

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE EXECUTIVE - 8 OCTOBER 2019

SUBMITTED TO THE COUNCIL MEETING – 22 OCTOBER 2019

(To be read in conjunction with the Agenda for the Meeting)

**Present**

Cllr John Ward (Chairman)  
Cllr Paul Follows (Vice Chairman)  
Cllr David Beaman  
Cllr Andy MacLeod

Cllr Mark Merryweather  
Cllr John Neale  
Cllr Anne-Marie Rosoman  
Cllr Steve Williams

**Apologies**

Cllr Nick Palmer

**Also Present**

Councillor Brian Adams, Councillor Jerry Hyman and Councillor Julia Potts

EXE 18/19 MINUTES (Agenda item 1)

- 18.1 The Minutes of the Meeting held on 3 September 2019 were confirmed and signed as a correct record.

EXE 19/19 DECLARATIONS OF INTERESTS (Agenda item 3)

- 19.1 The following declarations were made in respect of Item 11 on the agenda, Property Matters – Asset Transfer to Town and Parish Councils:

Cllrs John Ward, David Beaman, Andy MacLeod, and Mark Merryweather declared a non-pecuniary interest as they were residents of Farnham and members of Farnham Town Council. However they had no position of authority within the Town Council. Therefore they were declaring a non-pecuniary interest which they did not feel would influence their decision making at Waverley Borough Council.

Cllr John Neale declared a non-pecuniary interest would withdraw from the meeting whilst this items was discussed. As Leader of Farnham Town Council, he wished to avoid any perception that he might have a conflict of interests that would prevent him from making an objective decision.

EXE 20/19 QUESTIONS FROM MEMBERS OF THE PUBLIC (Agenda item 4)

- 20.1 There were no questions from members of the public.

EXE 21/19 QUESTIONS FROM MEMBERS OF THE COUNCIL (Agenda item 5)

21.1 The following question had been received from Cllr Jerry Hyman:

“Does the Executive accept that the clarification of the April 2018 'POW' and 'Germany' Rulings of the ECJ provided within the 22nd July 2019 'National Planning Practice Guidance on Appropriate Assessment', in respect of the requirement that Authorities "must now assess the robustness of mitigation measures", confirms beyond equivocation that the use of Natural England's strategy of evading detailed assessment of SANG and SAMM measures through the TBHSPA JSPB Delivery Framework and WBC Avoidance Strategies is and always has been an unlawful strategy, such that the moratorium on granting consents to new housing within the visitor catchment zones of the Thames Basin and Wealden Heath SPAs (which was implemented temporarily from May last year) must now be reinstated with immediate effect, until such time as the requisite evidence and appropriate assessments can be produced? And if not, please state the justification in full.”

21.2 Cllr Andy MacLeod, Portfolio Holder for Planning Policy & Services read the following response to the question:

“The Habitat Regulations (Reg. 63) require that a local planning authority may not grant permission for “any plan or project which is likely to have a significant effect on any designated European Site (SPA) without first carrying out an “Appropriate Assessment” of the implications of that plan or project for the site in question to the extent that it is first satisfied to a standard of beyond reasonable scientific doubt, that the plan or project carried no adverse effect for that site.

It was the practice, at application stage, to consider whether proposed mitigation e.g. the securing of Suitable Alternative Natural Greenspace (SANG) by a s106 agreement, would avoid such adverse effect, to enable to “screen out” certain planning applications so that they need not be subject to full Appropriate Assessment, regarding any possible adverse effect and which would be referred to in the Report before Committee, at the stage of consideration of the planning application.

The existing Guidance has now been amended in July to clarify that the People over Wind / Sweetman (“POW”) judgement in April 2018 (European Court of Justice (ECJ)) meant that a planning authority cannot take into account any mitigation measures such as proposed SANG, when initially considering a planning application, in order to “screen it “out of the need for a full Appropriate Assessment. The POW judgement drew on existing rulings such as the Germany case, which has been referred to.

Thus as a result, mitigation measures intended to avoid any adverse effect of any “plan or project” can now only be considered as part of a full, end stage “Appropriate Assessment”. The amended Guidance in fact indicates, in terms, (para 006) that off-site SANGS (and by extension related Site Access Management and Monitoring (SAMM)) can be acceptable mitigation following the POW case, subject to an Appropriate Assessment of the plan or project in question, together with any such proposed mitigation.

When this Authority carries out any such Appropriate Assessment, consultation on any proposed plan or project's likely effects, adverse or otherwise, will be undertaken with Natural England (the statutory "appropriate nature conservation body" ) and other consultees considered appropriate, e.g. Surrey Wildlife, as part of that full Appropriate Assessment process, to ensure full legal compliance with the Regulations. Natural England has access to relevant ecological databases, with the assistance of the statutory adviser to it, the Joint Nature Conservation Committee.

The moratorium which has been referred to in the Question under reply was lifted, when this Council agreed a process for undertaking Appropriate Assessments with Natural England last year and in view of the position set out above the Executive confirms that the Council's current practice accords with the amended Guidance and does not accept that the moratorium be re-imposed .

Please note that a Briefing on the updated Habitat Regulation process will shortly be given (on a date to be notified) to all Elected Members by external legal Counsel."

#### EXE 22/19 LEADER'S AND PORTFOLIO HOLDERS' UPDATES (Agenda item 6)

22.1 There were no updates reported.

### **PART I - RECOMMENDATIONS TO THE COUNCIL**

#### EXE 23/19 STATEMENT OF COMMUNITY INVOLVEMENT - REVIEW OF PROPOSED AMENDMENTS (Agenda item 9)

- 23.1 Cllr Andy MacLeod introduced the report that reviewed the amendments to the Statement of Community Involvement (SCI) that had been proposed by Cllr Hyman at the Full Council meeting on 16 July 2019. The SCI had been adopted on 16 July, but it had been agreed that Cllr Hyman's proposals should be considered, with revisions brought back to Full Council.
- 23.2 In addition to some proposed formatting changes which had already been carried out to the published document, the amendments proposed: that the SCI relate to the current adopted local plan period; a need for consultation on the SCI itself; and that the SCI should include text setting out the assistance that the Council would give to neighbourhood plan groups who are modifying their neighbourhood plans.
- 23.3 Cllr MacLeod reported that it was not considered necessary to change the adopted SCI with regard to these requested changes. Firstly, the SCI related to the preparation of local plans in general rather than specifically to the adopted Waverley Local Plan. Secondly, there was not a legal requirement to consult on the SCI itself and given that the SCI was about how the Council engages with its communities on planning issues there was no need to

consult on the document. Finally, the Council gave assistance to those towns and parishes that are preparing neighbourhood plans, and part of that assistance was to support towns and parishes that wished to modify their neighbourhood plans after they had been agreed. An example of this was the support that this Council had given to the review of the Farnham Neighbourhood Plan. The matter of supporting neighbourhood plans was set out in general in the SCI, and there was no need to be explicit in it on the help that will be given to towns and parishes modifying neighbourhood plans.

- 23.4 Therefore having considered the proposed amendments there was no need to amend the adopted SCI at this stage to incorporate these changes. Cllr MacLeod advised that he proposed to amend the recommendation, to ask the Executive to recommend to Council that no further changes were required to the SCI.
- 23.5 Cllr Jerry Hyman was disappointed that his points had not been accepted, especially with regard to the requirement for the Council to provide assistance to towns and parishes that wished to modify their neighbourhood plans. Whilst he recognised that Waverley had assisted Farnham with the modification of its Neighbourhood Plan, he maintained felt that the SCI was required to refer to this explicitly, and the outcome was wholly unsatisfactory.
- 23.6 The Executive RESOLVED to RECOMMEND to Council that no further changes were required to the Statement of Community Involvement, for the reasons set out in the report.**

Reason: To enable Council to make a decision on the need for further revisions to the Statement of Community Involvement.

## **PART II - MATTERS OF REPORT**

The background papers relating to the following items are as specified in the reports included in the original agenda papers.

### **EXE 24/19 DUNSFOLD PARK GARDEN VILLAGE - WAVERLEY'S PROJECT GOVERNANCE ARRANGEMENTS (Agenda item 7)**

- 24.1 The Leader introduced the report proposing a governance structure for Waverley to support the development and delivery of Dunsfold Park Garden Village. This new settlement was a Strategic Site in Waverley's Local Plan Part 1, with two policies – Policy SS7 and SS7A – providing a comprehensive framework for the development and delivery. A Planning Performance Agreement was now in place between the Council, Surrey County Council and Dunsfold Airport Ltd, the owners of the site.
- 24.2 The proposed governance structure, headed by a Strategic Governance Board, reflected recommended good practice established by other local authorities that were progressing large-scale developments.

- 24.3 **The Executive RESOLVED to agree the implementation of the governance structure as set out in the report, and to delegate to the Leader the appointment of Members to the Waverley Strategic Dunsfold Park Garden Village Governance Board and the Dunsfold Park Garden Village Advisory Group.**

Reason: The establishment of strategic governance arrangements within the Council is critical to the support, implementation, and overall success of the Garden Village project.

EXE 25/19 SURREY HILLS AREA OF OUTSTANDING NATURAL BEAUTY (AONB) MANAGEMENT PLAN 2020-2025 (Agenda item 8)

- 25.1 Cllr Andy MacLeod introduced the report and draft Surrey Hills AONB Management Plan 2020-2025, and recommended its adoption by the Council. The revised Management Plan was the result of a 'light touch' review by the Surrey Hills AONB Board on behalf of and in collaboration with the five Surrey Hills AONB districts and boroughs and Surrey County Council. It was a statutory requirement that these local authorities adopted an up-to-date AONB Management Plan.
- 25.2 Cllr Brian Adams noted that it wasn't a Waverley document, but it was an important document that impacted the performance of the AONB. There were a number of areas that Cllr Adams had identified where the draft Management Plan lacked details including the definition of biodiversity net gain, density of development, community transport and improvement of transport infrastructure. Cllr MacLeod thanked Cllr Adams for his thoughtful comments, which Cllr Adams agreed to share the details of for ease of follow-up.
- 25.3 Cllr Jerry Hyman stated that he felt the draft Management Plan was a good document, but lacked strength in certain areas and he seconded the comments made by Cllr Adams. He urged the Executive to give the AONB proper protection.
- 25.4 The Executive RESOLVED to adopt the Surrey Hills AONB Management Plan 2020-2025 as the statutory AONB Management Plan for Waverley Borough Council.**

Reason: To ensure that there is an up to date AONB Management Plan in place, in accordance with statutory requirements.

EXE 26/19 PROPERTY MATTER - PROPERTY INVESTMENT ADVISORY BOARD (Agenda item 10)

- 26.1 Cllr Mark Merryweather introduced the report proposing revised Terms of Reference and Membership of the Investment Advisory Board, which would be renamed as the Property Investment Advisory Board.
- 26.2 The Corporate Strategy made a commitment to a financially sound Council, and to help provide housing to buy and rent for all income levels. The Property Investment Strategy was a key element of the Council's Medium

Term Financial Plan. Up to now it had focused entirely on investing in commercial property, and there had been an understanding that a property company would be needed to invest in residential property. More recent legal advice had countered this, and Members were interested in exploring investment in residential property that would provide an income to the Council and help meet housing needs in the borough.

26.3 The Terms of Reference of the Property Investment Advisory Board had been updated to clarify the purpose of the Council's property investment activity and reflect the updated legal advice. The proposed Membership moved closer to the original membership of the Investment Advisory Board and Members had met informally and had agreed in principle the proposed Terms of Reference.

26.4 **The Executive RESOLVED to approve the revised membership and Terms of Reference of the Property Investment Advisory Board, and confirmed the appointment of the following Members to the Board:**

**Cllr Mark Merryweather, Portfolio Holder for Finance, Assets & Commercial (Chairman)**

**Cllr John Neale, Portfolio Holder for Place Shaping, IT & Customer Services**

**Cllr Anne-Marie Rosoman, Portfolio Holder for Housing & Community Safety**

**Cllr Jack Lee**

**Cllr Peter Martin**

Reason: to align the terms of reference of the Property Investment Advisory Board to the new Corporate Strategy.

**EXE 27/19 PROPERTY MATTER - ASSET TRANSFER TO TOWN AND PARISH COUNCILS**  
(Agenda item 11)

27.1 Cllr Mark Merryweather introduced the report proposing the transfer of certain assets from Waverley to Town and Parish Councils, to coincide with the start of the new Grounds Maintenance Contract on 1 November 2019.

27.2 As part of the procurement of the new Grounds Maintenance Contract, the previous administration had engaged with Town and Parish Councils about taking on responsibility for grounds maintenance of sites in their areas. Farnham and Haslemere Town Councils, and Witley and Wonersh Parish Councils had expressed interest, and discussions had progressed on the basis of the leasehold transfer of the assets by Waverley. The new Executive had extended to the offer include the freehold transfer, and Farnham Town Council had confirmed it wished to take the freehold of Gostrey Meadow. Since the Executive agenda had been published, Haslemere Town Council, and Witley and Wonersh Parish Councils had confirmed that they would like to discuss taking on the freehold of some sites, and there was an additional recommendation (3a) to enable these freeholds to be approved under delegated authority to the Head of Finance in consultation with Portfolio Holders, subject to an acceptable valuation and the immediate transfer of annual net running costs.

- 27.3 Cllr Hyman had registered to speak on this item, and expressed some concern that the transfer of the leaseholds, and freeholds, would pass costs for Grounds Maintenance to the Town and Parish Councils: there was no cap on the Council Tax precepts set by the Town and Parish Councils, so there was a risk that residents might end up paying more Council Tax and still not see any improvement in the level of upkeep of the grounds. He was also concerned that no maps showing the areas to be transferred had been provided, and that Overview & Scrutiny had not had the opportunity to comment prior to the Executive decision.
- 27.4 Cllr Merryweather emphasised that it would be up to the individual councils to set service level standards acceptable to their residents. Waverley and to manage the costs of that appropriately. The offer had been made to all Town and Parish Councils, and responded to interest expressed by parishes in taking on this responsibility.
- 27.5 Cllr Follows emphasised that as Godalming Town Council Leader, there had been an open dialogue with Waverley, and all the Town and Parish Councils taking on responsibilities were aware of the cost element. There would be many opportunities for parish councils to work with their local communities to implement grounds maintenance strategies that met local aspirations for their area.

**27.6 The Executive RESOLVED:**

- 1. To approve the leasehold transfer of assets, as detailed in Annexe 1 to the report.**
- 2. To approve the tapered funding arrangement for the leasehold transfers.**
- 3. To approve the freehold transfer of the Gostrey Meadow, Farnham to Farnham Town Council**
- 3a. To delegate authority to the Head of Finance, in consultation with the relevant Portfolio Holder(s), to agree and complete other transfers from the list in Annexe 1 on a freehold basis, subject to an independent valuation acceptable to the Head of Finance, and an immediate transfer of the annual net running costs.**
- 4. To delegate authority to officers to finalise the heads of terms and complete the necessary legal document(s) with the Town and Parish Councils for the transfer of assets, with detailed terms and conditions to be agreed by the Strategic Director, in consultation with the relevant Portfolio Holder(s).**

Reason: The proposed asset transfers support the Council's ambition to see responsibility for delivering services devolved to Town and Parish Councils where appropriate.

EXE 28/19 PROPERTY MATTER - HOLLOWAY HILL BOWLING CLUB, GODALMING - SURRENDER/GRANT OF A LEASE (Agenda item 12)

28.1 Cllr David Beaman was pleased to support the proposed surrender of the current lease on the Pavilion and grant of a new long lease on the Pavilion and Bowling Green to the Holloway Hill Bowling Club, in an arrangement that would benefit both the Council and the Bowling Club.

**28.2 The Executive RESOLVED to approve the surrender of the current lease to Holloway Hill Bowling Club and the simultaneous grant of a new lease on terms and conditions set out in Exempt Annexe 2, with other terms and conditions to be negotiated by the Estates and Valuation Manager.**

Reason: to ensure the long-term future of the bowling club facilities by transferring management of them to the Bowling Club.

EXE 29/19 PROPERTY MATTER - GODALMING AND FARNCOMBE BOWLING CLUB, GODALMING - SURRENDER/GRANT OF A LEASE (Agenda item 13)

29.1 Cllr David Beaman was pleased to support the proposed surrender of the current lease on the Pavilion and grant of a new long lease on the Pavilion and Bowling Green to the Godalming and Farncombe Bowling Club, in an arrangement that would benefit both the Council and the Bowling Club.

**29.2 The Executive RESOLVED to approve the surrender of the current lease to Godalming and Farncombe Bowling Club and the simultaneous grant of a new lease on terms and conditions set out in Exempt Annexe 2, with other terms and conditions to be negotiated by the Estates and Valuation Manager.**

Reason: to ensure the long-term future of the bowling club facilities by transferring management of them to the Bowling Club.

**The meeting commenced at 6.00 pm and concluded at 6.45 pm**

**Chairman**