

TUNBRIDGE WELLS BOROUGH COUNCIL

MINUTES of a meeting of the Tunbridge Wells Borough Council, duly convened and held at the Council Chamber, Town Hall, Royal Tunbridge Wells, TN1 1RS, at 6.30 pm on Wednesday, 6 July 2022

PRESENT:

The Mayor Councillor Godfrey Bland (Chair)

Councillors Allen, Atwood, Bailey, Barrass, Barrington-King, Brice, Chapelard, Dawlings, Ellis, Everitt, Fitzsimmons, Funnell, Goodship, Hall, Dr Hall, Hayward, Hickey, Hill, Holden, Johnson, Knight, Le Page, Lewis, Lidstone, March, McMillan, Moon, Morton, Neville, Ms Palmer, Patterson (Vice-Chair), Poile, Pound, Rands, Roberts, Rogers, Rutland, Sankey and Wakeman

IN ATTENDANCE: William Benson (Chief Executive), Claudette Valmond (Head of Legal Partnership and Interim Monitoring Officer), Mark O'Callaghan (Scrutiny and Engagement Officer) and Caroline Britt (Democratic Services Officer)

APOLOGIES FOR ABSENCE

FC12/22 Apologies were received from Councillors Atkins, Britcher-Allan, Fairweather, Pope, Warne, White, Willis and Wormington.

MINUTES OF THE MEETING DATED 27 APRIL 2022

FC13/22 No amendments were proposed.

RESOLVED – That the minutes of the meeting dated 27 April 2022 be approved as a correct record.

MINUTES OF THE MEETING DATED 25 MAY 2022

FC14/22 No amendments were proposed.

RESOLVED – That the minutes of the meeting dated 25 May 2022 be approved as a correct record.

DECLARATIONS OF INTEREST

FC15/22 No declarations of pecuniary or other significant interest were made.

ANNOUNCEMENTS

FC16/22 The Leader of the Council:

- Thanks were given to local organisations, volunteers, council staff and all who made the Queen's Platinum Jubilee celebrations such a success.
- Members attended a number of events across the Borough which were unique and reflected the spirit of the individual communities.
- Residents and Businesses were to be congratulated in bringing communities together after what had been a very difficult two years.

The Cabinet Member for Housing and Planning:

- In answer to a supplementary question made by a resident at Full Council on 22 February 2022 regarding the number of new social housing units that had been delivered by the Council in the last five years, the previous Portfolio Holder for housing had inadvertently provided an inaccurate reply at the subsequent Full Council meeting held on 27 April 2022. The correct answer was that a total of 36 new social housing units had been built in the last 5 years, not 634.
- The number given by the previous Portfolio Holder had given the total number of all forms of affordable housing, rather than the specific term of those houses built for social rent. These were defined as properties for rent at up to but not more than 60% of market rent.

The Cabinet Member for Environment, Sustainability and Carbon Reduction:

- The Council had, on two occasions (2015 and 2021) made clear its opposition to the expansion of Gatwick Airport. In 2021 the reaffirmation was strengthened and aligned with the recognition of climate emergency.
- An expansion would lead to a huge increase of greenhouse emissions in the South East.
- In addition, current proposals to relax night time flight restrictions would add to resident's concerns about noise pollution. As such any proposals to take this forward would be opposed.

QUESTIONS FROM MEMBERS OF THE PUBLIC

FC17/22 The Mayor advised that five questions from members of the public had been received under Council Procedure Rule 8.

1. Question from Terry Cload

Mr Cload was not present at the meeting, therefore the question was asked and answered separately in writing outside the meeting.

"I was informed by the Council in February, in answer to a question, that it was hoped that public toilets at the Pantiles Pump Room would be opened 'immediately'. These facilities are still not available despite the development being completed many months ago.

The height of the tourist season is nearly here. When will these much-needed lavatories be opened?"

Answer from Councillor Rutland

"Dandara, developers of 1887 the Pantiles, have confirmed that the toilets have been completed and are accessible to the public via either the Pump Room managed by Trinity Theatre or via the concierge. A Pump Room Management Plan has been agreed and this states that the toilets will be available to the public between 9.00am – 5.30pm (7 days a week) and also later in the evening to coincide with any specific events held on The Pantiles.

Unfortunately, access to these public toilets is not straightforward. First, I would like to mention the concierge access. Yesterday, one of the council's Enforcement Officers visited the site, asked at the concierge desk and was

shown to the toilets and confirmed that they were open and operational.

Unfortunately, that was not my experience on Monday when I asked the concierge and was told that a key was required to access the public toilets, and that the key was not available.

I am not convinced that 'public toilets' is compatible with having to ask a concierge for access or knowing that one had to go into a residential building and ask the concierge. Moreover, there is not yet any signage to indicate the presence of any toilets in the vicinity.

Second, I would like to explain access via the Pump Room. I am very grateful to the management of Trinity Theatre who have updated me today regarding the Pump Room. The theatre is not yet in possession of the space. Their statement reads:

"We are excited to take on occupation of the Pump Room and to use it to further our artistic aims and to support the community of Tunbridge Wells. We hope to complete acquisition of the site shortly and once opened would naturally wish to make it open to the community like our existing site on Church Road; this would extend to providing access to the toilets adjacent to the site. However, as we will not be open at all hours and sometimes the events taking place will be private (whether our own or external groups hiring the space) we would not be able to guarantee access to the facilities at all times and therefore other arrangements would need to be made in order to ensure continued public access to the facilities."

To conclude, the toilets now appear to technically be open and the problem is one of access. There are two ways to access them and neither is straightforward. Please rest assured that I will work to make these public toilets more accessible and more visible."

2. Question from James Tansley

"Having previously been told in response to Freedom of Information request EIR F10683 that I could expect to see the Urbaser contract (the one which was so difficult to locate) on 11 May, I was surprised to receive an e-mail from the Council's Freedom of Information Team that they could not reveal it "for reasons which are confidential". Please can the Council explain what it is about this domestic waste collection contract that merits such secrecy?"

Answer from Councillor Everitt

"Thank you for your question Mr Tansley, it relates to one our priorities which is to review and promote Digital Access and Transparency. I understand that full and detailed reasons for the outcome of your information request were provided in the response provided to you.

Since then you have requested a review of this decision and this is currently being undertaken. As the review is ongoing, any comment I could make at this time could endanger the process and robustness of your requested review.

As the review is ongoing it is not correct for me to offer a comment at this stage and I know the review once concluded will provide you with a detailed

response.

I want to reiterate that one of our Partnership priorities concerns greater transparency and I know that my colleague Cllr Hayward will be developing and improving access to information.

Supplementary Question from James Tansley

“When the Council responded first to my request, I was told the review would take 20 working days. I received an email in response 31 working days after I sought a review and was told the review was not going to be ready until 40 working days. Given that my original Freedom of Information request, the negative answer to which was passed to be 40 working days after the date of my request, instead of the 20 working days stipulated in the Freedom of Information Act 2004. Can I impress on this new Council the importance of changing the culture, which was one of secrecy and emphasis that they are spending local residents money, and local residents expect to have full clarity on what that money is being spent on.”

Supplementary Answer from Councillor Everitt

The feedback was welcomed and it was agreed that further information on timing would be reverted to Mr Tansley after the meeting.

3. Question from James Tansley

“At the meeting of Full Council on 27 April, the then relevant Portfolio holder, Councillor Fairweather, declined to provide a response to the following question:

“On 7th January the council announced that it intended it would trigger financial penalties, in light of poor performance by Urbaser. Please can you tell me the precise value of the penalties triggered?” Councillor Fairweather argued, incorrectly, that this was related to Freedom of Information request EIR F10683. Given that the two issues are separate, please can the Council provide a response now?”

Answer from Councillor Everitt

“Once again thank you for your question.

One of the services where we are seeking immediate improvement as a Partnership has been the waste contract, and we have already had a number of productive and positive meetings with our partner authority for this contract - TMBC.

With an aim to deliver an improved service for residents and one that enables us to continue to keep our commitment to safeguard this Council’s finances. Something I know we are already on the path to delivering.

At this time there is no monetary value of the defaults we have raised. I can confirm that we have raised them and they have, at this time, not been accepted by our contractor and have no agreed value. This matter forms part of our immediate discussions with TMBC and Urbaser to improve the service for residents.”

4. Question from James Tansley

“Please can the Council say how much it received in extraordinary central Government funding due to the Covid-19 crisis in financial years 2020/21 and 2021/22 and provide figures for the Council’s total financial reserves at the end of the 2019/20 financial year and at the end of the 2020/21 financial year?”

Answer from Councillor Hickey

“The information is set out in the Draft Financial Report for 2021/22 which is available on the Council’s website by searching ‘Transparency’ and selecting Draft Financial Report. I will ask the Comms team to tweet a link to the document for easy access.

Covid Grant Income for 2020/21 was £7.63 million, this includes Sales, Fees and Charges Support, Emergency Covid Funding, Cultural Grant, Furlough Income and Business Rates/Council Tax Compensation. It does not include New Burdens Grants and the monies that we were asked to distribute on behalf of the Government.

Covid Grant Income for 2021/22 was smaller at £1.53 million – this also included Sales, Fees and Charges Support, Emergency Covid Funding, Cultural Grant and Furlough Income. Again, this does not include New Burdens Grants and all the monies that we were asked to distribute on behalf of the Government.

Usable reserves for 2019/20 were on Page 43 of the Annual Financial Report and were £21.2 million.

Usable reserves for 2020/21 were on Page 47 of the Annual Financial Report and were £39.5 million; £15.4m of which was Business Rates and Council Tax Grants in Advance from Central Government which will be repaid over the following 2 years. The real Usable reserves for 2020/2021 were therefore £24m.”

Supplementary Question from James Tansley

“An undertaking to increase transparency of financial information was to be applauded. Would improved transparency include looking at the way the information was presented? Details of the incoming and outgoing payments and assets were difficult to understand in the current format.”

Supplementary Answer from Councillor Hickey

“The Council would endeavour to present information that was easily understood. However, the way the Council’s financial information was produced was complicated. Discussions were taking place with the S151 Officer and the Council’s digital team to make the dissemination of financial information more transparent and easier to understand.”

5. Question from James Tansley

“Given that the new Leader of the Council has said that there is a £20 million black hole in the Council’s finances, does he support the current Tax Payers’ Alliance campaign to stop council tax rises, eradicate wasteful spending, and

scrap pay rises for town hall bosses?”

Answer from Councillor Chapelard

“Thank you, Mr Tansley, for your question. Today Wednesday 6 July 2022 marks day 43 of the Borough Partnership administration. Within minutes of being elected Leader of the Council I set out our new administration’s priorities which are called Focus on Five. Priority one is Safeguarding the Council’s finances.

We have done an In Year Budget Review which has identified the following deficits in the next 5 years:

£944k in financial year 22/23,
 £2.649m in financial year 23/24
 £2.832m in financial year 24/25
 £3.138m in financial year 25/26
 £3.491m in financial year 26/27

As you can see the deficits get bigger and bigger. By 2026 the deficit will be 3.5 times bigger than this year’s, if left unmanaged.

The Borough Partnership had made proposals to begin to safeguard the Council’s finances, on Monday, as part of our Inherited Deficit Reduction Plan. In addition to the Inherited Deficit Reduction Plan, our new administration would begin planning for the 2023/24 budget.

In terms of the three measures mentioned in your question, our Borough Partnership cannot rule out or rule in anything at this stage.”

Supplementary Question from James Tansley

“Given that we are facing a cost of living crisis, reducing the cost of taxation must be a priority for any politician. Does Councillor Chapelard agree with his counterpart in Maidstone that it is time to axe the daft County Council and set up a Unitary Authority for West Kent, saving on bureaucracy and setting out clearer lines of responsibility for the delivery of public services within this part of Kent.

Supplementary Answer from Councillor Chapelard

“A first meeting had taken place yesterday with my counterpart Councillor David Burton, where this issue was discussed. Many councillors share the frustration that there was a two tier system of government. Many things the Council wanted to undertake were outside its control, responsibility instead resting with Kent County Council. No commitment at this time would be made as to whether the Council would support a proposal to go to a super unitary. However, the Cabinet Member with responsibility for Governance and Transparency would be undertaking a review of Local Government.”

QUESTIONS FROM MEMBERS OF THE COUNCIL

FC18/22 The Mayor advised that 1 question from a Member of the Council had been received under Council Procedure Rule 10.

1. Question from Councillor Rands

“Given the controversies over the TWBC finances could the portfolio holder give us an overview in plain English of where we stand ideally highlighting the publicly available documents where the facts and figures can be confirmed”

Answer from Councillor Hickey

“Thank you, Councillor Rands, for your question. A forecast deficit for the year to 31 March 2022, was narrowly avoided by the skills of our Section 151 Officer and his team. They secured, at no small effort, additional un-forecast one-off pandemic funding; they also released budgeted contingency which would have otherwise gone to reserves, including funding for essential, but unhired, council staff. £35,000 was transferred to reserves. Not much of a saving plan when we have a total income of around £60m on an annualised basis.

You can find this in the Quarter 4 revenue report as reviewed at the 8 June 2022 Finance and Governance Cabinet Advisory Board and approved at the Cabinet meeting held in Cranbrook on 23 June 2022. Appendix C shows the key variances to the full year budget. I will ask the Comms team to tweet a link to the document for easy access.

The problem with this financial tap dancing is that one-off funding and contingency releases do not fix the longer-term structural problem this council has. This year, without action, we will spend £944,000 more than we earn. This gap rises to over £2m next year and keep rising in subsequent years based on current estimates. We can keep dipping into reserves to fill the gap, not hire the staff we need, or hope that the government’s promised long-term settlement fixes our problem; long term equals 2 years in Michael Gove’s mind by the way. This does not seem sensible to me.

Our auditors, very sensible people usually, in December 2021 told us that we need to stop using reserves to plug holes in the budget and that we need to carefully and transparently demonstrate the discretionary and non-discretionary services we budget for so that we can all be a bit more realistic about what the council can afford to do and what it cannot afford to do. I’ll have that report link tweeted as well in due course.

Be assured that the Borough Partnership will act to stop the growing deficit becoming unmanageable. We have this week published an in-year budget review report and a sales fees and charges report which demonstrates our commitment to safeguarding the council’s finances.

Councillor Rands, you mentioned some controversy. Here’s some controversy for you: the Tunbridge Wells cultural hub budget in 2015 was £13.48m, the Amelia Scott as it is now called will in fact have cost north of £20m, a 60% plus overrun. The planning and design documents for an office block and theatre cost over £10m. The fiscal incontinence of these projects is the real controversy. I feel sure that my colleague Councillor Pound would have made good use of sums like these on the delivery of decent housing for some of the less well-off residents in our borough, or Councillor Everitt would have made inroads into our zero-carbon plan or perhaps we could have acquired the cinema site to help reinvigorate the town centre or made grants to our rural parishes to improve local services. Instead, we are now looking into something of a black hole in our reserves without remedial action.”

Supplementary Question from Councillor James Rands

“The auditors had picked up the structural issue in 2021, but how far back does this actually run?”

Supplementary Answer from Councillor Andrew Hickey

A written response that provided clarification of when the external audit report first raised the need to identify how to avoid funding of the deficit using council reserves was provided after the meeting as follows:

“The December 2021 report (<https://bit.ly/3IkSXN6>) Page 12 was the first time that the External Auditors made this recommendation following a sector-wide view of councils emerging from the pandemic.

They also recommended (Page 13 of the same document) identifying discretionary and non-discretionary services, the aim being to aid transparency by more clearly detailing those services that councils must provide and those that councils have chosen to provide as they set out post pandemic savings plans to the public.

In my budget speech of 24 February 2021, I highlighted the emerging problem:

“Whilst the current year deficit will be better than forecast in Q3 of this year, it will still be a deficit. The budget predicts a further deficit in 2021/2022. Moreover, there is a forecast 5-year deficit in the medium-term financial strategy that has increased from £5.4 million in the last budget to £24.9 million in this budget, and which is more than the council’s reserves as of April 2020. This might be due to cautious accounting, however, if unaddressed it will leave the council in a marginal or unviable position by the end of the 5-year period. Without significant income growth, cost management, asset divestment, borrowing, or all four we will be in trouble.”

Again, in my budget speech of 21 February 2022, I highlighted the problem:

“As planned we have had another year of deficit this year, albeit smaller than forecast, and this budget and medium-term financial strategy predict a further deficit in 2022/2023 and a net cumulative deficit of over £20 million in the years to 2028. Once again if unaddressed this deficit will leave the council in a marginal or unviable position by the end of the period. Without significant income growth, cost management, asset divestment, borrowing, or all four the borough will be in trouble. I still see no concrete plan from the Conservative, now minority, administration to address this challenge.””

OVERVIEW AND SCRUTINY COMMITTEE ANNUAL REPORT 2021/22

FC19/22 Councillor Holden moved and Councillor Ellis seconded, the recommendation set out in the report on the agenda.

The report was taken as read.

The Mayor took a vote on the motion by affirmation.

RESOLVED – That the Overview and Scrutiny Committee Annual Report 2021/22 be noted.

APPOINTMENT OF VICE CHAIR OF THE OVERVIEW AND SCRUTINY COMMITTEE

FC20/22 Councillor Chapelard moved, and Councillor Holden seconded, the recommendation set out in the report on the agenda.

Debate included consideration of the following points:

- It was questioned as to whether any women had been considered for the post. It was noted that Councillor Morton had originally been appointed as Vice Chair of Overview and Scrutiny but had subsequently resigned.

The Mayor took a vote on the motion by affirmation.

RESOLVED – That Councillor Ellis be appointed as Vice Chair of Overview and Scrutiny Committee.

APPOINTMENT OF INDEPENDENT MEMBER TO THE AUDIT AND GOVERNANCE COMMITTEE

FC21/22 Councillor Everitt moved, and Council Hall seconded, the recommendation set out in the report on the agenda.

The report was taken as read.

The Mayor took a vote by affirmation.

RESOLVED – That Mr Edward Elliott be appointed to the Audit and Governance Committee as an Independent Member for the term of four years.

MOTION ON NOTICE FROM COUNCILLOR BAILEY

FC22/22 Councillor Bailey moved, and Councillor Rands seconded, the motion set out in the associated notice.

In moving the motion, comments included:

- Two speakers from Local and Live had hoped to be at the meeting but unfortunately had been unable to attend.
- Local and Live showcased local music and took place in Tunbridge Wells each year. Roughly 15- 20,000 people attended each year.
- It ran for four days over the August Bank Holiday weekend at a number of venues across the town.
- In addition to promoting local music talent, the event helped promote Tunbridge Wells as a place to visit – which was good for the town and for local businesses.
- The Council already support cultural events because of the wider benefits they bring.
- The Council provided support to the Assembly Hall Theatre and Trinity Theatre. The Council had also invested a large sum of money to develop the Amelia Scott.
- The Council already supported Local and Live with a grant of £1,650 being awarded for the next three years.

- There was doubt as to whether Local and Live would go ahead this year due to a lack of funding. The potential loss of the event would have a detrimental effect on the town and on local businesses.
- The motion sought to request that Cabinet consider the possibility of providing additional funding that would help ensure the event would go ahead.

Debate included:

- Given the current state of the Council's finances, it was suggested that there were other priorities that should be given precedence.
- The Community Grants Panel awarded £1,650 each to three musical events for three years. There were other events that also brought people into the town that the Council no longer supported and they had found other sources of funding. As such, the Council should not be the place of last resort and organisations should be encouraged to find other funding sources.
- Local and Live had been well supported over the years and there were now more deserving causes.
- The motion was clear that it was inviting the Council to consider additional funding. There was no commitment requested to award any funding.
- It was suggested that this was more the type of scheme that the Council should consider supporting. The spend would be relatively low but would result in revenue being brought into the area.
- A discussion between Local and Live and the Council that would help put their finances on a firmer footing could be an option.
- Local and Live was an important event for the town. Such events helped put Tunbridge Wells on the map and encouraged more people to visit, the overall effect of which helped the town to prosper.
- Tunbridge Wells wanted to be considered a destination town, events like Local and Live, that would help the town get 'Music City Status' therefore played an important role.
- There were two issues, consideration of the provision of longer term funding, and something more immediate that would help secure the event for this year.
- If no injection of cash was forthcoming for this year, there was a chance the event would not go ahead.

Councillor Bailey requested a recorded vote.

Members who voted for the motion: Councillors Atwood, Bailey, Barrass, Barrington-King, Bland, Brice, Chapelard, Dawlings, Ellis, Everitt, Fitzsimmons, Funnell, Goodship, C. Hall, Hayward, Hickey, Hill, Johnson, Knight, Le Page, Lewis, Lidstone, McMillan, Moon, Morton, Neville, Ms Palmer, Patterson, Poile, Pound, Rands, Rogers, Rutland, Sankey and Wakeman. (35)

Members who voted against the motion: Councillors Allen, Dr Hall, Holden, March and Roberts. (5)

Members who abstained from voting: None.

RESOLVED – That given the significant cultural and economic benefits the annual Local & Live music festival brings to the town of Tunbridge Wells and surrounding areas, this Council asks Cabinet to consider providing a grant to the organisers to enable the 2022 festival to go ahead and to consider how

the Council could provide annual financial support for the festival going forward.

URGENT BUSINESS

FC23/22 There was no urgent business.

COMMON SEAL OF THE COUNCIL

FC24/22 **RESOLVED** – That the Common Seal of the Council be affixed to any contract, minute, notice or other document arising out of the minutes or pursuant to any delegation, authority or power conferred by the Council.

DATE OF NEXT MEETING

FC25/22 The next scheduled meeting was Wednesday 5 October 2022.

NOTES:

The meeting concluded at 7.35 pm.