

**MINUTES OF THE MEETING OF THE
OVERVIEW & SCRUTINY PANEL
HELD AT FOLLATON HOUSE, TOTNES ON
THURSDAY, 4 JUNE 2015**

Panel Members in attendance			
* Denotes attendance		∅ Denotes apology for absence	
*	Cllr K J Baldry	*	Cllr J T Pennington
*	Cllr N A Barnes	*	Cllr K Pringle
*	Cllr J I G Blackler	*	Cllr M F Saltern (Chairman)
*	Cllr D Brown	∅	Cllr P C Smerdon
∅	Cllr J D Hawkins	*	Cllr K R H Wingate
*	Cllr D Horsburgh	*	Cllr B Wood
∅	Cllr D W May		

Members in attendance and participating
Cllrs H D Bastone, I Bramble, R D Gilbert, J M Hodgson, T R Holway, J A Pearce, R C Steer, R J Tucker, R J Vint, L A H Ward, S A E Wright

Item No	Minute Ref No below refers	Officers in attendance and participating
All		Head of Paid Service, Executive Director (Service Delivery and Commercial Services) and Senior Specialist – Democratic Services
7	O&S.5/15	Community Of Practice Lead for Assets

O&S.1/15 WELCOME

The Chairman welcomed all Members, officers, public and press who were in attendance at the inaugural meeting of the Overview and Scrutiny Panel.

O&S.2/15 DECLARATIONS OF INTEREST

Members and officers 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.

O&S.3/15 OVERVIEW AND SCRUTINY PANEL – TERMS OF REFERENCE

In consideration of the Panel's Terms of Reference, a Member wished to repeat his previously raised view that the position of Panel Chairman should be allocated to a Member of the Opposition Group.

It was then:

RESOLVED

That the Terms of Reference be noted.

O&S.4/15 PUBLIC FORUM

In accordance with the Public Forum procedure rules, no items were raised at this meeting.

O&S.5/15 DARTMOUTH INDOOR POOL

At the invite of the Chairman, Sir Geoffrey Newman and Messrs David Shaw and George Hardy were in attendance to represent the Dartmouth and District Indoor Pool Trust. In light of a report on the Pool being scheduled for consideration at the Executive meeting on 18 June 2015, the Trust representatives had been invited to respond to Member questions.

In their introduction, the Trust representatives firstly welcomed the opportunity to address the Panel and also wished to apologise for the conduct shown by some supporters before the Annual Council meeting on 21 May 2015.

A number of questions had been submitted by Members to the Trust in advance of the meeting (as outlined at Appendix A). However, before responding to these questions, the representatives emphasised the need (and the extent of local support) for the indoor pool and stated that it was the view of the Trust that it had complied with all of the conditions associated with the Council's original grant offer.

The representatives proceeded to respond to the advanced questions and, in so doing, made particular reference to:-

- (a) the construction price. Members were informed that a fixed price contract was in place with a construction company up until 3 July 2015. If this deadline was not met, the construction company had estimated that the price of works would increase by between £70,000 and £100,000, thereby making the project unaffordable to the Trust. When questioned, officers advised that, even when considering the cost of inflation in the construction industry, there was still a lack of clarity in relation to the exact costs of any delay from July to September.

The Trust acknowledged that the fixed price contract did not cover any additional risks (e.g. adverse weather delaying construction works or asbestos being discovered on-site). As a consequence, the Trust had raised and set aside a contingency budget of £75,000 to cover any additional costs outside of the contract.

For specific design reasons (e.g. the use of straight beams and the Plant Room being built outside of the main building), the Trust was confident that the pool could be constructed for £1 million less than Sport England estimates.

Whilst the representatives informed that the specification was recognised as being 'fit for purpose', the Panel invited the lead officer to comment. In so doing, the officer confirmed that the specifications were indeed 'fit for purpose', however, it was recognised as being best practice for swimming pools to be built above Building Control specifications, thereby increasing the initial cost of construction to reduce ongoing running and repair and maintenance costs. Furthermore, the specifications did not comply with Sport England standards and the brand of Boiler to be used had still to be defined;

- (b) the Business Case. Through a combination of public revenue subsidies (e.g. Dartmouth Town Council, who had offered to provide £10,000 for 10 years and Dartmouth Academy and four local primary schools) and volunteer fundraising (£173,000 had been raised towards the project since 2010), the Trust was very confident that it could more than adequately deal with revenue budget pressures.

In alluding to examples with the Flavel Centre and Dartmouth Caring, the Trust was equally confident that there would be plentiful numbers of volunteer staff available to support the operational business model.

The representatives also made reference to the comments of the Council's then Strategic Director (Community), who had confirmed his view that the business plan appeared to be a well researched document. At the request of the Panel, it was agreed that this letter would be circulated to all Members.

Members were advised that two versions of the business case had been produced – one version being considered as the most accurate estimate, with the other version being based upon a worst case scenario. In its conclusions, the Trust was confident that the Pool could still operate on a break even position in the worst case scenario.

The representatives confirmed that the Trust could not run the Leisure Centre and the Pool because it did not have the expertise and it would not therefore be able to submit a bid during the tendering exercise. In addition, it had always been the assumption of the Trust that it would either run the pool itself or a leisure provider would run it for the Trust under a contractual arrangement (which was the preferred option for the Trust).

The Trust recognised that the lack of a physical link between the Leisure Centre and the pool was an issue, but that this was a decision which had been taken based upon the consequent additional costs of constructing a corridor.

In the ensuing discussion, reference was made to:-

- (i) the risk of being able to afford to run the Pool in the future. The Panel was informed that one of the main benefits of including the Pool in the wider leisure review was that guarantees would be included in the tender exercise in respect of being able to meet ongoing revenue cost pressures. With regard to ongoing revenue costs, a number of Members wished for it to be recorded that the Council would not provide any revenue funding to this project beyond its capital commitments;
- (ii) contributions from other public sector agencies. A Member expressed his concern that neither the health or education sector were contributing any monies towards the capital costs of the project;
- (iii) the enthusiasm shown by the Trust. Some Members were full of admiration for the Trust, but did question what measures of succession planning were in place to ensure that the Trust had a sufficient number of volunteers (and expertise) in the future. In response, the representatives expressed their confidence that the Trust would always have sufficient capacity to operate;
- (iv) the land being Council owned. As a consequence, the Panel acknowledged that the Council would be liable should either the revenue funding run out or the Trust be disbanded;
- (v) the expectations of the local community. The view was expressed that local expectations had been raised by the Council and it would therefore not be a credible course of action to hold off from allocating the grant before the 3 July 2015 deadline. The Chairman commented that the Executive would have to reach a decision on the issue of grant timing, however, in doing so it should be mindful of the commitment already given to the Dartmouth community by this Council.

It was then by a vote of seven in favour, with two against and one abstention:

RECOMMENDED

That the Executive be **RECOMMENDED**:-

1. to continue with the original intention to grant £400,000 towards the construction of the Indoor Pool; and
2. that the Council should not be liable to any ongoing revenue costs associated with the project.

O&S.6/15 EXECUTIVE FORWARD PLAN

With regard to the most recently published Forward Plan, the following points were raised:-

- (a) The Chairman made reference to the Devon Home Choice and Local Allocations Policy Review, which was scheduled to be considered by the Executive at its meeting on 10 September 2015. The Chairman informed that he was exercising his discretion to schedule an update on this item to be made to the Panel meeting on 27 August 2015;
- (b) The Chairman also confirmed that it was his intention for the Panel to have the opportunity to consider the draft 2016/17 Budget setting proposals at its meeting on 19 November 2015 (e.g. before the Executive meeting on 10 December 2015);
- (c) A non-Panel Member queried whether consideration of the Homeless Strategy (which was currently scheduled for presentation to the Executive at its meeting on 10 March 2016) could be brought forward to an earlier date. In reply, the Leader stated that he would consider bringing this agenda item forward to an earlier Executive meeting and would advise the Chairman of any revised date.

O&S.7/15 TRANSFORMATION PROGRAMME: PROGRESS UPDATE

The Executive Director (Service Delivery and Commercial Services) provided a verbal progress update on the Transformation Programme.

In the ensuing debate, specific reference was made to:-

- the main recent focus being on ensuring that the organisational structure was in place. In particular, it was noted that Phase 1(b) of the recruitment process had just gone live on 1 June 2015. As a consequence, it was acknowledged that, in light of the extent of the changes, there would be strains on certain services in the next few months. In expressing his concerns, a Member felt that the public had a right to instant success and was unhappy at the number of senior experienced officers who had been allowed to leave the employ of the council at the same time;
- the importance of Members being kept abreast of senior officer contact details. Officers realised the importance of this point and had published and circulated an organisational structure chart and contact details for the Senior and Extended Leadership Teams;

- the number of unsuccessful members of staff during this phase of the Programme. When questioned, it was confirmed that a handful of staff had been unsuccessful and had left the organisation as a consequence. Moreover, an additional number had either been offered jobs at lower levels than their current salary or were unable to secure their preferred first choice role. It was noted that these staff members would be subject to 18 months pay protection and a Member requested that the Panel be informed of how many individuals this affected;
- the commendable work undertaken by the HR Specialists during this phase of the Programme;
- the high percentage of agency staff being employed by the Council. Some Members expressed their deep reservations at the current numbers of agency staff being employed and requested a thorough review into the costs and value for money of this trend. In reply, it was noted that the numbers had been high due to the Council being unable to fill any vacancies whilst staff were at risk of redundancy. Officers also highlighted that this would be an ongoing issue for the Panel to monitor and, since Phase 1(b) of the Programme had now been implemented, the Council should start to see a downward trend in numbers of agency staff;
- an all Member Briefing on the Programme, which had been scheduled to take place on Thursday, 25 June at 2.00pm.

O&S.8/15 **PERFORMANCE INDICATOR REPORT – QUARTER 4 (2014/15)**

The Panel considered a report that provided Members with information on the Key Performance Indicators at the end of Quarter 4 for 2014/15.

In discussion, the following points were raised:-

- (a) Officers highlighted the new agenda report format and confirmed that they would welcome any Member feedback (both positive and negative) on this new format;
- (b) Whilst officers stated that the average call answer time was improving, some Members cited examples which contradicted this belief. In reply, officers urged Members to make them aware of such instances;

- (c) Officers had spoken to a number of colleagues who were all experiencing similar issues in respect of recruiting planning officers. Nonetheless, officers were totally committed to improving service performance and were fully aware of the reputational issues associated with below average performance;
- (d) The Panel supported the officer suggestion whereby a Task and Finish Group review should be undertaken into the appropriateness of the performance indicators which were presented;
- (e) A non-Panel Member was of the view that the PIs relating to the Development Management (DM) service should be reported to the DM Committee in the first instance. In contrast, other Members disagreed with this view and felt that the Overview and Scrutiny Panel was tasked with reviewing the performance of the Council and its services;
- (f) When considering the current economic climate, a Member emphasised the importance of invoices being paid on time and hoped that this trend would improve.

It was then:

RESOLVED

1. That the Key Performance Indicators for Quarter 4 be noted;
2. That Members note the proposal for a Development Management Service Update to be presented to the Panel meeting on 17 September 2015;
3. That the Panel endorse a review being undertaken into the Performance Measures and welcome a report being presented back to Members in the autumn.

O&S.9/15

MEMBERS PROPOSAL FORM FOR POTENTIAL AGENDA ITEMS

Members were supportive of the proposal form being adopted and recognised the importance of the key objectives and outcomes sections of this document.

It was noted that nothing would be excluded from consideration and each submitted form would be reviewed by a Panel comprising of the Head of Paid Service and the Chairman and Vice-Chairman of the Panel.

It was then:

RESOLVED

That the Proposal Form be adopted as the means for submitting future agenda item requests.

O&S.10/15 OVERVIEW AND SCRUTINY MEMBER LEARNING AND DEVELOPMENT PLAN

The Panel supported the creation of a structured approach towards Learning and Development for Overview and Scrutiny Panel Members, which it was felt should be prominent throughout the wider Corporate Member Learning and Development Plan and should be resourced appropriately.

O&S.11/15 DRAFT ANNUAL WORK PROGRAMME 2015/16

The Panel considered its draft 2015/16 Work Programme and made the following additions and amendments:-

- (a) the establishment of a Dartmouth Lower Ferry Task and Finish Group. It was noted that Cllr Saltern would lead upon this review, with Cllrs Pennington and Pringle also serving on the Group. The importance of local Member involvement in this process was recognised and Cllr Saltern confirmed that he would ask Cllr Hawkins if he would wish to also become a Member of the Group;
- (b) the creation of a Performance Indicator review Task and Finish Group. Cllr Baldry confirmed his willingness to lead upon the Group, with Cllrs Blackler and Horsburgh supporting him in this review;
- (c) re-establishing the Waste Review Task and Finish Group. Some Members suggested that the Group should be re-established. In reply, the Chairman made it clear that he would establish the latest position regarding the outcomes of the former Waste Working Group and would then (if deemed appropriate) form a task and finish group on specific aspects of the Waste Review;
- (d) Our Plan. The Panel was informed that officers were currently developing the timeline for Member consideration of Our Plan. It was therefore felt to be inappropriate at this time for the Panel to commit to a definite date on its Work Programme to consider Our Plan;
- (e) the Community Safety Partnership being scheduled to attend the Panel meeting on 17 September 2015;
- (f) separating the Service Level Agreement monitoring reports on the CVS (Council for Voluntary Services) and the CAB (Citizens Advice Bureau). The Panel felt it was unhelpful for these reports to be considered at the same meeting and therefore requested that the CAB report be presented to its next meeting on 9 July 2015, with the CVS report being presented to the meeting on 27 August 2015;
- (g) the merits of inviting Coastguard representatives to a future meeting were recognised;

- (h) the Dispensations for dual-hatted Members agenda item being scheduled for consideration at the Panel meeting on 19 November 2015;
- (i) the Panel's annual report. The constitutional requirement to produce an annual report was recognised and it was suggested that a draft version should be presented to the meeting on 25 February 2016, with the final draft then being presented to the Panel meeting on 17 March 2016.

(Meeting started at 10.00 am and concluded at 12.45 pm).

Chairman

Appendix A

Dartmouth Indoor Pool – Member Questions Submitted in Advance

Construction Price:

Background – The anticipated cost of construction was £1.95M. The tendered price for the pool has come in at £2.17M. The contract type is “fixed price” but in reality, there is no such thing and the price may go up further during construction.

“Is the Trust sure that it can afford to build the pool, given the construction price is £200k more than anticipated?”

“What will the Trust do if something happens during the course of the construction which puts the price up?”

“Is there a contingency budget?”

“Given that Sport England estimates a 4 lane pool and learner pool should cost £3M, how have the trust achieved a pool for approx £1M less?”

“What impact will this lower cost have on ongoing running and repair and planned maintenance costs?”

Bond:

Background – The pool site is SHDC’s, and the Trust has limited finance. If the build ceases part way through SHDC end up with a half finished project on their land to either finish or remove. Normally this would be covered by a bond between the Trust and SHDC of 10% (£210,000). The Trust is unable to provide a bond as they have no assets to back it with. A surety of £75k from a private source has been offered, which is the best we can hope for.

“What indemnity or bond has the Trust offered to SHDC in case the Trust becomes insolvent during construction?”

Business Case:

Background – The Trust commissioned the ASA to provide a business case and then updated it 2013. It has been reviewed by our leisure experts RPT. The business case is predicated on a shared management model with the existing leisure centre, £20k of fund raising per annum and volunteer workers (in part). RPT raised significant risks with all of these:

“How will the Trust guarantee to be able to raise the required operational subsidy of £20k year on year, and what happens if they can’t?”

“The use of volunteer staff is a key part of the operational business model, that is probably achievable during summer months, but how will it be achieved during the winter?”

Background – A 3rd party is unlikely to be keen to operate with the high numbers of volunteers included in the business case:

“How does the Trust propose to balance the need for economies of scale and expertise brought by the operator with the financial pressure to use volunteers to make the business case stack up?”

“The current business case shows a reduced utilities and staffing cost compared with the 1st issue, as more realistic usage figures were used. However, staff and utilities costs are linked to opening hours, not usage numbers, so how is this justified?”

Background – It is our understanding that the Trust do not want to operate the pool and would like a 3rd party (preferably the Council’s facilities operator) to operate it on their behalf. In order for the operation to be able to be considered in the Council’s contract then it is necessary to engage with the market:

“Why is the Trust so reluctant for this engagement with the market? And more importantly why would they want to commit the public money that they have raised to build the pool without first getting the assurances from the potential operators that they will be able to operate it?”

“How will the shared management solution with the existing facility work in practice, is the Trust looking to a third party to run the pool? Is the lack of a physical link between the two buildings an issue in this regard?”

Timeline

Background – the Trust feel they have been fighting an uphill battle with SHDC all the way with the pool. In fact, the Trust only fulfilled the conditions of their grant when they got the final tender price for the build, which was in early May.

“Why does the Trust continue to imply that SHDC have always delayed this project, when getting a tendered price for construction was a condition of the grant, which was achieved only this month?”