

ZWAVERLEY BOROUGH COUNCIL

MINUTES OF THE EXECUTIVE - 6 JUNE 2023

SUBMITTED TO THE COUNCIL MEETING – 18 JULY 2023

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

Present

Cllr Paul Follows (Chair)	Cllr Kika Mirylees
Cllr Peter Clark (Vice Chair)	Cllr Nick Palmer
Cllr Tony Fairclough	Cllr Paul Rivers
Cllr Victoria Kiehl	Cllr Steve Williams
Cllr Mark Merryweather	

Apologies

Cllr Liz Townsend

EXE 1/23 MINUTES (Agenda item 2)

The Minutes of the meetings held on 4 April 2023 and 11 May 2023 were confirmed as a correct record.

EXE 2/23 DECLARATIONS OF INTERESTS (Agenda item 3)

Cllr Nick Palmer joined the meeting at 6.45pm, having been delayed in traffic, and declared a Disclosable Pecuniary Interest in relation to the motion on the government's proposal to drop the proposed legislation banning live exports as he was employed by Compassion in World Farming.

Cllr Palmer was not present in the meeting whilst the motion was proposed and discussed by the Executive.

EXE 3/23 QUESTIONS FROM MEMBERS OF THE PUBLIC (Agenda item 4)

The Executive received the following question in accordance with Procedure Rule 10:

(i) From Brian Edmonds, Farnham:

“Based on the advice given by the Waverley BC Legal Team, the Chief Executive Officer, and Monitoring Officer what controls has the Executive put in place to cap the potential cost to council taxpayers of the Executive's decision to seek a judicial review of the Government's decision to allow drilling by UK Oil and Gas (UKOG) Ltd at the Loxley Well site near Dunsfold? Does Waverley BC have a Judicial Review indemnity policy, if not, why not?”

The Leader, Cllr Paul Follows, gave the following response:

“My understanding is that we do not have a judicial review indemnity policy and I’m not sure if there is a good reason or not why we don’t, and I’ll take that up separately.

In terms of controlling the potential costs there was a report that came to the Executive in Exempt that outlined the potential costs from our side and also the costs that would likely be borne by both UKOG and the Secretary of State and therefore as a consequence we are aware of the maximum cost that could be levied against Waverley Borough Council should we lose and should a judge seek to apply any kind of punitive damages to us or costs in that respect.

That being said, the Executive in that session took all that information [into account] and made a decision based on the balance of risk and therefore we were content to proceed with the judicial review that takes place on Thursday [8 June 2023].”

EXE 4/23 QUESTIONS FROM MEMBERS OF THE COUNCIL (Agenda item 5)

There were no questions from Members of the Council.

EXE 5/23 LEADER'S AND PORTFOLIO HOLDERS' UPDATES (Agenda item 6)

The Leader welcomed back Members who were continuing as members of the Executive, and thanked Councillor MacLeod and former councillor Penny Marriott for their hard work and contribution to the previous Administration. The Leader welcomed Cllr Tony Fairclough and Cllr Victoria Kiehl to the Executive and outlined the portfolio responsibilities of the new Executive:

Cllr Paul Follows	Leader of the Council and Portfolio Holder for policy, governance and communications
Cllr Peter Clark	Deputy Leader of the Council and Portfolio Holder for customer services, business transformation and IT
Cllr Mark Merryweather	Portfolio Holder for finance, assets and property
Cllr Liz Townsend	Portfolio Holder for planning and economic development
Cllr Paul Rivers	Co-Portfolio Holder for Housing operations and services
Cllr Kika Mirylees	Portfolio Holder for community services, leisure and EDI (equalities, diversity and inclusion)
Cllr Victoria Kiehl	Portfolio Holder for organisational development and governance
Cllr Tony Fairclough	Portfolio Holder for enforcement and regulatory services
Cllr Steve Williams	Portfolio Holder for environment and sustainability

Cllr Nick Palmer Portfolio Holder for housing delivery

The Leader noted the recent fire at Frensham Common and thanked residents who raised the alarm and Surrey Fire and Rescue Service for their quick intervention. And, as mentioned previously, the High Court hearing of the Judicial Review of the UKOG Dunsfold drilling decision would be taking place on Thursday, 8 June.

The Leader invited Portfolio Holders to give brief updates on current issues not reported elsewhere on the agenda:

- Cllr Clark reported that to encourage councillors to move away from receiving their meeting papers as hard copies, the Council had now received the first delivery of new Samsung tablets with 12" screen which were being configured and rolled out to new Members. The iPads previously issued to Members would be replaced with the new devices on a rolling programme as the old devices reached the end of their useful life for the council. Printing and posting of committee agendas had cost around £20k in 2022/23 so it was important to address this as a cost saving measure, and also from an environmental standpoint.
- Cllr Merryweather reported that that the draft 2022/23 financial accounts had now been published on the council's website together with the draft Annual Governance Statement, and these would now be sent to the external auditors.
- Cllr Williams reported on the heathland fire on 29 May on Frensham Common, and endorsed the Leader's comments regarding the need for tougher penalties for careless actions that resulted in such extensive harm to protected areas and wildlife. Cllr Williams also highlighted the potential significance of the outcome of the High Court hearing on the Dunsfold drilling application by UKOG on 8 June.

EXE 6/23 MOTION ON THE GOVERNMENT'S PROPOSAL TO DROP THE PROPOSED LEGISLATION BANNING LIVE EXPORTS (Agenda item)

Cllr Kika Mirylees asked that the Executive express formally its deep concern that the Government had decided to abandon the Kept Animals Bill, which would have made illegal live exports for fattening and slaughter:

Worldwide, every year, millions of farm animals were forced to endure journeys of hundreds, or even thousands, of miles, only to be slaughtered on arrival or be fattened in often inhumane conditions. Live animals, including calves, cattle, sheep, pigs, goats and horses were routinely transported by road, rail, sea or air across continents.

The prime minister had promised Conservative colleagues during the leadership election that he would bring the Kept Animals Bill, a key plank of the 2019 manifesto, into law. The legislation was to ban live exports of farm animals as well as clamping down on puppy smuggling and dog theft. However, in parliament on Thursday 25th May, Environment Minister Mark Spencer confirmed that the proposed legislation would be scrapped.

Waverley Borough Council was one of the more rural second-tier local authorities in the country, with many farms and it was also home to the registered charity *Compassion in World Farming*, which campaigns to end all factory farming practices and was one of Waverley's major employers.

Cllr Mirylees, supported by Cllr Steve Williams, expressed concern primarily with the suffering to animals and secondly the reputational damage which allowing live exports to resume would do to our country.

In response, the Leader proposed, and it was duly seconded by Cllr Williams that the Executive write to the Secretary of State for the Department for Environment, Food & Rural Affairs, seeking an assurance from HM Government that any alternative bill to legislate for this purpose would be guaranteed time to complete its passage during the coming Parliament so that the opportunity to legislate for a ban on live exports remained.

The Executive RESOLVED that the above letter be sent, and that if the requested assurances were not forthcoming the Executive should put forward a motion to Council in line with the sentiments expressed.

EXE 7/23 PUBLIC SPACES PROTECTION ORDERS DOG FOULING AND DOG CONTROLS (Agenda item 7)

Cllr Tony Fairclough, Portfolio Holder for Enforcement and Regulatory Services, introduced the report on the public consultation held on the renewal of the Public Space Protection Orders (PSPOs) in respect of dog fouling and dog controls. Cllr Fairclough recognised the work done by the previous Portfolio Holder, Cllr Andy MacLeod, and officers in bringing the PSPOs forward. The original PSPOs had been made in 2019 and 2022 in response to public concerns about responsible dog ownership, and they were subject to a statutory three-year review. The recommendations for replacement PSPOs were the result of public consultations in January and February 2023 in which 95% of respondents were either dog owners or dog walkers, along with town and parish councils and other organisations associated with dog welfare.

With respect to dog fouling there was almost unanimous support for renewing the PSPO which makes it an offence to clear up dog fouling and there was a Fixed Penalty Notice of £100 that could be imposed by an authorised officer. There would continue to be exceptions for those unable to clear up dog fouling for specified reasons. The only significant change to the Order was to remove the requirement to produce evidence of possession of suitable means of clearing up dog fouling, which would bring Waverley in line with other Surrey councils. Some concerns had been raised about the number of bins available: Waverley currently had 825 litter bins; new bins cost £3-400 and emptying bins cost around £160 per annum per bin. The schedule of bin emptying would be reviewed to ensure it met the needs of particular areas, and the possibility of sponsorship of bins would also be explored. However, it was the responsibility of the person in charge of the dog to clean up and dispose of dog fouling responsibly.

With regard to the dog control order, this sought to ensure that anyone in charge of a dog acted responsibly at all times within public spaces. It aimed to balance the

rights of people in charge of dogs and those of others using parks and countryside. The order identified areas where dogs were excluded, areas where dogs must be kept on a lead, and areas where those in charge of a dog could be asked to put it on a lead. Again, there were specific exceptions recognising individual circumstances, and there had been some changes to the schedules and plans amending or introducing certain restrictions.

Enforcement of the Orders would be targeted at problematic areas identified by the public and partners, and officers were working with partners in the police and town and parish councils to explore ways to expand enforcement capacity.

The Portfolio Holder commended the PSPOs to the Executive for endorsement and recommendation to Council for approval.

The Leader advised that officers had asked to amend the schedule to the Dog Control PSPO in response to a request by Frensham Parish Council to remove Hollowdene Recreation Ground, details of which had been circulated to the Executive and which he was content to accept.

The Executive RESOLVED to recommend to Council that:

- 1. the updated Public Space Protection Order No.1 relating to dog fouling be approved.**
- 2. the updated Public Space Protection Order No. 2 relating to dog control, as amended to remove Hollowdene Recreation Ground, Frensham, be approved.**
- 3. the FPN level be set at £100 for breach of the order, where offered as a disposal.**

Reason for the decision: To ensure that there are adequate controls in place to address issues caused by irresponsible dog owners, reduce harm to the environment and enable the whole community to enjoy the use of local public space.

EXE 8/23 MEND GRANT FOR MUSEUM OF FARNHAM - APPROVAL OF ARTS COUNCIL'S TERMS AND CONDITIONS AND ENABLING OF ESSENTIAL WORKS TO WILMER HOUSE (Agenda item 8)

Cllr Kika Mirylees, Portfolio Holder for Community Services, Leisure and EDI, reminded the Executive that in March 2023 Waverley had been awarded a MEND Grant of £735,000 by the Arts Council to fund essential repairs and conservation work to the façade of Wilmer House which housed the Museum of Farnham. This was a great achievement for the council, provided a good opportunity to raise further funding, and draw to a close a long and difficult chapter in the Museum's history.

The report summarised the key legal conditions attached to the grant and their implications for the Council. It also provided an update on the outcome of a tender exercise to procure professional building services and the recommendation to award a contract to Drake and Kannemeyer Chartered Surveyors.

The Leader welcomed the report and opportunity the council had to resolve the long-standing problems with Wilmer House. The Leader highlighted the recommendations included one to Council to approve a budget of £275,000 to meet the current funding shortfall in the event that additional external funding could not be sourced.

The Executive RESOLVED that:

- 1. the Joint Strategic Director of Community Wellbeing be given delegated authority to accept Art Council England's Terms and Conditions for the MEND grant.**
- 2. the Joint Strategic Director of Community Wellbeing be given delegated authority to enter a Deed of Covenant in recognition of the fact that the project is to be part funded by Arts Council England. This shall include authorising the acceptance of the 'Certificate of Title and Deed of Grant' and the registry of a restriction on the property freehold together with any other related necessary documentation, which prevents the disposition of the registered estate or the granting of a lease or license to a third party without the Arts Council's prior written consent. The term of the restriction shall be 15 years.**
- 3. the Joint Strategic Director of Community Wellbeing, be given delegated authority to approve the award of the contract for professional building services to Drake and Kannemeyer Chartered Surveyors and any related ancillary documents. This will be to provide the technical design and delivery of the project to RIBA Stage 4, to obtain and comply with statutory consents, to prepare the tender for the main contractor and report on the tenders obtained, administer the contract for the main contractor and ensure project delivery to an agreed programme and cost.**
- 4. a budget of £179,000 to be met from the MEND project funds be assigned for provision of professional property services, legal advice, and internal project management resource.**

The Executive RESOLVED to recommend to Council that:

- 5. a budget of up to £275,000 be approved from capital receipts or the Property Investment Reserve. This will be to fund a potential budget gap if efforts to obtain external funding are unsuccessful or overall project costs are higher than predicted.**

Reason for the decision:

Accepting the MEND grant offer:

1. Arts Council England have formally offered Waverley Borough Council a Museum Estate and Development grant of £734,335 to carry out essential brickwork repairs to the front elevation of Wilmer House. The capital grant offer is subject to the acceptance of Arts Council England's Standard Terms and Conditions for the MEND Fund.

2. In recognition of the value of the grant Arts Council England require security against the asset for a period of 15 years. This involves the Council agreeing to enter a Deed of Covenant that includes the enactment of a restriction on Title over the freehold of the property. The restriction legally obligates the Council to maintain the property estate as a museum, preventing its disposal or any other arrangements with third parties without Arts Council England's prior written consent.

The procurement of professional property services:

3. The Council has carried out an open tender process to procure professional building services to design, coordinate and administer the delivery of the project. The invitation to tender required bidders to put forward a multidisciplinary team with a proven track record of success in the conservation and repair of historic buildings. The tender period closed on 28 April 2023 and Drake and Kannemeyer, with associate sub-contractors, were the only bidders. Based on the award criteria Drake and Kannemeyer scored highly for quality given their long-standing association with the project and offered an economically advantageous proposal by way of a fixed fee that aligns with the MEND budget for professional fees and services.

EXE 9/23 CRANLEIGH BUSINESS IMPROVEMENT DISTRICT (BID) BALLOT (Agenda item 9)

The Leader introduced the report that set out the background to Business Improvement Districts (BIDs) and the council's work in supporting the development of BIDs in Cranleigh, Farnham and Godalming. Local councillors had been exploring ways to enable more investment in high streets and town centres, especially as the council retained such a very small proportion of the business rates collected to do this directly, and BIDs provided a great opportunity for local business communities to come together and generate additional investment for activities to support retail and other high street businesses. The Cranleigh BID was the first to reach the ballot stage and the Leader thanked Cranleigh businesses and Waverley officers for their work to reach this milestone.

The Leader encouraged businesses in Farnham and Godalming to engage with the local BID projects and to take the opportunity to shape plans for town centre investment.

The Leader noted that in addition to the recommendation to cast Waverley's ballot in support of the Cranleigh BID, there was also a recommendation that the council absorb the cost of the levy collection software.

There were no other speakers and **the Executive RESOLVED to:**

1. **vote in support of the Cranleigh BID with the Council's two votes as a levy payer.**
2. **delegate responsibility to cast the vote in the ballot for the Cranleigh BID to the Leader of the Council.**

3. **note the annual cost to the Council of its levy contributions set out at 10.1, the cost of which have been included in the Medium Term Financial Plan (MTFP).**
4. **agree to absorb the cost of the up-front capital cost of the BID levy collection software up to £43,000. This cost will be met by earmarked reserves and useable capital receipts.**

Reasons for the decision:

1. Supporting BIDs forms part of the Council's existing and emerging Economic Development Strategy to support the high streets and a vibrant business economy in the borough.
2. The Council has invested in the BID development process since 2018, having commissioned a feasibility study and provided grant funding to each BID area.
3. The Council has a statutory responsibility to work with the BIDs and an opportunity to build a partnership with these stakeholders.

EXE 10/23 HYBRID MAIL - RENEWAL OF CONTRACT (Agenda item 10)

Cllr Peter Clark, Portfolio Holder for Customer Services, Business Transformation and IT, introduced the report which recommended the renewal of the hybrid mail contract with the existing provider, MBA. Hybrid mail was a digital mailing solution that streamlined the process of printing and posting business letters which were then sent to the post office for delivery. Hybrid mail was used primarily for bulk mailings such as council tax or housing rent statements, or garden waste collection renewals.

The budget for the contract was contained within the council's approved budget, and the alternative to renewing the contract would be to revert to an in-house semi-manual post room operation.

The Executive RESOLVED to approve the renewal of the hybrid mail contract with MBA for a period of two years at a cost of £250,000.

Reason for the decision: To maintain and provide postal services to customers in the most cost effective and efficient manner. After completion of a desk top analysis of providers on the procurement framework, the current provider remains the most cost effective.

EXE 11/23 SERVICE PLANS 2023-26 (Agenda item 11)

The Leader introduced the Service Plans 2023-26, which set out the business priorities for each service for the next three years and outlined how they would help to deliver the council's priorities.

The Leader advised that in future Service Plans would fall within the Organisational Development part of Cllr Kiehl's portfolio. Cllr Kiehl noted that she agreed with the comments of the Resources Overview & Scrutiny Committee, that the Service Plans

were difficult to navigate and hard to understand without some background knowledge. She thanked officers for their hard work in developing the service plans and looked forward to working with officers and members to make the next iteration as accessible as possible to the public and councillors while being strategically and operationally useful to the council.

The Executive RESOLVED that, having considered the comments received from the Overview & Scrutiny Committees, the 2023-26 Service Plans be approved.

Reason for the decision: to ensure the service plans reflect the priorities of the Council.

EXE 12/23 COST OF LIVING EXECUTIVE WORKING GROUP REPORT (Agenda item 12)

The Leader introduced the report from the Cost of Living Executive Working Group, which had been set up to explore ways in which the council could help residents impacted in various ways by the cost of living crisis, particularly since the pandemic. The Working Group had enabled a large amount of data to be collated and provide a better understanding of the impact of the cost of living crisis on residents, and on organisations that were providing support, such as Citizens Advice and the various food banks and community fridges. The Leader noted that the cost of living crisis was far from over, and therefore he was minded to re-establish the Working Group for the new council year. He also noted that Citizens Advice Waverley had recently merged with Citizens Advice Guildford and Ash to form Citizens Advice South West Surrey, and he would like to explore further this change and the impact locally.

The Executive RESOLVED that:

- 1. the report of the Cost of Living Executive Working Group be approved, and**
- 2. the Cost of Living Executive Working Group be re-established for 2023/24.**

Reason for the decision: to ensure that the effects of the cost of living crisis continues to be well understood by the council and action is taken to alleviate the impact where possible.

EXE 13/23 APPOINTMENT OF EXECUTIVE WORKING GROUPS (Agenda item 13)

The Leader introduced the report on the establishment of Executive Working Groups and advised the Executive that he was proposing some amendments to the agenda report, which he had circulated to them previously.

The Leader outlined the revised proposals:

- Re-establishment of the existing standing Executive Working Groups, with membership to be advised by the relevant portfolio holder in due course. Some of these groups would be re-named:
 - Asset, Regeneration and Sustainability EWG replacing the Asset Investment Advisory Board
 - Community Infrastructure Levy (CIL) EWG replacing the CIL Advisory Board

- Climate Change EWG replacing the Climate Emergency Governance Board, and to include air quality in its remit
- Landlord Services EWG replacing the Landlord Services Advisory Board
- New standing Executive Working Groups to be established with membership to be advised by the relevant portfolio holder in due course:
 - Sustainable Transport EWG
 - Training Provision EWG
 - Waste Strategy EWG
 - Waverley Housing Delivery EWG (replacing the Housing Delivery Board)
- Temporary Executive Working Groups with membership to be advised by the relevant portfolio holder in due course, which would lapse at the end of the year unless explicitly re-established:
 - Cost of Living EWG
 - Contracts and External Services EWG
 - Local Plan EWG

The Leader had also proposed changes to the Executive Working Group protocol to include the three different types of Executive Working Group as described, and to clarify the default EWG membership, as being

- A. The relevant portfolio holder, who will also chair the session.
- B. Five other Waverley Borough Council members.
- C. Three other co-opted individuals (e.g., councillors from other authorities, relevant outside expertise) as non-voting members.

The default membership could be superseded by an agreed alternative Terms of reference for a specific group, agreed by the Executive.

There were no speakers on the amended recommendations, and the **Executive RESOLVED to approve:**

1. **the re-establishment of the existing standing Executive Working Groups with membership to be advised by the relevant Portfolio Holder in due course:**
 - Property, Assets and High Street Investment EWG (previously Asset Investment Advisory Board)
 - Community Infrastructure Levy (CIL) EWG (previously CIL Advisory Board)
 - Climate Change EWG to include air quality matters (previously Climate Emergency Governance Board)
 - Landlord Services EWG (previously Landlord Services Advisory Board)
2. **the establishment of the following, additional standing Executive Working Groups with membership to be advised by the relevant Portfolio Holder in due course:**
 - Sustainable Transport EWG
 - Training Provision EWG
 - Waste Strategy EWG
 - Waverley Housing Delivery EWG
3. **the establishment of the following Temporary Executive Working Groups, which lapse one-year from approval unless renewed by the Executive, with membership to be advised by the relevant Portfolio Holder in due course:**

- Cost of Living EWG
 - Contracts and External Services Review EWG
 - Local Plan EWG
4. amendments to the Executive Working Group Protocol, shown in red and underlined as follows:
3. Any Executive member can propose to the Executive that an Executive Working Group should be established, and when making a proposal should:
- (a) propose terms of reference and the scope of the task; and
 - (b) classify the new group as either 'standing' i.e., will continue to sit until formally dissolved by the Executive or, 'temporary' i.e., driven by an event or time-sensitive issue. Temporary EWG's lapse one year from date of approval unless specifically renewed by the Executive.
6. Executive working groups may consist of a maximum of NINE members, comprised of:
- A. The relevant portfolio holder, who will also chair the session.
 - B. FIVE other Waverley Borough Council members.
 - C. THREE other co-opted individuals (e.g., councillors from other authorities, relevant outside expertise) as non-voting members.
- The above should be considered the default membership terms. These terms can be superseded by an agreed alternative Terms of reference for a specific group, agreed by the Executive.

Reason: to establish: to establish Executive Working Groups to support the work of the Executive in specific areas.

EXE 14/23 EXECUTIVE APPOINTMENTS TO OUTSIDE BODIES (Agenda item 14)

The Executive RESOLVED to approve:

1. the appointments of Waverley representatives to Outside Bodies as shown in Appendix 1 to the agenda report.
2. the appointment of Champions:
 - Armed Forces Champions: the Mayor and the Leader of the Council
 - Brightwells Champion: Cllr Andy MacLeod
3. the nomination of members for appointment by the Surrey Leaders' Group:
 - Surrey and Borders Partnership: Cllr Kika Mirylees
 - Mental Health Partnership Board: Cllr Paul Follows
 - Surrey Heartlands ICP: Cllr Liz Townsend

Reason for the decision: To ensure that the Council maintains and develops its relationships with key strategic and local organisations.

EXE 15/23 EXCLUSION OF PRESS AND PUBLIC (Agenda item 15)

At 6.50pm the Leader moved the recommendation set out in the agenda and the **Executive RESOLVED that**

Pursuant to Procedure Rule 20 and in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following item on the grounds that it was likely, in view of the business to be considered, that if members of the public were present during these items there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified in the following paragraphs of the revised Part 1 of Schedule 12A to the Local Government Act 1972:

- 1. Information relating to any individual**
- 2. Information which is likely to reveal the identity of an individual**
- 3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)**
- 5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings**

EXE 16/23 BROADWATER PARK (Agenda item 16)

Cllr Mark Merryweather introduced the report seeking Executive approval to proceed with a settlement agreement to buy back the lease of the disused golf facility site at Broadwater Park, Godalming. Owning the site outright would enable the Council to undertake remediation works to satisfactorily mitigate the underlying environmental and financial risks to the Council associated with owning a closed landfill site, and to return the land to community use.

The council had been in negotiations with the leaseholder for several years and the proposed settlement agreement was considered to represent a fair resolution for all parties, taking account of value for money and social value.

Cllr Peter Martin had registered to speak on this matter in accordance with Procedure Rule 23.

The Executive RESOLVED to approve the recommendations set out in the Exempt report, and detailed in the Exempt Minute.

Reason for the decision:

In its current state, the former closed landfill site poses a risk both environmentally and financially to the Council. The proposal to buy back the lease and regain control will deliver certainty on the Council's obligations as landowner of a landfill site. It will also enable the Council to put that land to a use that better meets the wishes and benefit of the community. On 3 May 2022 the Executive resolved to buy back the lease. The Council is now in a position to do this subject to Executive approval.

The meeting commenced at 6.00 pm and concluded at 7.00 pm

Chairman