

**MINUTES OF THE MEETING OF THE SOUTH HAMS DISTRICT COUNCIL HELD
AT FOLLATON HOUSE, TOTNES ON THURSDAY 28 SEPTEMBER 2017**

MEMBERS

* Cllr P K Cuthbert – Chairman

* Cllr M J Hicks – Vice-Chairman

* Cllr K J Baldry	* Cllr T R Holway
* Cllr H D Bastone	* Cllr E D Huntley
* Cllr J P Birch	* Cllr D W May
* Cllr J I G Blackler	* Cllr J A Pearce
* Cllr I Bramble	* Cllr J T Pennington
* Cllr J Brazil	* Cllr K Pringle
* Cllr D Brown	* Cllr R Rowe
* Cllr B F Cane	* Cllr M F Saltern
* Cllr R J Foss	* Cllr P C Smerdon
* Cllr R D Gilbert	* Cllr R C Steer
* Cllr J P Green	* Cllr R J Tucker
∅ Cllr J D Hawkins	* Cllr R J Vint
∅ Cllr P W Hitchins	* Cllr K R H Wingate
* Cllr N A Hopwood	* Cllr S A E Wright
* Cllr J M Hodgson	

* Denotes attendance

∅ Denotes apology for absence

Officers in attendance and participating:

For all items: Head of Paid Service, Executive Director (Service Delivery and Commercial Development), Section 151 Officer, Deputy Monitoring Officer and Senior Specialist – Democratic Services

30/17 MINUTES

The minutes of the meetings of Annual Council held on 11 May 2017 and the Special Council meeting on 27 July 2017 were both confirmed as a correct record and signed by the Chairman.

31/17 URGENT BUSINESS

The Chairman informed that she had no items of urgent business for consideration at this meeting.

32/17 DECLARATIONS OF INTEREST

Prior to Members being invited to declare any interests in the items of business to be considered during the course of the meeting, the Chairman invited the Deputy Monitoring Officer to provide advice in relation to Item 8(b): Notice of Motion (Minute 35/17(b) below refers).

In so doing, the Monitoring Officer advised that the key consideration for Members to take into account when weighing up if they should declare an interest in this matter was whether or not they had either a live planning application with the Council or whether they had a '*current intention*' to do so.

In light of this advice, Cllrs B F Cane and T R Holway both declared a Disclosable Pecuniary Interest and left the meeting room during consideration of this matter.

Cllr J I G Blacker declared a personal interest in this motion by virtue of owning land located within the Dartmoor National Park Authority area and, whilst remaining in the meeting during the debate, abstained from the vote on this matter.

33/17

CHAIRMAN'S ANNOUNCEMENTS

The Chairman made reference to her recent Charity Golf Day at Bigbury Golf Club and thanked those Members and officers who had helped to make the event such a success.

At this point, the Leader also took the opportunity to pay tribute and thank Council officers for their dedication and hard work particularly over the last few years. In what had been a particularly difficult time, the fact that the Transformation Programme had been implemented within the approved budget was to the great credit of all staff. The Chairman and other Members proceeded to endorse these comments.

34/17

QUESTIONS

Whilst questions on notice were not normally permitted at Special Council meetings, the Chairman advised that she, in consultation with the Leader of Council, had exercised her discretion to enable for two questions to be considered at this meeting. These questions were as follows:-

From Cllr Birch to Cllr Tucker, Leader of Council

(a) By reference to the One Council Consultation Survey Questions, how many have participated to date? How many of the participants are from South Hams? How many of the South Hams participants have responded to Question 2 by stating they support the idea of creating a new Council and how many are opposed or are against the idea?

In response, Cllr Tucker advised that he had deliberately refrained from receiving updates during the consultation process and had chosen to wait until the results had been finalised after the deadline had passed on 8 October 2017.

Cllr Birch proceeded to ask a supplementary question relating specifically to Question 4 of the survey. In accordance with Council Procedure Rule 8.5, since this question did not arise directly from his original reply, Cllr Tucker did not choose to respond to this supplementary.

From Cllr Birch to Cllr Tucker, Leader of Council

(b) By reference to the telephone survey being undertaken in respect of the One Council Consultation how many have participated to date? How many of the participants are from South Hams? How many have indicated they are in favour of the idea of creating a new Council and how many are opposed or are against the idea?

As with his previous response, Cllr Tucker again advised that he had deliberately refrained from receiving updates during the consultation process and had chosen to wait until the results had been finalised after the deadline had passed on 8 October 2017.

Cllr Birch proceeded to ask a supplementary question relating to the actual cost of the telephone survey. In accordance with Council Procedure Rule 8.5, since this question did not arise directly from his original reply, Cllr Tucker did not choose to respond to this supplementary.

From Cllr Hodgson to Cllr Tucker, Leader of Council

(c) 'Further to the many concerns that have been raised by South Hams residents that the public consultation on the formal joining of South Hams and West Devon has been biased towards a positive response, please could the Leader assure this Council that the vote taken on 31 October will not be politically whipped? Also that further measures and options to ensure the independent financial security of this council and its ability to continue to deliver front line services will be considered if the decision is taken to remain as South Hams District Council.'

In response, Cllr Tucker informed that it was a matter for each political party to decide whether or not they instigated any whipping arrangements. For clarity, Cllr Tucker stated that the Conservative Group was not whipped by him.

Cllr Hodgson proceeded to ask a supplementary question that sought an assurance that the vote would not be politically biased. In reply, Cllr Tucker referred to the response that he had given to the original question.

From Cllr Hodgson to Cllr Tucker, Leader of Council

(d) 'Can the Leader give assurance that our Planning Enforcement is working as the illegal wall at Meadowside in Dartington remains in situ 15 months after being reported for investigation and apparently has now been put forward for planning. This planning by stealth undermines confidence and the good reputation of our planning system, how can we tighten up our system to avoid these planning mistakes being legitimatised?'

In response, Cllr Tucker informed that he had liaised with the Case Officer, who had provided him with the following information:-

The Case Officer had been in regular contact with the Developer since the start of this year. This case involved not only the District Council, but also the County Council due to the Highways implications of the Wall. Meetings had been held with the COP Lead, local Ward Member, Highways Officer and Case Officer to discuss the Wall. Of particular note was that the Wall was on Highways land and that a suitable alternative vehicle restraint barrier would be needed if the Wall was removed. The District Council was on the point of taking formal action when the application by the Developer was submitted.

It was not considered good practice to take formal action when a planning application was being determined as it could be considered to be pre-determining the application. In the event of the planning application being refused, then the Council would take steps to require the removal of the Wall.

With regard to the second part of the question concerning planning by stealth, Cllr Tucker advised that:

If a developer or homeowner decided to build something that did not benefit from planning permission, then they had a right to submit a retrospective planning application as set out in the Town and Country Planning Act. The Council must consider this planning application on its own merits against the same planning policies and considerations as a planning application which was submitted prior to any development being undertaken. However, if planning permission was refused and the development already existed, then the Council could (and did) take action to require the development to be removed. This could be delayed by the submission of an Appeal against either a planning decision or an Enforcement Notice at which point any timescales would be determined by the Planning Inspectorate.

Cllr Hodgson proceeded to ask a supplementary question relating to why the Council had not acted more sooner to resolve this matter. In accordance with Council Procedure Rule 8.5, since this question did not arise directly from his original reply, Cllr Tucker did not choose to respond to this supplementary.

35/17

NOTICES OF MOTION

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

(a) By Cllrs Birch and Baldry

'This Council resolves to investigate and report on the formation of a company, similar to that set up by Wokingham Borough Council, for the purpose of delivering social housing in order to meet the needs of those in South Hams who are finding it difficult to purchase their own property and/or find suitable rented accommodation.'

An initial report is to be presented to the Executive and Overview and Scrutiny Panel within the next three months.'

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

- his initial raising of this matter at the Overview and Scrutiny Panel meeting held on 27 July 2017 (Minute O&S.29/17 refers);
- broad details of the Wokingham Borough Council scheme;
- Torbay Council having introduced a similar model; and
- the urgent need for Social Housing in the South Hams.

During the ensuing debate, a Member welcomed the motion to raise the profile of affordable housing in the South Hams. The Member advised that officers had held discussions with the Managing Director of the Wokingham Housing Company in June 2017 and was informed that they had a 3 pronged approach:-

1. To develop housing (as a builder for third parties or the Council itself);
2. A 'for profit' registered housing provider; and
3. An affordable and social housing local housing company.

In addition, the Member highlighted that the Borough Council had started work on the formation of a company back in 2011 and it was estimated that the Council now employed 5 full time officers that were solely focused on this initiative.

At this point, the Member proposed the following amendment:

'This Council resolves to investigate and report on the range of options for the purpose of delivering social/affordable housing in order to meet the needs of those in South Hams who are finding it difficult to purchase their own property and/or find suitable rented accommodation.'

An initial report is to be presented to the Overview and Scrutiny Panel within the next six months.'

Having been invited by the Chairman, the proposer and seconder of the original motion confirmed their support for the amended wording, which therefore became the substantive motion and, when put to the vote, it was then:

RESOLVED

This Council resolves to investigate and report on the range of options for the purpose of delivering social/affordable housing in order to meet the needs of those in South Hams who are finding it difficult to purchase their own property and/or find suitable rented accommodation.

An initial report is to be presented to the Overview and Scrutiny Panel within the next six months.

(b) By Cllrs Green and Hodgson

'This Council will:

require that all Councillors sign an agreement to refrain from submitting for planning permission which would lead to a development within the District resulting in a market value gain of over £500,000 whilst being a District Councillor and for a period of one year after being a District Councillor. The agreement will include a penalty for failure to comply, equivalent to any resulting market value increase over £500,000, to be payable to the Council.'

In his introduction, the proposer highlighted that there was a perception amongst the local community that elected Members were motivated by self-interest. Whilst emphasising that the intention of this motion was not concerned with previous incidents (and was not meant to be a personal slur against any fellow Member(s)), the proposer and seconder reiterated the importance of maintaining public confidence.

Whilst some Members supported the principle of its sentiments, other Members felt the motion to be divisive and discriminatory against landowners. Furthermore, the view was expressed that approval of this motion would be a disincentive for prospective candidates standing to be a Member. Finally, a Member felt that the existing Code of Conduct (and the consequent need to register and declare interests) ensured that sufficient controls were in place that negated the need for this motion.

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

(c) By Cllrs Hodgson and Green

'This Council is disappointed that our district council representative on DCC Health and Adult Care Scrutiny Committee recently voted against calls to refer the closure of community hospital beds to the Secretary of State for Health and in future we call on him to consult the Leader of this Council, if a County Council Health and Wellbeing Scrutiny Committee is debating and voting on a decision that affects the whole of Devon.

This Council also wants to remind the District Council representative on Devon County Council Health and Wellbeing Scrutiny Committee that he is there to represent the views of all District Councils not his own personal opinion.

This Council will write to their representative noting our disappointment at his vote to not refer the decision to the Secretary of State.'

In her introduction, the proposer highlighted that:-

- there had been extensive press coverage over this issue; and
- a number of residents were of the view that the representative had based his decision on his own personal views and not the views of the District Councils that he represented.

In the ensuing discussion, reference was made to:-

- (a) the comments of the Leader. The Leader of the Council informed that he met regularly with the representative. Furthermore, it was confirmed that, in this instance, the representative was fully aware of the views of the Leader;
- (b) the Dartmouth Community Hospital consultation exercise. Some Members outlined the process that had been followed for the Dartmouth Community Hospital and it was highlighted that, on the whole, the local community was fully in favour of the new proposals;
- (c) the role of a District Council representative. In expressing the view that the criticism was unfair, a Member made the point that it was often impossible to make contact with Members from every District Council.

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

36/17

EXCLUSION OF PUBLIC AND PRESS

Having been **PROPOSED** and **SECONDED**, a Member questioned the justification for the contents of the next agenda item being considered as exempt information and confirmed that he would not be voting in favour of the motion to exclude the public and press. Nonetheless, it was then:

RESOLVED

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following item of business as the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A to the Act is involved.

37/17

FRONT LINE SERVICE COMMISSIONING OPTIONS

An exempt report was presented that sought a Council decision, based on the advice of the SH/WD Joint Steering Group, in relation to the manner in which front-line services were provided and designed.

In discussion, whilst some Members expressed individual concerns over the proposals, other Members were fully supportive of the recommendations.

It was then:

RESOLVED

1. That waste collection, recycling and cleansing services be tested using the competitive dialogue procurement route to achieve a partnership solution in accordance with the Collaboration Agreement dated 2015;

2. That the lead authority for the procurement in Recommendation 1 be West Devon Borough Council for the reasons outlined in paragraph 2.6 of the presented agenda report and in accordance with the Collaboration Agreement 2015;
3. That South Hams District Council does not proceed with a wholly owned company bid for waste collection, recycling and cleansing services;
4. That the Memorandum of Understanding and project board remit (as outlined at Appendix D of the presented agenda report) be approved, subject to Cllr Gilbert replacing Cllr Wingate as a Member of the Project Board;
5. That the two councils continue to explore the establishment of a wholly owned company or joint venture arrangement for the delivery of grounds maintenance, building and facilities maintenance and other related services considered in the scope of the work stream; and
6. That Unearmarked Reserves are used to meet any additional costs of procurement over and above those available within the base budget, with a payback mechanism being agreed once annual service costs are identified.

38/17

RE-ADMITTANCE OF PUBLIC AND PRESS

RESOLVED

That the public and press be re-admitted to the meeting.

39/17

REPORTS OF BODIES

RESOLVED

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

- (a) Salcombe Harbour Board 10 July 2017

Members highlighted the dangers associated with the fishing industry and wished to pay tribute to the fisherman who recently died near Eddystone Lighthouse.

SH.8/17: Governance of Salcombe Harbour

RESOLVED

That, in principle, the intended financial plan and indicative revenue raising opportunities (as outlined in paragraph 4 of the agenda report presented to the Board) be adopted to ensure long-term financial sustainability, with further reports to be presented to the Board prior to any final recommendations then being made.

- | | | |
|-----|-----------------------------|--------------|
| (b) | Audit Committee | 20 July 2017 |
| (c) | Overview and Scrutiny Panel | 27 July 2017 |

O&S.31/17: Planning Enforcement Service Review

In reply to a question, it was confirmed that the Member Drop-in Sessions would be arranged as soon as the newly appointed Enforcement Specialist Officer was in post.

O&S.32/17: Street Naming and Numbering Policy

RESOLVED

That the revised Street Naming and Numbering Policy be adopted.

- | | | |
|-----|----------------------------------|-------------------|
| (d) | Development Management Committee | 2 August 2017 |
| (e) | Overview and Scrutiny Panel | 24 August 2017 |
| (f) | Executive | 14 September 2017 |

E.23/17: The Government's Proposed 20% Increase in Planning Fees

RESOLVED

1. That Planning fees be increased by 20% once primary legislation was confirmed; and
2. That an appraisal be undertaken of resource and performance levels across the wider planning function to ascertain the best use of the additional resource, to be approved by the Head of Paid Service , in consultation with the Section 151 Officer and the Leader of the Council.

E.24/17: Business Rates Pilot and Pooling Arrangements for 2018/19

RESOLVED

1. That the Council apply to become a Business Rates Pilot for 2018/19, as part of a Devonwide business rates pilot bid, to pioneer new pooling and tier-split models;

2. That delegated authority be given to the Section 151 Officer, in consultation with the Leader, Deputy Leader and Head of Paid Service, to agree the detail of the business rates pilot bid (in conjunction with Devon Local Authority Section 151 Colleagues) with respect to the financial aspects and overall governance of the pilot bid; and
3. That, in the event of the Devon pilot bid being unsuccessful, South Hams District Council applies to re-join the Devon Business Rates Pool for 2018-19.

E.26/17(a): Business Rates – Locally Administered Business Rate Relief Policy

RESOLVED

That, following consultation with Devon County Council, Devon and Cornwall Police and Devon and Somerset Fire and Rescue, the locally administered Business Rate Relief Policy be adopted, subject to inclusion of the following amendments:

- The policy review being extended from the end of December 2017 to the end of April 2018; and
- The decision-making process be amended whereby:
 - Discretionary Payment awards under the Policy be determined by the Leader of the Council and the lead Executive Member; and
 - That all appeals be determined by the Leader of the Council, the lead Executive Member and the Chairman of the Overview and Scrutiny Panel.

E.26/17(a): Annual Review of Health and Safety Policy

RESOLVED

That the revised policy be adopted and signed by the Head of Paid Service and the Leader of the Council.

(Meeting commenced at 2.00 pm and concluded at 3.20 pm)

Chairman