



Minutes of the Council

6 December 2012

-: Present :-

Chairman of the Council (Councillor Stringer) (In the Chair)
Vice-Chairman of the Council (Councillor Parrott)

The Mayor of Torbay (Mayor Oliver)

Councillors Addis, Amil, Baldrey, Barnby, Bent, Cowell, Davies, Darling, Doggett, Ellery, Excell, Faulkner (A), Faulkner (J), Hernandez, Hill, Hytche, James, Kingscote, Lewis, McPhail, Morey, Pentney, Pountney, Richards, Stocks, Thomas (D), Thomas (J) and Tyerman

70 Opening of meeting

The meeting was opened with a prayer.

71 Apologies for absence

Apologies for absence were received from Councillors Brooksbank, Butt, Mills, Pritchard and Scouler. Councillor Stocks joined the meeting at 3.55 pm during consideration of Minute 80.

72 Minutes

The Minutes of the meeting of the Council held on 27 September 2012 were confirmed as a correct record and signed by the Chairman.

73 Declarations of interests

Councillor McPhail declared a non pecuniary interest in respect of Minute 76 as her husband was in receipt of NHS treatment.

74 Communications

The Chairman:

- (i) advised, that since the last Council meeting he had attended over 100 engagements. This included being presented, along with the Lord Mayor of Exeter and Lord Mayor of Plymouth, to HRH Prince Edward who unveiled a sun dial at Roadford Lake Country Park to commemorate the Queen's Diamond Jubilee;

(ii) invited all members and the public to the Annual Civic Carol concert which was being held on Tuesday 11 December 2012 at the Riviera International Conference Centre starting at 7 pm; and

(iii) informed members that he would be attending both charity Boxing Day dips at Torre Abbey Sands, Torquay and Paignton sea front.

75 Order of Business

In accordance with Standing Order A7.2, the order of business was varied to enable the following agenda items to be considered at the adjourned meeting of the Council at 5.30 pm:

Item 6 – Petitions;

Item 7 – Public question time;

Item 8 – Members' questions;

Item 9 – Notice of motions;

Item 22 – Neighbourhood planning in Torbay: applications for neighbourhood forums and plan areas; and

Item 23 – Localised council tax support scheme

The order of business was further varied to enable Item 13 (Council tax base report) to be considered after Item 23 (Localised council tax support scheme).

76 Adult Social Care - Local Account

Members considered the submitted report setting out the first Local Account for Adult Social Care. It was noted that the Government had asked for Local Accounts to be put in place to enable councils the opportunity to share a common approach to the performance of adult social care. The Local Account highlighted what had been achieved for local people in relation to adult social care, outlined the level of performance for the last financial year and commitment to future service delivery.

It was proposed by Councillor Bent and seconded by Councillor Hytche:

that, subject to any additional recommendations from the Mayor and Group Leaders, the Local Account, as set out in Appendix 1 to the submitted report, be approved.

On being put to the vote, the motion was declared carried (unanimous).

77 Revenue Budget Monitoring 2012/13 - Quarter 2

The Council noted the current projected outturn for the Revenue Budget 2012/2013 based on quarter 2 information, as set out in the submitted report. The Chairman advised that members of the Overview and Scrutiny Board had identified areas which they wished to explore further at a future meeting of the Board.

78 Capital Investment Plan Update - 12/13 (2nd Quarter)

The Council considered the submitted report setting out an overview of the Council's approved Capital Investment Plan for the quarter ending September 2012. The report provided details of expenditure and funding of service and community assets within the Council's approved Capital Plan. A revised officer recommendation was tabled at the meeting.

It was proposed by Councillor Tyerman and seconded by Councillor Hill:

- (i) that Council notes the latest position on the Capital Investment Plan; and
- (ii) that Council approve £0.1m for the purchase of 25 beach huts at Broadsands as a prudential borrowing scheme to be funded from additional income from the new beach huts, subject to 60% of the beach huts being pre-let.

On being put to the vote, the motion was declared carried.

79 Pay Policy and Annual Statement

The Council considered the submitted report setting out the Council's Annual Pay Policy Statement as required under Section 38 (1) of the Localism Act 2011. It was noted that the Policy drew together the Council's overarching policies on pay and conditions which would be published on the Council's website.

It was proposed by Councillor Thomas (D) and seconded by Councillor Hernandez:

that the Torbay Council Annual Pay Policy Statement be approved in order for the Council to be compliant with Section 38 (1) of the Localism Act 2011.

An amendment was proposed by Councillor Darling and seconded by Councillor Pentney:

subject to the Executive Head of Business Services being requested to develop a policy statement to make it clear Torbay Council's wish not to participate in the introduction of regional pay both for the Council and, where possible, our partner organisations.

On being put to the vote, the amendment was declared carried.

The substantive motion (the original motion with the additional wording) was then before Members for consideration.

On being put to the vote, the substantive motion was declared carried.

80 Draft Annual Report 2011/12

The Council received the draft Annual Report for 2011/12 which set out the Council's performance, financial information and achievements over the past year.

It was proposed by Mayor Oliver and seconded by Councillor Thomas (D):

that, subject to any additional recommendations from the Mayor and Group Leaders, the Annual Report 2011/2012 as set out in Appendix 1 to the report be approved.

On being put to the vote, the motion was declared carried.

81 Corporate Plan 2012 - 2015

The Chairman advised that, due to the report being circulated late, consideration of the report had been deferred to allow the public and members sufficient time to consider the report.

82 Gambling Statement of Principles 2013

The Council considered a report on the revised draft Gambling Policy which set out the principles by which Torbay Council would exercise their functions under the Gambling Act.

It was proposed by Councillor Addis and seconded by Councillor Ellery:

that the Gambling Policy Statement of Principles 2013, as set out in Appendix 1 to this report be approved.

On being put to the vote, the motion was declared carried (unanimous).

83 Torquay Inner Harbour Pontoon Berthing Project

The Chairman advised that, due to the report being circulated late, consideration of the report had been deferred to allow the public and members sufficient time to consider the report.

84 Allocations Policy and Local Tenancy Strategy

Members considered a report on a review of the processes used by the Council to make social housing allocations, to manage its waiting lists and the use of tenancies for social housing as a result of new powers available under the Localism Act 2011.

It was proposed by Councillor Thomas (D) and seconded by Councillor Lewis:

- (i) that the Council continue with the Devon Home Choice partnership agreement and allocations policy and review the future policy approach when the next review of Devon Home Choice is completed; and
- (ii) that the Local Tenancy Strategy be published in January 2013 and local registered housing providers be encouraged to have due regard to Torbay's Local Tenancy Strategy.

On being put to the vote, the motion was declared carried.

85 Third Party Planning Contributions towards the South Devon Link Road

The Council considered the submitted report on proposals to collect contributions from third parties to help meet the funding commitments for the South Devon Link Road on a temporary basis until the Community Infrastructure Levy was put in place.

It was proposed by Councillor Thomas (D) and seconded by Councillor McPhail that:

- (i) where new development impacts on, or contributes to the need for the South Devon Link Road, a S106 Contribution would be sought towards funding it; and
- (ii) in order to meet the Council's financial commitments, contributions to the South Devon Link Road should be given a high priority when negotiating S106 Obligations, where lawful.

On being put to the vote, the motion was declared carried (unanimous).

86 Adjournment

At this juncture, the meeting was adjourned until 5:30 pm on Thursday 6 December 2012.

87 Petitions

In accordance with Standing Order A12, the Council received the following petitions:

- (i) petition requesting the addition of a small piece of play equipment suitable for children under four years old/toddlers in Armada Park (approximately 152 signatures); and
- (ii) petition submitted as follows:

"It is National Enterprise Week at Combe Pafford School. The upper school will be raising awareness of homeless young people in Torbay. In the UK there are 75,000 homeless young people (Shelter). In the South West there will be 2,000 homeless young people on Christmas Day (Crisis). We would like to

highlight the issue to the Mayor of Torquay and seek agreement that more action is needed to beat homelessness.” (approximately 229 signatures).

At the invitation of the Chairman, Amy, Reece and Georgina, pupils of Combe Pafford School, addressed the Council in relation to the petition in (ii) above. The Chairman advised that the petition would be referred to the Director of Children’s Services for consideration in consultation with the Mayor and Executive Lead for Strategic Planning, Housing and Energy.

It was noted that the petition in (i) above had been referred direct to the Group Service Manager (Streetscene and Place) for consideration in consultation with the Executive Lead for Tourism and Environment, Councillor Richards, at the request of the petitioners.

88 Public question time

In accordance with Standing Order A24, the Council heard from Mr Barfoot, Mr Pearman-Brooks, Mr Colville, Mr Fields and Mr Snow (on behalf of Ms Pickles) who had submitted statements and questions in relation to flooding in Torre. The Council also received a question on the same subject from Mr Selley who did not wish speak at the meeting. Councillor Excell responded to the statements and questions that had been put forward, plus supplementary questions asked by Mr Pearman-Brooks, Mr Fields and Mr Barfoot (on behalf of Mr Colville). Councillor Excell advised that he would provide a written answer in respect of the supplementary question asked by Mr Pearman-Brooks.

89 Members' questions

Members received questions, as attached to the agenda, notice of which had been given in accordance with Standing Order A13.

Verbal responses were provided at the meeting. Supplementary questions were then asked and answered by the Mayor (questions 1, 3, 6, 10 and 12 and the urgent question), Councillor Addis (question 5), Councillor Thomas (D) (question 8), Councillor Tyerman (questions 9 and 13) and Councillor Lewis (question 11). In the absence of Councillor Pritchard, question 2 was deferred to the next Council meeting.

90 Notice of Motion - A Fair Deal for Social Care Clients

Members considered a motion in relation to social care clients receiving ‘a fair deal’, notice of which was given in accordance with Standing Order A14.

It was proposed by Councillor Baldrey and seconded by Councillor Darling:

this Council notes that according to the latest census figures Torbay has 9,500 residents of 80 years of age or greater and that this represents almost twice the national average figure for this age group. This is without doubt the age group most likely to be in need of long term social care.

This Council notes that the report of the Commission on Funding of Care and Support chaired by Andrew Dilnot was sent to the Chancellor of the Exchequer and the then Secretary of State for Health on 4th July 2010. The report recommended, inter alia:

- a) that a cap should be set on an individual's contributions, and
- b) that the upper threshold for means-testing should be raised.

This Council calls upon Her Majesty's Government to:

- i. bring forward legislation to implement these two proposals without any further delay; and
- ii. ensure that the necessary funding provided to all local authorities is based upon the demographics of the eligible population rather than an arbitrary formula.

The Council calls on the Chief Operating Officer to write to the Secretary of State for Health outlining these concerns.

In accordance with Standing Order A14.4(a), the Monitoring Officer advised that the motion stood referred to the Mayor. The Mayor advised he would refer the motion to the People (Adults) Policy Development Group to allow the matter to be examined further.

91 Notice of Motion - Ethical Consumer and Use of Tax Havens by Companies Operating Public Services

Members considered a motion in relation to Ethical Consumer and use of tax havens by companies operating public services, notice of which was given in accordance with Standing Order A14.

It was proposed by Councillor Darling and seconded by Councillor Pentney:

this Council:

congratulates Ethical Consumer for its work exposing the poor ethical record of the companies being awarded contracts to run our public services;

is deeply concerned that 13 of the 20 companies surveyed avoid tax through the use of tax havens;

believes that the Council's procurement, at around £50 million a year, has the potential to have a major positive impact on the market for ethical goods and services;

notes that whilst the Council has some ethical guidance regarding ethical procurement this policy could be significantly strengthened; and

calls on the Council to bring forward a set of legally binding procurement rules that subject companies delivering and bidding for the delivery of public

service contracts to high ethical, environmental and anti-tax avoidance standards as measured against the criteria developed by Ethical Consumer.

The Council requests the Chief Operating Officer to write to the Chancellor of the Exchequer to highlight the Council's support for the work and the concerns raised by the Ethical Consumer.

The Council's representatives on the appropriate bodies within the Local Government Association be requested to also highlight the Council's support for the work undertaken by the Ethical Consumer and through this encourage other Local Authorities to adopt a similar approach to tax avoidance.

In accordance with Standing Order A14.3(b), the Monitoring Officer advised that the motion would be dealt with by this meeting.

During the debate, the Mayor suggested the motion be amended to include the Chief Operating Officer also writing to local MP's and the Local Government Association. In accordance with Standing Order A16.8, Councillor Darling accepted the Mayor's proposed additions.

On being put to the vote, the motion (with the additions outlined above) was declared carried (unanimous).

92 Notice of Motion - Loan Sharks

Members considered a motion in relation to loan sharks, notice of which was given in accordance with Standing Order A14.

It was proposed by Councillor Cowell and seconded by Councillor Morey:

this Council notes and welcomes the UK-wide campaign to end 'legal loan sharking'.

Believes that the lack of access to affordable credit is socially and economically damaging. Unaffordable credit is causing a myriad of unwanted effects such as poorer diets, colder homes, rent, council tax and utility arrears, depression (which impacts on job seeking behaviour), stress leading to family relationship issues, child poverty and poor health.

Further notes that unaffordable credit is extracting wealth from the most deprived communities.

Believes it is the responsibility of all levels of government to try to ensure affordable credit for all, and therefore pledges to use best practice to promote financial literacy and affordable lending. This will help to ensure that wealth stays in the local economy. We also pledge to promote credit unions in Torbay, community based organisations offering access to affordable credit and promoting saving.

Calls on the government to introduce caps on the total lending rates that can be charged for providing credit.

Calls on the government to give local authorities the power to veto licences for high street credit agencies where they could have negative economic or social impacts on communities.

Torbay Council will:

- Encourage and promote, through payroll giving, contributions to credit unions by council staff and partner organisations.
- Write to the Government to request a review of planning legislation to discourage the proliferation of high street loan providers.
- Support local credit unions in raising their identity and if possible create a high street presence.

In accordance with Standing Order A14.4(a), the motion stood referred to the Mayor. The Mayor advised he would refer the motion to the People (Communities) Policy Development Group to allow the matter to be examined further.

93 Neighbourhood Planning in Torbay: Applications for Neighbourhood Forums and Plan Areas

The Council considered the submitted report outlining applications for neighbourhood planning areas for Torquay, Paignton and Brixham and constitutions submitted by their respective Forums. It was noted the Localism Act 2011 introduced neighbourhood plans as a tool for shaping the development and growth of a local area and would be part of the development plan and local plan. A revised officer recommendation was tabled at the meeting.

It was proposed by Councillor Thomas (D) and seconded by Councillor Morey:

- (i) that the Neighbourhood Plan areas and forums of Torquay, Paignton and Brixham, and their constitutions, be approved subject to the Executive Head for Spatial Planning (in consultation with the Group Leaders and Executive Lead for Strategic Planning, Housing and Energy) being able to withdraw this approval with immediate effect in respect of any Forum in the event of any of the following applying to that Forum;
 - (a) the Forum is not able to demonstrate that they have at least 21 members who live or work in the area, or are elected councillors;
 - (b) the Forum is not acting in accordance with its constitution; and
 - (c) the Forum has failed to comply with a reasonable direction of the Executive Head, Spatial Planning within a reasonable period from such direction being made;

- (ii) that all Neighbourhood Forums be instructed that the Council may choose not to advertise a submitted plan or put it forward for examination, if the matters referred to in paragraph 3.9 of the submitted report and (i) above are not addressed to the satisfaction of the Executive Head for Spatial Planning in consultation with the Group Leaders and Executive Lead for Strategic Planning Housing and Energy; and
- (iii) that Local Councillors should take a lead role in ensuring each Neighbourhood Forum meets the terms of its constitution, the requirements of the Localism Act and National Planning Policy Framework and meets or exceeds the requirements of the new Local Plan.

On being put to the vote, the motion was declared carried (unanimous).

94 Localised Council Tax Support Scheme

Members considered the submitted report on proposed responses to the measures set out in the Local Government Finance Bill. It was noted that the Bill required all council tax billing authorities to devise a local Council Tax Support Scheme to replace the current national Council Tax Benefit Scheme. The report also sought appropriate delegations that would allow implementation of the proposals in accordance with the required timescales.

It was proposed by Councillor Tyerman and seconded by Councillor Thomas (D):

- (i) that the proposed local Council Tax Support scheme as set out in Section 2 of the submitted report be approved;
- (ii) that the proposed Vulnerable policy, as set out at Appendix C to the submitted report, be approved;
- (iii) that the proposed Exceptional Hardship Fund policy, as set out at Appendix A to the submitted report, be noted;
- (vi) that delegated authority be granted to the Executive Head of Finance, in consultation with the Executive Lead for Finance and Audit, to make any further adjustments (including those required by any changes to the regulations as approved by Parliament) to implement the proposed Council Tax Support scheme, the proposed Exceptional Hardship Policy and Fund and the proposed Vulnerable policy.

An amendment was proposed by Councillor Darling and seconded by Councillor Pentney:

- (i) the proposed local Council Tax Support Scheme as set out in Section 2 of the submitted report be approved, subject to working age households in receipt of Council Tax Benefit having to pay a reduced amount of Council Tax bill of 12.5% instead of the recommended 25% in the submitted report. The Executive Head of Finance be requested to amend the Council Tax Base Report to reflect the impact of the changes to the Council Tax Support Scheme and the resulting shortfall will be considered as part of the final budget decisions in February 2013. This report to be presented at an extraordinary Council meeting to be arranged in January 2013.

In accordance with Standing Order A19.4 and at the request of Councillor Darling, a recorded vote was taken on the amendment. The voting was taken by roll call as follows: For: The Chairman, Councillors Baldrey, Cowell, Darling, Davies, Doggett, Ellery, Faulkner (A), Faulkner (J), James, Morey, Parrott, Pentney, Pountney, Stocks and Stockman (16); Against: The Mayor, Councillors Addis, Amil, Barnby, Bent, Excell, Hernandez, Hill, Hytche, Kingscote, Lewis, McPhail, Richards, Thomas (D), Thomas (J) and Tyerman (16); and Absent: Councillors Brooksbank, Butt, Mills, Pritchard and Scouler (5). Therefore, in accordance with Standing Order A19.2, the Chairman used his casting vote, voted against the amendment and declared the amendment lost.

The original motion was then put to the vote and in accordance with Standing Order A19.4, a recorded vote was taken. The voting was taken by roll call as follows: For: The Mayor, Councillors Addis, Amil, Barnby, Bent, Excell, Hernandez, Hill, Hytche, Kingscote, Lewis, McPhail, Parrott, Richards, Thomas (D), Thomas (J) and Tyerman (17); Against: Councillors Baldrey, Cowell, Darling, Davies, Doggett, Ellery, Faulkner (A), Faulkner (J), James, Morey, Pentney, Pountney, Stocks and Stockman (14); Abstain: The Chairman (1) and Absent: Councillors Brooksbank, Butt, Mills, Pritchard and Scouler (5). Therefore, the original motion was declared carried.

95 Council Tax Base Report

Members considered the submitted report which set out the Council's tax base for council tax purposes for 2013/14.

It was proposed by Councillor Tyerman and seconded by Councillor Richards:

- (i) that Council (as described in paragraph A3 of the submitted report) approve the following technical adjustments to Council tax discounts:
 - a) Set discount for prescribed class D dwellings (formally exempt class A) to nil (paragraph A3.8 of the submitted report);

- b) Set discount to 100% for a period of one month for prescribed class C dwellings, (formerly exempt class C “unoccupied and substantially unfurnished for less than six months”), and after that initial one month period the discount is nil (paragraph A3.9 of the submitted report);
 - c) Reduce discount for all other prescribed class C dwellings – “unoccupied and substantially unfurnished” to nil (paragraph A3.5 of the submitted report);
 - d) reduce the discount for prescribed class A and B (“second homes”) to nil (paragraph A3.4 of the submitted report);
- (ii) that the calculation of the Council Tax Base for the year 2013/14 be approved as shown in Appendix 1 to the submitted report;
 - (iii) that the calculation of the Brixham Town Council Tax Base for the year 2013/14 be approved as shown in Appendix 2 to the submitted report;
 - (iv) that, in accordance with the Local Authorities (Calculation of Tax base) (England) Regulations 2012, the amount calculated by Torbay Council as its Council Tax base for the year 2013/14 should be 41,586.58;
 - (v) that, in accordance with the Local Authorities (Calculation of Tax base) (England) Regulations 2012, the amount calculated by Torbay Council as the Council Tax base for Brixham Town Council for the year 2013/14 should be 5,597.39;
 - (vi) that the estimated distribution on the Collection Fund as shown in paragraph A4.4 to the submitted report be approved;
 - (vii) that, subject to agreement with Brixham Town Council, the Council transfers the Department for Communities and Local Government allocation of Council Tax Support grant for 2013/14 identified for Brixham Town Council direct to the Town Council; and
 - (viii) that the approval of the Council’s estimate of Business Rate Income (NNDR1) for the next financial year and following years be delegated to the Chief Finance Officer and subsequently distributed to all Members.

On being put to the vote, the motion was declared carried.

Chairman