

**MINUTES OF THE MEETING OF THE SOUTH HAMS DISTRICT COUNCIL HELD
AT FOLLATON HOUSE, TOTNES ON THURSDAY 28 JUNE 2007**

MEMBERS

* Cllr R J Carter – Chairman

* Cllr B F Cane – Vice-Chairman

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|-----------------------|------------------------|
| * Cllr K J Baldry | * Cllr M J Howarth |
| * Cllr N A Barnes | ∅ Cllr C W Jones |
| * Cllr H D Bastone | * Cllr L P Jones |
| * Cllr J H Baverstock | * Cllr R M Lawrence |
| * Cllr J I G Blackler | * Cllr I Longrigg |
| * Cllr J Brazil | * Cllr D W May |
| * Cllr B E Carson | * Cllr D M O’Callaghan |
| * Cllr P H Cook | * Cllr C M Pannell |
| * Cllr S E Cooper | * Cllr J T Pennington |
| * Cllr P Coulson | * Cllr S L Rankin |
| * Cllr R F Croad | * Cllr R Rowe |
| * Cllr G Date | * Cllr M F Saltern |
| * Cllr G J Fielden | * Cllr J W Squire |
| ∅ Cllr R D Gilbert | * Cllr R C Steer |
| ∅ Cllr F J Hawke | * Cllr M Stone |
| * Cllr J D Hawkins | * Cllr R J Tucker |
| * Cllr T J Hewitt | * Cllr R J Vint |
| * Cllr M J Hicks | * Cllr A Ward |
| ∅ Cllr P W Hitchins | * Cllr J A Westacott |

* Denotes attendance

∅ Denotes apology for absence

Officers in attendance:

For all items: Chief Executive, Strategic Director (Community), Strategic Director (Resources), Monitoring Officer, Member Support Services Manager;
Item 10, Statement of Accounts: 2006 / 2007 (see 28/07 below): Head of Financial Services and Principal Accountant;

Items 12, 13 and 14, Development Control Core Policies Development Plan Document – Preferred Options, Affordable Housing Policies Development Plan Document – Preferred Options, Rural Areas Development Plan Document – Issues and Options (see 30/07, 31/07 and 32/07 below): Head of Community Regeneration and Forward Planning Manager.

23/07

MINUTES

The minutes of the annual meeting of the Council held on 21 May 2007 were confirmed as a correct record and signed by the Chairman.

24/07 **CHAIRMAN'S ANNOUNCEMENTS**

The Council noted a list of civic engagements attended by the Chairman.

25/07 **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 made as follows:-

Cllr R C Steer declared a prejudicial interest in Item 9 (a), Notice of Motion (see 27/07 below), by virtue of his employment as a milk producer and left the meeting during consideration of this matter.

26/07 **QUESTIONS**

It was noted that the following questions had been received in accordance with Council Procedure Rule 8:-

(a) From Cllr Ward to Cllr Barnes, Executive Member for Value for Money:-

- (i) *How many planning appeals has this Council lost over the past 3 years, where officers have had to defend a member decision which was contrary to an officer's recommendation, and what has been the cost to the taxpayer?*

Cllr Barnes advised that, since April 2005, there had been eleven appeals where Members of the Development Control Committee had refused applications contrary to the officers' recommendation. In seven cases, the Inspector had agreed with the officers' recommendation and in two cases, they had agreed with the Committee. One case was a split decision, with the appeal being upheld and in the remaining case, the appeal had been withdrawn. Costs could only be considered where the appeal had been dealt with at a public hearing, of which there had been three since April 2005. No award of costs to the appellant had been made. It was noted that significant officer time was involved in preparing for appeals.

(b) From Cllr Brazil to Cllr Barnes, Executive Member for Value for Money:-

- (ii) *Over the last few months SHDC has taken itself to the High Court on two occasions in respect of planning decisions. How much have these cost in total and in addition is there any compensation to pay?*

Cllr Barnes advised that, for the first case, the Council's external costs for withdrawing the planning decision notice totalled £1,192. £382 of this cost was to seek Counsel's advice, which was a one-off cost and enabled the authority to receive general advice about the process.

Internal legal officer staff time allocated for this work equated to a cost of £4,539. In respect of the second case, the Council's external costs were £230 and internal legal officer time, £1,058.

(c) From Cllr Pennington to Cllr Tucker, Leader of the Council:-

- (iii) *At the Council meeting of February 16 2005, Cllr J T Pennington seconded by Cllr J Squire tabled the following motion for debate – “This Council supports the formation of a Member Finance Sub-Committee or Finance Panel on South Hams District Council”. The motion was forced to be withdrawn because – “The Monitoring Officer advised that the Council’s Constitution had been approved by the Office of the Deputy Prime Minister to ensure compliance with the requirements of Part 2 of the Local Government Act 2000.” In his view, “the motion represented a return to the previous political structure, and it was, therefore, inappropriate to debate and vote on the motion”.*

In accordance with Council Procedure Rule 12.8, the proposer and seconder withdrew the motion. Therefore, as one who is on record as strongly advocating the formation of a finance / audit committee over several years, can the Leader of the Council explain and justify why the formation of the new Audit Committee is now in compliance with the unamended Local Government Act 2000 in 2007 when the formation of a new committee was deemed not to have been in compliance with Part 2 of the Local Government Act 2000 in the year 2005? What if anything has changed and does it or does it not meet the requirements today of Part 2 of the Local Government Act 2000?

Cllr Tucker advised that, whilst the Local Government Act 2000 did not require the establishment of an Audit Committee, a majority of Councils had chosen to do so, with the role differing to that of a Finance Committee. When the Council reviewed its political structure in 2001, it had the option to retain a predominantly committee structure as a “4th option” authority because the district’s population size was below 85,000. However, at that time, Members had agreed to adopt a Leader / Cabinet model. Because the district’s population now exceeded 85,000, the Council was required to adopt executive arrangements.

- (iv) *If the formation of the Audit Committee is in compliance with Part 2 of the Local Government Act 2000, then, logically and legally, does not this also enable the Council to establish, if necessary or essential, additional committees, and does not the Leader of the Council agree that such matter could be placed as an agenda item for consideration by the Political Structures Working Group?*

Cllr Tucker advised that the Council had established other committees when it reviewed its political structure following the introduction of the Local Government Act 2000, but only as were permitted by statute, such as the Development Control Committee.

Cllr Pennington asked a supplementary question on whether Cllr Tucker felt that it was time for the Council to conduct an in depth review of the Constitution. Cllr Tucker advised that he did not think this was necessary but that the matter could be put to the Political Structures Working Group.

- (v) *The Blair Labour Government introduced by way of the Local Government Act 2000 the typically Labour Government undemocratic Council constitution of Executive and Policy Development Groups, which replaced the previous democratic service committee structure, and although optional it was supported by some chief council officers. The result was that on South Hams District Council between 13 July 2001 to 15 May 2003 the Executive was responsible for 284 Council resolutions (92%) as against 27 (8%) by Policy Development Groups, whereas previously from July 1999 to June 2001 under the committee system service committees accounted for 828 resolutions (72%) as against 235 (28%) resolutions by the Policy Finance Committee.*

The situation in 2006/07 is little different with the Executive making approximately 119 (83%) resolutions against Policy Development Groups 23 resolutions approximately (17%). Therefore, when only one fifth of Council elected Members are now responsible for decision making, does the Leaders of the Council consider that in the interests of public democratic accountability the time is now appropriate for the Political Structures Working Party to undertake a comprehensive review of the Council's constitution with a view to returning to a democratic system?

Cllr Tucker advised that he would be happy for a review of the Constitution to take place, but not to see the political structure revert to the former committee system as the change to the current system had been agreed by Members previously.

Cllr Pennington asked a supplementary question regarding weaknesses identified during the Comprehensive Performance Assessment (CPA) in 2003 which had referred to the Council not exploiting the opportunities of non-Executive Members. Consequently, there was the need for the Political Structures Working Group to review all Member roles. In response, Cllr Tucker advised that the Council had developed and was implementing a post-CPA Improvement Plan and that the situation was getting better.

- (vi) *At full South Hams District Council meetings, elected Members are only permitted to ask questions on Executive or Policy Development Group minutes. Does not the Leader of the Council agree that in the democratic interest of our constituents in addition to questions Members should in future be permitted to engage in full debate and make recommendations?*

Cllr Tucker advised that there was little merit in debating issues after a decision had been taken and that there was the opportunity for Members to contribute to the debate at the relevant Council body by registering his / her wish to speak.

Cllr Pennington asked a supplementary question regarding the greater involvement afforded to Members of Devon County Council to raise issues on reports and minutes of its various Council bodies and whether this should be looked at by the Political Structures Working Group. Cllr Tucker advised that the Political Structures Working Group could review the procedures for all neighbouring councils where improvements could be made.

- (vii) *Under the current Constitution which allows for Scrutiny does not the Leader of the Council agree that it would be more meaningful and democratic to change all Policy Development Groups to become Overview/Scrutiny Committees similar to those in operation at Devon County Council, and which would also make provision for task and finish groups, and would he not agree that this issue could be placed as an agenda item for consideration by the Political Structures Working Group?*

Cllr Tucker advised that when the Council had reviewed its structure as required by the Local Government Act 2000, Members had decided on the formation of one Scrutiny body and three Policy Development Groups.

- (viii) *Could the Leader of the Council please give the full costs including estimated officer time in addition to the £5,667 (if relevant) of the General Satisfaction Survey 2006 / 07 as reported under item 10 on the Executive Agenda of 7 June 2007.*

Cllr Tucker advised that work on the General Satisfaction Survey had been outsourced to Teignbridge District Council for the cost as quoted and that the cost of officer time in addition to this was negligible.

- (ix) *The General Satisfaction Survey item 10 of the Executive Agenda 7 June 2007 consisted of 51 pages. Does the Leader of the Council not consider that to be much too bureaucratic and could not this be considerably reduced in size and scope as is apparently the position on West Devon District Council?*

Cllr Tucker advised that officers were discussing different ways to present the information with the intention of reducing the amount of paper.

From Cllr Pennington to Cllr Saltern, Chairman of the Personnel Panel

- (x) *Will the Executive Member and Chairman of the Personnel Panel give instructions for the preparation of departmental and section structure charts containing positions and names of all relevant officers for distribution to all Members, and in particular, newly elected Members?*

Cllr Saltern advised that this would be done and circulated as soon as possible.

From Cllr Pennington to Cllr May, Executive Member for Environmental Health

- (xi) *The Council has been awarded £35,267 for 2007 - 2008 to meet the Council's expenditure for the enforcement of the new smoke-free laws, after which, the Government expect the legislation will be virtually self enforcing. However, if the outturn is not self enforcing, can the Executive Member responsible for Environmental Health matters inform the Council of any contingency plans and has any estimate been made of possible cost in additional officer time?*

Cllr May advised that the legislation was likely to be self-policing and that compliance by businesses would be assessed as part of existing statutory inspection programmes. The Council's approach was principally educational, ensuring that businesses were aware of the new laws.

27/07

NOTICE OF MOTIONS

It was noted that 2 motions had been received in accordance with Council Procedure Rule 10.1.

(a) By Cllrs Rowe and Tucker:

"That this Council should write to The National Federation of Women's Institutes to support them in their campaign to raise public awareness of the unfair difference between the retail price of milk and the price which is paid to the farmers by the processors. The farmers' cost of production is 3p per litre more than the price received by them from the processors forcing many of them out of business."

Having been **PROPOSED** and **SECONDED**, the proposer of the motion referred to the disparity between the price paid to dairy farmers for milk production compared to the retail price. Farmers were currently being paid 18p per litre compared to 24½ p ten years ago, despite increased production costs. The Women's Institute were raising the profile of this problem through a national campaign.

During discussion, reference was made to:-

- (i) the decline in the number of dairy farmers from 28,000 in 1995 to 13,000 in 2006 and the impact this had on the countryside;

- (ii) a recent survey of supermarket customers which demonstrated that 90% would be willing to pay a higher retail price if the money raised supported local production. A Member commented on the purchasing power of supermarkets and his wish to see people boycott supermarkets until farmers received a fair price.

RESOLVED

That this Council writes to The National Federation of Women's Institutes to support them in their campaign to raise public awareness of the unfair difference between the retail price of milk and the price which is paid to the farmers by the processors. The farmers' cost of production is 3p per litre more than the price received by them from the processors forcing many of them out of business.

(b) By Cllrs Brazil and Ward:

"This Council will introduce a weekly collection of organic waste during the summer months at the earliest possible opportunity."

Having been **PROPOSED** and **SECONDED**, the proposer of the motion referred to the recent election campaign when concerns of the district's residents regarding the waste collection service had been expressed. Of particular concern was the issue of odour and health risks during the summer months arising from the fortnightly collection of organic waste. It was noted that a neighbouring authority had introduced a weekly collection of organic waste and, whilst there would be a cost implication, it was a priority for this Council to do so also.

During discussion, reference was made to:-

- (i) the increase in the build up of bacteria where organic waste was collected on a fortnightly, as opposed to a weekly, basis;
- (ii) the likely increase in the amount of organic waste collected if this was on a weekly rather than fortnightly basis. Analysis by a neighbouring authority had suggested that 40% of organic waste went to landfill sites when collected on a fortnightly basis;
- (iii) the concerns of some Members about problems with the broader waste collection service including the budget overspend and an ageing fleet;
- (iv) the need to educate residents on how to avoid problems with organic waste.

During the debate an amendment was **PROPOSED** and **SECONDED** that the Council should investigate the viability of introducing a weekly collection of organic waste during the summer months at the earliest opportunity. On being put to the vote, this was declared **CARRIED**.

RESOLVED

That the Council investigates the viability of introducing a weekly collection of organic waste during the summer months at the earliest opportunity.

28/07

STATEMENT OF ACCOUNTS: 2006 / 2007

A report was considered which presented a summary of the net revenue and capital expenditure and sought approval of the Statement of Accounts for 2006 / 2007.

During discussion, reference was made to:-

- (i) the main variation from the budget arising from the concessionary fares scheme, which was not fully funded by the government and the need to keep raising this matter with them;
- (ii) unused income arising from section 106 funding and the problem of finding suitable housing sites to enable this money to be spent;
- (iii) the income generated from car and boat parking and the view of a Member that this could be used to fund a concessionary parking scheme for residents. Members were advised that this income was of benefit to all residents by reducing increases in Council Tax;
- (iv) the concerns of a Member at the comparability of expenditure on Council publicity with financial assistance provided to organisations and individuals;
- (v) the need to budget for a potential exposure to loss amounting to £118,608 arising from the insolvency of Municipal Mutual Insurance Ltd. Whilst it was unlikely that this loss would be realised, it still needed to be referred to within the financial statements;
- (vi) the reasons for the increase in expenditure for Cultural and Related Services. Given the level of detail, the Member would be provided with a written response.

RESOLVED

That:-

- (i) the Statement of Accounts for the financial year ended 31 March 2007 is formally approved; and
- (ii) following the approval of the accounts, the Chairman of the Council shall sign and date the accounts on behalf of the Council, to represent the Council's approval.

29/07

ADOPTION OF NEW MEMBER CODE OF CONDUCT

Consideration was given to a report which summarised the new regulations requiring the Council to review and adopt a new Code of Conduct for Members.

A Member commented on the changes to the definition of a prejudicial interest and relaxations on what a Member was required to do in the event that he/she declared a prejudicial interest. Whilst this was welcomed, the Member felt that it did not go far enough, particularly in instances where a Member was required to become involved personally in a local campaign.

RESOLVED

That:-

- (i) subject to recommendation (ii) below, the Council adopt the revised Code of Conduct set out in Appendix B of the report presented to the Council with effect from today;
- (ii) the Council include the following supplementary local provisions in the new Code:
 - b. paragraph 7.1
 - c. paragraph 7.2
 - d. paragraph 7.3
 - e. paragraph 7.4(as stated in the report presented to the Council);
- (ii) all Members be notified of their need to renew their registration of interests;
- (iii) a copy of the revised Code of Conduct be supplied to every member of the Council;

- (v) that the Monitoring Officer be instructed to publicise the adoption of the new Code as required by statute.

30/07

DEVELOPMENT CONTROL CORE POLICIES DEVELOPMENT PLAN DOCUMENT – PREFERRED OPTIONS

Consideration was given to a report which set out the purpose and scope of the Development Control Core Policies Preferred Options document and sought approval for its publication for consultation.

During discussion, reference was made to:-

- (i) the concerns of a number of Members regarding the six week consultation period, which was regarded as being insufficient. This was a particular problem during the summer with a number of town / parish councils not meeting until after August. Members were advised that the consultation period was prescribed by statute, that progress needed to be made against the adopted Local Development Scheme and that the level of consultation activity proposed went beyond that required by the Council's Statement of Community Involvement. Following further discussion, it was **PROPOSED** and **SECONDED** that formal publication of the document be delayed until 17 August 2007, with the six week consultation period ending on 28 September 2007. On being put to the vote, this was declared **LOST**. Members wished all town / parish councils to be notified of the availability of this document as early as possible;
- (ii) policy DC2: The Countryside. A revised policy statement was tabled at the meeting. It was then **PROPOSED** and **SECONDED** that this be amended to read:

“In the countryside, development will be strictly controlled. The landscape character, appearance, natural resources, recreational value and amenities of the area will be safeguarded. Development will be permitted providing it would not harm these interests, is compatible with the character of the site and surroundings, promotes good design and cannot reasonably be accommodated within a development boundary.

However, development proposals on previously developed land will be permitted where they promote rural regeneration, satisfying all the following criteria; the proposal:

1. is appropriately small scale, generally being sites of no more than 0.2ha,
2. includes at least 50% affordable housing,
3. includes an element of employment development,
4. is in scale and character with its surroundings and would have safe and adequate access, and
5. conserves, enhances and restores local landscape character.”

On being put to the vote, this was declared **CARRIED**.

RESOLVED

That:-

- (i) the LDF Development Control Core Policies Development Plan Document (Preferred Options) be published in July 2007;
- (ii) policy DC2: The Countryside be amended to read as in (ii) above; and
- (iii) authority be delegated to the Head of Community Regeneration in consultation with the Leader and a nominated Member from the Minority Group to make minor changes to its content.

31/07

AFFORDABLE HOUSING POLICIES DEVELOPMENT PLAN DOCUMENT – PREFERRED OPTIONS

Members considered a report which set out the purpose and scope of the Affordable Housing Policies Preferred Options document and sought approval for its publication for consultation.

During discussion reference was made to:-

- (i) a Member's wish to see reference to self build and co-housing within the document. Members were advised that this could be included within the supporting statement;
- (ii) policy AH2: Rural Exception Sites and a Member's concern that granting permission for exception sites only where the development was well related to community services and facilities was too exclusive. Members were advised that the wording within this policy statement had been drafted as flexibly as was felt likely to be accepted by Government Office for the South West and subsequently the Inspector.

RESOLVED

That:-

- (i) the LDF Affordable Housing Policies Development Plan Document (Preferred Options) stage be published in July 2007; and,

- (ii) authority be delegated to the Head of Community Regeneration in consultation with the Leader and a nominated Member from the Minority Group to make minor changes to its content.

32/07

RURAL AREAS DEVELOPMENT PLAN DOCUMENT – ISSUES AND OPTIONS

Consideration was given to a report which set out the purpose and scope of the Rural Areas Issues and Options document and sought approval for its publication for consultation.

Members were advised that the consultation document would be targeted at various stakeholders including town and parish councils and local amenity groups. Copies would also be available via the Council's website and in local libraries. The consultation period would run for 9 weeks.

RESOLVED

- (i) the LDF Rural Areas Development Plan Document (Issues and Options) stage be published in July 2007; and,
- (ii) authority be delegated to the Head of Community Regeneration in consultation with the Leader and a nominated Member from the Minority Group to make minor changes to its content.

33/07

MEMBER CHAMPIONS

Consideration was given to a report on the Council's approach to Member Champions and sought approval for appointments to specific roles.

A Member commented on a number of issues which were not covered by a Member Champion. Members were advised that the intention was to appoint Champions for cross-cutting rather than mainstream issues.

RESOLVED

That:-

- (i) the role of Member Champions and protocol as outlined at appendices A to C of the report presented to the Council be agreed;

- (ii) the following Members be appointed to Champion roles:

Children and Young People	Cllr Baverstock
Climate Change and Sustainability	Cllrs Carter & Ward
Design	Cllrs Carson & Ward
Heritage & Historic Buildings	Cllr Hitchins
Health	Cllr Squire
Health & Safety / Risk Management	Cllr Croad
Healthy Lifestyles	Cllrs Gilbert & CW Jones
Older People & Vulnerable People	Cllr Westacott
Procurement	Cllr Hewitt

34/07

AMENDMENT TO OFF STREET PARKING PLACES ORDER 2007

Members considered a report on the representations made in response to the issuing of an Off Street Parking Places Order made in respect of the Totnes Southern Area development.

RESOLVED

That officers be instructed to confirm the Order accordingly and to publicise the confirmation in accordance with statutory requirements, with the Order to come into effect on 2nd July 2007.

35/07

REPORTS OF BODIES

RESOLVED

That the minutes and recommendations of the undermentioned bodies be received and approved subject to any amendments listed below:-

- | | | |
|-----|--------------------------------------|-------------|
| (a) | Development Control Committee | 23 May 2007 |
| (b) | Environment Policy Development Group | 5 June 2007 |
| (c) | Salcombe Harbour Board | 6 June 2007 |

SH.9/07 – Provisioning Afloat Service

A Member queried the steps taken to identify the need for this service and the consultation with local traders. The Chairman of the Board advised that the need had been identified by visiting yachtsmen as the services available at Salcombe did not compare favourably with other

harbours. A Board Member had met with local retailers to allay some of their concerns.

SH.11/07 – Topical Harbour Issues

RESOLVED

That the expenditure of £12,300 from reserves to provide showers wifi and an overflow berthing pontoon at Whitestrand be agreed.

(d) Executive 7 June 2007

E.12/07 – Enforcement of New Smoke-Free Laws

RESOLVED

That the Scheme of Delegations be amended to reflect the provisions of Part 1 of the Health Act 2006 and that enforcement officers be authorised to act accordingly.

(Meeting commenced at 2.00 pm and concluded at 4.25 pm).

Chairman