

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Executive Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Wednesday, 31 January 2018 commencing at
2:00 pm**

Present:

Chair
Vice Chair

Councillor D J Waters
Councillor R A Bird

and Councillors:

K J Berry, G F Blackwell, M Dean, R Furolo, J Greening, E J MacTiernan and J R Mason

EX.81 ANNOUNCEMENTS

81.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

EX.82 DECLARATIONS OF INTEREST

82.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

82.2 There were no declarations of interest made on this occasion.

EX.83 MINUTES

83.1 The Minutes of the meeting held on 3 January 2018, copies of which had been circulated, were approved as a correct record and signed by the Chair.

EX.84 ITEMS FROM MEMBERS OF THE PUBLIC

84.1 There were no items from members of the public on this occasion.

EX.85 EXECUTIVE COMMITTEE FORWARD PLAN

85.1 Attention was drawn to the Committee's Forward Plan, circulated at Pages No. 9-11. Members were asked to consider the Plan.

85.2 Accordingly, it was

RESOLVED: That the Committee's Forward Plan be **NOTED**.

EX.86 BUDGET 2018/19

86.1 The report of the Head of Finance and Asset Management, circulated separately at

Pages No. 1-39, set out the proposed budget for 2018/19. Members were asked to recommend the budget to Council for approval along with a Band D Council Tax of £114.36; the use of New Homes Bonus as proposed in Paragraph 3.5 of the report; the Capital Programme as attached to the report at Appendix A; the Capital Prudential Indicators, as attached to the report at Appendix B; the Annual Minimum Revenue Provision statement as set out at Appendix B to the report; the 2018/19 Treasury Management Strategy, as set out at Appendix C to the report; the 2018/19 Flexible Use of Capital Receipts Strategy, as set out at Appendix D to the report; and to note the Council's involvement in a 100% Retained Business Rates Pilot in Gloucestershire for 2018/19, as detailed at Appendix E to the report.

86.2 The Head of Finance and Asset Management advised that the Council had considered its financial position, as shown in the Medium Term Financial Strategy, at its meeting on 5 December 2017. That Strategy had outlined the budget pressures facing the Council currently, and in future years, and explained that the deficit over the next five years was estimated to be around £3 million with a gap of £1,100,000 suggested for 2018/19. Since the production of the Medium Term Financial Strategy, the Chancellor had given his autumn statement, the employers had made a pay offer to the Unions and the details of the provisional Local Government Finance Settlement had been received for 2018/19 – the final settlement was expected at the end of January. The headlines from those announcements were set out at Paragraph 1.3 of the report and included: no new monies being available to support local government in the current spending review period with the exception of the Rural Services Delivery Grant; a proposal had been made to move to 75% retained business rates from 2020; Gloucestershire had been confirmed as one of the 10 new 100% retained business rates pilots for 2018/19; no changes would be made to the New Homes Bonus funding; planning fees were to increase by 20% from 17 January 2018; the Council would have increased flexibility in Council Tax setting of an additional 1% resulting in a new referendum threshold for District Councils of £5 or 3% whichever was greater; and a pay offer had been put forward of 2% in both 2018 and 2019 with extra weighting for the lowest paid. The report before Members brought together the general information on the financial climate, the detailed figures associated with the 2018/19 budget, and the work undertaken by the Transform Working Group, and made a proposal for a balanced budget and resultant Council Tax. The Head of Finance and Asset Management explained that, as the Council's Chief Financial Officer, he was required to make a statement on the robustness of the estimates and adequacy of the financial reserves; that statement was set out at Paragraph 10 of the report and the Council had an obligation to have regard to that statement when it made its decision on the proposed budget.

86.3 Members were advised that much of the deficit faced had been met through increased income and financing streams as well as increased Council Tax. There was concern that future budget setting may not be able to use those funding streams and, as such, Members and Officers would be faced with tough decisions on the operation of the Council, including the possibility of having to reduce or stop some services and taking further risks on commercial activities. In terms of the salient points contained within the report, the Head of Finance and Asset Management explained that the Council was currently in the third year of a four year funding deal from the government which effectively guaranteed the level of core funding from central government until 2019/20 – the expected figures were set out at Paragraph 2.3 of the report and showed significant reductions over the next two years but particularly a reduction of £180,000 in 2018/19. No further alterations would be made to the New Homes Bonus scheme in 2018/19 so the Council was able to maintain the cash levels it received and Paragraph 3.3 of the report detailed the projection up to 2022/23. The total allocation of New Homes Bonus for 2018/19 was £3,179,723; the proposed use was set out at Paragraph 3.5 and included things like base budget support; housing and homeless support; a

Growth Hub Navigator; and a Community Funding Officer. An improved position was being seen regarding business rates retention which was helpful. In addition, the Council had recently been advised that Gloucestershire had been successful in its bid to be in the 100% retained business rates pilot scheme for 2018/19. This meant that Tewkesbury would have to re-join the Gloucestershire business rates pool but, as there was a 'no detriment' clause in the pilot agreement, it should be no worse off than under the current scheme and would hopefully benefit from additional business rates retention. As the announcement had been for a one year pilot only, the financial gain, if realised, would be treated as one-off windfall which meant monies generated could be used for the Council's benefit in 2019/20. The base budget had therefore been amended so that it reflected the actual tariffs and baselines relevant to Tewkesbury in 2018/19 but the net effect was in line with the substantive position of the 50% retention scheme. Given the increasing level of deficit for 2018/19, and the medium term financial forecast of continued deficits, the Head of Finance and Asset Management indicated that it had been necessary to recommend an increase to the Council Tax in order to balance next year's budget and improve the Council's financial footing moving forward. It was recommended that the maximum amount allowed, before the threshold to require a referendum, was agreed which was an increase of £5 per year on a Band D property. It was noted that the government's projections for Councils core spending power assumed that all Councils would increase the Council Tax by the maximum available to them. The impact of the proposals on the Borough's Taxpayers was set out at Paragraph 5.5. For Members' information, the report also contained a record of its Council Tax for 2010/11 through to 2018/19.

- 86.4 In terms of the budget proposals, the base estimates had been compiled and were identified at Paragraph 6.1 of the report. The projection within the Medium Term Financial Strategy had highlighted a potential deficit of £1.1 million for 2018/19 but the draft budget requirements put forward by the service areas had seen that increase to £1.6 million prior to the agreement of savings plans and increased income; these had resulted in the net cost of services only increasing by £37,462 for the next financial year. After deducting the finance streams highlighted at Paragraph 6.5 of the report from the net cost of services, the balance of expenditure to be funded by Council Tax payers was £3,872,070 for 2018/19. The Council Tax base had increased by 1,346.3 Band D equivalents over the previous year to a total of 33,858.6. Dividing the amount to be funded by tax payers by the tax base gave the new Band D Council Tax level for the Borough of £114.36. The Head of Finance and Asset Management explained that, at the recent meeting of the Transform Working Group, Members had requested information which would enable them to see the impact that different levels of Council Tax would have on the budget and that information was set out at Paragraph 14.1 of the report. He reiterated that, given the deficit faced, the estimated deficit for the following year and the difficulties faced over the next five years, Officers were unable to recommend a Council Tax increase that was below the government threshold limit of £5 per year. However, the figures were set out for Members information as requested. He felt it should also be borne in mind that, even with the proposed increase, the Council would remain the fifth lowest Council Tax in England and below the national average. The risks to the budget were set out at Paragraph 7.0 of the report and included issues such as the local government settlement currently only being provisional; possible changes to the New Homes Bonus funding scheme in future; the possibility of an increase in interest rates; the introduction of Universal Credit and subsequent impacts; and the agreed salary award which could be more than the current 2% offer. In addition, the current Capital Programme, attached to the report at Appendix A, was a significant size totalling £38.62 million over the four year period. The government would now allow flexible use of capital receipts for transformational projects which would generate ongoing savings, subject to the approval of the Strategy before the beginning of the financial year; that Strategy was attached to the report at Appendix D for Members'

approval.

86.5 During the discussion which ensued, a Member thanked Officers for the work that had gone into the report and for the additional information that had been included following the Transform Working Group meeting. He had requested clarification about the different options of Council Tax levels so that Members could more easily look at alternatives to the £5 increase which was recommended by Officers. He felt the Council needed to be careful about increasing the Council Tax beyond the anticipated rate of inflation and questioned how the shortfall in the budget of £58,234 could be funded if it decided to implement a 3% increase rather than the 4.57% increase which was recommended. In response, the Head of Finance and Asset Management advised that the Council would have two options: to use one-off monies to support the budget – although in his view this should be a last resort; or to look at the base budget for increased ongoing income or savings. The Council's largest expenditure was employees so it was likely that redundancies would have to be considered in the first instance with discretionary services being targeted initially. In response, the Member felt, rather than redundancies, increased income could be a good option. He indicated that, as an authority, the Council already had a strategy based on growing its businesses and it was now starting to see a significant increase in its business rates reserve. In addition, its commercial investment income had been growing, and was set to continue, and he felt the Council's anticipated revenue from those activities was being underplayed. In response, the Head of Finance and Asset Management indicated that business rates income was volatile with the future of the scheme remaining unclear. The intention was, at some point, to move to 75% retained income but, as yet, the government had not confirmed how the scheme would work or what the criteria for it would be. The Council had faced significant losses through appeals in previous years and, with all of this in mind, he felt that the estimates contained within the report were realistic; especially given that no information had yet been released on the 2017 Valuation List meaning the Council had no assurances in respect of appeals, or that the provision it had put aside to cover appeals would be adequate. In addition, it was unclear whether the 100% retained business rates pilot would extend beyond 2018/19. In terms of the commercial investment income, he explained that the additional investment which the Council had recently approved was yet to be spent and properties would have to be secured before any additional income could be put into the budget. There was a need to balance short term benefits against securing long term rates to pay for the borrowing. This would normally have been done immediately but the Council had been able to hold off as interest rates were low and remaining fairly flat; however, there were fears going into 2019 about the implications of Brexit and how that could affect interest rates so this had to be borne in mind as a risk. The Chief Executive advised that residents of the Borough had enjoyed very low Council Tax rates and would continue to do so even if there was a £5 per year increase - in fact the Council Tax was low enough that it was considered a strategic weakness against the rest of the Council's income. He felt it should be borne in mind that a local authority's costs did not increase in the same way as general inflation which was one of the reasons for the significant deficit. In addition, given that Council Tax was one of the major sources of income over which the Council had control, it had to ensure it was taking all of the revenue it could. The other sources of income which were currently bolstering the budget included commercial investments, New Homes Bonus funding and business rates and all three of those areas were volatile - either being subject to market issues, government policy or appeals - so it would not take too much fluctuation in those areas before the Council was in significant trouble. He would not wish to recommend a Council Tax which saw people paying more than was needed but, given where the Council was with income and the deficit, he felt the Council should not add risk by approving a Council Tax for a lower increase than the amount the government had allowed.

- 86.6 A Member agreed with that advice and felt the Council's Tax base was so low that it made no sense not to increase to the full £5 per year especially given that would still not really be enough. He understood that, when the Council Tax increased, residents always thought the full amount went to the Borough Council but he had no issue with explaining this was not the case and he felt other Members should have a similar view. Another Member agreed and felt that an increase of 10p per week on a Band D property to preserve the services currently provided would not be a problem for most residents. She questioned whether, if the Council Tax increase was agreed at less than that recommended by Officers, and staff therefore needed to be made redundant, there would be redundancy and pension costs to be paid. In response, the Head of Finance and Asset Management confirmed that there could be costs depending on the service areas and whether the redundancies were voluntary or compulsory. Another Member thanked the Finance Team for their hard work in putting together a balanced budget and questioned what the reasoning would be for increasing at less than the recommended £5. In response, a Member reiterated his view that the Borough Council Tax residents should not necessarily be asked to pay an above inflation increase in Council Tax without the Council having a robust debate about the other options available and this was why he had asked for the additional information to be included in the report. He would favour a 3% increase based on the Council's financial planning for income, in particular business growth income, and the commercial investment strategy and he did not think that to continue to say the Council Tax was the fifth lowest in England would justify the proposed above inflation increase. Another Member was of the view that he would have no problem justifying a £5 increase; he felt that staff struggled to provide services on the resources they had currently and he did not see how this could continue if further income was not generated through increased Council Tax. A Member explained that those households referred to as the 'just about managings' (JAMS), were mostly in Bands A-C for Council Tax purposes and would not be paying an increase as much as £5 per year so, from her perspective, the increase would be acceptable. It was further noted that Members should remember that a 3% increase for 2018/19 would take £58,000 out of the budget for that year but also for each year thereafter; it was that cumulative effect which was the reason the Council had suffered previously from low increases / Council Tax freezes.
- 86.7 A number of other Members indicated that they would support the recommended Council Tax increase for the reasons discussed and, upon being put to the vote, it was

RESOLVED:

That it be **RECOMMENDED TO COUNCIL** that:

1. a net budget of £8,732,790 be **APPROVED**.
2. a Band D Council Tax of £114.36, an increase of £5.00 per annum, be **APPROVED**.
3. the use of New Homes Bonus, as proposed in Paragraph 3.5, be **APPROVED**.
4. the Capital Programme, as proposed in Appendix A to the report, be **APPROVED**.
5. the Capital Prudential Indicators, as proposed in Appendix B to the report, be **APPROVED**.
6. the annual Minimum Revenue Provision (MRP) statement, as contained in Appendix B to the report,

be **APPROVED**.

7. the 2018/19 Treasury Management Strategy, as proposed in Appendix C to the report, be **APPROVED**.
8. the 2018/19 Flexible Use of Capital Receipts Strategy, as proposed in Appendix D to the report, be **APPROVED**.
9. the Council's involvement in a 100% Retained Business Rates Pilot in Gloucestershire for 2018/19, as detailed in Appendix E to the report, be **NOTED**.

EX.87 FINANCIAL UPDATE - QUARTER THREE 2017/18 PERFORMANCE

- 87.1 The report of the Head of Finance and Asset Management, circulated at Pages No. 12-20, highlighted the Council's financial performance for the third quarter of 2017/18. Members were asked to consider the performance and approve the setting aside of £100,000 from accumulated surpluses to support the development of the A40 infrastructure business case.
- 87.2 The Head of Finance and Asset Management explained that income had not performed as well as expected, mostly due to planning income and garden waste not meeting their targets; however, it was also noted that the reduction in garden waste income had been expected due to the annual renewals being standardised to renew in April each year. Attention was drawn to the summary position for each Head of Service showing the variance against budget and this was attached to the report at Appendix A. Although that position was underspent, the budget report also recognised the need to achieve savings from the base budget in terms of salaries and procurement savings. Those savings were held on the ledger and no savings were recognised against those plans as they accumulated through the year within service groupings; this had the effect of reducing the underspend on services by £45,000. Also detailed under corporate budgets was the retained income from the business rates scheme; this was showing a surplus of £240,000 and was a prediction of the year-end position, although it was noted that there had been little activity with regards to processing appeals against the 2017 list. The Council had set aside a significant provision to cover appeals which it was hoped would be sufficient therefore allowing the Council to benefit from wider increases in business rates income. Treasury management activity had produced a positive variance of £116,968 against budget and access to low borrowing rates, along with the use of more lucrative funds for cash investments, had resulted in the Council's treasury management activity providing a much better return than expected. Taking into account the positive position on the corporate accounts, the overall position of the Council at the end of quarter three was a surplus of £590,640.
- 87.3 Members were advised that the Council had successfully bid for £4.53 million from the growth deal fund via the Local Enterprise Partnership (LEP) to improve the existing Longford roundabout and to add a new roundabout to the east along the A40 to access the new development site at Innsworth. In order to access the funds, a business case needed to be put forward to the LEP Board for approval. That business case would include modelling, designs, financial justification, risks etc. all of which were revenue activities. This work would be contracted to transport consultants to undertake with a delivery timescale of Autumn 2018. The LEP Board would be presented with the business case in early 2019 which, upon acceptance, would allow the drawdown of grant monies. It was anticipated the production of the business case would cost approximately £100,000. The LEP Board would not finance the development of the business case but the money invested could be recovered from the overall grant once awarded; it was therefore suggested that the Council forward fund the development of the business case with a loan which was

available from accumulated in-year surpluses.

- 87.4 The capital position was shown within Appendix B to the report and this was showing a significant underspend against the profiled budget due to the fact that not all of the agreed funding for the purchase of commercial investment had been utilised. The revenue position was shown at Appendix C to the report and, whilst the quarter 3 position showed a significant balance on the reserves, the expectation was that they would be spent in the future. Updates had been requested from all departments about their plans to ensure the earmarked reserves were either used for their intended purpose or released back to the general fund.
- 87.5 In response to a query regarding the business case, Members were advised that the funding from the growth deal was to deliver infrastructure improvements on the A40 to access the Innsworth strategic allocation and for improvements to the current roundabout. The funding would be loaned by the Council up front and then, assuming the project went ahead, the money would be clawed back by the Council through the project. Another Member questioned why Highways England and/or Gloucestershire Highways were not putting in some of the funding given that they were the agencies responsible for road infrastructure. In response, she was advised by the Deputy Chief Executive that Tewkesbury Borough Council was the project sponsor and had submitted the bid and, in addition, the project was aligned to the Joint Core Strategy (JCS) and the site was within Tewkesbury Borough. It was comforting to know that Section 106 did apply and any cost overruns would be picked up by the developer so this reduced the risk to the Council. The business case did need forward funding and it was felt that to do this through the Council would be the best route as it would have control over the process and, therefore, over the release of the funding. Gloucestershire Highways would be contributing through support and in the project costs but not to the initial loan. The Chief Executive advised that the production of the business case to develop the initial plan was really important and not too dissimilar to the Short Term Access Strategy which had been done in partnership with the County Council and funded by the Homes and Communities Agency. On this occasion there was no money available from the Homes and Communities Agency which was the reason the Council needed to pump prime the project. He would be speaking to the County Council about how it would support the project going forward, particularly the delivery of the scheme but also some of the work to unlock the funding. All JCS authorities would need to speak to County Highways at a senior level and he would be setting up a high-level meeting to move the project forward in that regard. In terms of risk, the main one was in the project not going forward; however, the road improvements were essential to the development of the strategic allocation so it was in everyone's interest to make sure it worked and was successful. Members were advised that one of the main issues was the approval of the design but that had already happened and was a big step in the process. In addition, the mitigation proposals had been approved which was another step forward. A Member expressed the view that the road improvements were essential in the area, both for the housing and for the business land, as they needed direct access onto the A40.
- 87.6 In response to a query regarding the repayment of the loan, Members were advised that the growth deal offer from the government's perspective was that, subject to approval of the business case, the first release of the funding - approximately £2 million - would be in April 2019 and the Council's loan of £100,000 would be repaid within that.
- 87.7 Having considered the information received, it was

- RESOLVED:**
1. That the financial performance information for the third quarter of 2017/18 be **NOTED**.
 2. That £100,000 be set aside from accumulated surpluses to support the development of the A40 infrastructure business case.

EX.88 GLOUCESTERSHIRE FLOOD RELIEF FUND

- 88.1 The report of the Head of Finance and Asset Management, circulated at Pages No. 21-23, set out that a balance remained in the Gloucestershire Flood Relief Fund Trust and that Trustees needed to be appointed to the Trust in order that it could be reopened and the full balance of the funds could be deployed in line with the charitable objectives of the Trust. Members were asked to agree the appropriate legal procedures be taken for Trustees to be appointed; that a Member, nominated by the Leader of the Council, be appointed to represent the Council on the Gloucestershire Flood Relief Fund; and that the Chief Executive of the Council be appointed from time to time as a permanent Trustee of the Fund.
- 88.2 The Head of Finance and Asset Management explained that the Gloucestershire Flood Relief Fund had been formed following the 2007 floods to provide financial help to those residents whose homes had been affected by the floods. The Trust had been responsible for the coordination of donations and the allocation of funds in line with the objectives and had allocated around £1.9 million of funding during the time it was in operation. It had recently come to light that not all of the accumulated donations had been fully spent and a balance remained in the Trust's bank account which needed to be distributed. The Trust had last met in 2007 and, as such, the membership of the Trust had effectively expired which meant it had no Trustees and could not therefore appoint new Trustees to act on its behalf. In order to appoint new Trustees, an application had to be made to the Court under Section 41 of the Trustee Act 1925. It was suggested that the minimum number of Trustees required be appointed in order to expedite the necessary business. Within the Trust documentation, it was clear that the minimum number was three and it was therefore recommended that two elected Members be appointed, along with a senior Officer; the Officer would act as a permanent Trustee in order to avoid similar problems in the future. In view of Tewkesbury Borough and Gloucester City Councils' involvement in the last fund, it was suggested that the Member appointments be made from those two Councils. Once the arrangements for the Trustees had been made it was anticipated that the funds should be distributed before the end of the financial year.
- 88.3 A Member suggested that, as Councillor Awford had been a Trustee originally, it may be sensible for him to be asked to do it again. The Committee was happy with that suggestion and felt that, as long as Councillor Awford agreed, he should be the Council's nominee. In the event that he did not wish to take the position, the Leader of the Council would be asked to nominate an alternative Member.
- 88.4 Accordingly, it was

RESOLVED:

1. That appropriate legal procedures be taken for Trustees to be appointed in respect of the Trust.
2. That Councillor Phil Awford be nominated to represent Tewkesbury Borough on the Gloucestershire Flood Relief Fund; in the event he is unable to take the position, the Leader of the Council will nominate an alternative.
3. That the Chief Executive of Tewkesbury Borough Council from time to time be appointed as a permanent Trustee of the Fund.

EX.89 COUNCIL TAX - EMPTY HOMES PREMIUM

- 89.1 The report of the Head of Corporate Services, circulated at Pages No. 24-27, recommended the introduction of a Council Tax Empty Homes premium of 50% to be effective from 1 April 2018. Members were asked to consider the introduction of the premium, which would apply to homes that had been unoccupied and substantially unfurnished for more than two years, and make a recommendation to Council thereon.
- 89.2 The Committee was advised that the report brought forward a proposal to introduce a 50% premium in respect of empty homes Council Tax from 1 April 2018. The legislation to enable this had first been introduced in 2013 along with discretion for the Council to implement discounts etc. If the premium was introduced, it would apply to properties that had been unoccupied, or substantially unfurnished, for two years or more. Prior to implementing the legislation, the government had consulted on the circumstances in which the 50% premium would not be applicable; those three circumstances were: a dwelling which was the sole, or main, residence of a member of the armed forces who was absent from the property as a result of such service; an annexe deemed unoccupied because it was being treated by the occupier of the main dwelling as part of that main dwelling; and a dwelling which was genuinely on the market for sale or letting. Subsequently, the government had legislated for the first two circumstances but had decided not to do so in the case of a dwelling which was genuinely for sale or letting. However, it was still believed that dwellings in such circumstances should not be subject to a premium and the government had issued guidance to assist authorities in their decision-making. The benefits to the Council of implementing this scheme were more in regard to bringing empty homes back into use rather than for financial gain. There were currently 88 properties which would fall within the criteria for empty homes premium and, if they were charged accordingly, this would bring in additional income of £66,255.59 of which the Council would keep approximately 7% which equated to £4,637.89. The remainder would go to the County Council and the Police Crime Commissioner in the same way that Council Tax income was usually distributed; however, it would also be expected that the Council's New Homes Bonus position would be improved through long term empty properties being brought back into use; this was based on an approximate figure of £1,591 per property.
- 89.3 In response to a query regarding ownership of a property, Members were advised that it was intended that the premium would be applied when a property had been

empty for two years irrespective of the length of current ownership. It would therefore be possible that a person could buy a property that had already been empty for two years and then be liable for the premium immediately; however, occupancy of a long term empty property for more than six weeks would 'reset' the clock and there were already other discounts in place that the owner may be able to take advantage of, such as properties that required major repair work to render them habitable. Another Member suggested that the phrase 'substantially unfurnished' was not a very specific definition and she was concerned people could put a sofa into an otherwise empty house and claim it was furnished. In response, the Revenues and Benefits Manager explained that, unfortunately, the definition was not clear and there was limited case law on the point which was not helpful. The Council did have inspection regimes for looking at empty properties and ensuring the discounts/premiums were properly applied but the system was potentially fraught with difficulties. A Member questioned why this was being looked at now and whether it could be reviewed at another time. In response, the Revenues and Benefits Manager advised that she was new to the Council and had brought with her different ideas about how the service should run. She referred Members to Page No. 25 of the report and advised that this was one of a number of general documents that she wanted to review as the Council currently had a whole raft of discretionary powers that it did not use. She also confirmed that, whilst there would be a small amount of additional income, there could be a wider opportunity to bring empty properties back into use. The idea was that, if approved by the Council, all affected residents would be written to advising them of the changes and also asking if there was anything the Council could do to assist them in bringing the property back into use. She explained that the premium had been introduced at her previous authority and had successfully brought a number of properties into use, especially when it was aligned with other strategies. In terms of an increase in New Homes Bonus monies, the Revenues and Benefits Manager explained that the Council received an amount of funding for every property brought back onto the valuation list i.e. the negative effect of the property being empty would be lost.

- 89.4 A number of Members felt it would be necessary for Officers to use a certain amount of discretion when applying the premium as it did not seem fair to charge someone for a property having been empty when it had only just come into their ownership. In response, Members were advised that the guidance to support the Empty Homes Premium stated that Councils were free to make their own decisions so some discretion was possible. It was suggested that the governance of the system would need to have Member involvement and that it would seem sensible for the Lead Member to be that person. Another Member suggested that, in terms of the definition of substantially unfurnished, it might be a good idea to ask Stroud and Cotswold District Councils how they dealt with this issue as they had already been collecting the premium. In addition, a Member questioned whether the department would have the capacity to implement the premium given the Council did not have an Empty Homes Officer. In response, the Revenues and Benefits Manager indicated that it would be tough for the team as it was not an easy issue to deal with, however, there was an inspection resource available internally, and via the Counter Fraud Unit, so she was confident it could be delivered within the existing establishment.

- 89.5 Having considered the concerns expressed, it was

RESOLVED: That it be **RECOMMENDED TO COUNCIL** that, from 1 April 2018, a Council Tax Empty Premium of 50% be implemented in respect of properties that have been unoccupied and substantially unfurnished for more than two years; and that the detailed governance arrangements be implemented in consultation with the Lead Member.

EX.90 PLANNING ENFORCEMENT PLAN

- 90.1 The report of the Head of Development Services, circulated at Pages No. 28-56, set out a proposed Planning Enforcement Plan which the Committee was asked to approve for the purposes of public consultation.
- 90.2 Members were advised that the Plan, which was part of a wider planning services review, had been considered by the Overview and Scrutiny Committee and the comments of that Committee were attached at Appendix 1 to the report. The Planning Enforcement Plan set out the Council's approach to delivery of the service and provided clear information to customers about the level of service they could expect to receive. During the past six months, a full review of the service had been undertaken and a number of operational changes had been identified which included: the need for a structured framework within which all decisions were made; greater use of accessible IT to enable interested parties to find out more about the service or individual cases; a need for greater reporting and publicity for the work (and achievements) of the service; better record keeping; better and more use of the formal and legal powers available; and additional support for Enforcement Officers to achieve all of these items.
- 90.3 The Head of Development Services explained that the Overview and Scrutiny Committee had considered the Plan and recommended it to the Executive Committee for approval, for the purposes of consultation, subject to changes which included: it being made clear that the Council, as the enforcing body, assisted, but did not give advice, to those that were the subject of an investigation - independent support should be sought in those cases; and that the breach of condition, and failure to build the approved plans, was not acceptable so the Planning Enforcement Plan needed to identify how such matters were brought to the Council's attention, dealt with and followed up. The Committee also felt the Plan may not have been easy for members of the public to follow so a flowchart had been created to explain how enforcement cases were handled and what formal action was taken. In terms of general comments about the Planning Enforcement Team, Overview and Scrutiny Committee Members had raised concerns about performance, including response times and communication, and the possibility of introducing performance indicators. Members had been advised that the Planning Enforcement Plan and Officer Protocol should address such issues by introducing changes to working practices that included a requirement to respond and update within set time periods. In addition, monthly performance reporting to Planning Committee would take place and the Overview and Scrutiny Committee would scrutinise the effectiveness of the Plan once it had been in place for a 12 month period. If the Executive Committee approved the Plan for consultation, it would be subject to a six week consultation period before a final draft was submitted to the Executive Committee for consideration and recommendation to Council.
- 90.4 Referring to Paragraph 12.0 of the Plan, Fairness and Equality, a Member questioned what was meant by 'status' in the first bullet point. In response, it was

accepted that this was unnecessary and that the point should be amended to read 'All persons are treated equally, regardless of their 'status''. Another Member questioned how members of the public would be made aware of the document and she was advised that it would be on the Council's website, promoted through the Council's usual communication methods and, when any breaches were reported, a weblink, or hard copy, as appropriate would be sent out. It was intended that as many people as possible would be made aware of it through all appropriate channels. A Member expressed the view that Councillors had suffered greatly in the past from the Enforcement Team not meeting the expectations of residents and she questioned how the document would help that situation. In response, the Head of Development Services explained that the document was clearly laid out and consistent and explained the processes that would be followed. The Plan itself aimed to be the first point of contact as soon as the Council knew there was an issue and, as long as it was followed, people should be fully aware of what to expect; it was intended this would help to manage expectations of the service. The Member was concerned that the document would be expensive to print and would not save time for the team which was what she felt was necessary. The Head of Development Services reiterated that the Plan explained the process to the persons against whom breaches were alleged as well as the person who had reported the breach so each could clearly understand what would happen. She was not sure how else the process could be sped up or made easier. A Member suggested that, once the final Plan was approved, it would be helpful to circulate a Member update and also for an article to be included in the Borough News.

- 90.5 A Member indicated that one of the main issues she found with planning enforcement was when people were told a breach was 'not expedient to pursue'. People did not understand what this meant and there did not seem to be any clear explanation of it. In response, the Committee was advised that the main issues people had appeared to stem from a lack of communication. There were a number of reasons why something may not be expedient to pursue but, until now, people had not been told why and it was intended this would be one of the changes made. There was concern expressed that the government needed to ensure planning enforcement had more 'teeth' so that, when breaches were investigated, decisive action could be taken which was backed up by legislation; he felt the appeals system had previously let the Council down and this was not a helpful message to send out to residents. The Head of Development Services indicated that there had been cases which had aggrieved her as well; however, the Council could only work within its powers and was trying to ensure it used those to the best of its ability. It was intended that the Plan would help stop issues getting too far in future and also help to identify genuine mistakes versus deliberate breaches. The case officer was not on site everyday so it was important that people reported breaches and understood how to do that. The document sought to hold the Council to account as well as to ensure it was going through all of its processes and that all means and methods had been explored before formal action was taken. A Member questioned whether a Stop Notice could be issued, or prosecution undertaken, if an offence had been committed. In response, the Borough Solicitor explained that the first thing to note was that breaches of planning control were not a criminal offence; this was the main problem as people thought they were. The authority could, where appropriate, issue a Stop Notice but there were risks to the Council of compensation being payable in certain circumstances. Unfortunately, the Council did not have the powers to address the enormous public distress that could be caused by breaches of planning control.

- 90.6 Referring to Annex 1 to the report, which set out the flowchart to be followed when breaches were suspected, a Member suggested that there should be an answer

'No' to the question 'is it expedient to take enforcement action'. In addition, she expressed the view that the planning portal was not informative in respect of enforcement; she felt further information in respect of the plans etc. would be helpful. She was advised that Officers had been looking at the website information and, whilst they needed to be careful about what was put on the website, the team was working with One Legal to improve the information available. The Planning Enforcement Register was now online and included details of all the Notices served which it was felt was a step forward. The Deputy Chief Executive suggested that Members could receive an informal Executive briefing about the information on the website etc. which may help with their understanding of the issues.

90.7 Having considered the information provided, and views expressed, it was

RESOLVED: That the comments of the Overview and Scrutiny Committee be **ENDORSED** and that the draft Planning Enforcement Plan, as attached at Appendix 2 to the report, be **APPROVED**, for public consultation, subject to the following amendments:

- The addition of clarification and some examples under the heading 'expediency' to explain the meaning of the phrase 'not expedient to pursue'.
- The amendment of the first bullet point under the heading 'Fairness and Equality' to read 'All persons are treated equally ~~regardless of their 'status'.~~'
- An amendment to the flowchart at Annex 1 to add a link from the box 'Is it expedient to take enforcement action' to show that if the answer was 'no' there would be no further action taken and the case would be closed.

EX.91 FLOOD AND WATER MANAGEMENT SUPPLEMENTARY PLANNING DOCUMENT ADOPTION

91.1 The report of the Head of Development Services, circulated at Pages No. 57-134, attached the final version of the Flood and Water Management Supplementary Planning Document, which had been the subject of public consultation from September to November 2017, and asked that it be recommended to Council for adoption. The Committee was also asked that authority be delegated to the Head of Development Services to make any necessary minor amendments to the Document as considered necessary prior to publication.

91.2 The Head of Development Services explained that, in November 2014, the Council had approved the adoption of a Flood and Water Management Supplementary Planning Document. Since that time there had been significant updates to national guidance surrounding flood and water management and, in particular, climate change projections. A review of the document had therefore been undertaken to take into account the latest guidance and an updated Supplementary Planning Document had been prepared. Public consultation had been undertaken from September to November 2017 and a final version of the document was attached to the report at Appendix 1 for consideration. Once adopted by the Council the document would be a material consideration in the determination of planning applications.

91.3 Accordingly, it was

RESOLVED:

1. That it be **RECOMMENDED TO COUNCIL** that the Flood and Water Management Supplementary Planning Document, as attached at Appendix 1 to the report, be **ADOPTED**.
2. That authority be delegated to the Head of Development Services to make any necessary minor amendments to the Supplementary Planning Document, as considered appropriate, prior to it being published.

The meeting closed at 4:15 pm