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West Devon
Borough
Council

WEST DEVON COUNCIL - TUESDAY, 15TH MAY, 2012

Agenda, Reports and Minutes for the meeting

Agenda No Item

1. **Summons Letter** (Pages 1 - 4)

2. **Reports**

Reports to Council:

- a) Item 5 EXEMPT - To receive a report of the Head of Planning, Economy & Community on a proposed High Court Action (Pages 5 - 12)
- b) Item 6 - EXEMPT - To receive the report of the Corporate Director on the consideration of current and future Leisure Contract (Pages 13 - 24)

3. **Minutes** (Pages 25 - 28)

Minutes – 15 May 2012 – Special Meeting

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Dated this 4th day of May 2012

A handwritten signature in black ink, appearing to read "P. Heard". The signature is written in a cursive style with a large initial "P" and a distinct "H".

Chief Executive

West Devon Borough Council Members' Code of Conduct

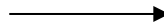
Declarations of interest

If you are in any doubt about what to do, please seek advice

Do you have an interest in any item?



Is it a **Personal** interest?



A **Personal** interest is one that:

- you should include on your Register of Interests or
- where well-being or financial position of you, members of your family or someone with whom you have a close association is likely to be affected by the interest more than it affects:
- majority of inhabitants of the ward or electoral division affected by the decision, or
- inhabitants of the Council's area

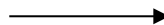
If you have a **Personal** interest you must **declare** it (and **the nature of the Interest**) at the meeting before the matter is discussed or as soon as you become aware of it, unless an exemption applies (see over page).



If you have a **Personal** interest you may still take part in the meeting and vote **unless** the interest is also **Prejudicial**. A **Prejudicial** interest is a matter for you to decide.



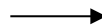
Do you have **Prejudicial** interest?



Your personal interest will also be **prejudicial** if all these conditions are met:

- Matter is not **exempt** (see over page)
- Matter affects your financial interests or relates to a **licensing or regulatory** matter, and
- a member of the public, who knows the relevant facts, would **reasonably think that your personal interest is so significant** that it is likely to prejudice your judgement of the public interest.

If you have a **Prejudicial** interest you must **declare** it (and the **nature** of the interest) as soon as it becomes apparent to you, and **withdraw** from the room where the meeting is being held (unless you are allowed to make representations – see over page).



West Devon Borough Council Members' Code of Conduct (see part 5 of the Constitution)

Personal Interests - You will have a personal interest in a matter if:

- anything that you should have mentioned in your Register and/or
- the well-being or financial position of you, members of your family, or people with whom you have a close association

is likely to be affected by the business of the Council more than it would affect the majority of the inhabitants of the ward or electoral division affected by the decision, or the inhabitants of the Council's area.

Exemption - An exemption applies where your personal interest arises solely from your membership (or position of control/management) on any body to which you were appointed/nominated by the Council or any other body exercising functions of a public nature. In such cases (unless you have a prejudicial interest) you only need to declare your interest if and when you speak on a matter.

Personal Interests include:

- Your membership/position of control/management in bodies to which the Council appointed/nominated you, or any bodies exercising functions of a public nature, directed to charitable purposes or whose principal purposes include influence of public opinion or policy, including any political party or trade union;
- Your job(s) or business(es), and the name of your employer;
- Name of any person who has made a payment towards your election expenses or expenses you have incurred in carrying out your duties;
- The name of any person, company/other body which has a place of business/land in the Council's area and in which you have a shares of more than £25,000/stake of more than 1/100th of the share capital of the company;
- Any contracts with the Council between you, your firm or a company (of which you a paid director) for goods, services or works.
- Any gift/hospitality estimated to > £25 and the name of the person who gave it to you;
- Any land/property in the Council's area in which you have a beneficial interest (or a licence to occupy) including the land and house you live in, any allotments you own or use.

Definitions

- "Well-being" - condition of happiness and contentedness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your well-being.
- "Member of your family" means a partner (i.e. your spouse/civil partner/someone you live with in a similar capacity), parent/parent-in-law, son/daughter, step-son/step-daughter, child of partner, brother/sister, grandparent/grandchild, uncle/aunt, nephew/niece, or the partners of any of these persons.
- Person with whom you have a "close association" means someone with whom you are in close regular contact over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour/ disadvantage when discussing a matter which affects them. It may be a friend, a colleague, a business associate or someone you know through general social contacts.

Prejudicial Interests - your personal interest will also be prejudicial if you meet conditions set out overleaf.

Exempt categories - you will not have a Prejudicial interest in a matter if it relates to:

(a) any tenancy/lease you hold with the Council (unless relating to your particular tenancy/lease); (b) Schools (meals/transport/travelling expenses): if parent/guardian of child in full time education or parent governor (unless relating to the school your child attends); (c) if you are receiving/entitled to statutory sick pay; (d) An allowance/payment/indemnity for members; (e) ceremonial honour given to members and (f) setting the council tax or precept.

Making representations - if you have a Prejudicial interest, you must declare that you have an interest and the nature of that interest as soon as the interest becomes apparent. You should leave the room unless members of the public are allowed to make representations, give evidence, or answer questions about the matter. If that is the case, then you can also attend the meeting for that purpose. However you must leave the room immediately you have finished and you cannot take part in the debate or vote.

Sensitive information

You may be exempt from having to declare sensitive information on your Register of interests in which case, although you must declare that you have an interest, you don't have to give any details about that interest on the register or to the meeting (please speak to the Monitoring Officer about this first).

Revised May 2007

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Agenda Item 3

At an extraordinary Meeting of the **WEST DEVON BOROUGH COUNCIL** held in the **COUNCIL CHAMBER, KILWORTHY PARK, TAVISTOCK** on **TUESDAY** the **15TH** day of **MAY 2012** at **3.00pm** pursuant to Notice given and Summons duly served.

Present

Mr C R Musgrave – Mayor	
Mr W G Cann OBE – Deputy Mayor	
Mrs S C Bailey	Mr R E Baldwin
Mr M J R Benson	Mrs A Clish-Green
Mr D W Cloke	Mrs M V L Ewings
Mrs C Hall	Mr T J Hill
Mr L J G Hockridge	Mr D W Horn
Mr A F Leech	Mrs C M Marsh
Mr J R McInnes	Mr J B Moody
Mr N Morgan	Mr M E Morse
Miss D E Moyse	Mr R J Oxborough
Mr T G Pearce	Mrs L B Rose
Mr R F D Sampson	Mr P R Sanders
Mrs D K A Sellis	Mr E H Sherrell
Mr D Whitcomb	

Chief Executive
Corporate Director (AR)
Democratic Services Manager
Head of Planning, Economy and Community
Development Manager
Strategic Planning Manager
Deputy Monitoring Officer

CM 23 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Mr K Ball, Mr P J Ridgers and Mr D M Wilde.

CM 24 DECLARATIONS OF INTEREST

There were no declarations of interest made to the meeting.

For absolute clarity, Cllr Mr P R Sanders advised that he had sought advice from the Deputy Monitoring Officer and whilst he was named in the recommendation of agenda item 5 (Potential High Court Application in Relation to the Former Focus DIY Store, Tavistock Retail Park, Plymouth Road, Tavistock), he did not need to declare an interest in this matter.

CM 25 COMMUNICATIONS FROM THE MAYOR

The Mayor had no communications to bring forward.

POTENTIAL HIGH COURT APPLICATION IN RELATION TO THE FORMER FOCUS DIY STORE, TAVISTOCK RETAIL PARK, PLYMOUTH ROAD, TAVISTOCK

It was moved by Councillor Mr C R Musgrave, seconded by Councillor Mr R F D Sampson and upon the motion being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the Meeting for the debate that took place on this item of business on the grounds that exempt information may be disclosed under Paragraph 3 – Information relating to the financial or business affairs of any particular person including the authority holding that information and Part 5 – information in respect of which a claim of legal professional privilege may be maintained – from Part I of Schedule 12(A) to the Act.”

The Head of Planning, Economy and Community proceeded to introduce the report and reminded Members that the matter was being re-considered by Council following a deferral of the decision on 17 April 2012, pending receipt of the Council’s retail study (Minute CM 87 refers).

The following motion was then proposed by Councillor Mr P R Sanders, seconded by Councillor Mr R E Baldwin:-

1. *To support and consent to an application to be brought by Cllr Philip Sanders in Judicial Review proceedings in the High Court to challenge and quash planning permission reference 01575/2011 dated 11 July 2011 relating to the former Focus DIY Store, Tavistock Retail Park, Plymouth Road, Tavistock;*
2. *To authorise the Monitoring Officer to act for Cllr Sanders in the proceedings;*
3. *To indemnify both Cllr Sanders as the claimant and the Monitoring Officer as his solicitor for all costs, expenses and claims on their behalf and against them both in the proceedings and consequent upon them;*
4. *To fund the costs of the judicial review from General Un-earmarked Reserves as set out in Section 8 of the presented agenda report;*
5. *To organise a meeting with the County Council as a priority to seek their support for the Council’s Retail Strategy for Tavistock and the future use of the site; and*
6. *That delegated authority be granted to the Head of Planning, Economy and Community, in consultation with the Deputy Leader and the Chairman of the Planning and Licensing Committee, to review the situation once a ruling has been made on the extension of time.*

Following a lengthy debate, and in accordance with Council Procedure Rule 19 Part 5, a recorded vote was called for on the motion. The voting on the motion was recorded as follows:-

For the motion (15):- Cllrs Mrs Bailey, Mr Baldwin, Mr Benson, Mrs Hall, Mr Horn, Mrs Marsh, Mr McInnes, Mr Morse, Miss Moyse, Mr Musgrave, Mr Oxborough, Mrs Rose, Mr Sanders, Mrs Sellis and Mr Whitcomb.

Against the motion (11):- Cllrs Mr Cann OBE, Mrs Clish-Green, Mr Cloke, Mr Hill, Mr Hockridge, Mr Leech, Mr Moody, Mr Morgan, Mr Pearce, Mr Sampson and Mr Sherrell

Abstentions (1):- Cllr Mrs Ewings

Absent (3):- Cllrs Mr Ball, Mr Ridgers and Mr Wilde

and the motion was therefore declared **CARRIED**.

CM 27 CONSIDERATION OF CURRENT AND FUTURE LEISURE CONTRACT – UPDATE FOLLOWING INITIAL CONSIDERATION BY COUNCIL ON 27 MARCH 2012

An exempt report was considered which updated Members on the current and future leisure contract.

The following motion was then proposed by Councillor Mr R J Oxborough, seconded by Councillor Mr P R Sanders and upon the motion being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that:-

1. Council authorises urgent capital expenditure at Meadowlands of up to £335,000 (as provisionally allocated in the Capital Programme), to ensure continuity of service delivery until the end of the current contract period; and
2. The Council begins a formal review of leisure provision to establish the future level of service delivery, including the affordability of the options available post 2014, taking account of the views of key stakeholders”.

CM 28 RE-ADMITTANCE OF PRESS AND PUBLIC

It was moved by Councillor Mr C R Musgrave, seconded by Councillor Mr W G Cann OBE and upon the motion being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the press and public be re-admitted to the meeting”.

(The Meeting terminated at 4.45 pm)

Dated this 24th day of July 2012

Mayor

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