

**MINUTES OF A MEETING OF THE EXECUTIVE  
HELD AT FOLLATON HOUSE, TOTNES ON THURSDAY 6 MARCH 2008**

**MEMBERS**

\* Cllr R J Tucker - Chairman

\* Cllr P W Hitchins - Vice-Chairman

\* Cllr N A Barnes

\* Cllr H D Bastone

\* Cllr B E Carson

\* Cllr T J Hewitt

\* Cllr D W May

\* Cllr M F Saltern

\* Denotes attendance

Also in attendance at the invitation of the Chairman:  
Cllrs K J Baldry, J Brazil, G J Fielden, C M Pannell, J T Pennington,  
J W Squire, M Stone and A Ward;

Also in attendance but not participating:  
Cllrs R J Carter, R D Gilbert, M J Hicks, D M O'Callaghan and R C Steer;

Officers in attendance:

All Agenda Items: Chief Executive;

Items 7 to 14 (minutes E.102/07 to E.109/07 below refer) – Strategic Director  
(Community);

Item 7 (minute E.102/07 below refers) – Strategic Director (Operations), Solicitor and  
Street Scene Manager;

Items 9 to 18 (minutes E.104/07 to E.113/07 below refer) – Strategic Director  
(Resources);

Items 9 and 10 (minutes E.104/07 and E.105/07 below refer) – Head of Property  
Services;

Items 11, 12 and 13 (minutes E.106/07, E107/07 and E.108/07 below refer) – Head  
of Environmental Health;

Item 14 (minutes E.109/07 refers) – Head of Planning and Building Control.

**E.97/07 MINUTES**

The minutes of the meeting of the Executive held on 24 January 2008 were confirmed as a correct record and signed by the Chairman.

**E.98/07 MEMBERS IN ATTENDANCE**

It was noted that the following Members were in attendance and participated during the discussion on the under-mentioned items:-

Items 7, 8, 9, 10, 11, 14 and 15 (minutes E.102/07, E.103/07, E.104/07, E.105/07, E.106/07, E.109/07 and E.110/07 below refer) – Cllr Pennington;

Items 7, 9, 10 and 14 (minutes E.102/07, E.104/07, E.105/07 and E.109/07 below refer) – Cllr Brazil;

Item 8 (minute E.103/07 below refers) – Cllr Ward;

Items 9 and 10 (minutes E.104/07 and E.105/07 below refer) – Cllr Stone;  
Items 10, 14, 15 and 18 (minutes E.105/07, E.109/07, E.110/07 and E.113/07 below refer) – Cllrs Pannell and Squire;  
Items 10 and 14 (minutes E.105/07 and E.109/07 below refer) – Cllr Fielden;  
Items 11, 12 and 15 (minutes E.106/07, E.107/07 and E.110/07 below refer) – Cllr Baldry.

**E.99/07      DECLARATIONS OF INTEREST**

Members were invited to declare any interests in the items of business to be considered during the course of the meeting, these were recorded as follows:-

Cllr H D Bastone declared a personal interest in item 9: 'Kingswear Passenger Ferry Pontoon Replacement' (minute E.104/07 below refers) and item 10: 'Castle Cove, Dartmouth' (minute E.105/07 below refers) by virtue of him being a local Ward Member and remained in the meeting and took part in the discussion but abstained on the vote for both items.

**E.100/07      URGENT BUSINESS**

The Chairman advised that he had one item of urgent business to be considered which was felt to be urgent due to the need to take a decision before the next scheduled Executive meeting. Following the announcement of the closure of the Dartington College of Arts and the subsequent judicial review, Members wished to support the campaign to prevent this closure by way of providing funding for two days worth of legal advice, in respect of the application for a judicial review of the decision of the South West Regional Development Agency. The following resolution was therefore **PROPOSED** and **SECONDED** and on being put to the vote declared **CARRIED**:-

**RESOLVED**

That funding be provided for two days worth of legal advice, in respect of the application for a judicial review of the decision of the South West Regional Development Agency, for the 'Save Dartington College' campaign.

**E.101/07      PUBLIC QUESTION TIME**

In accordance with the Executive Procedure Rules, it was noted that two questions had been received from members of the public as follows:-

**Question received from Julia Willoughby, Clerk to South Brent Parish Council:**

*"If SHDC still holds a Sole or Main place of Residence Restrictive Covenant on former council housing stock, South Brent Parish Council would like to enquire whether the Covenant is being enforced?"*

In response, the Executive Member with responsibility for Housing noted that the Council generally enforced the various restrictive covenants. The key covenant was that ex Council houses in the rural area could only be acquired by someone who had a local connection to Devon. The evidence of local connection had to be demonstrated to the Council. A further covenant was that the dwelling must be used as the main home, and not as a holiday or second home.

If there was a suggestion, based on local knowledge, that a covenant had not been complied with once the sold dwelling was subsequently occupied the Council could investigate the situation. However, enforcement action was to some extent constrained by the legal remedies available.

The Council was also aware that South Brent Parish Council had expressed concerns about the sale of ex Council house gardens for new housing. In such cases, it was difficult to control future occupation of the new dwellings through the covenant. Any controls over new development were generally more effectively resolved through the planning process, provided the nature of the proposed development required permission and that any conditions imposed were legitimate under planning law.

**Question received from Dave Mitchell, Chairman of Design our Space:**

*"The proposed 'Procurement Approach' for the Totnes Southern Area effectively hands over the detailed design and community consultation to a developer. Surely this will result in a "Failure to secure community support for the scheme" (one of the Issues/Obstacles identified in the Strategic Risk Assessment at the end of Section 11)? We have to say that it is seen as a complete reversal and betrayal of the promises made to the Community in the past and will be opposed vigorously by DOS."*

In response, the Deputy Leader of Council and Executive Member for Prosperity, emphasised the importance of community engagement and noted that this approach was to involve the developers expertise at an early stage in the process and not about disposing of the site to the developer. The Deputy Leader also informed those present that it was his intention to propose an addition to the recommendation of item 8: 'Totnes Southern Area – Procurement of Final Stage' (minute E.103/07 below refers) to invite Totnes Town Council and Design our Space to participate on the evaluation of bids under the procurement route set out in the presented report and at key stages thereafter.

A representative for Design our Space, Shirley Pentergast, then wished to reiterate how crucial the final stage of the development was in terms of achieving quality and therefore community engagement was essential.

## E.102/07 **CIVIL PARKING ENFORCEMENT**

Members considered a report that provided further information relating to the operation of the Civil Parking Enforcement (CPE) scheme in the 'South Devon and Dartmoor' area, working in partnership with Teignbridge District Council, West Devon Borough Council and Devon County Council. The report sought approval to implement CPE subject to the Department for Transport approving Devon's over-arching application in respect of these new powers and Devon County Council underwriting the full cost of operating on-street enforcement activity in the South Hams.

The report concluded that the CPE scheme was a positive opportunity to work on a two-tiered partnership approach for a standardised parking service through shared services. It offered an opportunity to ensure that district councils had a future role in helping to manage parking services within local communities throughout the South Devon and Dartmoor area, in accordance with current Government requirements for local administration and service delivery.

During discussion, specific reference was made to:-

- a) Devon County Council (DCC) underwriting the costs. A Member highlighted from the presented report, the requirement for additional back office administrative support which was not covered with the DCC model. Although it was noted that DCC would fund costs for this additional support as was reasonably requested and justified, it was felt that the wording in the presented report did not provide sufficient assurance. In agreement to this a non-Executive Member suggested that an addition to the recommendation be proposed noting that the District Council would not be exposed financially and that DCC should meet all capital and revenue costs required to set up and operate the scheme. In response, it was noted that officers were pursuing these concerns with DCC and it was hoped that further clarity would be available at the Council meeting on 27 March 2008, when the recommendation to the presented report would be ultimately considered for approval;
- b) the staff which were likely to be transferred from the Police. A non-Executive Member raised concern over those staff which the presented report noted as being on 'long term sick leave'. It was felt that it would be unacceptable for the Council to inherit these problems;

- c) IT systems. Members were informed that the Council was working with other Devon authorities to utilise the best software system, although it was noted that, currently the South Hams IT Server was the most proficient to deliver an integrated SPUR software system for back office processing in South Hams, Teignbridge and West Devon.

In conclusion, DCC Members wished to be kept fully informed of the progress made during discussions with the County Council.

## **RECOMMENDED**

That the Council be **RECOMMENDED** that:-

- i) the contents of the report and the ongoing negotiations towards an acceptable implementation plan for Civil Parking Enforcement be noted;
- ii) subject to the satisfactory conclusion of a fully-costed and workable Implementation Plan and formal approval of full Council, the powers for Civil Parking Enforcement be agreed and undertaken on behalf of Devon County Council working in partnership with Teignbridge District and West Devon Borough Councils;
- iii) authority be delegated to the Strategic Director (Operations) and Deputy Monitoring Officer in consultation with the Executive Member for the Clean Environment, for the completion of the negotiations relating to Civil Parking Enforcement; and
- iv) subject to (iii) above, the necessary operational changes required to operate Civil Parking Enforcement from 5 May 2008, including completion of all necessary agreements and other steps to facilitate and implement the arrangements outlined in the presented report, including the Agency Agreement, the procurement of ICT systems on behalf of Teignbridge District Council and West Devon Borough Council, the modification of parking notices and procedures, the recruitment of staff and training and the provision of vehicles commence.

**E.103/07 TOTNES SOUTHERN AREA – PROCUREMENT OF FINAL PHASE**

Members considered a report that put forward a procurement approach for the final phase of the Totnes Southern Area (TSA) which would enable the completion of the final element of this important development project in the centre of Totnes. The report suggested a different approach than was used for the previous phase, with proposals for a developer to be appointed at an early stage in the process.

The report concluded in stating that such a procurement approach would see a developer engaged at an early stage in the process which, it was anticipated, would help to ensure delivery of the project within acceptable cost and time parameters.

In presenting the report, Members were reminded that due to the value of the final phase, it fell within the requirements of the European procurement rules which, in particular, meant that the scheme would have to be advertised in the European Journal.

Members were also informed that, further to the question asked by a representative from Design our Space under Item 6: 'Public Question Time' (minute E.101/07 above refers), correspondence from the Town Council and Totnes Community Strategy had been received by the Council emphasising the importance of community involvement throughout the development of the final phase. As referred to under minute reference E.101/07, the following addition to the recommendation in the presented report was **PROPOSED** and **SECONDED** and on being put to the vote declared **CARRIED**:-

“That Totnes Town Council and Design our Space be invited to participate in the evaluation of bids under the procurement route as set out in the presented report and at key stages thereafter.”

It was then:-

**RESOLVED**

That:-

- a) the development of the final phase of the Totnes Southern Area be procured as set out in the presented report;
- b) the Totnes Southern Area Working Group continues to provide the Member interface in relation to ongoing procurement of the project;
- c) the decision on the preferred developer for the site be delegated to the Strategic Director (Community) in consultation with the Deputy Leader; and

- d) Totnes Town Council and Design our Space be invited to participate in the evaluation of bids under the procurement route as set out in the presented report and at key stages thereafter

E.104/07 **KINGSWEAR PASSENGER FERRY PONTOON REPLACEMENT**

Consideration was given to a report which set out the requirements for the replacement of the Kingswear passenger ferry pontoon and bridge. Whilst it had significant financial implications for the Council, the Council had an obligation for its maintenance and replacement, and there were significant levels of risk if the structures were not replaced. The report concluded in recommending that replacement be carried out during autumn 2008.

In presenting the report, the Deputy Leader identified the options within the presented report emphasising option 2: to undertake significant refurbishment to the existing structures, and option 3: the complete replacement of the existing bridge and pontoon. Having reviewed the options, officers advised that a full replacement of the bridge and pontoon, together with associated works, was the most appropriate way forward.

During discussion, the following points were made:-

- a) The importance of maintaining river access to Kingswear for the operation of the ferry was stressed. A local Member for Dartmouth, who was also an Executive Member, highlighted the importance of maintaining ferry access across the River Dart for the benefits to the economy of Dartmouth. This aspect was also reiterated by a non-Executive local Member for Dartmouth;
- b) Reference was also made to the exemption to standing orders. Members were informed that the contractors for the works on the pontoon and bridge would not only be carrying out the work but would also supply the structures. It was felt that an exemption to standing orders would accommodate the proposal subject to costs not exceeding the budget. Furthermore, following a query, Members were assured that any costs above the proposed allocation for funding, would be presented back to the Executive for consideration;

- c) A non-Executive Member expressed concern that the Dart Valley Railway (DVR) was not making any financial contribution towards the project. It was felt that as DVR used the pontoon and bridge to run its business, the Council could be perceived as subsidising a private company at the expense of Council Tax payers. In response to this concern, it was noted that the passenger ferry rights were owned by South Hams District Council and were currently licensed to DVR, which included the use of the landing pontoons at Kingswear and Dartmouth. The Council had full responsibility for the repair, maintenance and replacement of the bridge and pontoon and therefore there was no requirement on DVR to make a contribution to costs associated with the Council carrying out these obligations.

### RECOMMENDED

That the Council be **RECOMMENDED** that:-

- a) the Kingswear Passenger Ferry pontoon and link bridge be replaced as set out in the presented report and that £275,000 be allocated from the Council's capital resources for that purpose; and
- b) an exemption to standing orders be made in respect of tendering the ancillary works required in order that these can be undertaken by the pontoon and bridge manufacturer (subject to overall costs coming within the total budget of £275,000).

#### E.105/07 **CASTLE COVE, DARTMOUTH**

Members considered a report which set out proposals for the re-creation of a link path at Castle Cove between the existing footpath and the bathing platform. The report sought approval for a funding contribution from South Hams District Council towards the project, subject to an equivalent contribution being generated locally. Members were being requested to allocate up to £35,000 (50% of the estimated cost) for the re-instatement of this access path to the bathing platform at Castle Cove.

During discussion, particular reference was made to a non-Executive Members' concern over the health and safety implications and legal obligations for the Council should an incident on the cliff face occur. Although understanding why this facility would benefit Dartmouth, this point was stressed by a number of concerned Members. Furthermore, a number of non-Executive Members also demonstrated concern for the costs implications, not only up front, but also the unknown continuing costs of maintaining the cliff face to ensure it was safe for the public to proceed along the link path. In response to these concerns, Members were advised that these implications had been

given consideration and regardless of whether or not the link path was established, the Council still had an obligation to maintain the cliff face as bathers still used the beach and footpath. Regular inspections were already carried out at Castle Cove and contractors were employed annually to ensure loose rocks were removed safely.

However, concerned Members were still hesitant to support this proposal. It was suggested that once the works had been complete the Council pass on ownership of the area to a local group or perhaps the Town Council. However, officers advised that this route had been explored and would continue to be, but it had been difficult to obtain support. Moreover, it was the Council's obligation to ensure public safety and therefore any group/organisation interested in taking on the ownership would still have to demonstrate its ability to address this issue.

In conclusion, a Member proposed that an addition on the recommendation (as circulated in the presented report) be included to ensure that maintenance of the link path be transferred to a 'suitably responsible' local trust.

It was therefore:-

### **RESOLVED**

That:-

- a) a contribution of up to £35,000 for re-instatement of the path to Castle Cove bathing platform subject to an equivalent level of contribution from locally generated sources be allocated; and
- b) following re-instatement of the path, ongoing liability for its repair and maintenance be transferred to a suitably responsible local trust which would be set up for this purpose.

E.106/07

### **SHARED SERVICES – ENVIRONMENTAL HEALTH**

Members considered a report which sought approval for a shared service arrangement between South Hams District Council and West Devon Borough Council's Environmental Health Services. The report noted that the sharing of Environmental Health services with West Devon Borough Council would not only deliver financial savings for both Councils but also deliver other significant benefits.

Members were informed that employees of both Council's were supportive of the proposal. In terms of the anticipated financial benefits, it was clarified that the £427,000 saving in year six of the sharing of service was a culmination of all six years. Furthermore, a

non-Executive Member highlighted the importance of Environmental Health working closely with Trading Standards.

**RESOLVED**

That:-

- i) the phased approach to the sharing of Environmental Health Management between South Hams District Council and West Devon Borough Council from April 2008 be approved;
- ii) officers be instructed to take all the necessary steps to negotiate and complete such agreements between the two councils and with their staff as they may be advised are required to implement this decision.

**E.107/07 CORPORATE MAJOR EMERGENCY RESPONSE POLICY**

A report was considered which advised Members of changes to the Council's responsibilities following the introduction of the Civil Contingencies Act 2004, and sought approval for a revised Corporate Major Emergency Response Policy.

The report concluded that having a clear policy in place was an essential requirement in order for councils to fulfil their roles under the Civil Contingencies Act 2004. The proposed policy, supplemented by the Emergency Response Plans, provided a clear framework for planning and response to civil emergencies.

**RESOLVED**

That the revised Corporate Major Emergency Response Policy be approved.

**E.108/07 DISABLED FACILITIES GRANTS (DFG) BUDGET**

Members considered a report that sought Council's agreement to provide the budget for Disabled Facilities Grants (DFGs) from the Capital Programme to complement the Department for Communities and Local Government (DCLG) allocation.

The report concluded that the payment of DFGs was mandatory. In order to continue to provide DFGs, a sum of £143,000 was required to support the allocation from DCLG and to ensure that the Council continued to meet its statutory duties in this respect.

**RECOMMENDED**

That Council be **RECOMMENDED** to approve the proposed budget of £143,000 for Disabled Facilities Grants for 2008-2009.

**E.109/07 CHARGING FOR PRE-APPLICATION PLANNING ADVICE**

Members considered a report which sought endorsement for the proposed fee charges and service standards, so that they may be adopted formally by Council. Members had accepted the principle of charging for pre-application advice as a consequence of decisions already taken about funding for additional planning officers. The charges and processes set out in the presented report followed an examination of the services being provided by other authorities and so were based on what seemed to be reasonable and constituted good practice.

During discussion, reference was made to:-

- a) the importance of monitoring the process to ensure its practicability and fairness for both the developers and the community. The Executive Member with responsibility for Value for Money informed those present that it was anticipated that a further report be presented to the Executive in six months reviewing the process;
- b) clarification that 'Class B' was for residential schemes in excess of 10 units;
- c) the importance of identifying reasonable timescales within the Charter;
- d) schemes which were 100% affordable housing. The Executive Member with responsibility for Value for Money proposed an addition to the recommendation whereby for exception sites, in which all development was for affordable housing, the fee be waived. In support of this, a non-Executive Member queried whether there could be further flexibility for sites with, say, 75% affordable housing. In response, it was noted that there would be no scope for discounts as charges were to be kept simple for administrative purposes;
- e) confirmation that there would not be a charge for advice on householder and very small-scale schemes;
- f) charging in retrospect. Following a query, it was confirmed that charging for advice already given, was not an option due to legal restrictions.

It was then:-

**RESOLVED**

That:-

- i. pre-application charges, as set out in the presented report, be adopted;
- ii. the fee be waived for the development of exemption sites; and,
- iii. a 6 month monitoring report be presented to the Executive following implementation of the pre-application charging.

**E.110/07 REVENUE BUDGET MONITORING 2007/2008**

Consideration was given to a report that enabled Members to monitor income and expenditure variations against the approved budget for 2007/2008. The report noted that the Council had faced significant budgetary pressures which had been identified in relation to Waste Management. However, Members had monitored the management of these issues over the preceding months and costs had been reduced.

During discussion, particular reference was made to:-

- a) the Council's Housing Team. The Executive Member with responsibility for Housing wished to express his gratitude to the excellent work the Housing Team had been carrying out to reduce the number of units being managed by the Council;
- b) a non-Executive Members request that the reduction of income for the car parks be monitored to ensure that the poor weather conditions were the cause and not other factors;
- c) staff sickness levels in the Housing Benefits Team. Following concern that levels appeared overtly high, Members were assured that this had been due to a combination of reasons ranging from sickness to maternity leave. However, the section was now fully staffed and performance levels were expected to rise;
- d) vacancy levels. A non-Executive Member commented on what appeared to be a high level of vacancies in the Council and expressed concern over any impact this may have on service levels. In response, officers noted that the vacancies seemed to be spread across all Council services. Moreover, when a position became vacant, each one was assessed to establish whether it could become a Shared Service post;

- e) Concessionary Bus Fares. A non-Executive Member enquired whether bus companies would be likely to cut services due to the reimbursed costs being somewhat beneath the required amount. In response it was noted that bus companies could reduce the number of services it provided, if minded to do so.

**RESOLVED**

That the forecast income and expenditure variations for the 2007/2008 financial year be noted and the improvement in the anticipated overall General Fund position be welcomed.

E.111/07 **EXEMPTIONS TO STANDING ORDERS RELATING TO CONTRACTS, AND FINANCIAL INSTRUCTIONS**

Members considered a report which advised on the exemptions to the Standing Orders Relating to Contracts and Financial Instructions carried out since the previous Executive meeting, in accordance with the procedure approved by the Council (minutes references 70/07 and 49/07 refer). The report concluded by stating that the process for providing officers with approval for exemptions to the Standing Orders Relating to Contracts and Financial Instructions, in certain circumstances, provided more flexibility and the ability to react promptly to situations that arose.

**RESOLVED**

That the exemptions to the Standing Orders Relating to Contracts and Financial Instructions attached at Appendix A and B of the presented report be noted.

E.112/07 **WRITE-OFF REPORT**

Members considered a report that detailed the individual debts for all revenue streams, up to the value of £3,000, written off by the Head of Financial Services under delegated authority, and for those debts in excess of £3,000 for which permission to write off was sought.

The report concluded by reassuring Members that every effort was made to collect all debt owing to the Council, and that the decision to write off any amount was not taken lightly.

**RESOLVED**

- (i) that in accordance with Financial Regulations, the write-off of individual debts totalling £28,835.62 as detailed in Table 1 of the presented report, be noted;
- (ii) that the write off of individual debts in excess of £3,000, as detailed in Table 2 of the presented report be approved.

**E.113/07      REPORTS OF OTHER BODIES**

**RESOLVED**

That the following be received and that any recommendations contained therein be approved:

**Scrutiny – 19 December 2007**

**Equalities Annual Report 2006-2006**

**RESOLVED**

That the updated Equality Impact Assessment Timetable and Corporate Equality Scheme Action Plan be approved.

**(NOTE: THESE DECISIONS, WITH THE EXCEPTION OF E.102/07, E.104/07 and E.108/07 (WHICH ARE RECOMMENDATIONS TO THE COUNCIL MEETING ON 27 MARCH 2008) WILL BECOME EFFECTIVE FROM 5.00PM ON 17 MARCH 2008 UNLESS CALLED IN, IN ACCORDANCE WITH SCRUTINY PROCEDURE RULE 18).**

(Meeting commenced at 10.00 am and concluded at 12.30 pm).

---

Chairman