

CABINET

Minutes of the meeting held on 29 July 2021 at 7.00 pm in Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Present: Councillor Ash Ashbee (Chair); Councillors Pugh, J Bayford, R Bayford and D Saunders

In Attendance: Councillors Albon, Ara, Austin, Everitt, Keen, Rusiecki, M Saunders, Shrubbs and Wing

739. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Kup.

740. DECLARATIONS OF INTEREST

There were no declarations of interest.

741. MINUTES OF EXTRAORDINARY MEETING

Councillor Ashbee proposed, Councillor Bob Bayford seconded and Members agreed the minutes as a correct record of the extraordinary meeting held on 8 June 2021.

742. MINUTES OF PREVIOUS MEETING

Councillor Ashbee proposed, Councillor Bob Bayford seconded and Members agreed the minutes as a correct record of the meeting held on 17 June 2021.

743. ASSET MANAGEMENT- GRANVILLE CINEMA

Members were asked to decide on approving the recommendation to dispose of the Granville Cinema to a qualifying community group via the Council's Community Asset Transfer Policy as set out in the cabinet report. The Policy defines a viable community group as:

- An established community organisation;
- Already able to demonstrate good custodianship of assets;
- Already able to demonstrate financial ability to invest in the property;
- Enable the asset to advance its social aims for the benefit of the community.

Members were advised that the community asset transfers were not transfers at nil value. The disposal would be required to generate best consideration possible, taking into account that it was listed as an asset of community value. The Community Asset Transfer Policy is distinct from the Community Right to Bid process.

Community Right to Bid is set out in the Localism Act 2011. It allows community groups both to nominate any public or private owned assets to be listed as an Asset of Community Value, which then gives community groups greater opportunity to register to bid to purchase the asset.

Cabinet noted that the Granville Cinema was already listed as an Asset of Community Value, but the Community Right to Bid process might be initiated if any relevant groups come forward once the Council advertises the Notice of Intention to Dispose. This would create a 6 month moratorium period, during which the Council could not sell except to the relevant group making the bid.

The following Members spoke under council Procedure Rule 20.1.

Councillor Albon;
Councillor Wing;
Councillor Austin;
Councillor Ara.

Cabinet agreed the following:

1. To dispose of the Granville Cinema in accordance with the Council's Community Asset Transfer Policy as listed in Option 1;
2. To dispose of the Granville Cinema on the open market under Option 2, if the proposal to dispose under Option 1 does not bring forward a viable purchaser;
3. To give delegated authority to the Director of Property, in consultation with the Disposal Surveyor to agree Heads of Terms and enter into the relevant negotiations;
4. To give delegated authority to the Director of Law and Democracy to sign all documents necessary to give effect to the disposal.

744. QUARTER 4 TENANT AND LEASEHOLDER SERVICES UPDATE

Members discussed the 2020/21 quarter four performance of the Housing Services. Since transition in October 2020 of East Kent Housing services in-house, the new Tenant and Leaseholder Services (TLS) team had shown improved performance in a number of areas.

During the period under review, staff training was provided which led to an empowered and motivated team. There was also a focus on improving communication with stakeholders and on improving the contract management and relationships with contractors. Good progress was reported in the areas of customer service and rent collection.

There were some areas where further improvement was required, such as the delivery of the housing capital programme and day to day repairs. During the quarter an improvement plan for the service was developed. This followed consultation with tenants and leaseholders which highlighted priorities around the appearance of the estate areas, communication, opportunities for involvement in the service and digital service access.

Since the transition, health and safety compliance had been a high priority and the council had been working closely with the Regulator for Social Housing. There had been steady progress towards full compliance in the main areas of tenant health and safety and aim to be ready for the Regulator for Social Housing to remove the regulatory notice served on the council during 2021.

There had also good progress in the performance of the digital systems. The council now had its own independent cloud-based database, with TDC data separated from the other three councils that used to be part of the housing services partnership (EK Housing). TDC had also recently invested in new software for the management of health and safety compliance.

Councillor Jill Bayford proposed, Councillor Bob Bayford seconded and Cabinet agreed to note the report.

745. STATEMENT OF COMMUNITY INVOLVEMENT REVIEW - RESULTS OF PUBLIC CONSULTATION AND ADOPTION

Cabinet considered the results of the Statement of Community Involvement review that was conducted from 25 February to 9 April 2021. The Statement of Community Involvement (SCI) sets out how the Council will consult on planning policy issues, planning applications and neighbourhood plans. The SCI was originally adopted by Council in 2007. A reviewed and updated SCI was adopted by Council in 2012. The results of the review reported included the main issues raised in response to that consultation and the resulting changes to be made to the SCI.

The issues raised in relation to the SCI had been considered leading to some changes being recommended as reflected in Annex 1 to the Cabinet report. Members were advised that the concerns that had been raised by residents regarding the proposal to charge an administrative fee for processing lengthy and complex representations to the Local Plan had been listened to and were no longer going to be in the updated SCI.

Councillor Everitt and Councillor Austin spoke under council Procedure Rule 20.1.

Councillor Ashbee proposed, Councillor Bob Bayford seconded and Cabinet agreed that the reviewed SCI be reported to Full Council on 9 September 2021 for adoption.

746. ANNUAL TREASURY MANAGEMENT REVIEW

Cabinet discussed a summarised backward look on the council's treasury management activity for 2020-21. The figures that were provided at the meeting were provisional because the council's 2020-21 accounts had not yet been audited, and these figures were therefore subject to change until the audit is completed.

The meeting was advised that the regulatory environment placed responsibility on Members to review and scrutinise the treasury management policy and activities of the council. For that reason, the report was therefore considered important as it provided details of the 2020-21 year-end position for treasury activities.

Cabinet were pleased to note that the reported council activities operated within the limits agreed by Members, and particularly noted the key messages summarised as follows:

1. That the council's capital expenditure was significantly under budget, as detailed in the following budget outturn report;
2. That the council repaid £631,000 of debt during the year and undertook no new borrowing;
3. That the council's average debt position was £25million and the council did not borrow more money than was needed to finance the capital programme;
4. As such, the council stayed well within its authorised limit of £109million.

Councillor Saunders proposed, Councillor Bob Bayford seconded and Cabinet agreed the following:

1. To note the actual 2020-21 prudential and treasury indicators in the Cabinet report;
2. To make comments on and note as appropriate the Annual Treasury Management Report for 2020-21;
3. To recommend the report to council for approval.

747. GENERAL FUND & HRA PROVISIONAL OUTTURN 2020-21

Cabinet considered the General Fund and HRA Provisional Outturn report for 2020/21 and Members were advised that these were likely to be the final accounts for the year, subject to any last-minute amendments, or changes as a result of the external audit. On

the General Fund revenue position, there was a £3.6million overspend. This compared favourably with the last monitoring report, in January. Some of the overspend was due to the impact of Covid, as a range of additional expenditure was incurred, and income had fallen. Almost all income had been affected, especially off-street car parking, Council Tax and Business Rates.

However there were also non-Covid factors that gave rise to the overspend. The two largest were the actual and potential legal costs associated with matters being considered by the Investigations and Disciplinary Committee, estimated at £733,000; and the revenue costs of the replacement of berth 4/5, estimated at £445,000. Additionally, the council had some pre-existing budget problems that would not have gone away. These were referred to in the 2021-22 budget monitoring report, which was also considered at this meeting. These would also be a factor to consider in the 2022-23 budget.

The accounting arrangements for Council Tax and Business Rates were exceptionally complex for 2020-21. For example, Business Rate Relief was subject to a Government grant that had to be included in the 2020-21 accounts, but the council would have to apply the entire grant in subsequent years. These technicalities meant that about £10million of the council's reserves at 31 March 2021 were already committed, to be used to fund income losses. All districts would have a similarly inflated reserves position at 31 March 2021, which should not be considered to be available to spend on anything other than Council Tax and Business Rates.

The meeting were further advised that the overall position of the Housing Revenue Account was better than previously forecast. This was mostly due to rent income not being so adversely impacted by Covid than planned. On the capital programmes for both the General Fund and HRA, they were roughly 50% underspent. This was largely due to Covid, although there were some projects that would have underspent, not as a result of the pandemic.

Councillor Saunders proposed, Councillor Bob Bayford seconded and Cabinet agreed the following:

1. To note the following:
 - a. The provisional outturn position for the General Fund;
 - b. The provisional outturn position for General Fund Capital;
 - c. The provisional outturn position for the Housing Revenue Account;
 - d. The provisional outturn position for Housing Revenue Account Capital;
2. Cabinet further agreed the following:
 - a. The reserve movements as identified at section 5 table 3 to the Cabinet report;
 - b. The slippage in the General Fund Capital Programme as identified in section 6 to the Cabinet report;
 - c. The slippage in HRA budgets as identified in section 6/7 to the report.

748. BUDGET MONITORING 2021-22: REPORT NO.1

Members received the first budget monitoring report for 2021/22. The General Fund revenue forecast to have a £2.1million overspend. Some of this would be directly related to Covid; for example, the need to hold Council meetings at Ramsgate Sports Centre,

rather than the Council Chamber. Other overspends were not related to Covid; for example, income losses in property, building control and clinical waste. These areas had under-achieved against budget before Covid, and would need to be addressed in the 2022-23 budget. Finally, some overspends would be due to a mix of Covid and non-Covid factors, such as Homelessness.

This report was an early forecast for the year, and it was hoped that the picture would improve as the year progressed. If there was no improvement the council could fall back on the just enough Covid grants that could cover the overspend. On General Fund capital, there was some slippage, or underspend, that was being forecast. Two areas Members noted were in respect of toilets and office accommodation. Both of these projects were dependent on capital receipts from the sale of toilets and the council's main offices. Until a plan had been developed which would generate enough income from sales to cover the cost of any capital expenditure, these projects would not go ahead.

With regards to the Housing Revenue Account, Cabinet noted that the main overspend was to fund the waking watch service in tower blocks, as recommended by the Fire Service. On the HRA capital programme, the substantial slippage on last year's programme had been comprehensively re-profiled over the next few years, to create more realistic phasing of projects. The re-profiling prioritised the essential health and safety works to the tower blocks.

Councillor Saunders proposed, Councillor Bob Bayford seconded and Cabinet agreed the following:

1. To note the following:
 - a. The General Fund revenue budget 2021-22 forecast position;
 - b. The General Fund Capital Programme 2021-22 forecast position;
 - c. The Housing Revenue Account position;
2. To fund the budget gap as at para 5.2 to the Cabinet report;
3. To the change in HRA funding as set out in para 7.2 of the Cabinet report;
4. To the updated General Fund capital programme as set out in Section 6 and Annex 1 to the Cabinet report.

749. INSURANCE TENDER

Cabinet considered the request for approval to enter into a new contract for insurances. The Council was required to ensure value for money when procuring its contracts and as such was required to re-procure its insurance contract before the renewal date of January 2022.

Councillor Saunders proposed, Councillor Pugh seconded and Cabinet agreed to letting of the contract for insurance services as laid out in the report.

750. BERTH 4/5 - PORT OF RAMSGATE - ADDITIONAL FUNDING

Cabinet discussed the request for additional funding for works on Berth 4/5 at the Ramsgate of Port. Members were advised that in order for the council to fulfil its contractual obligations to Bretts, the council had to provide a berth for them at all times for use in connection with their permitted activities. A detailed background to the decision was shared at the meeting in order to provide a context for this cabinet decision. For

several years the berths provided were becoming problematic in terms of the need for constant maintenance and repair and ultimately came to the end of their useful life.

Initial feasibility and design work for the project to replace the existing Berth 4/5 was focused on a fixed quay, however following an approach by BAM Nuttal the use of a floating pontoon became an option. Following a technical assessment by our consultants, the option of a floating pontoon was more cost effective and would fall within the capital cost allocated to the project.

It was also reported that on the 28th June 2019 the council gained external planning advice, that reliance could still be placed on part 18 of the General Purpose Development Order. On this basis, a prior approval application could therefore be made without the need to undertake an Environmental Impact Assessment (EIA) or to make a full planning application. The meeting was further advised that based on this advice, officers proceeded on that basis.

The two options of a fixed quay or floating berth were presented to a cross party Ramsgate Port Working Party who then decided unanimously that the floating berth (pontoon) should be developed as this represented best value. Legal advice was also sought to confirm that the pontoons could be purchased in accordance with the Public Contracts Regulations 2015. The advice received was that a compliant tender pack and performance specification should be produced for the purpose of competitive tendering.

The documents provided additional information which allowed a better understanding of the scale of the project that the council's lawyers had not had prior to the initial advice. Subsequently their advice was amended to say that a direct award could be progressed and would be lawful. Record of decision for the realignment of the capital programme was signed by the Port Portfolio Holder. The Chair of the Overview & Scrutiny Panel subsequently called in this decision and the legal advice was shared with the members of the Panel.

There was then a change in administration and the new Cabinet requested a report outlining all the options available to procure a replacement berth. At the Cabinet meeting held on the 16th December 2019, Option 4 was approved which was a competitive tender for a single replacement berth. This was a change in procurement approach from the previous decision to do a direct award. Following the competitive tender process Bam Nuttal were the preferred supplier for the replacement berth, now only utilising just one of the two pontoons.

On the 17th June 2020, the Marine Management Organisation (MMO) informed TDC that we needed to screen the project to establish whether an EIA was required. This was in relation to the construction of piles to hold the berth in place. On the 17th August 2020 the MMO confirmed that an EIA was not required and following this, a prior approval application was submitted to the Local Planning Authority (LPA).

Consequently, at that time and based on the advice the officer had received, the project did not require an EIA and a revised project delivery plan was shared with the contractor. Even though as the applicant the council had received legal advice that an EIA was not required on the 13th October 2020, the LPA confirmed that they now required an EIA before prior approval application could be determined. The MMO subsequently reviewed their position which subsequently also changed and aligned with the LPA and also now required an EIA.

This unanticipated delay had resulted in a significant increase in the estimated total cost of the scheme which now exceeds the allocated budget. The cabinet report that was considered at the meeting provided detail on the additional scheme cost and proposed an increase in the budget allocation of £825k. A breakdown of this amount was set at Annex 1 to the cabinet report. The report also contained a revised project programme set

out at Annex 2, which showed the construction phase now taking place between May and August 2022. A summary of project activity to date was also presented as a timeline at Annex 3 to the cabinet report.

Recommendation 1 in the report was a request for a capital virement of £55k to the berth 4/5 project from two other existing maritime capital projects to fund the EIA.

Recommendations 2 and 3 were ordinarily decisions that were meant to have been by Full Council, but were being recommended for approval by Cabinet as urgent decisions (under Rule 4 of the Budget and Policy Framework Procedure Rules in the Constitution).

As urgent decisions outside the Budget Framework, the Chair of Overview and Scrutiny has been informed and has given consent for the matter to be dealt with by Cabinet. The matter will be reported to the next scheduled meeting of Council in September.

The following Members spoke under council Procedure Rule 20.1.

Councillor Everitt;
Councillor Wing;
Councillor Austin;
Councillor Rusiecki.

Councillor Ashbee proposed, Council Cabinet is asked to agree the following recommendations:

1. A 2021-22 General Fund capital virement to transfer budget totalling £55k to the 'Berth 4/5 Replacement Project' scheme for the development of the EIA be approved, to be funded from a £25k transfer from the 'Replacement of Lead Lights at Port' scheme and £30k transfer from the 'Ramsgate Port & Harbour Utilities Supply upgrade' scheme;
2. That a 2021-22 supplementary capital budget of £325,000 be approved for additional costs associated with the 'Berth 4/5 Replacement Project' scheme, to be funded from a £50,000 revenue contribution and £275,000 of borrowing, in accordance with Rule 4 of the Budget and Policy Framework Procedure Rules;
3. That additional revenue expenditure of £445,000 recognised in the 2020-21 accounts and financed from the Council's earmarked reserves be approved, in accordance with Rule 4 of the Budget and Policy Framework Procedure Rules.

Meeting concluded: 8.06 pm