

NORTH DEVON COUNCIL

Minutes of a meeting of Strategy and Resources Committee held at Barum Room - Brynsworthy on Monday, 7th October, 2019 at 10.00 am

PRESENT: Members:

Councillor Worden (Chair)

Councillors Barker, Lane, Leaver, Lofthouse, Patrinos, Pearson, L. Spear, Wilkinson and Yabsley

Officers:

Head of Resources, Senior Solicitor/Monitoring Officer, Head of Environmental Health and Housing, Project and Procurement Officer, Service Lead Housing Advice and Homelessness and Service Lead Housing Market Balance

Also Present:

Councillors Jenkins, Ley and D. Spear

39. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Prowse.

40. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE MEETING HELD ON 2ND SEPTEMBER 2019 (ATTACHED).

RESOLVED that the minutes of the meeting held on 2nd September 2019 (circulated previously) be approved as a correct record and signed by the Chair.

41. ITEMS BROUGHT FORWARD WHICH IN THE OPINION OF THE CHAIRMAN SHOULD BE CONSIDERED BY THE MEETING AS A MATTER OF URGENCY.

(a) Brexit Update

The Head of Resources provided the Committee with an update on the Council's position in relation to Brexit. The Council had appointed the Chief Executive as the Council's Brexit Lead officer. There were regular meetings via the Local Resilience Forum and the Brexit Resilience and Opportunities Group which was a multi-disciplinary group discussing national and regional issues. Phil Norrey was the regional representative and collected local issues from local representatives which were fed through to Central Government each week. The Council had been granted approximately £50k to prepare for Brexit. This was intended to prepare both the Council and the community. Central Government have issued a communications tool which had been passed to the Customer and Corporate Communications

Manager. Central Government had also issued Operation Yellowhammer which sets out risk assessments on some of the main potential issues.

He advised that the regional issues to note were as follows: Plymouth port had been classified as a non-priority port and had not received the same level of funding as ports such as Dover. They were trying to increase capacity but were drawing up plans for a lorry park somewhere in Plymouth, which could be one of the main roads. Plymouth was a main port for the export of fish and shellfish products and the concern was that businesses across the South West would be affected. There were also issues around export certificates and delays in issuing. HMRC were offering training to export intermediaries and it now seemed that Environmental Health Officers could sign licences.

He further advised that potential fuel issues had been identified as an issue, but no firm answer had been given. Another Local Authority had spoken with a fuel supplier who refused to disclose their plans as they considered that they were commercially sensitive. Local authorities were having various engagement sessions with businesses to try to highlight any issues or impacts. In relation to agriculture, a letter had been submitted on behalf of the Heart of the South West to DEFRA seeking various asks. A copy of the letter would be circulated to the Committee. There was a concern that foodbanks may have additional demand but less supplies.

He reported that as a Council we have been considering the various risks that might affect the Council or the community and these have been fed back to Phil Norrey. Possible fuel shortages have been looked into which would have an impact on our services and also local services such as buses. The Council had considered purchasing an additional fuel tank. Discussions have taken place with North Devon+ regarding putting in place some possible support for the situation post Brexit. The support could include signposting people to the right places to talk to about different issues such as business rates relief, tax etc.

In response to questions, the Head of Resources advised that the procurement of an additional fuel tank of similar size would cost approximately £30,000, and would provide storage of fuel which would last 10 days. The existing fuel tank was coming to the end of life and would need to be replaced in the near future. If there was a fuel shortage, the Council would prioritise which vehicles were used. The option of hiring a fuel tanker could be explored. The potential reduction in the supply of foodbanks had not been quantified. There was a need for the Council to consider prioritising the use of the funding awarded by the Government to assist communities and businesses.

RESOLVED that a letter be sent to Michael Gove and the Brexit Minister Stephen Barclay to express the Council's serious concerns that a No Deal Brexit would have on residents, vulnerable people, farmers and businesses.

42. DECLARATIONS OF INTERESTS.

The following declaration of interest was announced:

Councillor E. Spear Item 7: Personal interest as a private landlord.

43. BATSWORTHY WINDFARM UPDATE

The Committee considered a joint report by the Head of Environmental Health and Housing and Service Lead Environmental Protection (circulated previously) regarding an update on the current status of the Council's regulation of the noise related planning conditions associated with Batsworthy Cross Windfarm.

The Head of Environmental Health and Housing highlighted the following:

- The Noise Consultant (HLA) carried out measurements at two locations (The Ridge and St Michael's/All Angels). These measurements were made between December 2018 and May 2019. The Council has also secured sufficient measurements at the Birchwood House proxy location to allow a proper judgement to be made on whether the windfarm was compliant with the noise limits in this area.
- The Council's acoustic consultant had concluded that despite the inability to derive precise values for wind farm noise levels directly from the measurements, using the procedures in the Method Statement, there was reasonable certainty that the wind farm was compliant with the noise limits at St Michael's and All Angels. Measurements reported at the proxy location for Birchwood House, however, indicated that further mitigation was required to achieve compliance.
- On 16th August 2019, the Council advised the operator this situation and requested that a mitigation strategy be provided within 30 days. The operator had requested an additional reasonable amount of time which had been agreed.
- An update report would be presented to the Committee on 4th November 2019 in light of the non-compliance.

In response to questions, the Head of Environmental Health and Housing advised that the conditions of the planning consent allowed the operator to adjust settings to comply with the conditions and that this was monitored and evidenced to ensure compliance. He gave assurance and commitment to the residents that the Council would regulate to ensure full compliance. The operator had requested a further 30 days extension.

Francis King (Nutcombe, Ash Mill) addressed the Committee.

In response to the issues raised by Francis King, the Head of Environmental Health and Housing advised that the Council would investigate the statutory noise nuisance and would liaise with the Service Lead Environmental Protection upon his return.

Jane Faust addressed the Committee.

In response to the issues raised by Jane Faust, the Head of Environmental Health and Housing advised that the Council was committed to regulate planning conditions 37 and 38 and the statutory noise nuisance.

In response to further questions, the Head of Environmental Health and Housing advised that the report to be presented to the next meeting of the Committee would include an update on the regulation of compliance with planning conditions 37 and 38 and the statutory noise nuisance. Originally noise compliance monitoring was undertaken at six locations close to Batsworthy Cross Windfarm. Because inadequate data was collected, the Council had requested the operator to carry out further noise measurements at three of those locations. The regulation of the conditions 37 and 38 was provided by Planning and the Environmental Protection teams.

RESOLVED that the current position be noted and that a further update report be presented to the Committee on 4th November 2019.

44. CIVIL PENALTY NOTICE POLICY - HOUSING AND PLANNING ACT 2016

Councillor D. Spear declared a personal interest as a private landlord.

The Committee considered a report by the Head of Environmental Health and Housing (circulated previously) regarding the adoption of a Civil Penalty Notice Policy under the provisions of the Housing and Planning Act 2016.

The Head of Environmental Health and Housing highlighted the following:

- Powers to serve Civil Penalty Notices (CPNs) and apply for Rent Repayment Orders (RROs) under the Housing and Planning Act came into force on the 6th April, 2017.
- To be able to use these powers, the Council must have its own policies in place and a draft Civil Penalty Notice Policy had been produced as set out in Appendix A.
- 1 in 5 private rented sector properties had a Category 1 hazard which had an impact on the wellbeing of the occupiers.
- The maximum level of Civil Penalty to be charged was £30,000.
- The Council would only consider a Civil Penalty in a situation where there would be a 'realistic prospect of a conviction' if the case was to be prosecuted and would follow sound principles of enforcement.

Councillors Lane and Yabsley declared personal interests as private landlords.

In response to questions, the Head of Environmental Health and Housing advised that the long term use of AirBnB was not considered to be an issue. The Category 1 hazard was informed by the Energy Performance Categorisation. The income received from Civil Penalty sanctions would be retained to supplement future regulatory interventions.

RECOMMENDED that Council adopt the Civil Penalty Notice Policy in Appendix A, and give delegated authority to the Head of Service for Environmental Health and Housing to use these powers in the 2016 Act, to serve Civil Penalty Notices and apply for Rent Repayment Orders.

45. NDC'S HOMELESSNESS REVIEW AND STRATEGY

The Committee considered a report by the Senior Housing Officer (Housing Needs) (circulated previously) regarding the approval of a new homelessness review and strategy for 2019-2024.

The Service Lead - Housing Advice and Homelessness highlighted the following issues:

- Statutory requirement for the Council to publish a homelessness review and strategy every five years.
- The Ministry of Housing, Communities and Local Government deadline was December 2019.
- The Council had commissioned consultants (HQN) to complete an independent review and strategy.
- The key findings of the homelessness review.
- Statistics of main prevention and relief outcomes from July to March 2018/19 under the provisions of the Homelessness Reduction Act in comparison to national data.
- Key challenges.
- Key themes for the new strategy.

In response to questions, the Service Lead - Housing Advice and Homelessness advised that monthly meetings were held with Planning Enforcement whereby issues such as people occupying properties with holiday occupancy restrictions, to enable officers to work with them at an early stage to try to mitigate them from becoming homeless. The Freedom Centre was now fully operational. The Council currently leased some one bedroomed properties from North Devon Homes for a period of approximately 12-14 months for single or couple occupancy.

Councillor Leaver declared a personal interests as a Trustee of Encompass South West.

In response to a question regarding no reference to the Exmoor National Park within the strategy, the Head of Environmental Health and Housing advised that a report could be produced which included evidence of need arising in relation to the provision of affordable housing on Exmoor.

In response to a question, the Service Lead for Affordable Housing advised that the old Local Plan provided for Local Needs Dwellings under policy HSG4. Individual local needs dwellings were allowed on single unit sites. Sites of more than one unit had to provide 50% affordable housing. Under the new Local Plan Local Needs Dwellings were covered under policy DM24 and numbers were not limited to one. Such units were not genuine affordable housing (due to their often expensive nature) but tend to be valued 25-30% below open market value. It was suggested that the Joint Local Development Plan Working Group investigate the application of the policy around appropriate marketing at a level that reflects a local needs restriction to ensure local buyers can access such housing as well as issues around renovations; local connection cascade timeframes and requests for removal of restrictions. The

Service Lead for Affordable Housing had been involved in a number of planning consultations around Local Needs Dwellings and would like to discuss further.

RECOMMENDED that the NDC's Homelessness Review and Strategy (Appendices A and B respectively) be approved by Council subject to reference to the Exmoor National Park Local Plan being included within the Strategy.

RESOLVED:

- (a) That a further report be brought to the Committee on work being undertaken by the Council with occupants residing in properties with holiday occupancy restrictions;
- (b) That the Joint Local Development Plan Working Group be requested to investigate the following:
 - (i) The anomaly between the existing Joint Local Plan and the previous Local Plan whereby properties that have been converted to holiday lets under the previous Local Plan would now gain planning permission for residential occupancy under the current Joint Local Plan and to seek a proposed route to amend the designation in a structured way; and
 - (ii) The application of the policy around appropriate marketing at a level that reflects a local needs restriction to ensure local buyers can access such housing as well as issues around renovations; local connection cascade timeframes and requests for removal of restrictions.

46. ADJOURNMENT OF MEETING

RESOLVED that the meeting be adjourned to enable a five minute comfort break.

RESOLVED that the meeting be re-convened to consider the remaining business.

47. APPROVAL AND RELEASE OF SECTION 106 PUBLIC OPEN SPACE FUNDS - BISHOPS NYMPTON, HEASLEY MILL AND FREMINGTON

The Committee considered a report by the Project, Procurement and Open Space Officer (circulated previously) regarding the allocation of section 106 public open space funds towards projects in Bishops Nympton, Heasley Mill and Fremington.

The Project, Procurement and Open Space Officer advised that the Bishops Nympton Parish Hall scheme had already taken place. As the project for which the section 106 contribution was sought had already been provided, there was a risk of the developer seeking a repayment. The risk was relatively low and would be

passed to the Parish Hall Committee as part of the funding agreement. The funding would be used to repay the majority of the loan that was taken out by the Hall committee to build the club.

RESOLVED:

- (a) That £50,530.38 be allocated to Bishops Nympton Parish Hall towards construction of Bishops Nympton Community Club;
- (b) That £5,000 be allocated to Heasley Mill Village Hall towards the improvement of the village hall car park;
- (c) That £36,427.04 be allocated to Fremington Parish Council towards creation of the car park as part of the Beechfield extension.

RECOMMENDED:

- (d) That Council vary the capital programme by £91,957.42 and that funds be released, subject to a Funding Agreement upon such terms and conditions as may be agreed by the Senior Solicitor.

48. URGENT DECISIONS TAKEN BY THE CHIEF EXECUTIVE

The Committee considered and noted the two urgent decisions that had been made by the Chief Executive in accordance with paragraph 3.49, Annexe 2, Part 3 of the Constitution in relation to the use of Wessex for the legal set-up of Community Land Trusts and technical support for the delivery of community-led affordable housing schemes and procurement of an independent certifier for the Leisure Centre project.

In response to a question in relation to the decision taken for procurement of an independent certifier for the Leisure Centre project and the inclusion of * against consultees names, the Head of Resources advised that these consultees were consulted in February 2019 as part of the original bid for funding, however the waiver was not required until funding was known to be successful.

49. EXCLUSION OF PUBLIC AND PRESS AND RESTRICTION OF DOCUMENTS

RESOLVED:

- (a) That, under section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item as it involved the likely disclosure of exempt information as defined by Paragraph 3 of Part 1 of Schedule 12A of the Act (as amended from time to time), namely information relating to the financial or business affair of any particular person (including the authority holding that information);
- (b) That all documents and reports relating to the item be confirmed as

“Not for Publication”.

50. AFFORDABLE HOUSING SUPPLY IN NORTH DEVON AND LOCAL HOUSING COMPANIES

The Service Lead Affordable Housing introduced Matt Caroll, Director and David Howson, Associate Director of Altair who had been commissioned, through the Local Government Association’s Housing Advisers Programme, to support the Council in understanding and appraising North Devon’s current affordable housing environment and to develop possible options for the Council to become a stock-owning local authority.

The Committee received a presentation by Matt Caroll, Director and David Howson, Associate Director of Altair regarding their findings.

In response to questions, David Howson advised that a housing company board could consist of four or five people for a small retained programme made up of both officers and Members of the Council. The Council could become a shareholder and such an agreement would be put in place.

In response to questions, the Head of Resources advised that if we did look to go down the company route it would be separate to the Council and therefore a Director appointed would be responsible to the company. It could operate in a similar manner to North Devon+ whereby the Chief Executive of the Council was also a Director of North Devon+. If the Council supported the setting up of a Housing Company, then the Council could consider borrowing from the Public Works Loan Board.

51. READMITTANCE OF PUBLIC AND PRESS

RESOLVED that the public and press be re-admitted to the meeting.

52. A VISION FOR THE DEVELOPMENT OF A NDC HOUSING COMPANY

The Committee considered a joint report by the Head of Environmental Health and Housing and Service Lead Affordable Housing (circulated previously) regarding a vision for the development of a Council Housing Company.

The Service Lead Affordable Housing highlighted the following:

- The report from Altair recognised that the delivery of affordable housing across North Devon has been strong in recent years. The report supported the direct intervention by the Council to provide much needed houses for people in acute need, even if this was at a relatively modest level of additional supply. The report stated that developing and managing new affordable homes would help the Council alleviate the current issues faced by people with restricted access to current affordable housing provision and help mitigate against future risk of the current challenges deteriorating further. It also suggested that direct intervention is a more effective and timelier response than, for example, relying on a new provider to enter the local market.

- There were two ways for a North Devon Council Housing Company to establish its stock of housing; essentially to 'build' or 'purchase'.
- Returning empty properties into use may provide an opportunity to get the Housing Company established.
- The need to bring empty private sector dwellings back into use was a key Government objective that was part of a wider strategy to tackle affordability. The Council's new administration had also expressed its desire to take empty homes. The number of vacant dwellings was increasing each year. In 2018, there were 600 long term vacant properties.
- A recent BBC documentary entitled, '*Empty Housing Scandal*' has showcased some of the good work being undertaken by Councils.
- The Council could acquire empty properties as a result of its regulatory activity. The Council could then dispose of this accommodation to the local housing company. Initially this could be trialled on a small number of properties. The Council had experience of managing a small number of properties for the provision of temporary accommodation.
- Potential model for delivery for the Council as detailed in paragraph 4.9 of the report.
- If the Committee was supportive of the principle of setting up a Local Housing Company, then a detailed report and business plan would be produced for consideration prior to a decision being taken.

Councillor Lofthouse declared a personal interest as a Member of the Bridge Trust.

RESOLVED:

- (a) That the contents of the Altair housing supply report and the accompanying presentation delivered by the consultants at Committee be noted;
- (b) That the principle of setting up a Local Housing Company to ultimately increase the supply of affordable housing be supported;
- (c) That the principle of any delivery model including the proactive use of Council's enforcement powers to bring empty homes back into use be endorsed.

53. WAIVER TO CONTRACT PROCEDURE RULES FOR THE APPOINTMENT OF A CONSULTANT FOR RESEARCH

The Committee noted that the Council's bid to this year's Local Government Association Housing Advisers Programme requesting £50,000 for the associated consultancy work for the next stage of work of establishing a Local Housing Company and the potential use of empty homes had been unsuccessful and therefore the report had been withdrawn.

Chairman

The meeting ended at 12.41 pm

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.