

TEWKESBURY BOROUGH COUNCIL

Minutes of a Meeting of the Council held at the Council Offices, Gloucester Road, Tewkesbury on Tuesday, 6 December 2022 commencing at 6:00 pm

Present:

The Worshipful the Mayor
Deputy Mayor

Councillor J W Murphy
Councillor A S Reece

and Councillors:

K Berliner, R A Bird, G F Blackwell, G J Bocking, C L J Carter, C M Cody, K J Cromwell, M Dean, R D East, P A Godwin, M A Gore, D W Gray, D J Harwood, M L Jordan, E J MacTiernan, J R Mason, P D McLain, C E Mills, J P Mills, H S Munro, C Reid, J K Smith, P E Smith, R J G Smith, V D Smith, R J Stanley, P D Surman, M G Sztymiak, S Thomson, R J E Vines, M J Williams and P N Workman

CL.44 ANNOUNCEMENTS

44.1 The evacuation procedure, as set out on the Agenda, was advised to those present.

CL.45 APOLOGIES FOR ABSENCE

45.1 Apologies for absence were received from Councillors J H Evetts, H C McLain, P W Ockelton and C Softley.

CL.46 DECLARATIONS OF INTEREST

46.1 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.

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

CL.47 MINUTES

47.1 The Minutes of the meeting held on 27 September 2022, copies of which had been circulated, were approved as a correct record and signed by the Mayor.

CL.48 ITEMS FROM MEMBERS OF THE PUBLIC

48.1 There were no items from members of the public.

CL.49 MEMBER QUESTIONS PROPERLY SUBMITTED IN ACCORDANCE WITH COUNCIL PROCEDURE RULES

49.1 The following questions were received from Councillor Stanley to the Lead Member for Finance and Asset Management, Councillor Vines. The answers were given by the Lead Member for Finance and Asset Management but were taken as read without discussion.

Question 1:

What is the Council's current true useable reserve figure, please do not include funds held in reserves which are earmarked commitments or funds held by us to be used for specific purposes, just the true useable reserve that the Council has?

Answer 1:

The current level of uncommitted reserves held by the Council as at 1 April 2022 is £4,103,157. This consists of the MTFs reserve and the General Fund Working Balance.

Question 2:

What was the equivalent figure for the previous 3 years?

Answer 2:

- April 2021 - £3,443,099
- April 2020 - £800,000
- April 2019 - £1,800,000

49.2

The following questions were received from Councillor Stanley to the Lead Member for Built Environment, Councillor Gore. The answers were given by the Lead Member for Built Environment but were taken as read without discussion.

Question 3:

How many planning applications are currently awaiting decision and what is the oldest case held by us awaiting a decision?

Answer 3:

The Council currently has 468 valid applications pending decision. The oldest application awaiting decision was validated in 2016. This application is for significant housing development at Northwest Cheltenham which requires the resolution of major transport matters before it can be determined.

Question 4:

When will the following planning applications be heard?

21/01173/FUL

22/00725/FUL

22/00726/FUL

Answer 4:

It would be inappropriate for the Local Planning Authority to discuss specific planning applications at a Council meeting. All three applications are the subject of active dialogue between the Planning Case Officer and the agent/applicant. Once this has concluded, there will, in each case, be an Officer report making an appropriate recommendation so that decisions can be made. Giving a precise timescale for the decisions is not possible given the current, ongoing engagement on the cases.

Question 5:

What FTE Officer vacancies do we have in the planning department and how many Officers do we currently have in total?

Answer 5:

10

29 (of which seven are contractors)

Question 6:

When will long suffering residents of the Cleveland's estate receive an update from Tewkesbury Borough as to the progress on the community buildings. I note the latest update to Councillors but what, if anything, is Council willing to share with the residents affected after four years of waiting without communication?

Answer 6:

The Council is in active discussions with the Parish Council and the developer on plans for the new community building. A planning application for the new community building is expected to be submitted shortly.

Question 7:

How much has been spent on legal challenges since May 2019 related to planning? How many were successfully won and how many have been lost? How many ongoing?

Answer 7:

Since May 2019, the Council has been party to two challenges to Planning decisions made under Section 288 of the Town and Country Planning Act 1990. The first was a challenge made by the Council to an appeal decision for housing development at Gotherington which cost the Council £60,874. This challenge was unsuccessful.

The second is a challenge made by Ashchurch Rural Parish Council to the planning permission granted for Ashchurch Bridge over Rail. The Borough Council was successful in defending the High Court Challenge, but the Parish Council has appealed to the Court of Appeal against the High Court Judgment. The Court of Appeal Hearing is due to take place on either 13 or 14 December 2022 (date not yet fixed) and to date the defence to the challenge has cost the Council £65,306 in external legal fees. This does not include the Officer costs which have not been calculated. The Council continues to incur costs associated with this ongoing case.

49.3 The Mayor invited supplementary questions and the Member asked the following which the Lead Member for Built Environment advised would be answered in writing:

Q3. How many planning applications are currently awaiting action and what is the oldest case awaiting action? The Member was advised that the information took a considerable amount of time to collate so the Head of Development Services would speak to the Member outside of the meeting to clarify exactly what information he wanted.

Q4. Please can the Councillor be updated in future on the three planning applications (21/01173/FUL, 22/00725/FUL and 22/00726/FUL)? The Member was advised that the information was all available on the public access system, but the Member would be provided with updates directly.

Q5. Is the increase in salaries now attracting more applicants to the roles?

Q6. The project is now four years overdue; how can the Council ensure residents remain better updated on S106 in the future?

49.4 The following question was received from Councillor Stanley to the Lead Member for Organisational Development, Councillor Harwood. The answer was given by the Lead Member for Organisational Development but was taken as read without discussion.

Question 8:

How many FTE Officer vacancies do we have across all departments within the Council?

Answer 8:

There are 35.47 FTEs (including One Legal) Officer vacancies across all departments in the Council.

49.5

The following questions were received from Councillor Munro to the Lead Member for Built Environment, Councillor Gore. The answers were given by the Lead Member for Built Environment but were taken as read without discussion.

Question 9:

It is understood that the Officer who was updating the S106 database has left the Council's employment. Please can Council be assured that this post will be filled, that all data has continued to be entered following the post holder's departure and a date when the new post holder will start?

Answer 9:

Recruitment for the post of Section 106 Monitoring Officer is currently underway, the closing date for applications is 12 December with interviews scheduled to take place on 19 December.

There can be no guarantee that a suitably qualified person will apply and the start date, assuming that there is a successful recruitment, will depend upon individual circumstances/ notice period. In the meantime, some cover is being provided in an endeavour to keep the database as up to date as possible.

Question 10:

It is further understood that there is a module available on the S106 system which will allow the public a view of the data but that this module is not yet deployed. Please can Council be updated with the plans to evaluate, cost and implement this module?

Answer 10:

Work has been undertaken on the module, which will be furthered once the Section 106 Monitoring Officer post is filled. This work will include evaluation, cost and implementation.

Question 11:

It is noted that there is c£9million in S106 monies held by the Council as at end March 2022. Please can Council be provided with the expected spend and on what of S106 monies in the year April 2022 to end March 2023 and the anticipated spend in 2023/4 FY?

Answer 11:

The S106 monies expenditure for the year April 2022 to March 2023 will be detailed in the Infrastructure Funding Statement December 2023.

It is not practicable at this stage to provide the anticipated spend for the 2023/24 financial year.

The majority of the S106 funds are allocated in accordance with the relevant S106 agreement and are specific to each planning application as they have to address the need which has arisen as a result of a new development taking place.

49.6 The Mayor invited supplementary questions and the Member asked the following which the Lead Member for Built Environment advised would be answered in writing:

Q9. It is noted that recruitment has started but the post advertised is for a 12-month role, what is the intention for how the work will be covered when that post expires?

Q10. Which Committee/Working Group will be kept updated with progress on the evaluation, cost and implementation of the module?

Q11. My concern remains that the Council has approximately £9million in the bank for Section 106 monies intended for community infrastructure, can all Members be sent a list of the Section 106 projects and the amount of money that made up the £9million specified as that amount at the start of 2022/23? The Member was advised that this formed part of the Annual Infrastructure Statement and would be clarified after the meeting.

CL.50 RECOMMENDATIONS FROM EXECUTIVE COMMITTEE

Infrastructure Funding Statement (IFS) and Community Infrastructure Levy (CIL) Rate Summary Statement Requirements

- 50.1 At its meeting on 16 November 2022, the Executive Committee had considered the Infrastructure Funding Statement and Community Infrastructure Levy Rate Summary Statement Requirements and recommended that the publication of the Infrastructure Funding Statement relating to the financial year ending 31 March 2022 by 31 December 2022 be approved; and that the annual Community Infrastructure Levy Rate Summary Statement be published alongside the Infrastructure Funding Statement by 31 December 2022.
- 50.2 The report which was considered by the Executive Committee had been circulated with the Agenda for the current meeting at Pages No. 8-37.
- 50.3 The Chair of the Executive Committee proposed the recommendation of the Executive Committee and it was seconded by the Vice-Chair.
- 50.4 A Member questioned how the money identified for administration was spent. In response, the Head of Development Services confirmed this covered staff costs related to the administration of the Community Infrastructure Levy along with software to administer payments. Another Councillor referred to the scheme name 'A4019/B4634 Old Gloucester Road and A38/A40 highway link' and noted it had been merged and the name updated to 'Junction Improvement A38/Down Hatherley Lane junction upgrade' and he questioned whether the link road was still going ahead. In response, the Head of Development Services advised that the Infrastructure List had been discussed with Gloucestershire County Council and some projects had been removed from the list - she was not sure if this was one of them but she would confirm after the meeting.
- 50.5 During the discussion which ensued, a Member questioned whether the Council would lose any of the CIL/Section 106 money if it was not spent. The CIL Manager for the JCS Authorities explained that CIL was a levy on planning permissions and was not lost – in fact, even the CIL which was passed to Parishes was returned to the Borough Council if it was not spent. In terms of Section 106 monies, the Head of Development Services explained that the Council had, in the past, returned one element but there was a system to oversee this to try and ensure it did not happen. In terms of the Section 106 collected for affordable housing, the Head of Development Services confirmed that the team was working with housing colleagues and affordable housing providers to draw down monies.

50.6 A Member appreciated the document was statutory but felt it would be helpful if it was more user friendly in future so that Members could understand it more easily. Accordingly, it was

- RESOLVED**
1. That the publication of the Infrastructure Funding Statement, relating to the financial year ending 31 March 2022, by 31 December 2022 be **APPROVED**.
 2. That the annual Community Infrastructure Levy Rate Summary Statement be published alongside the Infrastructure Funding Statement by 31 December 2022.

Council Tax Reduction Scheme and Council Tax Discounts 2023/24

50.7 At its meeting on 16 November 2022, the Executive Committee had considered the Council Tax Reduction Scheme and Council Tax Discounts 2023/24 and recommended that the default Council Tax Reduction Scheme be adopted effective from 1 April 2023 with a minor revision to the national working age regulations to allow for a de minimus tolerance for income changes; that authority be delegated to the Head of Corporate Services, in consultation with the Lead Member for Finance and Asset Management, to agree the uprating of the working age regulations incorporated into the local Council Tax Reduction Scheme in line with those announced by the Department for Work and Pensions; and that the following Council Tax discounts be adopted effective from 1 April 2023: the discount for unoccupied and substantially unfurnished properties is 25% for the maximum period of six calendar months; the discount for properties that are unoccupied and require major structural repair work to render them habitable is 25% for the maximum period of 12 calendar months; the discount for unoccupied furnished properties (second homes) is zero; an empty properties premium of an additional 100% is levied on properties that have remained unoccupied and substantially unfurnished for at least two years, but less than five years; an empty properties premium of an additional 200% is levied on properties that have remained unoccupied and substantially unfurnished for at least five years, but less than ten years; and an empty properties premium of an additional 300% is levied on properties that have remained unoccupied and substantially unfurnished for at least ten years.

50.8 The report which was considered by the Executive Committee had been circulated with the Agenda for the current meeting at Pages No. 38-42.

50.9 The Chair of the Executive Committee proposed the recommendation of the Executive Committee and it was seconded by the Vice-Chair.

50.10 A Member questioned how second homes were monitored and was advised that Officers visited properties to review and monitor them; it was up to the owner to report a home as a second home but either way they paid 100% Council Tax. Accordingly, it was

- RESOLVED**
1. That the default Council Tax Reduction Scheme be **ADOPTED** effective from 1 April 2023 with a minor revision to the national working age regulations to allow for a de minimus tolerance for income changes.
 2. That authority be delegated to the Head of Corporate Services, in consultation with the Lead Member for Finance and Asset Management, to agree the uprating of the working age regulations incorporated into the local Council Tax Reduction Scheme in line with those announced by the Department for Work and Pensions.

3. That the following Council Tax discounts be **ADOPTED** effective from 1 April 2023:

- The discount for unoccupied and substantially unfurnished properties is 25% for the maximum period of six calendar months.
- The discount for properties that are unoccupied and require major structural repair work to render them habitable is 25% for the maximum period of 12 calendar months.
- The discount for unoccupied furnished properties (second homes) is zero.
- An empty properties premium of an additional 100% is levied on properties that have remained unoccupied and substantially unfurnished for at least two years, but less than five years.
- An empty properties premium of an additional 200% is levied on properties that have remained unoccupied and substantially unfurnished for at least five years, but less than ten years.
- An empty properties premium of an additional 300% is levied on properties that have remained unoccupied and substantially unfurnished for at least ten years.

CL.51 RECOMMENDATIONS FROM LICENSING COMMITTEE

Review of Tewkesbury Borough Council's Statement of Licensing Policy under the Licensing Act 2003

- 51.1 At its meeting on 6 October 2022, the Licensing Committee had considered the Borough Council's Statement of Licensing Policy and recommended that the revised Statement of Licensing Policy be approved subject to the correction of minor typographical errors and an amendment to Paragraph 34.4, bullet point six, to read "not store or display any alcohol at or near check-outs except for high strength alcohol behind the shop counter".
- 51.2 The report which was considered by the Licensing Committee had been circulated with the Agenda for the current meeting at Pages No. 43-131 and this included the revised policy.
- 51.3 The Chair of the Licensing Committee proposed the recommendation of the Licensing Committee and it was seconded by the Vice-Chair who also thanked the Licensing Team for their work to review the service. Accordingly, it was

RESOLVED That the revised Statement of Licensing Policy be **APPROVED**, subject to the correction of minor typographical errors and an amendment to Paragraph 34.4, bullet point six, to read "*not store or display any alcohol at or near check outs **except for high strength alcohol behind the shop counter***".

Review of Tewkesbury Borough Council's Statement of Principles under the Gambling Act 2005

- 51.4 At its meeting on 6 October 2022, the Licensing Committee had considered the Council's Statement of Principles under the Gambling Act 2005 and recommended that the draft revised Statement of Principles under the Gambling Act be adopted, subject to the correction of minor typographical errors, and that it be agreed that the Council continues to adopt a "no casino resolution" for inclusion in the published Gambling Act 2005 Licensing Policy Statement.
- 51.5 The report which was considered by the Licensing Committee had been circulated with the Agenda for the current meeting at Pages No. 132-182 and this included the revised policy.
- 51.6 The Chair of the Licensing Committee proposed the recommendation of the Licensing Committee and it was seconded by the Vice-Chair.
- 51.7 A Member questioned why the Statement of Principles under the Gambling Act went up to 2025 when the Statement of Licensing Policy went to 2027. In response she was advised that these were in accordance with statutory review timescales.
- 51.8 Accordingly, it was
- RESOLVED**
1. That the draft revised Statement of Principles under the Gambling Act be **ADOPTED**, subject to the correction of minor typographical errors.
 2. That it be **AGREED** that the Council continues to adopt a 'no casino resolution' for inclusion in the published Gambling Act 2005 Licensing Policy Statement.

CL.52 SCHEDULE OF MEETINGS 2023/24

- 52.1 The report of the Head of Democratic Services, circulated at Pages No. 183-186, asked Members to approve amendments to the 2022/23 Schedule of Meetings which took account of the pre-election (purdah) period and to adopt the Schedule of Meetings for 2023/24.
- 52.2 The Head of Democratic Services explained that the report was in two parts; the first part took account of some meetings already approved which needed to be cancelled/moved as items of a sensitive nature could not be considered in the pre-election period. It was proposed that a provisional date for a Council meeting be held for Thursday 9 March 2023 in case it was needed before purdah commenced on Monday 13 March 2023. Mayor Making and annual Council had subsequently been brought forward to ensure the Council's decision-making structure could be set up as quickly as possible after the election. This change also accommodated the addition of a Planning Committee meeting in May to enable the service to deal with outstanding applications from before the election period as soon as possible. The Schedule of Meetings 2023/24 had been prepared on a similar basis to that previously agreed with a few modifications as set out in Paragraph 3.1 including the resumption of annual Council taking place on Wednesday 15 May 2023 following Mayor Making on Tuesday 14 May 2023. Again, this allowed for a Planning Committee to take place in May in accordance with a request from the planning service aimed at meeting the needs of its customers. The Schedule of Meetings was usually considered by the Council at its January meeting, but it was intended the information would be included in the nomination packs for the elections, along with the induction timetable, so candidates had the dates in advance.

52.3 Accordingly, it was

RESOLVED

1. That the changes to the 2022/23 Schedule of Meetings, as set out in Paragraphs 2.1-2.5 of the report, be **APPROVED**.
2. That the Schedule of Meetings 2023/24, shown at Appendix 1 to the report, be **ADOPTED**.

CL.53 EMERGENCY DECISION TAKEN TO SUPPORT GLOUCESTERSHIRE COUNTY COUNCIL FOR INVESTMENT ZONE SUBMISSION UNDER URGENCY POWERS IN ACCORDANCE WITH PART 3 OF THE CONSTITUTION

53.1 The report of Head of Development Services, circulated at Pages No. 187-190, advised of a decision taken by the Chief Executive under the urgency powers set out in Part 3 of the Constitution to support Gloucestershire County Council on its submission of an Expression of Interest for an Investment Zone to the Department for Levelling Up, Housing and Communities. A Member noted that she had concerns about Investment Zones and, even though they had now been abolished, she wanted it noted that not everyone agreed with the decision made by the Chief Executive.

53.2 Accordingly, it was

RESOLVED

- That the decision taken by the Chief Executive, in consultation with the appropriate Lead Members, as set out in the Appendix attached to the report, be **NOTED**.

CL.54 COMMUNITY GOVERNANCE REVIEW - DUMBLETON/WORMINGTON

54.1 The report of the Head of Democratic Services, circulated at Pages No. 191-193, provided an update on progress made on the implementation of the Community Governance review, which had been approved in May 2022, as well as to advise on discussions with Wormington residents in relation to whether they wished to be represented by a Parish Council rather than by a Parish meeting as previously approved by Council.

54.2 The Head of Democratic Services explained that the review had been sent to the Local Government Boundary Commission for England in June 2022 as Parishes altered by the Commission's review of Borough Wards in 2019 were classed as protected and could not be altered without the Commission's consent. Consent was received from the Commission on 5 October allowing the first Order to be made on 10 October 2022. That Order gave effect to all the Parish alterations with the exception of the abolition of the existing Parish of Dumbleton and the creation of two new Parishes - Dumbleton and Wormington - which was to be subject to a separate Order. The proposal for Wormington to be served by a Parish Meeting was recommended on the basis that legislation required any new Parish Council needed to serve a minimum of 150 electors. As the proposed new Wormington Parish would have an electorate of less than 100 electors, it was considered at the time of the decision that a Parish Meeting was the only option for the residents of Wormington; however, in drafting the Order to implement the Council's decision it was discovered that the Local Government and Public Involvement in Health Act 2007 provided an exception to the 150 electors requirement in circumstances where the area was previously part of a parish which had a Parish Council. It was felt that this information should be communicated to residents to allow them to be involved in determining which form of governance suited them best. Accordingly, Officers engaged with the community which included attending a public meeting and, of the responses received, 29 had indicated a preference for a Parish Meeting

and seven for a Parish Council. On that basis, Members were asked to reaffirm the Council's previous decision that the new Parish of Wormington be served by a Parish Meeting.

- 54.3 In proposing the recommendation in the report, the Chair of the Community Governance Review Working Group expressed the view that this had been one of the best examples of exceptional service given by the Council; as soon as the Head of Democratic Services had identified the loophole she had notified him and the Ward Councillors, arranged meetings with residents and sought feedback from them. The Ward Member agreed with that view and seconded the recommendation. Accordingly, it was

- RESOLVED**
1. The progress to date on implementation of the Community Governance Review be **NOTED**.
 2. That the decision set out in Paragraph 2.3 that a Parish Meeting be created for the new Parish of Wormington be **REAFFIRMED**.

CL.55 WEBCASTING

- 55.1 A Member proposed, and it was seconded, that the principle of webcasting be discussed outside of confidential business with the financial elements remaining in confidential business. Another Member indicated that, while he had no objection to webcasting, he believed the crux of the matter was more to do with costings and, as such, it would not be possible to have the debate without discussing the financial aspect. The seconder of the motion suggested the Council needed to discuss as much of its business in an open forum as it could therefore those elements that were not confidential should be discussed as such. In terms of what could be released from the discussion held in confidential business, the Corporate Director confirmed that there was an obligation on Councils to publish a summary in the open Minutes of all business considered under confidential excluding the elements which were exempt.

- 55.2 Upon being put to the vote, it was

- RESOLVED** That the webcasting item would remain in confidential business.

CL.56 SEPARATE BUSINESS

- 56.1 The Mayor proposed, and it was

- RESOLVED** That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

CL.57 SEPARATE MINUTES

- 57.1 The separate Minutes of the meeting held on 27 September 2022, copies of which had been circulated, were approved as a correct record and signed by the Mayor.

CL.58 WEBCASTING COUNCIL MEETINGS

(Exempt – Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to the financial or business affairs of any particular person (including the authority holding that information))

- 57.1 Members considered the proposal for webcasting the Council's meetings. Following a lengthy discussion as to the merits of webcasting, as well as concerns about the costs of the system at the time of a national cost of living emergency, and following a recorded vote as set out below, it was agreed that webcasting would not be implemented at this time:

For	Against	Abstain	Absent
C L J Carter	K Berliner	M Dean	J H Evetts
C M Cody	R A Bird		H C McLain
D J Harwood	G F Blackwell		P W Ockelton
M L Jordan	G J Bocking		C Softley
E J MacTiernan	K J Cromwell		
P D McLain	R D East		
H S Munro	P A Godwin		
P E Smith	M A Gore		
R J G Smith	D W Gray		
R J Stanley	J R Mason		
M G Sztymiak	C E Mills		
S Thomson	J P Mills		
R J E Vines	J W Murphy		
P N Workman	A S Reece		
	C Reid		
	J K Smith		
	V D Smith		
	P D Surman		
	M J Williams		

The meeting closed at 8:05 pm