

# Public Document Pack

## CABINET

11 SEPTEMBER 2017

Present: Councillors Chowney (Chair), Forward, Poole, Batsford, Fitzgerald, Beaney, Lee and Patmore

**RESOLVED the Chair called over the items on the agenda, under rule 13.3 of the council's constitution, the recommendations set out in minute numbers 29 and 30 were agreed without being called for discussion**

### **28. POTENTIAL NEW DEVELOPMENT**

The Director of Operational Services presented a report which sought authority from Cabinet to work with Hastings Harbour Quarter Ltd, East Sussex County Council and other partners to develop a strategic outline case for the potential development of a harbour, housing and associated outcomes at Rock a Nore. The report also sought authority to develop a funding package for this initial programme of work.

The council had been approached to discuss the practicality of developing a new harbour at the end of the Stade. The proposal incorporate a 600 berth marina with associated boat storage facilities and support services, around 1000 – 1300 new homes, and a protected launch / landing site for the Hastings fishing fleet. The scheme offered potential to support the economic development of the town and address the shortage of housing in the Borough.

However, the Director of Operational Services commented that the proposal was at a very early stage and it was therefore necessary to undertake further studies to assess the impact of the scheme on the environment, infrastructure and the local community. These studies would inform the development of a strategic outline case, which would be reported back to Cabinet. Discussion would also need to continue with a range of local, regional and national partners, including the MP, East Sussex County Council, South East Local Enterprise Partnership (SELEP) and the Department for Business, Energy and Industrial Strategy (BEIS) about the viability of the scheme.

Councillor Chowney proposed approval of the recommendations to the Director of Operational Services report, which was seconded by Councillor Forward.

#### **RESOLVED (unanimously) that:**

- 1. The Director of Operational Services, in consultation with the Leader of the Council and the Deputy Leader be authorised to support the development of a strategic case for the construction of a harbour quarter at Rock a Nore, including seeking external funding and support to take this forward;**
- 2. The Chief Legal Officer is authorised to conclude an options development agreement with Hastings Harbour Quarter in consultation with the Leader, Deputy Leader, Chair of the Charity Committee Foreshore Trust and Director of Operational Services**

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3. **A further report be presented to Cabinet upon the conclusion of the strategic outline case (negative or positive) of this work, or before if necessary; and**
4. **The council, Foreshore Trust, and scheme sponsors should develop a programme of community consultation and engagement while this early work is done**

The reason for this decision was:

To allow the viability of developing a new harbour, housing and leisure quarter to be properly assessed. To enable the council to assess at an early stage the benefits and potential impacts of such a scheme.

### **29. JOINT WASTE AND RECYCLING COMMITTEE CONSTITUTION**

The Assistant Director, Environment and Place, submitted a report which updated Cabinet on urgent developments with the joint waste procurement project, and sought approval to implement measures to ensure that the process can proceed.

The existing Joint Waste Committee for the current waste contract includes representatives of Hastings Borough Council (HBC), Rother District Council (RDC), Wealden District Council (WDC), Eastbourne Borough Council (EBC) and East Sussex County Council (ESCC).

HBC, RDC, WDC and ESCC have resolved to participate in a joint procurement project for a new waste contract, which will begin on 29 June 2019. EBC and Lewes District Council (LDC) intend to work together separately to develop a joint service for Eastbourne and Lewes, however, both authorities will be named on the OJEU notice for future access to the contract.

Procurement decisions in respect of the new contact will be taken by a new contract will be taken by a newly established Joint Waste and Recycling Committee (JWRC). The Joint Waste Committee (JWC) will to oversee and manage the existing contract. An amended constitution for the JWC was appended to the report, together with a draft constitution for JWRC.

Under rule 13.3 The Assistant Director, Environment and Place's report was approved without being called for discussion.

#### **RESOLVED that:**

1. **The associated changes to the constitution of the Joint Waste Committee, shown at appendix A to the report, be approved;**
2. **The formation of the Joint Waste and Recycling Committee is approved and it's constitution (appendix B to report) is adopted;**
3. **The existing Hastings members and substitutes of the Joint Waste Committee be nominated as members and substitutes for the new Joint Waste and Recycling Committee; and**

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- 4. The Lead Director for the Joint Waste Committee be authorised to make minor amendments to the constitution, in consultation with the Chair of the Joint Waste Committee**

The reason for this decision was:

To comply with legal advice recently provided to the Joint Waste Partnership.

### **30. LEISURE CENTRE MANAGEMENT CONTRACT**

The Assistant Director, Regeneration and Culture, submitted a report on the management of the council's leisure centres.

The council owns two leisure centres, Summerfield Leisure Centre and Falaise Fitness Centre, which provided a range of sports and leisure activities. Both facilities are currently managed by Freedom Leisure, the existing contract comes to an end on 31 March 2018.

The council has begun a master planning process for the White Rock area, which has identified potential opportunities to enhance the leisure facilities in this part of the town. Any new contractual arrangements would need to be sufficiently flexible to enable the council to include these sites within broader proposals in the future. Soft market testing has been undertaken with potential operators, it was noted that neighbouring authorities had received a limited number of tenders when they had undertaken similar procurement exercises.

The new contract would be procured via East Sussex Procurement Hub, using relevant best practice guidance from Sports England. The term of the contract will be 5 years, with the option of two extensions of two years each, based on a nil-management fee and a profit sharing arrangement.

Under rule 13.3 the Assistant Director, Regeneration and Culture's report was agreed without being called for discussion.

#### **RESOLVED that:**

- 1. Cabinet authorises the procurement of a contract to manage the council's indoor leisure facilities at Summerfields Leisure Centre and Falaise Fitness Centre; and**
- 2. Cabinet delegated authority to the Director of Operational Services or his nominee and the Chief Finance Officer, in consultation with the Lead Member for Leisure, to finalise the tender specifications, undertake the tendering process and conclude all negotiations and legal agreements with the most economically advantageous tenderer**

The reason for this decision was:

The current leisure management contract with freedom Leisure concludes on 31 March 2018. The two centres that are managed under this contract accommodate a range of leisure and sports activities, and are very busy. The early master planning

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for the White Rock area has identified the potential for greatly enhanced leisure activities which could better meet the needs of the town in the future. Thus, a long term management contract related to the existing centres could have an adverse impact on the council's ability to capitalise on this potential.

### 31. INCOME GENERATION STRATEGY

The Director of Operational Services and Income Generation Manager presented a report on the council's draft income generation strategy.

The council needed to generate additional income in the future to offset reductions in its funding and maintain services. The draft strategy provided an overarching framework for these activities and set out the parameters for the delivery of this work.

The strategy set out three key themes for investment; investment in commercial property, investment in residential property and energy generation. Supporting strategies had been developed for investment in residential and commercial property, and a further strategy for energy generation would follow. An ethical investment policy was also under development.

The income generation strategy included a communications plan to raise awareness of the programme amongst staff, councillors and the wider community. The strategy also described how new ideas for income generation and efficiencies would be brought forward and assessed.

Cabinet thanked all those who had been involved in developing the strategy.

Councillor Chowney proposed approval of the recommendations to the Director of Operational Services report, which was seconded by Councillor Poole.

#### **RESOLVED (by 6 votes for to 2 against, with 0 abstentions) that:**

- 1. Cabinet endorse the approach of the Income Generation Board in bringing forward the Income Generation Strategy and adopts the Income Generation Strategy including its appendices;**
- 2. Cabinet consider the thematic reports around commercial property investment and establishing a Hastings Housing Company that represent important early steps in implementing the income generation strategy;**
- 3. Cabinet agree the next steps moving the strategy forward; and**
- 4. Cabinet recommend the strategy to Full Council**

The reason for this decision was:

The council needs to generate additional income to offset reductions in its funding and maintain services, the income generation strategy provides a framework for these activities.

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### 32. LAND AND PROPERTY : COMMERCIAL PROPERTY INVESTMENT STRATEGY

The Assistant Director, Financial Services and Revenues, presented a report which proposed that the council make significant additional investments in commercial property for the purpose of income generation, and also to support economic development and regeneration.

The council's draft income generation strategy identified investment in commercial property as a key area for investment in order to strengthen its long term financial stability. The council already had experience as a commercial landlord and had recently purchased further retail units in the town. The Assistant Director, Financial Services and Revenues, commented that it was beneficial for the council to diversify its property portfolio to mitigate risks of downturns in a particular sector.

The report proposed forming a council-owned property company, which would enable the council to consider opportunities outside of the borough and travel to work area. The report noted historically low borrowing rates, which would be used to support the additional investment. The draft strategy included a matrix to assess potential acquisitions, due diligence work would also be carried out on every potential purchase.

Councillor Chowney proposed approval of the recommendations to the Assistant Director, Financial Services and Revenues report, which was seconded by Councillor Fitzgerald.

**RESOLVED (by 6 votes for to 2 against, with 0 abstentions) that:**

- 1) **The Commercial Property investment Strategy is approved;**
- 2) **Council approve supplementary capital expenditure for property acquisitions of up to £29m for the period 2017/18 to 2019/20 based upon £29m of borrowing commencing in 2017/18 (for economic and social wellbeing purposes and to generate on-going revenue streams). This sum will be reviewed on a regular basis;**
- 3) **Cabinet continue to determine the individual property acquisitions, following consideration by the Income Generation Board (Special Cabinet meetings may need to be held at short notice to enable the council to be sufficiently agile to take advantage of opportunities);**
- 4) **Delegated authority remain with the Chief Finance Officer (S151 officer) to meet revenue acquisition costs from revenues that are not chargeable against a capital budget – to include abortive costs;**
- 5) **The council's asset management plan is updated to take account of this strategy and that economic development, regeneration and employment considerations continue to be the driving factor behind existing council property and land development opportunities within Hastings;**
- 6) **To seek opportunities for commercial acquisitions:**
  - a. **Within Hastings and its travel to work area to be procured directly by the council for both regeneration and income generation purposes**

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- b. Via council owned property company for acquisitions outside this area undertaken for income generation purposes alone
- 7) Acquisitions outside the area to be focused on those areas in the South and Midlands where the local economy is likely to offer the A trading company to be established to provide flexibility of approach – the council is able to invest its own monies under existing investments powers in properties across the country, but anticipates the need to form a company if it wishes to purchase properties outside the borough for the sole purpose of income generation;
  - 8) Appropriate due diligence be undertaken on each and every opportunity;
  - 9) Given that the council's risk appetite will be constantly changing depending upon the risks and opportunities it faces, future funding predictions and economic environment, each commercial property investment must be considered on its own merits and the financial position of the council at the time within an overall borrowing umbrella;
  - 10) Further property fund investments to be considered as part of the 2018/19 Treasury Management Strategy – to be determined by Full Council in February 2018; and
  - 11) Accept that there are many property related opportunities that present themselves to the council which are not specifically included within this strategy which may be considered commercial in nature e.g. investment in a new leisure centre. The council will look to consider all options for investment and the commercial property strategy may help to inform the decision making process when alternative options for use of council resources are being considered

The reason for this decision was:

The Council already has a significant property and land portfolio from which, as well as helping to drive economic development in the Borough, it derives a significant income stream. This directly assists the funding of Council facilities and services

Given the current funding reductions the Council seeks to build upon its existing knowledge and experience to significantly enhance economic and regeneration opportunities within the borough and also enhance its income stream from property or property related investments.

Property investments have been returning higher rates of return than the Council can achieve with purely cash investments. Money from the Council's own reserves invested in property or Property Funds need to be surplus to medium term requirements or there is a risk that the Council would need to sell these at a time when there is the potential for a Capital loss.

The Council holds assets for a variety of purposes, and not purely for income generation. The Council's more commercial property assets such as factories and shops generally achieve a good return (particularly as most are not encumbered by debt). The council does review the assets that it already owns and has been successful in developing land and buildings in its ownership – and will look to continue to do so.

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The Council needs to prioritise new Income generation from any review of existing assets.

Purchase of commercial property either in Hastings or beyond its boundaries provides the Council with opportunities to continue economic development and enhance employment prospects as well as develop and enhance income streams to assist in the future funding and delivery of core services.

Purchase of commercial property outside of the Hasting's travel to work areas may be viewed as purely an income generation initiative and a trading activity – if borrowing the money to do so. A separate company would be set up to accommodate this.

### **33. HASTINGS BOROUGH COUNCIL HOUSING COMPANY**

The Assistant Director, Housing and Built Environment, presented a report which recommended that the council establish a wholly owned housing company, limited by shares.

At its meeting on 5 December 2016, Cabinet approved a report which set out the rationale for establishing a housing company. Since then, further work has been undertaken to develop an initial business plan, which set out the basis on which the council would loan and invest in the company. The business plan covered a 3 year period, during this time the company would invest in the residential property market, acquiring properties for private let. The report noted that there was also scope for the company to undertake trading in the acquisition of residential property for rent from developers in lieu of capital receipts and also the development of housing on land owned or purchased by the council.

The business plan also set out appropriate delegations and operational policies to support the new company, as well as articles and memorandum of association and the shareholders agreement.

Councillor Chowney proposed approval of the recommendations to the Assistant Director, Housing and Built Environments report, which was seconded by Councillor Batsford.

#### **RESOLVED (unanimously) that:**

- 1) The council establishes a wholly-owned Housing Company limited by shares;**
- 2) The council delegates authority to the Chief Financial Officer, in consultation with the lead member, the Chief Legal Officer and Director of Operational Services to establish further companies should separate vehicles (companies) be advantageous for related purposes;**
- 3) The council delegates authority to the Chief Financial Officer to provide a working capital loan to the company of £120,000;**
- 4) The council approves the Articles of Association attached at appendix B to the report;**

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- 5) The Shareholder and Loan Agreement attached at appendix C to the report is approved;
- 6) The council agrees the Business Plan attached at appendix A to the report;
- 7) The Housing Company's delegations to officers set out in the report and appendices be agreed;
- 8) Officers put in place necessary operational policies covering such matters as rent setting, letting policy, rent arrears and debt recovery in advance of the company acquiring its first property;
- 9) Delegated authority is given to the Directors of the company, in agreement with the council's Chief Legal Officer to make minor amendments to the constitutional documents of the company, as required

The reason for this decision was:

Cabinet agreed in principle to the establishment of a Local housing Company in December 2016. This reports sets out details of the proposed governance arrangements, the initial business plan and outlines the funding being made available from the council to the company. Cabinet are asked to recommend these to council.

### CONFIDENTIAL BUSINESS

Councillor Chowney proposed a motion for the exclusion of the public from the meeting:

**RESOLVED (unanimously) that the public be excluded from the meeting during the consideration of the items of business listed below because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 3 of schedule 12A to the Local Government Act 1972**

#### 34. **PUBLIC CONVENIENCES CLEANING CONTRACT**

The Assistant Director, Environment and Place, presented a report which informed Cabinet of changes made under the council's urgency provisions to the contractual arrangements for cleaning Hastings Borough Council and Foreshore Trust public conveniences.

Councillor Fitzgerald proposed approval of the recommendations to the Assistant Director, Environment and Places report, which was seconded by Councillor Poole.

**RESOLVED (unanimously) that Cabinet notes and endorses the new contractual arrangements set out in the report**

The reason for this decision was:

Due to a serious issue arising from the procurement process for the contract to clean public conveniences, officers needed to make alternative arrangements for this

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service as a matter of extreme urgency. This included letting a short term interim contract to the incumbent contractor, whilst working with East Sussex Procurement Hub to re-procure a new longer term contract.

For transparency, the use of urgency provisions in relation to the letting of contracts has to be reported to Cabinet.

(The Chair declared the meeting closed at. 7.45 pm)

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