

# SOUTH HAMS COUNCIL



## **Minutes** of a meeting of the **South Hams Council** held on **Thursday, 8th October, 2015** at **2.00 pm** at the **Council Chamber - Follaton House**

Present: **Councillors:**

**Chairman** Cllr Bramble  
**Vice Chairman** Cllr Smerdon

Cllr Baldry	Cllr Horsburgh
Cllr Barnes	Cllr May
Cllr Bastone	Cllr Pearce
∅ Cllr Blackler	Cllr Pennington
Cllr Brazil	Cllr Pringle
Cllr Brown	Cllr Rowe
Cllr Cane	Cllr Saltern
Cllr Cuthbert	Cllr Steer
Cllr Foss	Cllr Tucker
Cllr Gilbert	Cllr Vint
Cllr Hawkins	Cllr Ward
Cllr Hicks	Cllr Wingate
Cllr Hitchins	Cllr Wright
Cllr Hodgson	
Cllr Holway	

∅ Denotes apology for absence

### **In attendance:**

Councillors:

Officers:  
Head of Paid Service  
Monitoring Officer  
Section 151 Officer  
Agenda Item 8 Grant Thornton  
Audit Manager

28/15

The minutes of the annual meeting of Council held on 21 May 2015 and the Special Council meeting held on 10 September 2015 were confirmed as a correct record and signed by the Chairman, subject to removal of 'Cllr A S Gorman' as being in the list of Members at both meetings.

29. **Declarations of Interest**

29/15

Members were invited to declare any interests in the items of business to be considered during the course of the meeting, but there were none made.

30. **Chairman's Engagements**

30/15

The Chairman announced that his chosen charity for this year was to be the Devon Air Ambulance.

31. **The Audit Findings for the 2014/15 Accounts for South Hams District Council**

31/15

A report was considered that presented Grant Thornton's Audit Findings for the year ending 31 March 2015.

The Grant Thornton Audit Manager took Members through the report and in the subsequent debate, particular reference was made to:-

- the Value for Money conclusions. The Audit Committee Chairman wished to highlight Grant Thornton's Value for Money conclusions in respect of:
  - o the Council having robust systems and processes to manage effectively financial risks and opportunities, and to secure a stable financial position that enabled it to continue to operate for the foreseeable future; and
  - o the Council prioritising its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity.
- the excellent audit report. In light of the excellent report, a number of Members wished for their congratulations and thanks to be extended to the Section 151 Officer and her finance colleagues.

It was then:

**RESOLVED**

That the Audit Findings be noted.

32.

### **Questions**

32/15

It was noted that six questions had been received in accordance with Council Procedure Rule 8.

#### **From Cllr Pennington to Cllr Holway, Chairman of the Licensing Sub-Committee meeting held on 20 August 2015**

- (a) *'Of the four Licensing Objectives that underpin the Licensing Act 2003, two of these state: 'public safety' and 'the prevention of public nuisance'. Therefore, on the application for a new premises licence for Firewood Restaurant and Bar in Marldon on 20 August 2015, the Licensing Sub-Committee did not receive a 'police report' in relation to the application giving any views or opinion on 'public safety' and 'public nuisance' despite strong objections from the public and parish council and it has been confirmed that only a verbal confirmation had been received from the Police Licensing Officer that he had no objections to the application.*

*Therefore, in reaching the conclusion to grant the application, the Licensing Sub-Committee did not have either any written evidence from the police or any knowledge as to whether the police had visited and appraised the location and investigated the objections from members of the public and the parish council on issues citing both 'public safety' and 'public nuisance'.*

*Does the Chairman of the Licensing Sub-Committee therefore consider that the failure of the police, as a statutory consultee, to produce a written report on the issues of 'public safety' and 'public nuisance' for consideration by the Licensing Sub-Committee to be in breach of the Licensing Act 2003 and hence if so to invalidate the decision taken by the Licensing Sub-Committee?'*

In response, Cllr Holway stated that he did not agree that the Police had failed in this regard.

#### **From Cllr Pennington to Cllr Holway, Chairman of the Licensing Sub-Committee meeting held on 20 August 2015**

- (b) *'Can the Chairman of the Licensing Sub-Committee confirm whether a police officer visited the site of the Firewood Restaurant and Bar to investigate any issues involving 'Public Safety' and 'Prevention of Public Nuisance' and if so the date on which any such visit took place and the name of the police officer?'*

In reply, Cllr Holway responded 'yes', 'no' and 'no' respectively.

#### **From Cllr Pennington to Cllr Steer, Chairman of the Development Management Committee meeting**

- (c) *'Can the Chairman of the Development Management Committee give an assurance that in connection with all future planning applications, the Planning Authority will demand written reports to be submitted to South Hams District Council Planning Authority by*

*all statutory consultees and NOT merely verbal confirmation either in support or against applications?'*

In reply, Cllr Steer stated that the Council would not demand that written reports be submitted by all statutory consultees. In addition, whilst legislation set out the definition of a response, it did not mention how that response should be submitted. Therefore, it would be difficult to insist on a written report, but it was presumed that, should a consultee wish to make a comment either in favour or against an application, then it would be received in writing. Finally, Cllr Steer informed that, if a statutory consultee had 'no comment' to make, then it was not felt that the Council could insist on that being in writing.

**From Cllr Pennington to Cllr May, Chairman of the Licensing Committee**

(d) *'Will the Chairman of the Licensing Committee confirm that in all future licensing applications, written reports will be demanded from all statutory consultees?'*

In reply, Cllr May stated that written reports would not be demanded from statutory consultees in all future licensing applications.

**From Cllr Hodgson to Cllr Tucker, Leader of the Council**

(e) *'In light of the current refugee crisis (and the recent update from the Council's Specialist (Communications and Media) on the Refugee Crisis), I ask the Leader if this Council is willing to play its part in supporting and accommodating its fair share of refugees. Would the Leader therefore be willing to agree to:*

- *Ask our Housing Officer to write to local housing associations, owners of empty houses and second homes in the South Hams to encourage them to make properties available to resettle refugees;*
- *Commit to ensuring that refugees are welcomed in this area and help facilitate this process by asking our officers and Councillors to support local service provision and work with those co-ordinating the immense public will to help; and*
- *Write to the Prime Minister to assure him that South Hams District Council stands ready and willing to help at this time of crisis.'*

In response, Cllr Tucker made the following points:-

(a) Further to the statement he had made at the last Executive meeting on 10 September 2015 (Minute E.17/15 refers), the Council remained committed and willing to fulfil its responsibilities to accommodate refugees;

(b) Officers were in regular discussions with colleagues at Devon County Council (DCC) and it was as yet unknown how many

refugees were to be accommodated in the South West region. Moreover, the Local Government Association and District Council Network were talking to Ministers on a daily basis on this issue;

- (c) Until the Council was made aware of what was being proposed by central government and DCC, it was felt to be a little early in the process to be writing to Registered Social Landlords;
- (d) The general infrastructure of the South Hams (e.g. transport and highways links) would not make it easy to support and accommodate refugees;
- (e) He was committed to keeping all Members informed of progress updates on what was such an evolving and important issue.

Prior to asking a supplementary question, Cllr Hodgson handed Cllr Tucker a 178 signatory petition which asked that the Council be proactive in this regard. In her supplementary, Cllr Hodgson made reference to a public meeting in Totnes on this matter at 7.00pm on Saturday, 10 October and asked if Cllr Tucker would be willing and able to attend. In response, Cllr Tucker advised that he was unable to attend due to a prior commitment, but he would see if any other Council representatives were able to attend.

#### **From Cllr Baldry to Cllr Tucker, Leader of the Council**

- (f) *Is the Leader aware that Maidstone Borough Council has written into their Constitution that Chairmen and Vice-Chairmen of Committees have to be from different political groups and does he agree with the Leader of Maidstone BC that such a requirement increases transparency and public confidence?*

In response, Cllr Tucker advised that the political composition of Maidstone Borough Council was much more finely balanced than South Hams District Council. The Leader proceeded to inform that he remained committed to ensuring that the most suitable Members were appointed to the most appropriate Council roles regardless of political affiliation. For example, the Leader cited the Salcombe Harbour Board Chairman appointment as a casing point.

In his supplementary, Cllr Baldry asked the Leader if he was aware of recent research from Cambridge University that had concluded that local authorities were wasting millions of pounds and there was a consequent need for more rigorous scrutiny. In reply, the Leader confirmed that he was aware of the findings and it was his view that the new governance arrangements (post May 2015 elections) had resulted in the Council now having a far more robust overview and scrutiny function.

It was noted that three motions had been received in accordance with Council Procedure Rule 10.1.

**(a) By Cllrs Wright and Ward**

*'As a result of the Governments recent announcement that Housing Associations will have to cut Social housing rents by 1% each year for the next four years from April 2015, this Council wishes to express its concerns that this policy will reduce the number of affordable homes being brought forward in our District, and asks for the support of the local members of Parliament.'*

In light of the recent ministerial statement, the proposer and seconder of the motion felt it would be more appropriate for this motion to be deferred to the next meeting.

**(b) By Cllrs Brazil and Baldry**

*"This Council welcomes the publication of the Government's Rural Productivity Plan. However, we question the solutions to solve our housing needs contained in the Plan. As such we invite the Secretary of State to visit South Hams to hear our concerns and explore alternative solutions including the Village Housing Initiative."*

In introducing the motion, the proposer made reference to:-

- the published DEFRA report being welcomed. The report presented a clear ten point plan for rural productivity and the proposer encouraged fellow Members to read the report;
- concern over the housing needs solutions. In particular, the proposer expressed concern regarding those suggested solutions to increase both social mobility and right to buy, whilst deciding to appeal the Judicial Review decision in respect of planning obligations thresholds. The decision to appeal was felt to be in direct contradiction and would in fact (if overturned) result in less affordable housing provision in rural areas;
- the purpose of the Secretary of State invite being to listen to the concerns of the Council and take on board its views in this respect. In so doing, the proposer hoped that it was a misunderstanding of central government in terms of the severe housing issues facing rural areas like the South Hams.

In discussion, the following points were raised:-

- (i) It was noted that there was broad agreement amongst rural local authorities that the national affordable housing policies did not reflect or take into account rural areas;
- (ii) Some Members stressed that policies would result in starter homes only being classified as such for five years. Based upon current statistics, it was estimated that the average South

Hams resident would need a £50,000 salary increase to be able to afford to purchase a starter home;

- (iii) It was felt that the most effective means of trying to achieve a visit from the Secretary of State was to contact our local MPs. Alternatively, it was also suggested by the Leader that the Secretary of State may be more inclined to attend a meeting of the Devon Districts Forum and he was happy to raise this matter at the next scheduled Forum meeting. In addition, there was broad support for the Council writing to express our views to the District Council Network.

It was then:

### **RESOLVED**

This Council welcomes the publication of the Government's Rural Productivity Plan. However, we question the solutions to solve our housing needs contained in the Plan. As such we invite the Secretary of State to visit South Hams to hear our concerns and explore alternative solutions including the Village Housing Initiative.

#### **(c) By Cllrs Hodgson and Baldry**

*'With regard to the recent question to Executive regarding the underlying factors and principles regarding SHDC annual and four year budgets, we wish to propose that this Council adopts a set of easily understood and transparent principles for how it sets the budget, such that all Councillors and residents can understand how their council tax is spent.'*

In introducing the motion, the proposer made reference to:-

- the value of the recent Member Budget Workshop. The merits of the Workshop were recognised and this motion was seeking to build upon ideas that were generated at this session;
- the motion not intending to give any more work to the S151 Officer and her finance colleagues;
- the benefits of showing how Council budgets related to the corporate priorities.

In the ensuing debate, the following points were raised:-

- (a) Some Members expressed their reservations at this motion and felt that the Council did an exceptionally good job of consulting and communicating on the annual Budget proposals. Specifically, in respect of communications, there was considered to be merit in investigating whether the South Hams Matters publication should be re-established. In response, the Head of Paid Service advised that both the

publication and the wider budget setting process would form part of the considerations when the Council's External Communications Strategy was being developed;

- (b) In support of the motion, other Members highlighted the public right for openness and transparency and were of the view that the public understanding of all aspects of the Council's budget was poor;
- (c) Some Members reiterated the relevance of the value for money conclusions that had been reached by Grant Thornton in its Audit Findings report (Minute 31/15 above refers);
- (d) Two amendments were suggested to the motion as indicated below:

*'With regard to the recent question to **the Overview and Scrutiny Panel** regarding the underlying factors and principles regarding SHDC annual and four year budgets, we wish to propose that this Council **continues to utilise** a set of easily understood and transparent principles for how it sets the budget, such that all Councillors and residents can understand how their council tax is spent.'*

The proposer and seconder confirmed that they were content to accept both of these amendments and they were therefore included in the substantive motion.

When put to the subsequent vote, the motion was declared **LOST**.

#### 34. **Amendments to the Council's Procedure Rules Regarding the Dismissal of Senior Officers**

34/15

The Council considered a report that dealt with the requirements set out in the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 in respect of the new arrangements for taking disciplinary action against the Council's statutory officers, namely the Head of Paid Service, the Section 151 Officer and the Monitoring Officer.

In discussion, a Member stated his support for these Regulations, which he felt were long overdue and would reduce unnecessary bureaucracy.

It was then:

#### **RESOLVED**

1. That the Council amend its Procedure Rules and Officer Employment Rules in the Council's Constitution to give effect to the provisions of the Local Authorities (Standing Orders) (England)



(Amendment) Regulations 2015 ('the Regulations').  
In particular:

- (a) the Head of Paid Service, Section 151 Officer and Monitoring Officer may only be dismissed by the Council; and
  - (b) when considering whether to dismiss any of the officers set out in (a) above the Council must have regard to any view expressed by an Independent Panel.
2. That the Council's Independent Persons (appointed under the Localism Act 2011) are invited to be part of a Panel for the purposes of the Regulations; and
3. That the Monitoring Officer amend the Council Constitution accordingly.

35. **Reports of Bodies**  
35/15

**RESOLVED**

That the minutes and recommendations of the undermentioned bodies be received and approved subject to any amendments listed below:-

- (a) Development Management Committee 27 May 2015
- (b) Overview & Scrutiny Panel 4 June 2015
- (c) Executive 18 June 2015
- (d) Audit Committee 25 June 2015
- (e) Development Management Committee 1 July 2015
- (f) Overview & Scrutiny Panel 9 July 2015
- (g) Salcombe Harbour Board 13 July 2015
- (h) Executive 23 July 2015
- (i) Development Management Committee 29 July 2015
- (j) Audit Committee 30 July 2015

**A.11/15: Contract Procedure Rules**

**RESOLVED**

That the updated version of the Contract Procedure Rules has been reviewed and be adopted.

(k) Overview and Scrutiny Panel

27 August 2015

(l) Development Management Committee 2 September 2015

**DM.27/15: Development Management: Public Participation Scheme**

**RESOLVED**

1. That the Development Management Public Participation Scheme be amended to enable the opportunity for town and parish council representatives to speak on planning applications within their own town or parish provided that they abide by the same rules as applied for objectors and supporters;
2. That the Site Inspection Protocol be amended to state that town and parish councils are able to attend site inspections but would no longer be invited to make presentations. There would be an opportunity for one spokesperson representing the town or parish council to ask questions of clarity or to make specific points based on local knowledge to the Chairman; and
3. That the Development Management Public Participation Scheme be amended so that linked applications presented to Committee are only allowed one time slot per speaker.

(m) Executive

10 September 2015

**E.20/15: Invest to Save: Glass Banks at Torr Quarry**

**RESOLVED**

1. That investment in a capital spend of a maximum of £28,000 to build three new glass storage bays at Torr Quarry in order to reduce resource requirement for glass collections/journeys across the district. It was estimated that the investment would pay back within year one;
2. That Immediate Implementation in order to maximise the income which can be derived from the Councils glass recycle; and
3. That the spend be taken from the capital programme contingency reserve.

**E.22/15: Joint Data Protection Policy**

**RESOLVED**

1. That the Joint Data Protection Policy (as attached at Appendix A of the presented agenda report to the Executive) and supporting Codes of Practice and documentation of the presented agenda report be approved; and
2. That the Monitoring Officer be granted delegated authority to make minor amendments to the Codes of Practice and supporting policy documentation to reflect the emerging working practices of the Council.

(n)Overview and Scrutiny Panel

17 September 2015

**O&S.42/15: Development Management Service Update**

When questioned, the Head of Paid Service informed that the Council's organisational structure chart was in the process of being finalised and would be made available to Members as soon as was practically possible.

The Meeting concluded at 3.15 pm

**Signed by:**

**Chairman**

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