

CABINET

At a meeting held on Tuesday, 16 February 2021

Present:-

Councillor S Siddons (Chairman) in the Chair;
Councillors Ms E Colling, Mrs J Jefferson, T Randerson, Ms M Donohue-Moncrieff,
P Kershaw and C D Maw

1. DECLARATIONS OF INTEREST

Councillor Jefferson declared a personal interest in agenda item 6, Financial Monitoring Report 2020/21 (Third Quarter to December 2020) and in agenda item 7, Draft Financial Strategy 2021-2026 since she was a business owner and President of Scarborough and District Chamber of Trade and Commerce.

2. MINUTES

RESOLVED that the minutes of the meeting held on 12 January 2021 be approved as a correct record and signed by the Chairman.

3. PUBLIC QUESTION TIME

The Chairman reported the receipt of a public question by Mr John Sissens. The question and answer given are set out below.

Q. Public Open Space on North Bay Clifftop: Despite Natural England ruling that the area was unsuitable for newts and in spite of the Restrictive Covenant on the area requiring regular maintenance to keep it in a 'good and decent state', why was the area re-designated as a 'compensatory newt habitat' and a maintenance regime introduced which has allowed the area to degenerate into a wasteland, resulting in numerous complaints over a long period? Will the Council please revoke the 125 year licence which it granted to Benchmark so that, once again, visitors and residents can enjoy the pathway walks through this Public Open Space to Scarborough's biggest tourist attraction: the beach.

A. The public open space was re-designated as a compensatory newt habitat to enable the Sands development to proceed. This is because the development of the Sands site reduced the existing amount of habitat and Natural England required the provision of compensatory habitat. Natural England achieved this using their role as a statutory consultee through the planning process. The Council will not be revoking the 125 year licence provided to Benchmark to be responsible for managing this area in accordance with the Ecological Management Plan.

Mr Sissens then sought clarification on the following point: since Natural England had no interest in this area of public open space, how had its designation impacted on the Sands Development? The Chairman noted the complexity of this issue, and that the Sands Development Agreement was

under consideration later on the agenda, so undertook to follow up this matter with Mr Sissens.

4. FORWARD PLAN

The Cabinet considered the Forward Plan (Reference 21/006). The Chief Executive reported a number of items including the Town Centre Strategy update in March, Visitor Economy Strategy in April, and Scarborough Masterplan in May, which would be added to the Forward Plan when it was refreshed after this meeting.

RESOLVED that the Forward Plan be approved.

5. PROGRESS OF SCRUTINY OF EXECUTIVE DECISIONS

Members were advised that there had been no call-ins of executive decisions since the last meeting on 12 January.

6. FINANCIAL MONITORING REPORT 2020/21 (THIRD QUARTER TO DECEMBER 2020)

The Cabinet considered a report by the Director (NE) (Reference 20/47) in respect of the Council's financial performance to the end of December 2020. The Director, Mr Edwards echoed the Portfolio Holder, Councillor Jefferson's comments in paying tribute to Council staff for all the support given to businesses and vulnerable people during the pandemic in numerous ways. The Council had administered over £95m in grants to businesses and was rated one of the top performing authorities in the country for the speed with which this support had been delivered. Mr Edwards proceeded to summarise the Council's financial position as detailed in the report with reference to the General Fund, the Collection Fund and the Capital Strategy. Mr Edwards was pleased to report that the Council had been successful in its bid to the National Leisure Recovery Fund for £210k to support eligible public sector leisure centres to reopen to the public. This would reduce the additional budget of £764k approved by Council to support the ongoing viability of the Council's leisure facilities. It was noted that the current projected budgetary shortfall of £2.058m was considered to be based on prudent assumptions; however owing to the unprecedented circumstances surrounding the pandemic and the ongoing national lockdown, some of the estimates included within the projections were highly uncertain and might be subject to substantial fluctuations in the remainder of the year.

RESOLVED that the Cabinet:

- (i) Note the contents of the report and in particular:
 - the £2.058m net budgetary deficit, excluding any projected collection fund shortfalls, within the current financial year relating to the Covid-19 pandemic;
 - that this is a slight worsening from the £2.039m deficit outlined within the previous report but now reflects the expected financial impact from the second and third 'lockdowns' periods;
 - that the projected collection fund shortfalls have improved significantly from that last reported primarily due to the inclusion of anticipated government grants, an improved council tax collection position and that current projections show that the

levels of Business Rates income originally budgeted for the year will likely be achieved;

- that the position had improved given the compensation received from the Government's scheme to support the costs of Leisure Centres run by external operators;
- that whilst the projected shortfall is considered to be based on prudent assumptions, due to the unprecedented circumstances surrounding the pandemic some of the estimates included within the projections are highly uncertain and may be subject to substantial fluctuations in the remainder of the year. The length of the third 'lockdown' period will be key to the recovery of the council's finances in the final period of the year.

(ii) Note and accept receipt of the following government grants:

- £75k from DEFRA from the Export Health Certificate Support Fund
- £70k from the Yorkshire Coast Business Improvement District to support the re-positioning of the Yorkshire Coast

Reasons

To provide information relating to the Council's financial performance for the 2020/21 year, including updates on the financial impacts of the Covid pandemic and obtain the in-year financial approvals needed to meet the requirements of the Council's constitution and financial procedure rules.

7. DRAFT FINANCIAL STRATEGY 2021-2026

The Cabinet considered a report by the Director (NE) (Reference 21/23) in respect of the Council's draft Financial Strategy 2021-2026. Introducing the report, the Portfolio Holder, Councillor Jefferson commended the recommendation in the Strategy not to increase the Borough Council's portion of Council Tax in 2021/22 and General Fees and Charges in recognition of the challenging economic circumstances faced by many of the Borough's residents and businesses. The Portfolio Holder also welcomed the new five year Capital Strategy and programme which committed over £12m of resources for capital spending ring-fenced according to a range of themes aligned with the Corporate Plan. The Director, Mr Edwards then commented on the report, noting that it was still in draft, but that he did not expect any significant changes when the Financial Strategy and Council Tax Setting report came to full Council at the end of the month. Mr Edwards then highlighted the different aspects of the report: the revenue budget, Council Tax proposals, new Capital Strategy and programme with its strategic links to Building a Better Borough, the reserves and balances, the Treasury Management Strategy and the Pay Policy Statement. In respect of the review of reserves and balances, this report had been scheduled to be considered at the postponed Audit Committee meeting on 28 January. It would now be considered by the Audit Committee on 23 February. Mr Edwards also highlighted the new Local Investment Fund which supported the Capital Strategy and replaced the Invest to Save scheme and Commercial Property Investment Strategy; the Covid contingency budget, the new Risk Management Fund merged from the Capital Contingency and Insurance

Funds; the Investment Fund; the Capacity Building Fund to support the delivery of the Capital Strategy; the Treasury Management Strategy to ensure the preservation of resources; the proposed draw of £0.5m from reserves to support the revenue budget; proposed efficiencies/savings totalling £342k; £352k mainstream budget provision for budget pressures; and £500k mainstream budget provision for priority investment areas. Finally, he drew attention to the extensive public consultation on the Financial Strategy, noting some of the very positive feedback which had been received. Members then discussed the report, commending the Financial Strategy, and the all the work in its preparation. The Portfolio Holder, Councillor Colling welcomed the new Local Investment Fund Strategy and the opportunities it would afford to purchase assets to progress the Council's ambitions for the town centres. In the Capital Strategy document she noted that in the table at paragraph 8.14, the term 'Invest to Save' should be replaced by 'Local Investment Fund.' Further, Councillor Colling requested Mr Edwards to ensure that in the Pay Policy Statement and paragraph 3.4 'The Lowest Paid in the Workforce' that this reflect the Council's commitment to the National Living Wage. Councillor Colling also proposed two amendments to the Financial Strategy which were then discussed and endorsed by the Cabinet:

1. An amendment to the proposed 2021/22 Revenue Budget by introducing a Better Places Locality Budget – granting each ward councillor £2,000 to spend on environmental improvements in their area. The Better Places Locality budget would allow every Borough Councillor to respond to local needs by recommending the allocation of small amounts of money to support projects or activities that benefit the communities they represented at grass roots level. The proposed grant scheme would allow councillors within a ward to pool their individual allocations to deliver larger scale projects, and for the monies to be used for projects outside the ward where people from within a councillor's ward would benefit. The scheme would also have the flexibility to deliver projects jointly with parish councils. The Investment in Priority Areas (as set out in paragraph 3.3 of Appendix A (Revenue Budget 2021/22 (Paper Page 81))), to be amended to include £92,000 towards the Better Places Locality Budget and that the contribution to the Investment Fund be accordingly reduced from £413,000 to £321,000.
2. In the Treasury Management Statement and Annual Investment Strategy for 2021/2022 to extend the statement on Ethical Investments thus: 'In the light of our declaration of a climate emergency this Council will not knowingly invest directly in businesses who have material links to environmentally harmful activities (e.g. pollution, destruction of habitat, fossil fuels)' whilst adding an undertaking to do more work to ensure the Council avoided investment in other areas which were inconsistent with the Council's mission and values.

RESOLVED that the Cabinet:

- (i) Note the budget consultation feedback received to date

- (ii) Note the draft Financial Strategy, which incorporates the draft revenue budget proposals that were presented to Cabinet in January along with updated Capital Strategy and capital programme budget proposals and an updated Treasury Management Strategy for 2021/22;
- (iii) Delegate authority to the Director (LD), in consultation with the relevant portfolio holder, to agree and enter into a contract deed of variation with our Leisure operator (SLM) that sets out the terms for the management of the leisure operating contract and financial risk for the period from 1 April 2021 to 31 March 2022, or until a new financial framework (LOBTA) is formally agreed, whichever is sooner.
- (iv) Recommend to Council:
 - a. The approval of the Financial Strategy, including the two amendments detailed above, specifically:
 - i. the revenue budget for 2021/22;
 - ii. a Council Tax freeze for the 2021/22 year;
 - iii. the Capital Strategy and capital programme for 2021/22 – 2025/26;
 - iv. the optimum levels of reserves for 2021/22;
 - v. the Treasury Management Strategy and Prudential Indicators;
 - vi. the Council's Pay Policy Statement contained, as required under Section 38 (1) of the Localism Act 2011;

Reasons

Full Council must approve the 2021/22 budget and associated Council Tax levels, which are incorporated within the Financial Strategy, at its meeting on 26 February 2021.

8. SAVING SOUTH CLIFF GARDENS

The Cabinet considered a report by the Director (LD) (Reference 21/21) in respect of the Scarborough South Cliff Gardens restoration project. Members were advised that after much preparatory work and considerable community engagement, the Council was now in the position following a competitive tendering exercise to appoint a contractor to deliver this exciting and ground-breaking project – one of the largest National Lottery Heritage Fund schemes in the country. The Director, Mrs Dixon expressed her thanks to all the community groups who were supporting the scheme and had contributed to date including in particular the South Cliff Community Group and the Friends of South Cliff Gardens. Subject to Cabinet approval, and following a 10 day standstill period and no legal challenge, PBS would be awarded the contract with a view to commencing work in March 2021 and completion due in March 2022. Members commended this project which set the benchmark in community engagement. In reply to a question, the Projects Manager confirmed that the scheme would improve the quality of lighting in the gardens in the interests of safety.

RESOLVED that the Cabinet:

1. Note the increase in project budget to £7.158m and approve the following revised financial profile: £4.666m Heritage Lottery Fund

(HLF), £1.682m Borough Council resources set aside to progress the capital strategy, £228k match funding from the Spa Coastal Protection scheme budget, £131k from Section 106 contributions, £105k from local fund raising, £235k from additional income, and £111k from in-kind contributions;

2. Approve an increase in SBC funding of £69k to be funded from the Councils Capital Contingency Reserve
3. Approve the reallocation of £36k of approved Public Convenience investment monies to Public Convenience works within the scheme.
4. Approve the appointment of PBS Construction (NE) Ltd as the main contractor to undertake the works following a competitive tender exercise.
5. Approve the allocation of £19,278 Section 106 monies to the Saving South Cliff Gardens scheme.

Reasons

To save the heritage of South Cliff Gardens from a point of critical decline and to breathe new life into the Gardens so they appeal to 21st Century communities and become a vibrant and well-used park once again.

9. BETTER HOMES AFFORDABLE HOUSING PROJECT

Members noted that this item had been deferred to later in the year when a full written report would be presented to the Cabinet.

10. EXCLUSION OF THE PUBLIC

RESOLVED that in accordance with Section 100A(4) of the Local Government Act 1972 (and subject to consideration of the public interest under Paragraph 10 of Part 2 of Schedule 12A of the Act) the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information (as defined in Part 1 of Schedule 12A of the Act), namely information;

- (a) relating to any individual;
- (b) which is likely to reveal the identity of an individual; and/or
- (c) relating to the financial or business affairs of any particular person (including the authority holding that information).

11. URGENT DECISION - THE SANDS DEVELOPMENT

The Cabinet considered a report by the Director (NE) (Reference 21/25) in respect of the Sands Development Agreement. Members were reminded that on 30 December 2020 the Leader had approved a short term extension of the expiry date of the Sands Development Agreement with Benchmark to 31 January 2021, with an option for the Director (NE) in consultation with the Leader to extend this date further to 17 February 2021. The purpose of this extension was to allow Benchmark and officers of the Council a short period of time to explore whether it was possible to reach agreement on terms to extend the existing Development Agreement in the long term. The Director,

Mr Edwards reported that on 29 January 2021 he had consulted with the Leader to confirm that Benchmark had submitted a proposal to allow the Sands Development Agreement to be extended to 17 February 2021, allowing Cabinet to consider the proposal at its meeting on 16 February 2021. Mr Edwards then outlined Benchmark's proposals which were the subject of detailed discussion and interrogation by Members.

RESOLVED that the Cabinet reject Benchmark's proposals and authorise entry into the necessary agreements to allow the Development Agreement to expire on 17 March 2021.

Reasons

The Leader approved a short term extension to the Sands development Agreement (report 20/44) on 30 December 2020. This extended the expiry date of the Sands Development Agreement with Benchmark to 31 January 2021, with an option for the Director (NE) in consultation with the Leader to extend this date further to 17 February 2021. The purpose of this extension was to allow Benchmark and officers of the Council a short period of time to explore whether it was possible to reach agreement on terms to extend the existing Development Agreement in the long term.

The new proposals by Benchmark are not currently acceptable in form or principle to the Council. The company has failed to provide Members with sufficient assurance and detail to justify any further work being undertaken whether by due diligence or otherwise. Therefore, a short extension to the agreement until 17 March will be entered into to allow for full democratic engagement in the decision making process, prior to final expiry of the overall agreement on this date.

Chairman