would be highly unlikely to justify the determination of the contract.”

(e) **No. 4 - Pleasurama Site, Ramsgate**

Ms K Jones put the following question to Councillor Poole:

“Would you confirm the amount of the 106 contributions on the Pleasurama proposed development and would you explain how the 106 contribution will be used?”

Councillor Poole’s reply was:

“An agreement was made under section 106 of the Town and Country Planning Act 1990 for the payment of £100,000 to works to the adjacent cliff face. The payment has been made in accordance with the agreement, and the council has undertaken the work funded by this sum.

“Separately it should be noted that condition 24 of the planning permission requires that a scheme for payment of a commuted sum be agreed by the council. This was dealt with at Cabinet in October 2005, and at that meeting it was agreed that a proportion of the total overage payment would be used for affordable housing. This was agreed based upon £6,800 per residential unit leading to a total sum of £727,600. Under the current version of the development agreement the overage payment, including the sum for affordable housing, is payable before the individual units can be transferred.”

(f) **No. 5 - Pleasurama Site, Ramsgate**

Nicholas Cooper asked Councillor Poole:

"What incentives prompted TDC to ignore the broad leisure proposals of the 1998 Ramsgate Town Plan and align with a supposed developer with no track record, no registered UK address or verifiable source of legitimate finance, while permitting progress on an ongoing course of broken contracts and deadlines without sanction?"

Councillor Poole responded as follows:

"The basic terms of the development agreement with SFP Ventures (UK) Ltd have been in the public domain for several years, and were the subject to an open report to Cabinet in October 2005.

"On this basis I can only assume the question relates to separate incentives provided to council members or officers to influence decisions on this site.

"I am not aware of any incentives of this nature and clearly would expect any person having specific evidence to provide this directly to the Police. The decision to choose SFP as the developer for the site was made following a direct presentation in open session to Council in December 2002, and the terms of the agreement were set out and agreed in an unrestricted report to Cabinet in October 2005.

"The development agreement following this report was signed with SFP Ventures (UK) Ltd in 2006 and SFP Ventures (UK) Ltd are a UK registered company who were specifically set up to deliver this development.

"Cabinet agreed in January this year to allow a further period of 4 months for the developer to meet the conditions agreed in July last year. However, action under the development agreement and the site leases is almost certainly to be through long and expensive court action, and would have to be based on significant breaches to allow a successful action in court."

(g) **No. 7 - Pleasurama Site, Rmasgate**

Gerhard Muller-Kosack asked Councillor Poole the following question:

"In which European country and to which address was "SFP Ventures Partners Ltd" officially registered at the time the planning permission (F/TH10311200) was granted to that company on 28 January 2004 since on the planning permission itself only the architects address is given 'care of' underneath this company's name?"

Councillor Poole responded to this question as follows:

"A local planning authority does not require an applicant to provide such information in order to make the application valid.

"It is also relevant to note that the planning permission runs with the land and the implementation of the permission is not restricted to the applicant.

"However, I am not aware that the address of this company in the British Virgin Islands at the time of the application is a secret.

"More pertinently, the development agreement and leases are not with this company, but with SFP Ventures (UK) Ltd, which is a UK registered company with an address in this country."

(h) **No. 8 - Pleasurama Site, Ramsgate**

Angie McKenzie asked Councillor Poole:

"As the leaseholder of a two bedroom flat in Ramsgate, we pay an annual ground rent. How much ground rent has SFP Ventures paid on the Pleasurama site, since taking over the leases? If nothing has been paid, why not?"

Councillor Poole replied:

"The lease payments were negotiated and paid by the developer. These were one off sums and total £550,000 across all the leases. These sums would be merged into the overall freehold exchange when this occurred."

(i) **No. 9 - Pleasurama Site, Ramsgate**

Ray Sun put the following question to Councillor Poole:

"One of the conditions about the Pleasurama site 'deal' is that a hotel group needs to be on-board. Whitbread has withdrawn, Hilton Worldwide has written to me stating that nothing further has been confirmed.

"May I please have your assurance that this matter, including any freehold sale, will be stopped?"

Councillor Poole's response was as follows:

"At its meeting in July last year Cabinet considered the terms of a revised development agreement one of the pre-conditions was that evidence of a binding agreement with a hotel operator is provided.

"Under the existing agreement the developer is obliged to construct a hotel, except for the fitting out, and use their best endeavours to let the hotel to an approved operator following practical completion. However, despite the comments in the question, we understand that this matter is being dealt with by the developer. It is unlikely that any hotel group would provide specific confirmation to a third party of the status of any deals in which they are involved until these are completed and in the public domain."

105. PETITIONS FROM THE PUBLIC(a) **Freehold of Pleasurama Site, Ramsgate**

Councillor Bayford pointed out that the wording of the first reason cited for the petition (Paragraph numbered 1 of Annex 1 to the report refers) was erroneous in that the Council was not Conservative-led in December 2002; nor was the developer referred to the Conservative Group's "preferred developer".

Mrs Terry Askew then presented the petition as follows, on behalf of the Friends of Ramsgate Seafront:

"Stop the Freehold of the Pleasurama site being sold:

"We the undersigned believe the proposed sale of the Pleasurama freehold to the current developer is an unacceptable solution, since this developer has lost public trust and confidence and this proposal will not achieve the stated aim, of regenerating the Ramsgate Seafront. We

now call on Thanet District Council to dismiss this developer and this proposal ... (grounds as set out at Annex 1 to the report)"

Mrs Askew said that she welcomed the news that the Council would not be transferring the freehold at this time.. However, she pointed out that upon having consulted widely amongst Ramsgate residents, it was evident that the majority of people in the town did not want the current development to proceed.

She referred to the site being a blight on Ramsgate and, indeed Thanet, and to the fact that residents had lost confidence in the developer, which, in turn, affected residents' quality of life and their trust and confidence in the elected Members of Council.

The Friends of Ramsgate Seafront felt that the current development was the wrong proposal for the wrong place at the wrong time. On their behalf, Mrs Askew asked the Council to return the seafront to the public.

It was proposed by Councillor Poole, seconded by the Leader:

"That the petition be referred to Cabinet".

In the debate that ensued, reference was made to the following: the risk of legal challenge if the Council were to take any action against the developer at the present time; the developer having been given a deadline of 22 May 2013 to prove that they had sufficient funding to complete the development; the current financial climate which made it difficult for developers to obtain funding; and the recommendations of the Overview and Scrutiny Panel having been disregarded by Cabinet.

Councillor Bayford pointed out that the Conservative Group had never supported the transfer of the freehold prior to completion of the development.

Councillor Driver proposed that a cross-party Working Group of Council be set up for the purpose of fully investigating events leading to the current situation, seeking legal advice and reporting its findings to Council.

That proposal, however, was not seconded.

Councillor Wells asked questions in relation to: the identity of SFP Services Ltd; what the proposed due diligence on SFP Ventures UK Ltd would consist of; the seeming confusion over names of companies involved with development; and the "split site approach" which had allegedly been discussed with the developer two days previously.

The Chief Executive undertook to provide Councillor Wells with answers to his questions (*questions and answers since published as part of this agenda item on the Council's website*)

Meeting adjourned

As Councillor Driver was witnessed photographing proceedings of the meeting, in contravention of Council Procedure Rule 34.2, the Chairman directed that the meeting be adjourned for a period of fifteen minutes.

Meeting resumed

Upon the meeting being resumed, the Chairman asked Councillor Driver for an assurance that he would not take any more photographs.

Upon Councillor Driver refusing to give such an assurance, it was proposed by the Chairman, and seconded by Councillor Wise:

“That, in accordance with Council Procedure Rule 27.3, Councillor Driver be not heard further”.

This motion, on being put to the vote, was declared CARRIED.

Councillor Driver continued to film proceedings, whereupon it was proposed by the Chairman, and seconded by Councillor Wise:

“That, in accordance with Council Procedure Rule 28.4, Councillor Driver leaves the meeting.”

Upon being put to the vote, this motion was declared CARRIED.

Councillor Driver then left the meeting.

Original Motion relating to the Petition

Upon the original motion:

“That the petition be referred to Cabinet”

being put to the vote, it was declared LOST.

Alternative Motion

It was then proposed by Councillor Bayford, and seconded by Councillor Hornus:

“That the petition be referred to the Overview & Scrutiny Panel”.

Upon being put to the vote, this alternative motion was declared CARRIED.

106. QUESTIONS FROM MEMBERS OF THE COUNCIL

It was NOTED that no questions had been received from Members of the Council in accordance with Council Procedure Rule 14.

107. MOTIONS ON NOTICE

(a) **No. 1 - "Bedroom Tax"**

It was AGREED that this item be taken even though Councillor Driver, the proposer, was absent from the meeting.

It was proposed by the Chairman, seconded by Councillor Scobie:

“This Council believes that the Government’s ‘Bedroom Tax’ is unfair and disproportionately impacts upon the poorest and most vulnerable people in Thanet.

“Council therefore requests that the Cabinet, in association with other relevant organisations, review policies on rent arrears in the light of the impact of the Bedroom Tax upon tenants of social housing which is owned by Thanet Council. Cabinet are requested to report the results of this review to Council.”

On the proposal of the Leader, seconded by Councillor Nicholson, it was AGREED that the motion be debated.

During debate, some Members felt that the first paragraph of the motion should be removed as they believed that the principle of a bedroom tax was not, in itself, unfair, although they recognised that it needed to be applied sympathetically and compassionately.

It was AGREED that the motion on notice be referred to Cabinet for determination or report.

(b) **No. 2 - Licensed Hackney Carriage Plates**

It was proposed by Councillor Grove, and seconded by Councillor W Scobie:

“Thanet District Council writes to the Minister of Transport to strongly object to the Law Commission proposal to remove the right of local authorities to restrict the number of licensed hackney carriage plates within the district”.

It was AGREED that this motion on notice be referred to the Licensing Board for determination or report.

108. LEADER'S REPORT

In his report, the Leader referred to the recent conviction of a former Leader of Council, and to the necessity for policies and procedures in relation to matters such as asset disposals, registers of Members' interests and the rationale for excluding the press and public during consideration of reports at meetings, to be comprehensively reviewed. He stated that these issues would be considered at the next meeting of Cabinet and that staff were being reminded of the whistleblowing policy that the Council had in place.

The Leader also referred to the Annual Audit Letter of 2012, which stated that the Council had a good understanding of its underlying financial position and that the Council continued to demonstrate effective arrangements for budget and financial management.

In conclusion, the Leader also highlighted the high cost to the Council of responding to Freedom of Information requests.

Councillor Bayford, as Leader of the Conservative Group, commented on the risk of financial loss to the Council of suspending the export of live animals from Ramsgate Port. He also stated that the introduction of KLM flights from Manston Airport was a significant issue arising since the last meeting of Council and enquired about the delay in obtaining an economic development strategy for the Council.

The Leader responded by stating that, in the prevailing circumstances, the suspension of live animal export activity at Ramsgate Port was the correct action to take and that an economic development strategy was imminent.

Councillor King, as Leader of the Independent Group, expressed the view that the current Standards regime was “toothless” and appeared to be treated with contempt by Members.

The Leader agreed with Councillor King's sentiments regarding the Standards system, but he hoped that it could be strengthened and treated with greater respect.

Councillor Cohen, on behalf of Councillor Worrow, Leader of the Thanet Independent Group, expressed the view that suspending the animal trade at the Port was the right thing for the Council to do.

109. PARISHING MARGATE

It was proposed by the Leader, seconded by Councillor Bayford and RESOLVED:

1. THAT the recommendations as set out at Paragraphs 7.1 to 7.4 of the report be adopted, subject to the exclusion of the words, "to between 35 and 45" from the end of the recommendation at paragraph 7.2, viz:
 - i. That the Local Government Boundary Commission for England be requested to include the Council in the electoral review programme that would facilitate a whole Council electoral review commencing after the date of the Local Government elections in 2015 and with a planned implementation date of the date of the Local Government elections in 2019;
 - ii. That the Local Government Boundary Commission for England be requested to conduct the electoral review with the objective of reducing the number of elected members;
 - iii. That a Community Governance Review be undertaken in respect of the un-parished parts of the administrative area of the Council;
 - iv. That the Boundaries & Electoral Arrangements Working Party be given delegated authority to approve and publish the terms of reference of the Community Governance Review and that the Working Party Committee makes recommendations to full Council concerning the review within the twelve months' statutory time limit.
2. THAT all references to the numbers 35 and 45 be removed from the body of the report.

110. OPTIONS FOR THE FUTURE OF OVERVIEW & SCRUTINY IN THANET

On the proposal of the Chairman, seconded by the Leader, it was RESOLVED:

"THAT the recommendations at paragraphs 6.1 & 6.2 of the report be adopted, namely:

1. That the recommendations of the Constitutional Review Working Party and Standards Committee be noted;
2. That no change to the current Overview & Scrutiny Committee structure be endorsed at this time.

111. PETITIONS SCHEME - REVIEW

On the proposal of the Chairman, seconded by the Leader, it was RESOLVED:

"THAT the recommendations as set out at Paragraph 8.1 of the report be adopted, namely:

1. That Council notes the recommendations of the Standards Committee as per paragraphs 4.2 and 4.3 of the report;
2. That Council amends the petitions scheme as per Annex 1 to the report, to reflect those recommendations."

112. TO REVIEW CONSTITUTIONAL PROCEDURE RULES RELATING TO MOTIONS ON NOTICE, QUESTIONS AND CALL-IN

It was proposed by the Chairman, seconded by the Leader:

“THAT the recommendations of the Standards Committee, as set out at paragraph 3.1 of the report be adopted, namely

- a) That the changes to Council Procedure Rules 14.5 and 16.4, as set out at Annex 1 to the report, be approved;
- b) That Overview & Scrutiny Procedure Rule 15.0 (a) be not changed.”

Amendment

An amendment was proposed by Councillor D Green, and seconded by Councillor Fenner:

“THAT the words,

‘unless the conduct relates to the Member acting as a Member of the Council’,

be added to the end of the amendments to Council Procedure Rules 14.5 and 16.4, as set out at Annex 1 to the report.

This amendment was ADOPTED.

Substantive Motion

The substantive motion was, subsequently, ADOPTED.

113. REPORT BACK ON NOTICE OF MOTION TO COUNCIL - MEMBERSHIP OF LICENSING BOARD

On the proposal of the Chairman, seconded by the Leader, it was RESOLVED:

“THAT the recommendation at paragraph 5.1 of the report be adopted, namely:

‘That no further action be taken in relation to the motion on notice, on the grounds that each political group has sole responsibility for appointments to seats which have been allocated to it under the political balance rules of Sections 15 & 16 of the Local Government and Housing Act 1989’.”

114. CONSTITUTION OF COMMITTEES, POLITICAL BALANCE, APPOINTMENTS TO COMMITTEES, PANELS AND BOARDS

On the proposal of the Chairman, seconded by the Leader, it was RESOLVED:

“That the new political balance of the Council, as set out in the report, be NOTED”.

Meeting concluded : 10.10 pm