



Minutes of the Council

4 December 2014

-: Present :-

Chairwoman of the Council (Councillor Barnby) (In the Chair)
Vice-Chairman of the Council (Councillor Hill)

The Mayor of Torbay (Mayor Oliver)

Councillors Addis, Amil, Baldrey, Bent, Brooksbank, Butt, Cowell, Davies, Darling, Doggett, Ellery, Excell, Hernandez, Hytche, James, Kingscote, Lewis, McPhail, Mills, Morey, Parrott, Pentney, Pountney, Scouler, Stockman, Stocks, Stringer, Thomas (D), Thomas (J) and Tyerman

103 Opening of meeting

Members observed a minute's silence as a mark of respect in memory of the late Councillor Jeanette Richards who passed away recently after losing her battle with cancer and who will be greatly missed. The Chairwoman's Chaplain then opened the meeting with a prayer.

104 Apologies for absence

Apologies for absence were received from Councillors Faulkner (A), Faulkner (J) and Pritchard.

105 Minutes

The Minutes of the meeting of the Council held on 30 October 2014 were confirmed as a correct record and signed by the Chairwoman.

106 Declarations of interests

Councillor Doggett declared a non-pecuniary interest in Minute 117 as he was a lay member of the Joined Up Medicines Operational Group, a sub-group of the Clinical Commissioning Group.

107 Communications

The Chairwoman:

- a) advised that this was the last Council meeting for her Chaplain, Reverend Gillian Maude, as she was moving in to St Paul's Church, Jarrow, home of

the Venerable Bede. On behalf of the Council, the Chairwoman thanked Reverend Maude for her support and wished her well for the future; and

- b) invited members to the Civic Carol Concert which was due to be held on 9 December 2014 at the Riviera International Conference Centre, Torquay

The Mayor:

- a) announced that successful negotiations had been concluded between the Council, Langley House Trust and Shekinah, for the continuation of the Leonard Stocks Centre providing accommodation and support year round and 24 hours per day. The Mayor advised the service provided support to people who are rough sleeping, homeless or socially excluded and have a support need; and
- b) provided an outline of his provisional budget proposals for 2014/15 which had been circulated on 4 December 2014.

108 Order of Business

In accordance with Standing Order A7.2 in relation to Council meetings, the order of business was varied to enable agenda Item 18 (Appointment of Director of Public Health) to be considered before Item 12 (Proposed Council Tax Support Scheme 2015/16).

109 Petitions

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

- (i) petition to allow year long dog walking on Hollicombe Beach (approximately 810 written signatures); and
- (ii) petition requesting more trees to be planted on Mincent Hill and in Watcombe, Torquay (approximately 8 e-signatures and 38 written signatures).

The Chairwoman reported, that since the publication of the agenda, the petitioners in respect of the petition (i) above had requested their petition be referred direct to the Director of Place for consideration in consultation with the Deputy Mayor and Executive Lead for Tourism.

At the invitation of the Chairwoman, Ms Wells addressed the Council in relation to the petition (ii) above. It was noted that the petition would be referred to the Director of Place, for consideration in consultation with the Deputy Mayor and Executive Lead for Tourism.

110 Public Question - Oldway Mansion

In accordance with Standing Order A24, the Council heard from Ms Maggi Douglas-Dunbar who had submitted a question in relation to Oldway Mansion. The Mayor responded to the question that had been put forward.

111 Members' questions

Members received a paper detailing the 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 in respect of the questions.

112 Notice of Motion - Review of Safer Communities Policies (Mayoral Decision)

Members considered a motion in relation to an urgent review of Safer Communities' policies and priorities for the protection and care of women in Torbay, notice of which was given in accordance with Standing Order A14.

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

that this Council requests that the Mayor, in collaboration with the Executive Lead for Safer Communities, lead an urgent review of the priorities and policies of Safer Communities for the protection and care of women in the Bay. That this review be carried out in public, include invitations to the Police and Crime Commissioner and Bay MPs, and involve the participation of all councillors, as the elected representatives of their respective wards, throughout the review.

Council calls for this review in light of the level of crimes against women, including the increase in the number of assaults (both physical and psychological), sexual assaults, rapes and child sex abuse in our Bay.

In accordance with Standing Order A14.3(a), the motion stood referred to the Mayor.

The Mayor advised that he would refer the motion to the People Communities Policy Development Group for the review to be given careful consideration.

113 Notice of Motion - Governance Review (Mayoral Decision)

Members considered a motion in relation to preparations for a governance review for the new administration post May 2015, notice of which was given in accordance with Standing Order A14.

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

in order to avoid any delay, this Council requests officers to prepare a report in readiness for the new administration following the local elections in May 2015 which sets out;

- a) options for determining the way in which Torbay Council operates its' governance model;
- b) the requirements to hold a referendum to consider changing from an elected mayor system to a cabinet style model;
- c) possible dates for a referendum to be held alongside other elections such as the Neighbourhood Plan referenda expected in late 2015; and
- d) to the associated options for reducing the number of elected councillors from 36.

In accordance with Standing Order A14.3(a), the motion stood referred to the Mayor.

The Mayor, whilst he supported the need for a referendum for a review of the Council's governance arrangements, rejected the motion as he considered it was not good use of officer time to undertake this work when the wishes of any new administration post elections in 2015 were unknown at this stage.

114 Notice of Motion - Future of Torbay (Mayoral Decision)

Members considered a motion in relation to the future of Torbay Council, notice of which was given in accordance with Standing Order A14.

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

Council notes:

- a) the ongoing reduction by the Government to the funding provided to support local services. Over the past four years the Council has made budget reductions of over £30 million with £14m planned for 2015/16. Although no figures have yet been announced for 2016/17, it is expected that the rate of annual reductions in local government funding will continue until 2020;
- b) that the Mayor has previously held discussions with other south west authorities about local government reorganisation in the south west;
- c) the strong and enthusiastic participation shown by the people of Scotland in a remarkable democratic process leading to the Referendum on 18 September 2014; and
- d) the resulting increased discussion on the devolution of powers from central government in Westminster and Whitehall.

Council believes:

1. that the long term viability of the current structure and funding arrangements for Torbay Council is unstable due to the continuing financial constraints placed on it by central government;
2. that debates on the future of local government should be conducted in an open and transparent manner and led by our local communities;
3. that power should be devolved to the people in all parts of the United Kingdom;
4. that England is currently ruled by an over-centralised state that fails to reflect localities and regions; and
5. that concentrating more power to English MPs in Westminster is not the answer for English devolution and that passing power down to local areas of England is essential.

Council therefore calls for:

- i) engagement in a continuing dialogue with our communities for what form of local government reorganisation will best ensure the long term sustainability for local services, which includes accountability and openness in local government; and
- (ii) Torbay's MPs, the Mayor and Group Leaders to lobby for urgent major devolution of power, including tax raising and spending, from central government to the regions, counties, boroughs and districts and cities of England.

And that such lobbying should emphasise:

- that the devolution of powers and finance to English Councils be carried out in ways that enhance and strengthen local democratic bodies. This must include agreement that it shall be for local people and communities to decide their form of democratic leadership without having a specific model imposed (for example directly elected Mayors) in return for more powers; and
- a recognition that English devolution must include both large cities and county areas, as the many Councils not within city regions must also gain greater powers and finance in order to build successful and prosperous futures.

In accordance with Standing Order A14.3(a), the motion stood referred to the Mayor.

The Mayor rejected the motion as he considered any discussions should take place after the elections in 2015 with any new Council leaders and the new Government.

115 Proposed Covenant protecting Churston Golf Course from development - Notice of Call-In

At its meetings held on 16 and 22 October 2014, the Overview and Scrutiny Board considered the Notice of Call-in of the decision of the Mayor (taken at the Council meeting on 25 September 2014) on a proposed covenant protecting Churston Golf Course from development. The Board resolved that the decision of the Mayor be referred to Council for consideration.

The Council considered the submitted report on the findings of the Overview and Scrutiny Board regarding the Mayor's decision on the proposed covenant and the report of the Senior Service Manager, Spatial Planning which set out further advice following the Local Plan Hearing.

It was proposed by Councillor Thomas (J) and seconded by Councillor Darling:

that the Mayor be requested to reconsider his previous decision on the covenant protecting Churston Golf Course from development, and take no further action on the petition in light of the findings of the Overview and Scrutiny Board in respect of the following:

- (a) legal implications of the decision;
- (b) financial implications of the decision;
- (c) implications for the Local Plan;
- (d) fairness of the decision on other wards in Torbay; and
- (e) potential damage to the economy.

In accordance with Standing Order A19.4, a recorded vote was taken on the motion. The voting was taken by roll call as follows: For: Councillors Addis, Amil, Baldrey, Barnby, Bent, Brooksbank, Butt, Cowell, Darling, Davies, Doggett, Ellery, Excell, Hernandez, Hill, James, Kingscote, Lewis, Morey, Parrott, Pentney, Pountney, Scouler, Stocks, Stockman, Stringer, Thomas (D), Thomas (J) and Tyerman (29); Against: Councillors Hytche and Mills (2); Abstain: the Mayor (as decision-maker) and Councillor McPhail (2); Absent: Councillors Faulkner (A), Faulkner (J) and Pritchard (3); Therefore the motion was declared carried.

At the invitation of the Chairwoman, the Mayor responded to the recommendation of the Council at the meeting and the record of his decision is attached to these minutes.

116 Amalgamation of Torbay Pupil Referral Unit and Torbay School (Mayoral Decision)

The Council made the following recommendation to the Mayor:

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

- (i) that the Torbay Pupil Referral Unit be closed from 1 January 2015; and
- (ii) that Torbay School be expanded to include 74 places for non-statemented children with challenging behaviour from 1 January 2015.

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

The Mayor considered the recommendation of the Council set out above at the meeting and the record of his decision, together with further information is attached to these Minutes.

117 Appointment of Director of Public Health

The Council considered the results of an options appraisal for the appointment of a permanent Director of Public Health following the resignation of the Director of Public Health in 2013. It was noted Public Health England gave permission to the Council to appoint a replacement on an interim basis to allow an options appraisal to be undertaken for the future. The submitted report set out the results of the options appraisal and the work undertaken with stakeholders and Public Health England.

It was proposed by Lewis and seconded by Councillor Scouler:

- (i) that a joint appointment be made with the Clinical Commissioning Group to the post of Director of Public Health and that Option 7 of Appendix 1 to the submitted report be adopted as the preferred model for future service delivery;
- (ii) that it be noted that the Recruitment to the Director of Public Health post must adhere to the recruitment process set out by Public Health England in partnership with Faculty of Public Health and the Local Government Association; and
- (iii) that the Executive Director of Operations and Finance in consultation with the Executive Lead for Health and Wellbeing be delegated authority to agree the detailed arrangements for the post of Director of Public Health.

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

118 Proposed Council Tax Support Scheme 2015/16

The Council considered the submitted report on proposals for up-rating the current Council Tax Support Scheme for 2015/16. Members noted that for each financial year the Council must consider whether to revise or replace its current scheme by 31 January.

It was proposed by the Mayor and seconded by Councillor Mills:

- (i) that the uprating of working age personal allowances and non dependant deductions for Council Tax Support from 1 April 2015 is in line with the uprating for national welfare benefits;
- (ii) that the uprating of pension age household allowances for Council Tax Support from 1 April 2015 is in line with the Prescribed pensioner scheme for Council Tax Support from 1 April 2015 set by the Government;
- (iii) that an Exceptional Hardship Fund for 2015/2016 of £80,000 be approved to top up Council Tax Support awards in appropriate cases; and
- (iv) that the Executive Head of Finance be given delegated authority, in consultation with the Mayor and Executive Lead for Employment and Regeneration, Finance for Audit, to make any further adjustments required to the Exceptional Hardship Policy and Fund and the Vulnerable policy.

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

- (v) this Council notes that Welfare Reform has resulted in unprecedented levels of financial hardship for our communities in Torbay. The Chancellor of the Exchequer particularly highlighted, in his Autumn Statement yesterday, the need for further savage cuts to the Welfare System. This Council is aware that the cuts have resulted in significant hardship for some people in Torbay as there are levels of unmet need which the current Welfare Reform system is unable to tackle. We therefore request officers to conduct a review of the levels of unmet need and share with our two MPS and central Government the findings of this review.

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

The original motion was then put to the vote and declared carried.

119 Council Tax Base

Members considered the submitted report which set out the Council's tax base for council tax purposes for 2015/16.

It was proposed by the Mayor and seconded by Councillor Mills:

- (i) that the calculation of the Council Tax Base for the year 2015/16 be approved as shown in Appendix 1 to the submitted report;

- (ii) that the calculation of the Brixham Town Council Tax Base for the year 2015/16 be approved as shown in Appendix 2 to the submitted report;
- (iii) 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 2015/16 should be 42,370.75; and
- (iv) 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 2015/16 should be 5,719.39.

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

120 Torbay Council Annual Pay Policy Statement and Review of Pensions Discretions

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 Pay Policy Statement drew together the Council's overarching policies on pay and conditions which would be published on the Council's website.

The submitted report also set out proposed amendments to the Employers Pensions Discretions, specifically Regulations R30(6) Flexible Retirement and Regulation R30(8) Waiving of Actuarial Discretion.

It was proposed by Councillor McPhail and seconded by Councillor Excell:

- (i) that the Torbay Council Annual Pay Policy Statement 2015/16 as set out at Appendix 1 to the submitted report be approved; and
- (ii) that the proposal to amend the Employers Pensions Discretions, specifically Regulation R30(6) Flexible Retirement and Regulation R30(8) Waiving of Actuarial Discretion, as set out in Appendix 2 to the submitted report be approved.

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

121 Revenue Budget Monitoring 2014/15 Quarter 2

The Council noted the current projected outturn for the Revenue Budget 2014/15 based on quarter two information, as set out in the submitted report.

122 Capital Investment Plan Update 2014/15 Quarter 2

The Council received the current position in respect of the Council's approved Capital Investment Plan for quarter two, as set out in the submitted report. The

report provided details of the capital expenditure and funding for the year compared to the latest budget position reported in September 2014.

The Chairwoman reported that a motion and supporting information had been circulated by the Mayor.

It was proposed by the Mayor and seconded by Councillor Excell:

that the Council includes the following items in the Capital Investment Plan to be funded from New Growth Points Grant:

- (i) £350,000 for improvements to the Strand Torquay; and
- (ii) £240,000 for the replacement decking and associated works on Princess Pier.

An amendment was proposed by Councillor Tyerman and seconded by Councillor Bent:

that Council defers a decision on the expenditure of £350,000 for improvements to the Strand, Torquay and £240,000 for the replacement decking and associated works on the Princess Pier, and requests that reports be prepared for Council to consider as follows:

- (a) to explore the economic benefits of using New Growth Points funding to carry out the improvement to the Strand as compared with other potential uses of these funds, for projects which support economic growth in other ways or which support other projects to progress the various Master-plans; and
- (b) to provide more details on the replacement decking and full works required to secure the future for the Princess Pier and the status of the applications for full funding for the structural works required.

In accordance with Standing Order A19.4, a recorded vote was taken on the amendment. The voting was taken by roll call as follows: For: Councillors Addis, Baldrey, Barnby, Bent, Brooksbank, Butt, Cowell, Darling, Davies, Doggett, Ellery, Hernandez, Hill, James, Kingscote, Morey, Parrott, Pentney, Pountney, Stocks, Stockman, Stringer, Thomas (D), Thomas (J) and Tyerman (25); Against: the Mayor, Councillors Amil, Excell, Hytche, McPhail, Mills and Scouler (7); Abstain: Councillor Lewis (1); Absent: Councillors Faulkner (A), Faulkner (J) and Pritchard (3); Therefore the amendment was declared carried.

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

123 Standing Order D11 (in relation to Overview and Scrutiny) - Call-in and Urgency

Members noted the submitted report setting out the executive decision taken in respect of the Heritage Lottery Fund Bid at Cockington to which the call-in procedure did not apply.

Chairwoman

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Record of Decisions

**Petition requesting a covenant protecting Churston Golf Course from development -
Response to Call-in**

Decision Taker

Mayor on 4 December 2014

Decision

That, having reflected on all of the issues raised following the call-in of the Mayor's previous decision taken on 25 September 2014, the following decision is confirmed:

that the Council enters into a deed covenanting with the residents of Churston & Galmpton ward in the following terms;

'Torbay Council covenants with all inhabitants of the ward of Churston and Galmpton that for a period of 100 years beginning on the date of this deed it will not on the land, shown edged in red on the plan attached to the submitted report to the Council meeting on 25 September 2014, known to be Churston Golf Course, allow any development of Churston Golf Course without any such proposal first obtaining the majority of votes in a referendum of the persons who at the day of the referendum would be entitled to vote as electors at an election of Councillors for the Churston and Galmpton Ward and are registered as local government electors at an address within this Ward. For the purposes of this covenant 'development' shall not include any development permitted under the terms of the lease between The Council of the Borough of Torbay and Churston Golf Club Limited dated 3 April 2003. Nothing contained or implied in this Deed shall prejudice or affect the exercise by the Council of its regulatory functions under the Town and Country Planning Act 1990 or any other statute or statutory instrument.'

In accordance with the Local Government Act 1972, the Covenant will be referred to the Secretary of State for consent for the disposal and advertising of the disposal. The covenant will then be appropriately registered with the Land Registry.

Reason for the Decision

To respond to the call-in of the Mayor's decision taken on 25 September 2014.

Implementation

This decision will come into force and may be implemented on 4 December 2014.

Information

At the Council meeting held on 4 December 2014, members considered the Notice of Call-in of the decision of the Mayor on a proposed covenant protecting Churston Golf Course from development, as referred by the Overview and Scrutiny Board. The Council considered the submitted report on the findings of the Overview and Scrutiny Board and the report of the Senior Service Manager, Spatial Planning which set out further advice following the Local Plan

Hearing. The Council made the following recommendation to the Mayor:

‘That the Mayor be requested to reconsider his previous decision on the covenant protecting Churston Golf Course from development, and take no further action on the petition in light of the findings of the Overview and Scrutiny Board in respect of the following:

- (a) legal implications of the decision;
- (b) financial implications of the decision;
- (c) implications for the Local Plan;
- (d) fairness of the decision on other wards in Torbay; and
- (e) potential damage to the economy.’

The Mayor’s decision is set out above.

Alternative Options considered and rejected at the time of the decision

The recommendation of the Council as set out in the ‘Information’ section above.

Is this a Key Decision?

No

Does the call-in procedure apply?

No as this is a response to a call-in in accordance with Standing Order D9.4B.

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

9 December 2014

Signed: _____
Mayor of Torbay

Date: 9 December 2014

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Record of Decisions

Amalgamation of Torbay Pupil Referral Unit and Torbay School (Mayoral Decision)

Decision Taker

Mayor on 4 December 2014

Decision

- (i) that the Torbay Pupil Referral Unit be closed from 1 January 2015; and
- (ii) that Torbay School be expanded to include 74 places for non-statemented children with challenging behaviour from 1 January 2015.

Reason for the Decision

To bring the Torbay Pupil Referral Unit under the leadership and governance of Torbay School resulting in the consolidation of provision for secondary aged children with behavioural, emotional and social difficulties (BESD).

As these changes constitute a change in school organisation, statutory guidance requires the Council to bring these two provisions under one leadership team with one governing body and one Department for Education (DfE) number. This requires one of the provisions to be closed and then the other expanded to include the closed provision. However, by ensuring the changes are made on the same day there is no break or risk to the provision and services on offer.

Implementation

This decision will come into force and may be implemented on 4 December 2014. The Overview and Scrutiny Co-ordinator was consulted and agreed that the decision was urgent and it would not be in the Council or the public's interest for call-in to apply.

Information

The submitted report sets out details of the Council's statutory duty to ensure that appropriate school provision is made available for all children within its area; including alternative provision for those with challenging behaviour who have been excluded from mainstream school.

The Council is required to regularly review the provision on offer. As a result of the Council's recent review and its commitment to developing high quality alternative provision, it is proposed to bring the provision offered by the existing Pupil Referral Unit (PRU) under the management and governance of Torbay School. Torbay School will become a split school site continuing to offer 60 places at its existing site on Torquay Road with an additional 74 spaces on offer at the alternative sites.

The Mayor considered the recommendations of the Council made on 4 December 2014 and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

Alternative options are set out in the submitted report.

Is this a Key Decision?

No

Does the call-in procedure apply?

No (see above)

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

December 2014

Signed: _____
Mayor of Torbay

Date: 9 December 2014