

# South Hams Council



<b>Title:</b>	<b>Agenda</b>																														
<b>Date:</b>	<b>Thursday, 25th May, 2023</b>																														
<b>Time:</b>	<b>10.00 am</b>																														
<b>Venue:</b>	<b>Council Chamber - Follaton House</b>																														
<b>Full Members:</b>	<p style="text-align: center;"><b>Chairman</b></p> <p style="text-align: center;"><b>Vice Chairman</b></p> <p><i>Members:</i></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Cllr Abbott</td> <td style="width: 33%;">Cllr Lawford</td> </tr> <tr> <td>Cllr Allen</td> <td>Cllr Long</td> </tr> <tr> <td>Cllr Birch</td> <td>Cllr McKay</td> </tr> <tr> <td>Cllr Bonham</td> <td>Cllr Munoz</td> </tr> <tr> <td>Cllr Brazil</td> <td>Cllr Nix</td> </tr> <tr> <td>Cllr Carson</td> <td>Cllr O'Callaghan</td> </tr> <tr> <td>Cllr Cooper</td> <td>Cllr Oram</td> </tr> <tr> <td>Cllr Dennis</td> <td>Cllr Pannell</td> </tr> <tr> <td>Cllr Dewynter</td> <td>Cllr Penfold</td> </tr> <tr> <td>Cllr Dommett</td> <td>Cllr Presswell</td> </tr> <tr> <td>Cllr Hancock</td> <td>Cllr Rake</td> </tr> <tr> <td>Cllr Hawkins</td> <td>Cllr Steele</td> </tr> <tr> <td>Cllr Hodgson</td> <td>Cllr Taylor</td> </tr> <tr> <td>Cllr Hopwood</td> <td>Cllr Thomas</td> </tr> <tr> <td>Cllr Jackson</td> <td>Cllr Yardy</td> </tr> </table>	Cllr Abbott	Cllr Lawford	Cllr Allen	Cllr Long	Cllr Birch	Cllr McKay	Cllr Bonham	Cllr Munoz	Cllr Brazil	Cllr Nix	Cllr Carson	Cllr O'Callaghan	Cllr Cooper	Cllr Oram	Cllr Dennis	Cllr Pannell	Cllr Dewynter	Cllr Penfold	Cllr Dommett	Cllr Presswell	Cllr Hancock	Cllr Rake	Cllr Hawkins	Cllr Steele	Cllr Hodgson	Cllr Taylor	Cllr Hopwood	Cllr Thomas	Cllr Jackson	Cllr Yardy
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Cllr Jackson	Cllr Yardy																														
<b>Interests – Declaration and Restriction on Participation:</b>	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.																														
<b>Committee administrator:</b>	Democratic.Services@swdevon.gov.uk																														

**1. Election of the Chairman of the Council;**

(The Chairman will then read and sign the declaration of acceptance of office).

**2. Address by the New Chairman of Council;**

**3. Vote of thanks to the Retiring Chairman**

**4. Response by the Retiring Chairman**

**5. Appointment of the Vice Chairman of the Council;**

(The Vice Chairman will then read and sign the declaration of acceptance of office).

**6. Minutes**

**1 - 12**

to approve as a correct record the minutes of the meeting of the Council held on 30 March 2023 and the Special Meeting held on 13 April 2023;

**7. Declarations of Interest**

In accordance with the Code of Conduct, Members are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests and Non-Registerable Interests including the nature and extent of such interests they may have in any items to be considered at this meeting;

**8. Election of Leader of the Council and Chairman of the Executive for the four year term from 2023/24**

upon his/her election, the Leader to announce their Deputy Leader and Executive membership (including portfolio areas);

**9. Representation on Political Groups**

to approve a review carried out in consultation with leaders of the Political Groups. This is reflected in the list of Council Bodies (to follow) – see item 10 below;

**10. Appointment of Members (and Substitute Members) of the Bodies of the Council**

to appoint the Members of the following Council Bodies for the 2023/24 Municipal Year:-

- a) Audit & Governance Committee;
- b) Council Tax Setting Committee;
- c) Development Management Committee;
- d) Licensing Committee; and
- e) Overview & Scrutiny Committee.

**11. Election of Chairman and Vice-Chairman of those Bodies of the Council**

to elect the Chairman and Vice-Chairman of the following Bodies of the Council for the 2023/24 Municipal Year:-

- a) Audit & Governance Committee;
- b) Council Tax Setting Committee;
- c) Development Management Committee;
- d) Licensing Committee; and
- e) Overview and Scrutiny Committee.

**12. Appointment of Representatives on Outside Bodies**

to agree to the appointment of Members as representatives on Outside Bodies for the 2023/24 Municipal Year;

**NOTE:** Although some of these appointments are accepted by the “Outside Bodies” for a period of years, it is the Council’s practice where possible to review all appointments annually.

**13. Appointment of Governance Boards / Panels**

to agree to the appointment of the following Groups for the 2023/24 Municipal Year:-

- a) Devon Building Control Partnership;
- b) Director – Plymouth & South Devon Freeport;
- c) Joint SH/WD/Plymouth Local Plan Partnership Board;
- d) Rate Relief Panel;
- e) Slapton Line Steering Group;
- f) South Devon AONB Partnership Committee; and
- g) Tamar Valley AONB Partnership Committee.

**14. Exempt Information**

to consider whether the consideration of any item of business would be likely to disclose exempt information and if so the category of such exempt information;

**15. Urgent Business**

the Chairman to announce if any item not on the agenda should be considered on the basis that he considers it as a matter of urgency (any such item to be dealt with under ‘Business Brought forward by the Chairman’);

**16. Appointment of Independent Persons**

	<i>Page No</i>
<b>17. Council Constitution</b>	<b>17 - 24</b>
<b>18. Honorary Aldermen - Process</b>	<b>25 - 28</b>
<b>19. Reports of Bodies</b>	
to receive and as may be necessary approve the minutes and recommendations of the under-mentioned Bodies:-	
* Indicates minutes containing recommendations to Council.	
<b>(a) Overview &amp; Scrutiny Committee - 16 March 2023</b>	<b>29 - 34</b>
<b>(b) Development Management Committee - 5 April 2023</b>	<b>35 - 44</b>
<b>(c) Executive - 13 April 2023</b>	<b>45 - 48</b>

# Agenda Item 6

## MINUTES OF THE MEETING OF THE SOUTH HAMS DISTRICT COUNCIL HELD IN THE COUNCIL CHAMBER, FOLLATON HOUSE, TOTNES ON THURSDAY 30 MARCH 2023

### MEMBERS

\* Cllr L Austen – Chairman

\* Cllr B Taylor – Vice-Chairman

* Cllr V Abbott	* Cllr M Long
* Cllr K J Baldry	* Cllr J McKay
* Cllr H D Bastone	* Cllr D M O’Callaghan
* Cllr J P Birch	* Cllr G Pannell
* Cllr J Brazil	* Cllr J A Pearce
* Cllr D Brown	* Cllr J T Pennington
* Cllr M Chown	* Cllr K Pringle
* Cllr R Foss	* Cllr H Reeve
* Cllr J D Hawkins	∅ Cllr J Rose
* Cllr J M Hodgson	* Cllr R Rowe
* Cllr T R Holway	* Cllr P C Smerdon
* Cllr N A Hopwood	* Cllr B Spencer
* Cllr S Jackson	* Cllr J Sweett
* Cllr L Jones	* Cllr D Thomas
∅ Cllr K Kemp	

\* Denotes attendance

∅ Denotes apology for absence

\*\* Denotes attendance via Teams in a non-voting capacity

Officers in attendance and participating:

For all items: Chief Executive; Director – Place & Enterprise; Director – Strategy & Governance; Section 151 Officer; Monitoring Officer; Democratic Services Manager; Head of Finance; Senior Strategic Planning Officer; Head of Communications; Specialist – Neighbourhood Planning (via Teams)

70/22

### ADVICE FROM THE MONITORING OFFICER

In light of the meeting being held during the Pre-Election Period, the Chairman invited the Monitoring Officer to provide guidance to Members on the format and conduct to be adhered to at this meeting. In particular, the Monitoring Officer emphasised the need for questions and speeches to be relevant to the matter that was being considered.

71/22

### MINUTES

The minutes of the Council meeting held on 16 February 2023 were confirmed as a true and correct record.

**DECLARATIONS OF INTEREST**

Members and officers were invited to declare any interests in the items of business to be considered during the course of this meeting and these were recorded as follows:

Cllr D O'Callaghan declared a non-registrable interest in agenda item 10: 'Plymouth and South Devon Freeport' (Minute 77/22 below refers) by virtue of being a member of the South Hams Society and remained in the meeting during the debate and vote thereon.

When questioned, the Monitoring Officer informed that Cllr H Bastone had recently been granted a dispensation to enable him to take part in the debate and vote on agenda items that related to the Plymouth and South Devon Freeport.

**2023/24 CAPITAL STRATEGY; 2023/24 TREASURY MANAGEMENT STRATEGY; AND 2023/24 INVESTMENT STRATEGY**

Consideration was given to a report recommending the approval of the proposed Capital Strategy, Investment Strategy and Treasury Management for 2023/24, together with their associated prudential indicators.

In discussion, reference was made to:

- (a) With regard to the proposed Capital Strategy, a Member sought clarification on whether or not local Ward Members would be consulted when Assets were to be divested as well as acquired within their Ward. In reply, the Deputy Leader suggested that this should be the case;
- (b) It was noted that the Fair Value Valuation for the Council's investment property in Dartmouth had reduced and the question was therefore raised as to the financial impact that this had on the Council. In response the Section 151 Officer advised that there had been no resultant change to the Council's income stream and further advised that new Asset Valuations were being undertaken across the Council's portfolio with the resulting report due to be considered by the Audit & Governance Committee at its meeting to be held in June 2023;
- (c) A Member sought clarity on matters concerning the Freeport contained within the respective Strategies and it was confirmed that pending any decisions made by the Council when considering the Exempt Plymouth and South Devon Freeport report later in the meeting (Minute 77/22 refers) the information contained with the published Strategy documents was current and correct.

It was then:

**RESOLVED**

1. That the following strategies for 2023-24 be approved:
  - i. Capital Strategy (as attached at Appendix A of the presented agenda report);
  - ii. Treasury Management Strategy (as attached at Appendix B of the presented agenda report);
  - iii. Investment Strategy (as attached at Appendix C of the presented agenda report); and
2. That the Section 151 Officer be granted delegated authority, in consultation with the Leader of the Council and the lead Executive Member for Finance, to make any minor amendments to these Strategies if required throughout the 2023/24 Financial Year.

74/22

**MODBURY NEIGHBOURHOOD PLAN**

Consideration was given to a report that sought approval of the making (adoption) of the Modbury Neighbourhood Plan.

During the discussion, reference was made to:-

- (a) the proposed Relief Road. A Member queried whether any safeguards had been put in place to protect the location of the possible Relief Road referred to within the Plan. In reply, it was confirmed that the same road was referenced in an already approved Neighbouring Plan and, as such, although the Road was unlikely to be constructed, the planned route was protected;
- (b) the proposed 'Primary Residence' clause. Whilst recognising the reasons for the clause being removed as part of the Inspection process, there was nonetheless some disappointment expressed that this had been deemed necessary;
- (c) the Plan being welcomed. In welcoming the Plan having reached this point, a number of Members wished to put on record their thanks to those individuals who had worked so tirelessly to develop it.

It was then:

**RESOLVED**

That the Modbury Neighbourhood Plan be made (adopted)

75/22

**REPORTS OF BODIES**

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

- (a) **Licensing Committee - 5 January 2023**

- (b) Development Management Committee - 15 February 2023
- (c) Council Tax Setting Committee - 22 February 2023
- (d) Licensing Committee - 9 March 2023
- (e) Audit & Governance Committee - 9 March 2023

**AG.37/22 2023/24 Capital Strategy, 2023/24 Treasury Management Strategy and 2023/24 Investment Strategy**

It was noted that the Recommendations to Council contained therein had already been considered at agenda item 6 (Minute 73/22 above refers).

- (f) Development Management Committee - 15 March 2023
- (g) Salcombe Harbour Board - 20 March 2023
- (h) Executive - 2 March 2023

**E.81/22 Better Lives For All – Year 3 Updates**

**RESOLVED**

That the minor amendments to the Year 3 Better Lives for All delivery plans, as set out in Appendix A of the report presented to the Executive meeting, be approved.

**E.90/22 Recruitment and Retention**

During debate and, in recognition of the gesture, an amendment to the recommendation was **PROPOSED** and **SECONDED** and when put to the vote declared **CARRIED** that:

‘Council be **RECOMMENDED** to accept the recommendations of the Independent report on senior officer pay, undertaken by the Local Government Association and approve the revised pay and grading structure for the Senior Leadership Team *and that Council notes the offer of the Senior Leadership Team to limit their annual pay award to 6% in line with other staff members*’.

It was then:

**RESOLVED**

2. That the recommendations of the independent report on senior officer pay, undertaken by the Local Government Association be accepted and that the revised pay and grading structure for the Senior Leadership Team, be approved and that the offer of the Senior Leadership Team to limit their annual pay award to 6% in line with other staff members be noted.



*(NOTE: the Council's Senior Leadership Team left the meeting room prior to the debate on this recommendation).*

### **E.92/22 Plymouth and South Devon Freeport**

It was noted that the Recommendations to Council contained therein were due to be considered at Exempt agenda item 10 (Minute 77/22 below refers).

76/22

### **EXCLUSION OF PUBLIC AND PRESS**

Having been **PROPOSED** and **SECONDED** to exclude the public and press, some Members highlighted the amount of money involved in the proposals and were of the view that to exclude would represent a lack of transparency in the decision-making process. However, when put to the vote, the majority of Members did not accept this viewpoint and it was therefore:

#### **RESOLVED**

That, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following item of business as the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A to the Act is involved.

77/22

### **PLYMOUTH AND SOUTH DEVON FREEPORT**

The Council considered an Exempt report which sought approval for the acquisition of Freeport land and a change to the approved borrowing terms.

During the debate, an amendment to the recommendation was **PROPOSED** and **SECONDED** that sought to include an additional (part 5) to the recommendation as follows:

5. *That a progress report on the proposed purchase be provided to the Full Council meeting to be held on 25 May 2023 and, at that meeting, authority will be sought for the Council to proceed to exchange of contracts for the said purpose.*

In support of his amendment, the proposer stated that this would not prevent officers from continuing to progress the work but would enable the new Council administration to give the matter further consideration at the Annual Council meeting to be held on 25 May 2023 before the issue was finally determined.

In contrast, other Members stated that it would be unfair for a new Council to be asked to consider such a complicated subject matter within just three weeks of being elected and they were therefore of the view that this issue should be determined at this meeting.

When put to the vote, the amendment was declared **LOST**.

It was then:

**RESOLVED**

That each of the four parts of the recommendation (as set out in the exempt agenda report) be approved.

*(NOTE: in accordance with Council Procedure Rule 17.7 (Right to Require Individual Vote to be Recorded), Cllr R Foss asked that his vote in support of the resolution be recorded and Cllrs K Baldry, J Hodgson, S Jackson, D O'Callaghan, G Pannell, T Pennington and J Sweett asked that their respective votes in opposition to the resolution also be recorded.)*

78/22 **RE-ADMISSION OF PUBLIC AND PRESS**

**RESOLVED**

That the press and public be re-admitted to the meeting

79/22 **PUBLIC QUESTIONS**

The Chairman informed the Meeting that no Public Questions had been received for consideration at this Meeting.

80/22 **QUESTIONS ON NOTICE**

It was noted that the no Questions on Notice had been received in accordance with Council Procedure Rules:

81/22 **MOTIONS ON NOTICE**

It was noted that one Motion on Notice had been received in accordance with Council Procedure Rules.

**a. From Cllr Chown and Cllr Hodgson**

*"Debate Not Hate motion*

*Intimidation and abuse, in person or otherwise, undermines democracy.*

*Therefore, this council resolves to:*

- *Uphold exemplary standards of political debate in all it does*
- *Challenge the normalisation of abuse by promoting respectful, courteous, and constructive debate amongst our residents*

- *Sign up to the LGA's 'Debate Not Hate' campaign which aims to raise public awareness of the role of councillors in local communities, encourage healthy debate, and improve the response to and support those in public life facing abuse and intimidation.*
- *Write to the local Members of Parliament to ask them to support the campaign*
- *Write to the Government to ask them to work with the LGA to develop and implement a plan to address abuse and intimidation of politicians*
- *Regularly review the support available to councillors in relation to abuse and intimidation and councillor safety*
- *Take a zero-tolerance approach to abuse of councillors and officers*

During debate, there was widespread support expressed for the Motion and the proposer and seconder were thanked for bringing it forward to this Meeting.

To further supplement the Motion, an amendment was **PROPOSED, SECONDED** that read as follows:

*'Write to the Government to ask them to work with the LGA to develop and implement a plan to address abuse and intimidation of politicians including the restoration of the power to suspend Councillors at all levels of Local Government whose behaviour is deemed under the Standards Complaints Procedure to warrant this sanction.'*

In support of the amendment, the proposer felt that it was critical to be able to impose meaningful sanctions in the event of any Councillor breaching their Code of Conduct. In agreement with this view, the proposer and seconder of the motion were willing to accept the amendment and it was therefore included as part of the substantive motion.

It was then:

### **RESOLVED**

That this Council **RESOLVES** to:

- Uphold exemplary standards of political debate in all it does;
- Challenge the normalisation of abuse by promoting respectful, courteous, and constructive debate amongst our residents;
- Sign up to the LGA's 'Debate Not Hate' campaign which aims to raise public awareness of the role of councillors in local communities, encourage healthy debate, and improve the response to and support those in public life facing abuse and intimidation;
- Write to the local Members of Parliament to ask them to support the campaign;

- (e) Write to the Government to ask them to work with the LGA to develop and implement a plan to address abuse and intimidation of politicians. In so doing, to write to the Government to ask them to work with the LGA to develop and implement a plan to address abuse and intimidation of politicians including the restoration of the power to suspend Councillors at all levels of Local Government whose behaviour is deemed under the Standards Complaints Procedure to warrant this sanction;
- (f) Regularly review the support available to councillors in relation to abuse and intimidation and councillor safety; and
- (g) Take a zero-tolerance approach to abuse of councillors and officers.

82/22

### **CONCLUDING COMMENTS**

As this was anticipated to be the last meeting of Full Council before the District Council Elections took place in May 2023, thanks were given to the Chairman for the manner in which he had conducted Council Meetings throughout the 2022/23 Municipal Year

(Meeting commenced at 2.00 pm and concluded at 4.00 pm)

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Chairman

**MINUTES OF THE SPECIAL MEETING OF THE SOUTH HAMS DISTRICT  
COUNCIL HELD IN THE COUNCIL CHAMBER, FOLLATON HOUSE, TOTNES ON  
THURSDAY 13 APRIL 2023**

**MEMBERS**

\* Cllr L Austen – Chairman

\* Cllr B Taylor – Vice-Chairman

* Cllr V Abbott	* Cllr M Long
* Cllr K J Baldry	* Cllr J McKay
* Cllr H D Bastone	* Cllr D M O’Callaghan
* Cllr J P Birch	∅ Cllr G Pannell
* Cllr J Brazil	* Cllr J A Pearce
* Cllr D Brown	∅ Cllr J T Pennington
∅ Cllr M Chown	* Cllr K Pringle
∅ Cllr R Foss	* Cllr H Reeve
* Cllr J D Hawkins	∅ Cllr J Rose
* Cllr J M Hodgson	* Cllr R Rowe
* Cllr T R Holway	* Cllr P C Smerdon
* Cllr N A Hopwood	* Cllr B Spencer
∅ Cllr S Jackson	* Cllr J Sweett
* Cllr L Jones	∅ Cllr D Thomas
∅ Cllr K Kemp	

\* Denotes attendance

∅ Denotes apology for absence

Officers in attendance and participating:

For all items: Chief Executive; Deputy Chief Executive, Section 151 Officer, Monitoring Officer; Democratic Services Manager; Assistant Director – Waste & Operations, Principal Project Manager

**83/22 DECLARATIONS OF INTEREST**

Members and officers were invited to declare any interests in the items of business to be considered during the course of this meeting but there were none made.

**84/22 WASTE AND RECYCLING SERVICES UPDATE**

Members considered a report that provided an update on the progress and performance of the waste service since it returned to Council control on 3 October 2022.

In introducing the report, the lead Executive Member once again apologised to both local residents for the previous bad service suffered and the wider membership for the many complaints that they had received from their constituents. The lead Member proceeded to emphasise that service performance had been significantly improved since returning in-house and this was attributed to the work of lead officers who were subsequently thanked. Finally, the lead Member recognised that the service now needed to look forward and focus its efforts on making further

service improvements that would be supplemented by approval of the recommendations contained within the published agenda report.

Upon the conclusion of the lead Executive Member introduction, some questions of clarity were asked with regard to:

- the costings (including one-off set up and transitional costs) and financial implications set out in the published agenda report;
- the most up to date monthly performance information; and
- the latest position in respect of staff contract signing.

In the ensuing debate (once each of the recommendations had been **PROPOSED** and **SECONDED**), particular reference was made to:

- (a) staff morale and recruitment. A number of Members recognised the vast improvements in staff morale amongst the operatives since responsibility for the service had been returned in-house. Furthermore, whilst there remained some recruitment challenges, these were by no means on the same scale as had been experienced by the external contractor;
- (b) the proposal for all residents to be in receipt of the Devon Aligned Service. It was recognised that residents would welcome the transition to the Devon Aligned Service and the consequent Climate Change benefits were also recognised;
- (c) the tireless work of the lead Executive Member and lead officers. In recognition of the volume of work that had been undertaken to reach this point, a number of Members wished to formally put on record their specific thanks to the lead Member, lead officers and the service operatives;
- (d) the need to focus on the future of the waste and recycling service. Members echoed the comments of the lead Member and emphasised the importance of the Council now concentrating its collective efforts on looking forward to the future of the service rather than reflecting on recent history. In so doing, some Members made the point that, given the number of idiosyncrasies (e.g. access issues) across the South Hams, there was a need for service flexibility to be built-in because one single solution would not suit every household.

It was then:

### **RESOLVED**

- (a) That the Vehicle and Plant Earmarked Reserve and the one-off implementation budget be utilised to purchase end of life fleet replacements and the fleet required for the roll out of the remaining properties onto the Devon Aligned Service (DAS) in October 2023, which is anticipated to cost £2.16 million;
- (b) That internal borrowing of up to £0.5 million be used to fund the improvements to the Torr Depot, with the associated revenue costs of £35,000 per annum for 25 years (the life of the asset)

being financed by efficiencies and savings delivered by the service;

- (c) That £180,000 be allocated from the Revenue Grants Earmarked Reserve to fund additional project management capacity; and
- (d) That the setting of fees and charges for the waste and recycling service be delegated to the Director for Customer Service and Delivery, in consultation with the Leader of the Council, the lead Executive Member for waste and recycling and the Section 151 Officer.

85/22

### **CHAIRMAN'S CONCLUDING COMMENTS**

As this was to be the final meeting of the Council before the Local Elections took place in May 2023, the Chairman thanked all Members and Officers for their commitment and dedication throughout the Council term. He wished those standing for re-election every success at the ballot box and those who had opted to not re-stand, every happiness in their future pursuits.

In response, a Member thanked the Chairman for his service and, on behalf of all Members, the way that he had chaired the Council meetings during his year as Chairman. He went on to acknowledge the contribution of Cllr Baldry, Lead Executive Member for Environment for his service to the Council, and specifically his stewardship of the resolution of the Waste and Recycling Service issues experienced during recent years. He further acknowledged Cllr Pearce, who as Leader had navigated the Council through unprecedented times, with hard work, enthusiasm, courage, drive and a determination to deliver the best services possible to local residents.

(Meeting commenced at 11.30 am and concluded at 12.10 pm)

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Chairman

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Report to: **Council**

Date: **25 May 2023**

Title: **Appointment of Independent Persons**

Portfolio Area: **Leader of the Council**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **N/A**

Date next steps can be taken: **Immediately**

Author: **David Fairbairn** Role: **Head of Legal Services and Monitoring Officer**

Contact: **Telephone/email:**  
**01803861359/david.fairbairbairn@swdevon.gov.uk**

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## **Recommendations:**

That the Council agrees to the appointment until the next annual meeting of the following persons as Independent Persons to assist in the discharge of the Council's arrangements for dealing with standards complaints:

George Barnicott  
Peter Boreham  
Martin Glead  
Trevor Kirkin  
Victoria Spence

### **1. Executive summary**

- 1.1 The appointment of at least one Independent Person is an important part of the arrangements for dealing with complaints that councillors have breached their code of conduct. Their independence contributes to an objective and impartial assessment of complaints.
- 1.2 The Council shares its Independent Persons with West Devon.
- 1.3 Pending a formal recruitment process to be undertaken during the forthcoming year, the current Independent Persons have been asked if they wish to continue. All of them have expressed an interest in continuing.

## **2. Background**

- 2.1 Under the Localism Act 2011, the Council has a duty to promote and maintain high standards of conduct by its members and co-opted members. As part of discharging the duty, the Council has to have adopted a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in their capacity as members (that is in an official capacity).
- 2.2 In addition, the Council must have arrangements in place to deal with complaints that its code of conduct has been breached, including arrangements for:
- (a) Complaints to be investigated.
  - (b) Decisions on allegations to be made.
- 2.3 The arrangements for dealing with code of conduct complaints must include the appointment of one or more Independent Persons to assist in the standards process. The functions of the Independent Persons are:
- (a) to be consulted by the Council before it makes a finding as to whether a councillor has failed to comply with the Code of Conduct or decide on action to be taken in respect of that Member;
  - (b) to be consulted by the Council in respect of a standards complaint at any other stage and they may be consulted by a councillor or a co-opted member; and
  - (c) separately from the standards arrangements, under the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 to advise a panel of the Council on matters relating to dismissal of the Council's Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.
- 2.4 The Council's arrangements for dealing with allegations that councillors have breached their code of conduct are set out in Chapter 6 of the Council's constitution (<https://southhams.gov.uk/our-constitution.>)
- 2.5 The Council shares its Independent Persons with West Devon Borough Council. The current Independent Persons have been asked if they wish to continue and it is proposed that the following persons, who have served the Councils as Independent Persons are re-appointed until the next annual meeting of Council:

George Barnicott  
Peter Boreham  
Martin Gleed  
Trevor Kirkin

Victoria Spence

- 2.6 As it is some time since the positions were formally advertised, during the forthcoming year, the position of Independent Persons will be subject to a formal recruitment process and a recommendation from the Audit and Governance Committee, which has responsibility for the oversight of standards complaints.

### 3. Outcomes/outputs

- 3.1 The appointment of the Independent Persons ensures that the Council's arrangements comply with the Localism Act 2011, while also ensuring that complaints are assessed objectively and impartiality.

### 4. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	These are set out in the report at paragraphs 2.1 – 2.6.
Financial implications to include reference to value for money	Y	Under the Council's Allowances Scheme each Independent Person is entitled to an allowance of £500.
Risk	N	
Supporting Corporate Strategy	Y	Having clear arrangements for dealing with standards complaints supports the delivery of quality services by setting out transparently how the Council operates, how decisions are made and the procedures which are followed.
Consultation & Engagement Strategy	N	
Climate Change - Carbon / Biodiversity Impact	N	
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	
Safeguarding	N	
Community Safety, Crime and Disorder	N	
Health, Safety and Wellbeing	N	

Other implications	N	
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**Supporting Information**

**Appendices:**

There are no appendices.

**Background Papers:**

There are no background papers.

Report to: **Council**

Date: **25 May 2023**

Title: **Council Constitution**

Portfolio Area: **Leader of the Council**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **N/A**

Date next steps can be taken: **Immediately**

Author: **David Fairbairn** Role: **Head of Legal Services and Monitoring Officer**

Contact: **Telephone/email:**  
**01803861359/david.fairbairbairn@swdevon.gov.uk**

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## **RECOMMENDATIONS**

### **That the Council:**

- (1) notes the Constitution as set out at <https://southhams.gov.uk/our-constitution>; and**
- (2) notes the changes made by the Monitoring Officer since the adoption of the Constitution and as set out in the Record of Changes attached as Appendix A to the report.**

### **1. Executive summary**

- 1.1 The Council operates a Council Leader and Executive model as its governance arrangements. Functions are executive functions unless regulations say otherwise. The Leader is responsible for all executive functions and decides, through the Leader's scheme of delegation, which of these functions to delegate to other Executive members, committees or officers.
- 1.2 The Council has a legal duty to publish an up-to-date Constitution reflecting its governance arrangements and which contains its standing orders, its councillor code of conduct, such information as the Secretary of State directs or that the Council considers appropriate.

- 1.3 Following a review, the Council adopted a new style constitution last year. The Monitoring Officer has kept the Constitution under review and made changes under delegated powers. Those changes are recorded in the Record of Changes set out in Appendix A. Council is asked to note these. For clarity, any changes to the Constitution that have arisen through the appointment processes earlier at this Annual Council meeting will also be made under delegated powers by the Monitoring Officer.

## **2. Background**

- 2.1 Under Section 9B of the Local Government Act 2000 there are two permitted forms of governance arrangements for local authorities in England; executive arrangements or a committee system. The legislation does not permit a mix and match approach. Executive arrangements may in turn consist of either a mayor and cabinet executive; or a leader and cabinet executive.
- 2.2 Under the leader and cabinet executive model, which is the form of the arrangements adopted by the Council, the Leader appoints two or more (up to a maximum of ten) councillors to the Executive. The Leader must appoint a Deputy Leader to act in the Leader's absence. Neither the Executive nor any Executive committees need be politically balanced. The Leader is responsible for all executive functions and determines the scheme of delegation for those functions and the ability to sub-delegate cascades down the executive hierarchy. Executive functions may therefore only be discharged by the Leader and subject to appropriate delegations, the Executive, a member of the Executive, an Officer or by other local authorities or under joint arrangements.
- 2.3 Functions are executive functions unless regulations say otherwise. Except for a very limited number of functions, where functions are expressly reserved to the full Council or the Council can decide as a matter of local choice whether it or the Executive will be responsible for them, a function will be an executive function if the regulations say so or are silent. In practice, this means that the division of functions between the Executive and the Council is as follows:
- (a) Determination of the Council's policy framework and budget and other constitutional and quasi-legislative functions are to be the responsibility of the full council.
  - (b) The Executive is not responsible for functions that involve either determining an application from a person for a licence, approval, consent, permission or registration or direct regulation of a person (except in cases where there is only limited discretion in the discharge of the function) together with any related enforcement actions (including prosecution); and
  - (c) All other functions are the responsibility of the executive.

- 2.4 Section 9P of the Local Government Act 2000 requires the Council to prepare and keep up to date a document, to be known as the Constitution, which contains:
- (a) a copy of the authority's standing orders for the time being;
  - (b) a copy of the authority's code of conduct;
  - (c) such information as the Secretary of State may direct; and
  - (d) such other information (if any) as the authority considers appropriate
- 2.5 The Council's constitution is published on the Council's website at <https://southhams.gov.uk/our-constitution>. The Council completed a review of the Constitution and adopted the current Constitution in September 2022 (Min CM.25/22 refers). The decision to adopt the Constitution was the culmination of several decisions by the full Council by which it agreed changes to its decision-making framework to secure greater transparency, accountability, clarity of roles, and efficiency of the democratic process (Min. CM.50/20 refers) and agreed a new format for the Constitution as well as the various elements of the Constitution (Mins CM.36/21 and CM.8/22 refer).
- 2.6 The Monitoring Officer is responsible for keeping the Constitution under review and has delegated powers to "make changes to the Constitution to give effect to decisions of the Council, to secure compliance with the law and to correct or improve layout, spelling or grammar including, but not exclusively changes to ensure individual names, positions and job titles are updated to reflect changes in the composition of the Executive, Committees, and Officers." Appendix A to this report records the changes made or to be made under those powers.
- 2.7 No changes of substance going beyond the Monitoring Officer's delegated powers are proposed currently. However, if members consider that the Constitution should be reviewed and more substantive changes made, then it is suggested that a further report is prepared for the Audit and Governance Committee, which historically has been responsible for maintaining an overview of the Constitution and for making any necessary recommendations to the Council.

### **3. Outcomes/outputs**

- 3.1 Keeping Constitution under review will ensure that the Council can meet its statutory obligations and make decisions transparently and lawfully.

#### 4. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	These are set out in the report at paragraphs 2.1 – 2.4.
Financial implications to include reference to value for money	N	
Risk	N	
Supporting Corporate Strategy	Y	Having an up-to-date Constitution supports the delivery of quality services by setting out transparently how the Council operates, how decisions are made and the procedures which are followed.
Consultation & Engagement Strategy	N	
Climate Change - Carbon / Biodiversity Impact	N	
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	
Safeguarding	N	
Community Safety, Crime and Disorder	N	
Health, Safety and Wellbeing	N	
Other implications	N	

#### **Supporting Information**

##### **Appendices:**

Appendix A – Record of Changes.

##### **Background Papers:**

There are no background papers.



## RECORD OF CHANGES

Revision/Edit Date	Approved by	Documents affected	Nature of change
19.05.22	Council	Chapter 1 - Introduction	Reference made to Principles of Decision-Making
		Chapter 2 – Responsibility for Functions	New document replacing Parts 3(a) and 3(b)
		Chapter 3 – Meeting Procedure Rules	<p>The principal changes are:</p> <ul style="list-style-type: none"> <li>• amendment to Council Procedure Rule 1.2 to comply with the legal requirement that the executive arrangements must make provision for the term of office of the Leader.</li> <li>• Council Procedure Rule 15.3(a) has been corrected.</li> <li>• provision is made to regularise the attendance of non-members of the Executive or a Committee to attend meetings of the Executive or a Committee via Teams (Committee Procedure Rule 4(c); Executive Procedure Rule 6.1).</li> <li>• the addition of a Procedure Rule and further appendix setting out the Council's rules for the filming and recording of meetings and the use of social media during</li> </ul>

Revision/Edit Date	Approved by	Documents affected	Nature of change
			<p>meetings (Council Procedure Rule 23 and Appendix F);</p> <ul style="list-style-type: none"> <li>• Executive Procedure Rule 6 amended to clarify that all members of the Executive are entitled to notice of meetings of Executive Committees and to attend, whether they are members of the committee or not. The Rule also makes provisions about informal meetings of the Executive.</li> <li>• For consistency with Council Procedure Rule 1.2 for the purposes of Questions by Councillors (Appendix B) and Notices of Motion, the reference to meetings of the full Council do not include the Annual Meeting of the Council (Appendix B paragraph B1 and Appendix C paragraph C1).</li> <li>• Clarification that any notices of motion that are not moved and seconded due to the time limit imposed by CPR 8.3(b) expiring, lapse and must be submitted again if they are to be considered at a future meeting of the Council unless postponed with the Chairman's consent (Council Procedure Rule Appendix C Paragraph C8).</li> <li>• Clarification that all members of the Executive are entitled to notice of meetings of Executive Committees and to attend, whether they are members of the committee or not (Executive Procedure Rule 6). The Rule also makes provision about informal meetings of the Executive.</li> </ul>

Revision/Edit Date	Approved by	Documents affected	Nature of change
			<ul style="list-style-type: none"> <li>• Amendments are made so that requests for items and the reasons for them are considered by the Overview and Scrutiny Committee (Scrutiny Procedure Rules 6.1(a) and (b)).</li> <li>• Minor corrections to cross-references.</li> </ul>
20.05.22	Monitoring Officer	Chapter 2 – Responsibility for Functions	<ul style="list-style-type: none"> <li>• Table 5 paragraph 5.115 the words “for consideration by the Development Management Committee” inserted.</li> </ul>
14.07.22	Council	Chapter – 4 Access to Information Procedure Rules	<ul style="list-style-type: none"> <li>• Replaced</li> </ul>
		Chapter – 5 Other Procedure Rules	<ul style="list-style-type: none"> <li>• Budget and Policy Framework Procedure Rules; Contract Procedure Rules; Financial Procedure Rules and Section 151 Officer’s guidance and Officer Employment Procedure Rules replaced.</li> </ul>
		Chapter 6 – Codes and Protocols	<ul style="list-style-type: none"> <li>• Councillor Complaints Process added; Councillor and Officer Protocol and Protocol for Councillors and Officers in Planning Procedures replaced.</li> </ul>
		Appendix 1 – Definitions	<ul style="list-style-type: none"> <li>• Added</li> </ul>
			<ul style="list-style-type: none"> <li>• Changes to financial thresholds increased throughout.</li> </ul>
15.07.22	Monitoring Officer	Section 151 Officer’s Guidance	<ul style="list-style-type: none"> <li>• Introductory note added to explain guidance reflects shared officer arrangements with West Devon Borough Council.</li> </ul>
		Code of Conduct	<ul style="list-style-type: none"> <li>• Layout improved.</li> </ul>

Revision/Edit Date	Approved by	Documents affected	Nature of change
15.12.22	Monitoring Officer	Chapter 2 – Responsibility for Functions	Table 5 paragraph 5.96 delete “(ii) the final decision on whether to submit any document to a referendum;”
			Table 5 paragraph 5.110 add “or sealing” after “signing”
		Definitions	Amend definition of “Budget and Policy Framework” to replace “Cabinet” with “Executive”
27.02.23	Monitoring Officer	Chapter 2 – Table 6 – Conditions on exercise of delegated powers	Add new paragraph 6.20 “Sealing of Documents. The affixing of the Council’s seal to a document shall be witnessed by a single authorised officer.”
11.05.23	Monitoring Officer	Chapter 2 – Responsibility for Functions	Table 1 paragraph 1.12 Add “So far as reasonably practicable, that the Members appointed will, between them, have special knowledge, experience and ability in a broad and complementary range of matters relevant to the efficient, effective and economic discharge by the Harbour Board of its function as an advisory body.”
		Chapter 5 – Financial Procedure Rules - Section 151 Officer’s guidance	In Table A5 delete the words “and submit it to the Executive (South Hams only) for approval.”

Report to: **Annual Council**

Date: **25 May 2023**

Title: **Honorary Aldermen – Process**

Portfolio Area: Leader

Wards Affected: **N/A**

Urgent Decision: **Y / N** Approval and clearance obtained: **Y / N**

Date next steps can be taken: Immediately following this meeting

Author: Darryl White Role: **Head of Democratic Services**

Contact: **email: darryl.white@swdevon.gov.uk**

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## **Recommendations:**

### **That Council be RECOMMENDED:**

- 1. to review and approve the criteria for appointing Honorary Aldermen of the Council (paragraph 3.1 below refers); and**
- 2. that, subject to approval of the criteria, Group Leaders be invited to make nominations to appoint Honorary Aldermen of the Council, prior to the arrangement of a Special Council meeting specifically convened for this purpose.**

## **1. Executive summary**

- 1.1 This report seeks Council approval for the criteria and procedure to appoint Honorary Aldermen.

## **2. Background**

- 2.1 Under Section 249 of the Local Government Act 1972, "a principal council may, by a resolution passed by not less than two-thirds of the Members voting thereon at a meeting of the Council specially convened for the purpose with notice of the object, confer the title of Honorary Aldermen on persons who have, in the opinion of the Council, rendered eminent services to the Council as past Members of that Council, but who are not then Members of the Council."

- 2.2 There is no statutory guidance or definition of "eminent services", although it is recommended that each Council should have its own criteria for an appointment.
- 2.3 The Council criteria and procedure was last reviewed (and adopted) on 7 February 2008 and it is now considered timely to conduct a review.

### **3. Outcomes/outputs**

#### **3.1 Proposed Criteria**

Council may wish to consider adopting the following criteria:

- (a) *the title may be conferred on persons who have, in the opinion of the Council, rendered "eminent services" to the Council as past Members, but who are no longer serving Members. (NB. whilst not a definitive list, "eminent service" will ordinarily include having been: the Leader of the Council and/or a Group Leader for at least one Council Term; and the Chairman of the Council and/or the Chairman of one of its principal Committees for an extended period of time);*
- (b) *there shall be no specific definition of 'eminent services', it being left to the discretion of the Council at the time to assess and recognise any individual's contribution to the activities of the Council and the wellbeing of the district of the South Hams;*
- (c) *nominees would normally require a minimum period of more than two full Council terms of service as a Member of the District Council; and*
- (d) *in the event of an Honorary Alderman being re-elected as a District Councillor, then they will cease to hold the office of Alderman.*

#### **3.2 Procedure**

3.2.1 In accordance with section 249 of the 1972 Act, nominees would have to receive the support of not less than two-thirds of the Members voting thereon at a Special Council meeting convened for the purpose. It is suggested that nominations can be made by any Group Leader. However, before proceeding, officers and Members would, via the party groups, establish whether or not the nomination would be likely to receive sufficient support to proceed.

#### **3.3 Rights of Honorary Aldermen**

3.3.1 Whilst having no “legal or social precedence” in the community, it is custom and practice for Honorary Aldermen to be invited to Civic ceremonial events. This would be the Annual Council meeting, the Chairman’s Civic Reception, and other events such as any future appointment of Honorary Aldermen.

3.3.2 The status of Honorary Alderman carries no special right to attend or address meetings of the Council or its Committees or to receive any allowances or payments to which serving Members are entitled. However, at the discretion of the Chairman, a nominee for Honorary Alderman may (if present) be invited to respond to the vote conferring that status.

### 3.4 Honorary Aldermen

3.4.1 The Council has previously conferred the Honorary Aldermen title on Messrs Richard Yonge and David Thorning (both in 2008) and Mr John Tucker (in 2019).

## 4. Options available and consideration of risk

4.1 Members are asked if they wish to recommend to Council that the criteria for appointing Honorary Aldermen of the Council be approved. Subject to approval of the criteria, nominations will be sought and agreed with Group Leaders prior to the arrangement of a Special Council meeting.

## 5. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		The Local Government Act 1972: Section 249 sets out the provisions around conferring the title of ‘Honorary Aldermen’.
Financial implications to include reference to value for money		There are no financial implications directly related to this report.
Risk		There would be a reputational risk to the Council of arranging a Special Council meeting to confer the title without the requisite two-thirds Member support already being assured for the proposal.
Supporting Corporate Strategy		Council Theme – <i>Efficient and Effective Council</i>

Consultation & Engagement Strategy		Group Leaders will be fully consulted and engaged prior to any nominations being made.
Climate Change - Carbon / Biodiversity Impact		N/A
Comprehensive Impact Assessment Implications		
Equality and Diversity		N/A
Safeguarding		N/A
Community Safety, Crime and Disorder		N/A
Health, Safety and Wellbeing		N/A
Other implications		N/A

**Supporting Information**

**Appendices:**

None

**Background Papers:**

Report to Council Meeting – 7 February 2008.



**MINUTES of the MEETING of the  
OVERVIEW & SCRUTINY COMMITTEE,  
Held in the Council Chamber, Follaton House, Totnes, on  
THURSDAY, 16 March 2023**

<b>Panel Members in attendance:</b>			
* Denotes attendance		Ø Denotes apology for absence	
*	Cllr L Austen	*	Cllr R Rowe
*	Cllr J P Birch	*	Cllr P C Smerdon (Vice Chairman)
*	Cllr M Chown	*	Cllr B Spencer
*	Cllr S Jackson	*	Cllr J Sweett
*	Cllr L Jones	*	Cllr D Thomas (Chairman)
*	Cllr J McKay	*	Cllr B Taylor
*	Cllr J Rose		

<b>Other Members also in attendance either in person or via Teams:</b>
Cllrs Hopwood, Pearce, Hawkins, Brown and Holway. Cllr Baldry and Cllr Pringle (via Teams)

<b>Item No</b>	<b>Minute Ref No below refers</b>	<b>Officers in attendance and participating</b>
All		Director of Customer Service and Delivery, Director of Strategy and Governance, Director of Place and Enterprise, Assistant Director of Strategy and Organisational Development (via Teams), Head of Environmental Health and Licensing, Senior Section 106 Officer (via Teams), Community Digital Connectivity Officer and Senior Democratic Services Officer

**O&S.43/23 MINUTES**

The minutes of the meeting of the Overview and Scrutiny Committee held on 12 January 2023 were confirmed as a correct record. One Member highlighted Minute O&S.39/22 – Better Lives for All – Climate Change Thematic Update – Action AM1.4. A request was made to officers to provide clarity on allocation of funding and timescales. Officers reported that this was working progress and would provide an update on progress at a future meeting.

**O&S.44/23 DECLARATIONS OF INTEREST**

Members and officers were invited to declare any interests in the items of business to be considered during the course of the meeting, but there were none made.

**O&S.45/23 PUBLIC FORUM**

In accordance with the Public Forum Procedure Rules, the Chairman informed that no questions had been received for consideration.

## O&S.46/23 **BETTER LIVES FOR ALL THEMATIC UPDATE: COMMUNITIES**

The lead Executive Member for Communities introduced the report and invited Members' questions on the contents of the Communities Thematic Update.

In the ensuing debate, particular reference was made to:

- Action CW1.1 (Work with partners to pilot new approaches to tackling rural poverty in an area identified as in the most deprived areas of South Hams). It was reported that the pilot project focused on South Brent and the learning and actions identified would be rolled across other areas in the district;
- Action CW1.2 (Delivery of Dartmouth Integrated Health Hub). Action on track.
- Action CW1.3 (Support more people to live independently for as long as they choose through efficient delivery of housing related grant schemes). Members raised that there was no indication on the number of applications received and it was reported it was very rare to refuse an application. It was further reported they work in partnership with housing associations and qualified officers undertake the assessments within the home;
- Action CW1.4 (Increase active participation in sport and leisure activities). It was reported that Government funding of £63m for leisure centres of which £40m allocated for the decarbonisation of swimming pools. A bid would be submitted, however there was a need to be realistic about what this money would achieve. One Member felt concerned about Fusion's position and that a fuller picture was not included within the report. A request was made for Members to receive an officer's report on Fusion's state of play and financial position ahead of the meeting in April in order for the Committee to fully scrutinise Fusion.

The Chair then proposed and was seconded to remove 'green on track' and leave as blank. The next report to Committee to include an officer report on Fusion. One member then raised concerns on scrutinising this type of report during Purdah. The Chair relayed that they would take full advice from the Monitoring Officer on reports for the April meeting. A further request was made for the quarterly Fusion updates to be circulated to all Members.

- Action CW1.5 (Delivery of projects to enhance outdoor public spaces). It was reported that each project was kept under constant review and money would be spent as soon as possible.
- Action CW1.6 (Work with the voluntary sector to plan how we can better work better together in the future). Action on track.

It was then:

### **RESOLVED**

1. That the progress in the delivery of the Better Lives for All 'Communities' Thematic Delivery Plan be noted, and;
2. Action CW1.4 (Increase active participation in sport and leisure activities) – remove green and leave blank. The Committee to receive an Officer's report on Fusion and all Members to receive the quarterly Fusion updates.

#### **O&S.47/23 SIX-MONTHLY UPDATE - BROADBAND**

The Committee was presented with an update report, which included:

- On-going work with three suppliers; Airband, Openreach and Wildanet;
- Airband were behind schedule;
- Openreach were the preferred provider for residents;
- Wildanet a smaller company and building entirely underground;
- Project Gigabit have provided more public money into areas that have been missed;
- Individuals can apply for funding which has been increased;
- Potential further money though the LEP;
- Remote areas would look at alternatives such as satellites.

In discussion, it was reported that Wildanet and Airband have public contracts and the local authority cannot stop where and when they work. We can however, provide an update on whether these providers are on track to deliver broadband services.

It was then:

### **RESOLVED**

That the Digital Connectivity update was noted and for an update report on whether providers were on track to deliver broadband services.

#### **O&S.48/23 CUSTOMER ACCESS STRATEGY AND CONTACT CENTRE UPDATE**

The lead Executive Member for Customer Service Delivery introduced the report and invited Members' questions on the contents of the Communities Thematic Update.

In discussion, the following points were raised:

- The customer survey was reviewed annually and changes made following customer feedback. It was important to involve customers in this process;

- The reception area would be reconfigured with new signage to enable easier access for customers;
- Staff were fully trained and supported within the Contact Centre.

Thanks were given to Jim Davis.

It was then:

**RESOLVED** that the Committee

1. Note the approach and actions to implement the Customer Access Strategy set out in section 3.
2. Note the actions taken to improve the Contact Centre performance set out in section 4 and detailed in Appendix A

### O&S.49/23 **TASK AND FINISH GROUP UPDATES**

#### **(a) Consultation and Engagement Strategy – verbal update**

The Chairman of the Task and Finish Group provided a verbal update on the work in supporting the Review and suggested a date for the Group to meet and conclude their findings.

The Committee felt that the date suggested would not give sufficient time for the Group to report back on recommendations. Some Members felt that the task and finish had become 'political' while others thought not and that the review should come to a conclusion. It was then put forward that the review should be delayed for the new administration to undertake as it was felt that a further meeting would not be sufficient.

It was then:

**RECOMMENDED**

That the Overview and Scrutiny Committee **RECOMMEND** that the Consultation and Engagement Strategy Task and Finish Group to be undertaken by the new Council administration.

### O&S.50/23 **ANNUAL WORK PROGRAMME 2022/23**

The Committee agreed the following items to be scheduled for the next meeting in April:

- Council Delivery against Corporate Theme: Council Services
- Bi-Annual Fusion Report

Consultation and Engagement Strategy Task and Finish deferred and to be looked at by the new administration.

Members requested clarification from the Monitoring Officer on reports being taken at the April meeting. It was also requested that the

Monitoring Officer be in attendance at the meeting and at the Chair's Brief. The Chair then raised if part of the Fusion report needed to be discussed under Part II then they would be within the rules of purdah.

(Meeting started at 2.00 pm and concluded at 3.48 pm)

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Chairman

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**MINUTES of the MEETING OF THE DEVELOPMENT MANAGEMENT COMMITTEE held in the COUNCIL CHAMBER, FOLLATON HOUSE, TOTNES, on WEDNESDAY, 5 April 2023**

<b>Members in attendance</b>			
* Denotes attendance			
∅ Denotes apologies			
*	Cllr V Abbott	*	Cllr M Long
*	Cllr J Brazil	∅	Cllr K Pringle
*	Cllr D Brown	*	Cllr H Reeve
*	Cllr R J Foss (Chairman)	*	Cllr R Rowe (Vice Chair)
*	Cllr J M Hodgson	*	Cllr B Taylor
∅	Cllr K Kemp	*	Cllr K Baldry (substituting for Cllr K Kemp)
*	Cllr G Pannell	*	Cllr B Spencer (substituting for Cllr K Pringle) (for 6 (d), (e) and (f) only (Minute DM.72/23 refers)

**Other Members also in attendance and participating:**  
Cllr J Pearce

**Officers in attendance and participating:**

Item No:	Application No:	Officers:
All agenda items		Head of Development Management; Senior Planning Officers; Monitoring Officer; IT Specialists and Senior Democratic Services Officer

**DM.69/23 MINUTES**  
The minutes of the meeting of the Committee held on 15 March 2023 were confirmed as a correct record by the Committee.

**DM.70/23 DECLARATIONS OF INTEREST**  
Members and officers were invited to declare any interests in the items of business to be considered and the following were made:

Cllr B Taylor declared an Other Registerable Interest in application 6(a) and (e) (minutes DM.72/23 (a), (b), (c) and (d) below refer because he is a member of South Devon AONB Partnership Committee. The Member remained in the meeting and took part in the debate and vote thereon.

Councillor J Brazil declared a Personal Interest in application 6(d) (minutes DM.72.23 (d) below refer because he is known to the applicant.

**DM.71/23 PUBLIC PARTICIPATION**  
The Chairman noted the list of members of the public, Town and Parish Council representatives, and Ward Members who had registered their wish to speak at the meeting.

**PLANNING APPLICATIONS**

The Committee considered the details of the planning applications prepared by the Planning Case Officers as presented in the agenda papers, and considered also the comments of Town and Parish Councils, together with other representations received, which were listed within the presented agenda reports, and **RESOLVED** that:

**6a) 2914/22/FUL "Rendoc", Herbert Road, Salcombe, Devon  
Town: Salcombe**

**Development: (Original application) Demolition of existing lower ground floor basement flat (separate) to 1No. dwelling to be replaced with 2No. new proposed dwellings.**

Case Officer Update: The Case Officer provided an update on the internal window and reported it would be a full height glazed panel. They summarised the following:

- The existing building hosts a dwelling with a one bed roomed basement flat;
- The demolition of the existing building and its replacement with the two detached dwellings was therefore acceptable with regards to the provisions of DEV8 and the principle residence requirements were not applicable;
- It was acknowledged that the contemporary design has received mixed feedback but Officers were satisfied that the street scene was sufficiently varied that the new dwellings would not appear incongruous;
- The dwellings were fitted with low carbon measures and were compliant with policy requirements with respect to highways, drainage, biodiversity and neighbour amenity.

In response to questions raised, it was reported that:

- The basement bedroom would get the light through the front door;
- Despite the objections from the Town Council on the distance to the boundary, it was felt acceptable and would need to be considered on own merit.

Speakers were: Objector – None, Supporter – statement read out by the clerk, Parish Council – Cllr N Turton, Ward Members – Cllrs Pearce and Long.

In response to questions, the Town Council reported that the three storey dwelling would affect the street scene, very little gap between properties and too big for the space.

One Ward Member raised that the principle of the development was accepted, however need to consider the size, scale, bulk and the massing and how these dwellings would sit on the site. The appropriateness of the design and impact on the street scene, with the dwellings being built up to



the boundaries. Consideration to be given whether this proposal was acceptable and appropriate development for that site.

The second Ward Member raised concerns on the massing on the street scene and whether the frontages acceptable. The steeping down of the ridges, the design of lower ground floor with rooms without direct light and whether Members felt this was acceptable. The swimming pool touches the back wall and was this practical arrangement and this to be considered carefully.

During the debate, one Member highlighted the swimming pool and the close proximity to the dwelling and concerns over health and safety and whether the Committee could be held culpable if there was an accident on the pool. Other Members felt that the street scene would be negatively impacted and it was felt that a property could be built with a more positive contribution to the street scene. It was also felt that building to the boundaries would rob the neighbouring properties of their privacy and the lack of natural daylight into the basement bedrooms was a concern.

**Recommendation:** Conditional Approval

**Committee decision:** Delegated to the Head of Development Management to refuse planning in consultation with the Chair, Vice-Chair, Proposer and Seconder. The outline reasons for refusal being 1: The scale, materials and siting of the dwellings have a negative impact on the street scene. Poor design and lack of daylight into lower ground floor area. The relationship of the dwelling to the existing swimming pool. The massing of the dwellings disproportionate and not in keeping the local vernacular and characteristics of the setting in Herbert Road.

**6b) 0161/23/HHO "Vermilion", Herbert Road, Salcombe Town: Salcombe**

**Development: Householder application for extension & alterations to include replacement garage, single storey rear extension & habitable accommodation at second floor level with new roof structure (Resubmission of 2475/22/HHO)**

Case Officer Update: The Case Officer reported that following the site visit the total floor space was 182sqm with an increase of 85sqm. There is an existing currently 1 metre difference between the application site and the neighbour, Breton. The ridge height would be raised by 0.6m, remaining 0.4m lower. They summarised the following:

- Design – the proposed alterations would not result in harm to the street scene;

- Neighbour Amenity – given the presence of existing side windows and the current relationships between the existing garage and the neighbouring property the proposed alterations would not be materially harmful to residential amenities in regards to overlooking, overbearing or loss of light;
- Parking – the proposal would have a neutral impact on parking provision;
- Climate emergency – the proposal incorporates an EV charge point and solar panels in line with CE guidance and a ASHP.

Speakers were: Objector – Iain McGregor, Supporter – Carmen Redondo, Town Council – Cllr N Turton, Ward Members – Cllrs Pearce and Long.

The first Ward Member reported that this was a distinctive house and frames the end of Loring Road. The big side window would look onto the neighbouring property and this was a concern. This dwellings needs a refresh rather than rebuild. The bulk of the building would be increased, the massing and change the street scene to a more bland appearance to a house not typical of Herbert Road.

The second Ward Member raised concerns on the scale, bulk, massing, design and the impact on the street scene. There was an opportunity to improve the building to make changes and for the Committee to consider whether this was appropriate and acceptable.

During the debate, some Members felt that this was a dramatic change to a unique building and the stepping down in the roofline that was a characteristic of the existing street scene would start to disappear. It was felt that that the overlooking was a serious issue and the impact on neighbours unreasonable. Another Member felt that there was no reason to go against the officer decision. Other Members felt that this was a unique building and the new proposal would be overpowering and have a negative impact on the street scene and would like to see the property retained.

**Recommendation:** Conditional Approval

**Committee decision:** Conditional Approval as set out in the Officer report

**Conditions:** Standard time limit  
Adherence to plans  
Adherence to ecological mitigation  
Development to be outside of nesting season  
Air Source Heat Pump details  
Drainage Extension not be used as a terrace  
No external lighting

6c) 0271/23/FUL "Land at Spirewell Farm", Traine Road,  
Wembury  
Parish: Wembury

**Development: New single storey three bed dwelling with agricultural occupancy condition (re-submission of 4421/21/FUL)**

Case Officer Update: The Case Officer summarised the key issues:

- Was there a clearly established functional need for an additional agricultural workers unit at this countryside location?
- Was there a robust business justification?
- Would the development conserve and enhance the AONB?
- Does the development secure the requisite financial contribution that was required to mitigate the recreational impact on the Tamar European Marine Site?
- Amenity issue;
- Carbon benefits?

In response to questions raised, it was reported that:

- This application was not within the underdeveloped coast;
- They were looking to have 100 cows on site;
- One of the holiday lets on site and could be used for the agricultural dwelling.

Speakers were: Objector – Brian Hall, Supporter – Andy Coughlan, Parish Council – Cllr J Stansell, Ward Councillor – Cllr D Brown

In response to questions raised, the supporter reported:

- This dwelling would be the interface between the farm and the road and there was a need for two agricultural workers to have the flexibility to look after the cattle;
- There was no intention to move the dogs and they would remain in their current location;
- The agricultural dwelling was ideally located for the worker to come and go with any additional traffic;
- This was a discrete site and the existing farm building would be used by a full-time employee.

The Officer reported that the Agricultural Consultation was unable to support this proposal and the farm dwelling did have an agricultural tie.

The Ward Member raised that the Parish Council had no objection to this application, and as the Chair of the Parish Council did not vote on this. There were no objections made by the Parish Council, no local objections and some people were in favour. The applicant and objector made ardent representations and sympathetic to the agricultural need, however still undecided.

During the debate, Members raised concerns that this application was

within the AONB and no justification for the building in this particular location was being proposed. Members noted that a number of holiday cottages existed within the farm and felt that if the need for an agricultural worker to be on site could have been met by using one of the holiday lets for the agricultural worker. Members while wanting to support the local community, agreed with the Officer recommendation.

**Recommendation:** Refusal

**Committee decision:** Refusal for the reasons set out in the Officer report.

**6d) 4234/22/ARM "West Prawle Farm", East Portlemouth Parish: East Portlemouth**

**Development: Application for approval of reserved matters following outline approval 1067/20/OPA for provision of an agricultural workers dwelling.**

The Case Officer: The Case Officer summarised the key issues:

- A functional need for an agricultural worker's dwelling had been established under 106/20/OPA;
- However, Officers considered that the footprint of the dwelling was excessively large; the footprint has not been linked to a functional need related to the holding and was unlikely to be affordable in perpetuity for future agricultural workers;
- The scale and design of the dwelling would render it incongruous within the setting to the detriment of the landscape character and tranquillity;
- The proposal was contrary to the adopted policy.

The Officer reported that they were happy with the distance between the barn and the proposed dwelling. The acceptable size of an agricultural dwelling was 175sqm and the proposed dwelling would be 277sqm.

Speakers were: Objector – None, Supporter – Stephen Tucker, Parish Council – None, Ward Member, Cllr Brazil

The Ward Member reported that they would not want to allow a large house to be built, however this dwelling would be for a working family and would enable a mix of generations within our community. This was about the extended family and a hub for the community which justifies the need for an agricultural dwelling at this site. They did understand that it should be affordable for an agricultural worker and an agricultural tie should take precedent.

During the debate, one Member raised the need to look at Planning Policies and dwellings for farming families and proposed approval for this

application. This was seconded by another Member who disagreed that this dwelling was incongruous. Others Members also supported approval of this application because it was felt that this was a sustainable and discreet dwelling within the landscape. It was further highlighted that there were no policies on agricultural worker's dwelling and a need to be more realistic on what was required. Some Members felt concerned because the Committee had refused a similar application and the need for consistency.

**Recommendation:** Refusal

**Committee decision:** Delegated approval to the Head Development Management in consultation with the Chair, Vice-Chair, Proposer and Seconder, Members felt that the scale of the building was commensurate with the needs of holding.

**Conditions:**

1. Standard in completion in accordance with the approved plans.
2. Garage to be used incidental purposes only.
3. Samples of the slate and stone to be submitted to the relevant planning authority.

**6e) 0090/23/FUL "Land At Sx 512 631", New Road To Roborough Down, Roborough Down, Plymouth, Devon Parish: Bickleigh**

**Development: Use of land for dog walking and exercise, provision of hard standing, fencing and shelter (resubmission 2503/22/FUL)**

Case Officer Update: The Case Officer summarised the key issues:

- Does the proposal respond to an identified need?
- Were there exceptional circumstances to allow this development at an isolated part of the countryside?
- Would the operational development associated with the proposal conserve and enhance the unspoiled rural character?
- Was the development sustainable?

Speakers were: Objector – None, Supporter – Johnny Haines, Town Council - None, Ward Member – Cllr B Spencer

In response to questions raised, the supporter reported that customers would arrive by car and would consider a system on site to deal with foul waste.

The Ward Member raised that he was not a dog owner, however the JLP outlines the need to support the economy with opportunities for growth,

promote neighbourhoods and communities that meet the needs of local people. There was a demand for this type of service and people use this service. This was an ideal location for dogs of a nervous disposition to be walked without any interference. This was a light touch development providing an important green space for the public.

The Monitoring Officer asked whether the Ward Member had predetermined this application and it was highlighted they could have a pre-deposition but not a predetermination. The Ward Member decided to abstain in the vote on this application.

During the debate, one Member had used a similar facility and was happy to go against the officer recommendation and approved this application. Another Member felt that this was a great asset and would help to protect wildlife on the moors. It was also felt the applicant had experience of this and the need to diversify the use of the landscape and supported this application.

**Recommendation:** Refusal

**Committee decision:** Approved subject to conditions: Members felt that there was a need for this type of opportunity, does not cause harm and additional traffic would not cause issues.

**Conditions:**

1. Time limit
2. Completion of quality of approved plans
3. Timber posts fence to secure the area prior to use

**6f) 4477/22/FUL "Alston Well", Alston Farm, Slapton, Kingsbridge  
Town Council: Kingsbridge**

**Development: Use of existing self-contained annexe accommodation as casual self-contained holiday let accommodation (retrospective)**

Case Officer Update: The Case Officer summarised the key issues:

- The proposal would not be suitably located to services and facilities;
- As a result future users would be likely to be reliant on private motor vehicles for most trips;
- This would conflict with the environmental dimension of sustainable development;
- The harm would outweigh any perceived benefits;
- Sufficient carbon reduction could not be secured by condition.

Speakers were: Objector – None, Supporter – Katie Panton, Parish Council - None, Ward Member – Cllr R Foss.

The Ward Member highlighted that the Committee had received similar applications to this and a real big push to enjoy the open countryside.

During the debate, one Member was very persuaded by this application because this was a top quality facility that we want to provide in South Hams, however, if it changed hands would this continue in the same vein and could an ancillary condition be included? The Head of Development Management Officer PW reported if approved could condition for holiday use only. The Monitoring Officer added that Members could under the Section 106 agreement that this property shall not be sold off separately from the parent house and this was supported by Members. Another Member felt this was discrete and acceptable accommodation which supports the tourist industry and to ensure there was accommodation for all people as well as supporting the wider hospitality venues in the area.

**Recommendation:** Refusal

**Committee decision:** Delegated approval to the Head Development Management in consultation with the Chair, Vice-Chair, Proposer and Seconder subject to Section 106 prohibiting the proposal from being disposed separately to the main dwelling.

**Conditions:**

1. Holiday occupancy.
2. Removal of permitted development rights.

DM.73/23 **PLANNING APPEALS UPDATE**

Members noted the list of appeals as outlined in the presented agenda report.

DM.74/23 **UPDATE ON UNDETERMINED MAJOR APPLICATIONS**

Members noted the update on undetermined major applications as outlined in the presented agenda report.

(Meeting commenced at 10:00 am with a break at 11.40 am. Lunch at 1.00 pm. Meeting concluded at 15:47pm.)

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Chairman

**Voting Analysis for Planning Applications – DM Committee 5 April 2023**

<b>Application No:</b>	<b>Site Address</b>	<b>Vote</b>	<b>Councillors who Voted Yes</b>	<b>Councillors who Voted No</b>	<b>Councillors who Voted Abstain</b>	<b>Absent</b>
2914/22/FUL	"Rendoc", Herbert Road, Salcombe, Devon	Refused	Cllrs Brazil, Brown, Hodgson, Long, Pannell, Reeve and Taylor (7)	Cllrs Abbott and Foss (2)	Cllr Baldry and Rowe (2)	Cllr Spencer (1)
0161/23/HHO	"Vermilion", Herbert Road, Salcombe	Conditional Approval	Cllrs Baldry, Brown, Foss, Reeve, Rowe and Taylor (6)	Cllrs Brazil, Hodgson, Long, and Pannell (4)	Cllr Abbott (1)	Cllr Spencer (1)
0271/23/FUL	"Land at Spirewell Farm", Traine Road, Wembury	Refused	Cllrs Abbott, Baldry, Brazil, Foss, Hodgson, Long, Pannell, Reeve, Rowe and Taylor (10)	Cllr Brown (1)		Cllr Spencer (1)
4234/22/ARM	"West Prawle Farm", East Portlemouth	Approved	Cllrs Abbott, Baldry, Brazil, Foss, Hodgson, Long, Reeve, Rowe and Spencer (9)	Cllr Pannell and Taylor (2)	Cllr Foss (1)	
4490/23/FUL	"Land At Sx 512 631", New Road To Roborough Down, Roborough Down, Plymouth, Devon	Approved	Cllrs Abbott, Baldry, Brazil, Foss, Hodgson, Long, Pannell, Reeve, Rowe, Spencer and Taylor (11)		Cllr Spencer (1)	
4477/22/FUL	"Alston Well", Alston Farm, Slapton,	Approved	Cllrs Abbott, Baldry, Brazil, Hodgson, Long, Reeve, Rowe, Spencer and Taylor (10)		Cllrs Foss and Pannell (2)	



**MINUTES OF A MEETING OF  
THE EXECUTIVE  
HELD IN THE COUNCIL CHAMBER ON THURSDAY 13 APRIL 2023**

<b>Members in attendance:</b>			
* Denotes attendance			
∅ Denotes apologies for absence			
*	Cllr K J Baldry	*	Cllr T R Holway
*	Cllr H D Bastone (Vice Chairman)	*	Cllr N A Hopwood
*	Cllr J D Hawkins	*	Cllr J A Pearce (Chairman)

<p><b>Non-Executive Members also present either in person or remotely for all or part of the meeting:</b></p> <p>Cllrs Abbott, Austen, Birch, Brown, Long, Reeve, Rowe, Smerdon, Spencer and Taylor</p>
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Officers in attendance and participating:		
All items		Chief Executive, Deputy Chief Executive, Section 151 Officer, Director – Strategy & Governance (via Teams) Monitoring Officer; Democratic Services Manager; Assistant Director – Strategy & Organisational Development (via Teams) Assistant Director - Waste & Operations; Principal Project Manager

**E.93/22      MINUTES**

The minutes of the Executive meeting held on 2 March 2023 were confirmed as a true and correct record.

**E 94/22      DECLARATIONS OF INTEREST**

Members and officers were invited to declare any interests in the items of business to be considered during the course of this meeting but there were none made.

**E.95/22      PUBLIC QUESTION TIME**

The Leader informed that no public questions had been received in accordance with the Executive Procedure Rules.

**E.96/22      EXECUTIVE FORWARD PLAN**

Members were presented with the most recently published version of the Executive Forward Plan that set out items on the agenda for Executive meetings for the next four months and duly noted its contents.

## E.97/22 **WASTE AND RECYCLING SERVICE UPDATE**

A report was considered that provided an update on the progress and performance of the waste service since it returned to Council control on 3 October 2022.

Upon the conclusion of the lead Executive Member introduction, some questions of clarity were asked with regard to the costings. It was also confirmed that reference to fly tipping was incorporated within the overall street cleaning service.

In the ensuing debate, reference was made to:

- (a) the tireless work of the lead Executive Member and lead officers. In recognition of the volume of work that had been undertaken to reach this point, a number of Members wished to formally put on record their specific thanks to the lead Member, lead officers and the service operatives;
- (b) the need to focus on the future of the waste and recycling service. Members emphasised the importance of the Council now concentrating its collective efforts on looking forward to the future of the service rather than reflecting on recent history.

It was then:

### **RESOLVED**

1. That the successful transfer of the service, the improvement in service performance and the key operational risks that the service was operating under, be noted.
2. That Council be **RECOMMENDED**:
  - (a) To utilise the Vehicle and Plant Earmarked Reserve and the one-off implementation budget, to purchase end of life fleet replacements and the fleet required for the roll out of the remaining properties onto the Devon Aligned Service (DAS) in October 2023 which is anticipated to cost £2.16million;
  - (b) To use internal borrowing of up to £0.5million to fund the improvements to the Torr Depot, with the associated revenue costs of £35,000 per annum for 25 years (the life of the asset) being financed by efficiencies and savings delivered by the service;
  - (c) To allocate £180,000 from the Revenue Grants Earmarked Reserve to fund additional project management capacity; and

- (d) That the setting of fees and charges for the waste and recycling service is delegated to the Director for Customer Service and Delivery, in consultation with the Leader of the Council, the lead Executive Member for waste and recycling and the Section 151 Officer.

E.98/22 **CONCLUDING COMMENTS**

As this was to be the final Executive meeting of this Council term, the Deputy Leader offered the thanks of the Executive to the Leader of Council for her hard work and dedication in leading the Council through challenging times.

In response, the Leader thanked the Executive Members and Council staff alike for their hard work and cited this Council term as an excellent example of what collaborative working was able to achieve.

(Meeting commenced at 10.00 am and concluded at 10.25 am)

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Chairman

***(NOTE: THESE DECISIONS, WITH THE EXCEPTION OF MINUTE E.97/22 (PART 2 a-d) (WHICH ARE RECOMMENDATIONS TO THE COUNCIL MEETING TO BE HELD ON 13 APRIL 2023) WILL BECOME EFFECTIVE FROM 5.00PM ON MONDAY, 24 APRIL 2023 UNLESS CALLED IN, IN ACCORDANCE WITH SCRUTINY PROCEDURE RULES)***

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