

**TUNBRIDGE WELLS BOROUGH COUNCIL**

**CABINET**

**Thursday, 29 July 2021**

**Present: Councillor Tom Dawlings (Chairman)  
Councillors Scott (Vice-Chairman), Bailey, Fairweather, March and McDermott**

**Officers in Attendance:** William Benson (Chief Executive), Lee Colyer (Director of Finance, Policy and Development (Section 151 Officer)), Paul Taylor (Director of Change and Communities), John Antoniadis (Estates Manager), David Candlin (Head of Economic Development and Property), Katie Exon (Corporate Property Manager), Nichola Watters, Gary Stevenson (Head of Housing, Health and Environment), Claudette Valmond (Principal Solicitor) and Caroline Britt (Democratic Services Officer)

**Other Members in Attendance:** Councillors Hayward, Holden, Pound and Chapelard

**APOLOGIES**

CAB29/21 There were no apologies.

**DECLARATIONS OF INTEREST**

CAB30/21 There were no disclosable pecuniary or other significant interests declared at the meeting.

**NOTIFICATION OF VISITING MEMBERS WISHING TO SPEAK**

CAB31/21 Councillors Haywood, Holden and Pound had registered as wishing to speak on Agenda Item 15 – Sports Centre Management Contract.

**MINUTES OF THE MEETING DATED 24 JUNE 2021**

CAB32/21 Members reviewed the minutes. No amendments were proposed.

**RESOLVED** – That the minutes of the meeting dated 24 June 2021 be approved as a correct record.

**QUESTIONS FROM MEMBERS OF THE COUNCIL**

CAB33/21 Pursuant to Cabinet Procedure Rule 28.3, Councillor Pound had submitted the question as follows:

“Can the Leader confirm that he will not, in future, ask members of his own political group to put ‘planted’ questions at Full Council to allow him to reinforce or correct information given elsewhere and confirm also that he has given clear feedback to his Cabinet colleagues about their responses to and behaviour towards Members who asked questions at Full Council on 7 July 2021”.

Councillor Dawlings responded that all Members could ask questions but in the last couple of years, questions from both Members and members of the public had included long introductions and multiple questions. This was inappropriate and something the Constitutional Review Working Party had now been asked to review. Equally inappropriate were long scripted replies

to questions. The policy for the Conservative Group going forward would be brief questions and answers.

Supplementary Question:

“ Would you endorse the following comment which was made by a Conservative Borough Councillor after the last Full Council meeting who said in an email ‘Jane’s (Councillor March) response was ridiculous, embarrassingly so and Chris (The Mayor), attempted correctly to draw her answer to a close. It did come over as a filibuster, when all except apparently Jane just wanted to move on quickly to the next item. I thought Alan (Councillor McDermott) was equally poor and at fault in the way he responded to Councillor Chapelard. Nothing clever there either.’ Would you endorse that interpretation of the meeting?”

Councillor Dawlings responded that the reply given by Councillor March at the meeting was excessively long. Councillor McDermott’s response could have been more positive.

Other Comments Made:

- Comments included in emails that had been circulated were not considered a breach of confidentiality.

### **QUESTIONS FROM MEMBERS OF THE PUBLIC**

CAB34/21 There were no questions from members of the public.

### **CONSIDERATION OF THE FORWARD PLAN AS AT 29 JUNE 2021**

CAB35/21 Members considered the plan. No amendments were proposed.

**RESOLVED** – That the Forward Plan as at 29 June 2021 be noted.

### **BUDGET PROJECTION AND STRATEGY 2022/23**

CAB36/21 Lee Colyer, Director of Finance, Policy and Development introduced the report as set out in the agenda.

Discussion and questions from Members included the following:

- TWBC were congratulated for balancing the budget last year and for reducing the forecast deficit from £3m to £1.8m.
- Quarterly reports would be brought to Cabinet that would provide details of actual income expenditure. Any need for additional growth or financial support would be included in those reports.
- An update on car parking revenue would come forward as part of the Quarter 1 Revenue Management Report. However, there were some tentative signs of encouragement of car park usage. The budgets had already been reduced for car park income, and the Council were in line with those figures.
- Use of car parks were mixed. Crescent Road and the surface car parks were doing relatively well. Royal Victoria Place and Meadow Road were not faring as well. It was therefore important for TWBC to continue to monitor footfall as the economy continued to open up.
- Season ticket sales were not at the level hoped for and certainly not at

pre covid levels. This was because office workers had not returned. However the situation was evolving and it was hoped that as confidence grew, employers would encourage their employees to return to their offices.

**RESOLVED** – That work continues towards reducing the projected budget deficit in line with the Budget Strategy prior to the public consultation on the draft budget in December be approved.

**REASON FOR DECISION:** To agree the form of consultation and begin the process of setting the budget for 2022/23.

## **PROPERTY TRANSACTION REPORT JANUARY TO JUNE 2021**

CAB37/21 John Antoniadis, Estates Manager introduced the report set out in the agenda.

To note the matter was decided in taking the exempt information set out in the agenda as read.

**RESOLVED** – That the report be noted.

**REASON FOR DECISION:** To comply with the constitution.

## **ANNUAL CORPORATE HEALTH AND SAFETY REPORT**

CAB38/21 Gary Stevenson, Head of Housing, Health and Environment introduced the report set out in the agenda.

**RESOLVED** –

1. That the contents of the report, along with the work undertaken to secure a safe and healthy working environment be noted.
2. That the priorities for 2021/22 be approved.

**REASON FOR DECISION:**

To ensure that the Council continues to comply with the Health and Safety at Work Act 1974 and ensure that there is effective monitoring and review of health and safety management throughout the Council.

## **PROPERTY ASSET PROGRAMME**

CAB39/21 David Candlin, Head of Economics, Development and Property introduced the report set out in the agenda.

Discussion and questions from Members included the following:

- The new proposed Property Asset Overview Panel (PAOP) would replace the Development Advisory Panel (DAP).
- The Constitution allowed the Council to move money from one budget heading to another budget heading. This was called virement.

**RESOLVED** –

1. To vire from the Capital and Revenue Initiatives Reserve the sum of £500,000 be used to establish a suitable budget for external

- consultancy services be approved.
2. That the Head of Economic Development and Property in consultation with the S151 Officer and the Portfolio Holder for Finance and Governance be given authority to allocate funding to specific projects be approved.
  3. That the Head of Economic Development and Property in consultation with the S151 Officer and Portfolio Holder for Finance and Governance be given authority to appoint external professional advisors to deliver specific projects be approved.
  4. That the establishment of a working group of Cabinet – the Property Asset Oversight Panel and associated terms of reference as detailed be approved.

**REASON FOR DECISION:**

To allow the delivery of capital receipts to support wider delivery of Council priorities and services.

**TOWN HALL**

CAB40/21 Katie Exon, Corporate Property Manager introduced the report as set out in the agenda.

Discussion and questions from Members included the following:

- The supplier engagement advertisement went live on 15 July 2021. TWBC had received 8 requests from co-working companies to visit the Town Hall and those visits were taking place this week.
- The timetable for implementation shown in the report had been slightly updated since the Finance and Governance meeting.
- This was good news for the Council and good news for Tunbridge Wells Town Centre.
- Engagement with key stakeholders would be important.
- The project had also received very good cross party support.
- The application for funding that would deliver environmental improvements (paragraph 2.10 refers) was due to open in October 2021. TWBC would be submitting a bid, but the outcome wouldn't be known until November 2021. If the TWBC bid was not successful, it was likely that a bid for capital funding would have to be submitted.
- To note, recommendation 6 which dealt with energy efficiency and carbon reduction measures was added following discussions at the Finance and Governance meeting on 13 July 2021.

**RESOLVED:**

1. That a soft marketing and procurement exercise in respect of the Town Hall to secure a partner to deliver co-working space be approved.
2. That the Head of Economic Development and Property in consultation with the S151 Officer and Portfolio Holder for Finance and Governance be delegated to finalise the brief to undertake soft marketing and secure a partner to deliver co-working space be approved.
3. That the Head of Economic Development and Property in consultation with the S151 Officer and Portfolio Holder for Finance and Governance be delegated to engage with existing Town Hall tenants and other occupiers to negotiate and agree terms to vary

and where required to surrender leases/licences to facilitate the development of co-working space be approved.

4. That the Head of Mid Kent Legal Services be delegated authority to negotiate and complete all necessary deeds, leases, agreements and other legal documentation and formalities required to deliver the release and management of the Town Hall for co-working space be approved.
5. That the S151 Officer in consultation with the Portfolio Holder for Finance and Governance be delegated the power to authorise a capital budget and allocation of appropriate resources to meet requirements in opening up the Town Hall to third party use be approved.
6. That through appropriate carbon reduction and energy efficient measures the proposal ensures it contributes to the Council's Corporate Carbon Descent Plan and Action Plan 2021-22.

**REASON FOR DECISION:**

To develop and deliver a sustainable and cost effective use of the Town Hall.

**PREVENTION OF ENGINE IDLING**

CAB41/21 Lee Colyer, Director of Finance, Policy and Development introduced the report as set out in the agenda.

**RESOLVED:** That a 6-month trial be undertaken to advise drivers of the illegality and the impact on the environment of an idling engine be approved.

**REASON FOR DECISION:**

To give the Council an opportunity to gain information into the scale of engine idling in the Borough.

**LAMBERHURST NEIGHBOURHOOD PLAN**

CAB42/21 Nichola Watters, Planning Policy Manager introduced the report as set out in the agenda.

On 20 July 2021, the Ministry of Housing Communities and Local Government published a revised National Planning Policy Framework (NPPF). This was alongside a number of updates to the Planning Practice Guidance (PPG). Details as follows:

- The revised Framework replaced the previous NPPF first published in March 2012, revised in July 2018 and updated in February 2019.
- The Independent Examiner, John Slater considered the Plan and whether it met the basic conditions earlier in 2021, issuing his Examiners Report on 7 May 2021. His recommendation was that the Lamberhurst Neighbourhood Development Plan (LNDP) as modified by his recommendations should proceed, in due course to referendum.
- Given that the revised NPPF and PPG had now been issued, TWBC must be satisfied that the LNDP still met the basic conditions in light of these changes.
- Officers had reviewed the subsequent changes to national policy in the context of the LNDP and the basic conditions test and had determined that TWBC as the Local Planning Authority should

continue to consider that these amendments did not alter its view that the Plan met the basic conditions test.

Discussion and questions from Members included the following:

- Work by the Planning Department on the work being undertaken on Neighbourhood Plans across the whole Borough was commended.

#### **RESOLVED –**

1. That the independent examiner's Report on the Lamberhurst Neighbourhood Development Plan (LNDP) be noted and published.
2. That the LNDP be modified in part, according to the examiner's recommendations and following discussion with Lamberhurst Parish Council be approved.
3. That the Decision Statement at Appendix C and the decision to progress the LNDP as set out at Appendix D to referendum be approved.
4. That in the event the referendum result on the LNDP is positive with more than 50% of the vote, the Council formally makes the LNDP as set out in Appendix D so that it has effect as part of the statutory Development Plan for the Neighbourhood Area be approved.

#### **REASON FOR DECISION:**

Approved Neighbourhood Plans become part of the development plan for the Borough and are a key document in the determination of planning applications that allow the local community to take responsibility for land use planning in their area.

### **SPORTS CENTRE MANAGEMENT CONTRACT**

CAB43/21 Councillor Jane March, Portfolio Holder for Culture and Leisure gave an introduction.

Gary Stevenson, Head of Housing Health and Environment introduced the report as set out in the agenda.

Registered Speakers:

- Councillor David Hayward
- Councillor Sean Holden
- Councillor Hugo Pound

Discussion and questions from Members included the following:

- The capital investment referred to in the report was investment by Fusion not TWBC.
- The support package agreed by Cabinet last year was up to £420k and to date this amount had not been paid over in full.
- All debt that was due by 31 March 2021 had been settled by Fusion. There was still a year's worth of loan payment which was due to be settled during this financial year.
- Fusion was able to settle its accounts with TWBC in part because it had decided to withdraw from those contracts they felt were no

longer viable.

- Recommendation 2 referred specifically to cleanliness and customer care and the requirement to tighten up in these areas.
- The two running machines that were mentioned as being out of order were not because they were faulty, but due to an electrical supply issue which was in the process of being resolved.
- If TWBC were to go out to market now it was likely that any new supplier would not offer a management fee (currently £250k a year). In addition the amount of risk would be considerably greater than what was currently carried.
- In terms of investment, there would be no investment by Fusion for the one year extension, investment would be included in the three and five year options.
- There wasn't a specific investment timetable at present. However, TWBC expected that Fusion would want to implement as soon as possible as this would assist them in driving additional revenue opportunities. TWBC would also expect the investment to start within the current contract period.
- Penalty clauses would be included to ensure that investment took place.
- There would be a considerable cost to be able to run and maintain the centres in-house. The cost was not currently included in the Council's capital or revenue projections.
- TWBC did not have the staffing structure to operate the sports centres.
- TWBC had investigated the position of other authorities. For example, Tonbridge and Malling had bailed out their in-house service to the tune of £1m. Other authorities that have assisted with bail outs ranged in cost from about £200k to £1m. TWBC were not aware of many leisure operators that haven't required some form of bail out during this period.
- It was further expected that for the next 1-3 years conditions would continue to be difficult.
- That said, there had recently been a reasonable take-up of facilities locally which was a positive step forward.
- TWBC needed time to review and consider future options. It wasn't about just returning to the previous option, there was a need to see how the market had changed, what the customers wanted and to provide the best possible longer term service.
- In terms of the viability of using larger (national) or smaller (local) providers, this would be something TWBC would be able to consider.
- Fusion were fully up to date with the planned and agreed repayment schedule to March 2021.
- The further loan payments that were scheduled to be paid during this financial year would result in the loan being fully repaid.
- The agreement from Cabinet last year was to provide up to £420k of support to Fusion. To date, Fusion had claimed £137.8k (September to November 2020). There was a potential second claim for £118k (December 2020 to March 2021). If this claim was received and paid, the total outturn would be approximately £255k. If TWBC allowed for a 75% reimbursement from Government of the management fee, this would leave an outturn to TWBC of less than £100k.
- Government had provided a grant to Fusion of £224k.
- TWBC undertook contract monitoring inspections and all of the

centres were visited once a week to inspect on levels of cleanliness. In addition TWBC would ensure that Fusion had the most up to date system in place for monitoring cleanliness levels. TWBC would be able to report back to Members on a regular basis.

- Concerns had been raised on the level of cleanliness. Fusion use a customer satisfaction and scoring system which were then reported back to TWBC. Comments were both positive and negative. The latest report for The Weald were broadly neutral.
- It was recognised that some of the equipment was old as were the buildings themselves.
- An upgrade to the shower cubicles and tiles on the wet side at The Weald was scheduled to take place in September.
- TWBC did hold Fusion to account. A default notice was served to The Weald this week for a service the Council deemed below standard.
- It would be important that safeguards were put in place so that standards could be monitored and maintained.

#### **RESOLVED –**

1. That authority to the Director of Change and Communities in consultation with the Portfolio Holder for Culture and Leisure be delegated to negotiate and implement the agreed recommendations at detailed in the exempt appendix be approved.
2. That enhanced performance measures alongside the contract extension with associated financial consequences for any failure to meet expected standards of customer care and cleanliness be agreed.
3. That negotiations be undertaken to front-load capital investment into the sports centres be agreed.
4. That any contract extension be made contingent upon an agreed phasing of revenue payments and capital spend with any failure to meet this agreement being regarded as a breach of contract be agreed.
5. That work be undertaken to explore alternative arrangements for delivering the contract be agreed. That reports be brought back to Cabinet as detailed below be agreed:
  - a. The relative merits of contracting with a leisure operator, partnering with another authority/other authorities and in-house/arms-length provision of the contract.
  - b. Options for reducing the carbon footprint of the Council's leisure centre; and
  - c. Recommendations for future leisure provision taking account of the state of the market and projected future trends and the benefits of any linkages with voluntary and community sector organisations, parish and town councils and with parks and educational settings.

#### **REASON FOR DECISION:**

To allow the continuation of sports provision across the Borough whilst maintaining a sustainable level of operation over the medium term.

**URGENT BUSINESS**

CAB44/21 There was no urgent business.

**DATE OF NEXT MEETING**

CAB45/21 The next meeting would be held on Thursday 23 September 2021 commencing at 10:30am in the Council Chamber, Town Hall, Tunbridge Wells.

**EXEMPT APPENDIX TO SPORTS CENTRE MANAGEMENT CONTRACT**

CAB46/21 **RESOLVED** – That pursuant to Section 100(A) of the Local Government Act 1972 and the Local Government (Access to Information) Variation Order 2006, the public be excluded from the meeting for the following item of business on the grounds that they may involve the disclosure of exempt information as defined in Schedule 12A of the Act, by virtue of the particular paragraphs shown on the agenda and on the attached report.

Discussion included:

- The different extension options and associated financial implications.
- The age of the facilities and the need for significant capital investment.
- The benefits of investment.
- The potential for increased usage of each of the 3 facilities.
- The management of the centres to ensure the Council continued to provide sports and leisure facilities for use by the community.
- The importance of the reduction in the level of carbon emissions from the buildings.
- The significance of the Local Plan and consideration of the type and location of facilities in the future.

**RESOLVED** - That the decision was taken under minute item no CAB43/21

**NOTES:**

The meeting concluded at 12.25 pm.

An audio recording of this meeting is available on the Tunbridge Wells Borough Council website.