

EXECUTIVE

Tuesday 10 July 2018

Present:

Councillor Edwards (Chair)
Councillors Bialyk, Denham, Harvey, Leadbetter, Morse, Packham, Pearson and Sutton

Also present:

Chief Executive & Growth Director, Director (BA), City Solicitor & Head of HR, Chief Finance Officer, Corporate Manager Democratic and Civic Support, Environmental Health and Licensing Manager, Interim Corporate Manager - Commercial and Procurement, Service Manager, Community Safety & Enforcement, Housing Enabling Officer and Democratic Services Manager

65

MINUTES

The minutes of the meeting held on 12 June 2018 were taken as read, approved and signed by the Chair as correct.

66

DECLARATIONS OF INTEREST

No declarations of disclosable pecuniary interest were made.

67

URGENT DECISION - LIVESTOCK MARKET DRAINAGE AND REPLACEMENT TOILET FACILITIES

The Chief Finance Officer advised Members on the urgent decision taken for the installation of drainage and replacement toilet facilities at the Livestock Market. The issue was raised as an emergency decision due to both the Health and Safety and operational impact of the matter. The budget for the installation of the replacement systems was £200,000. The decision had been made by the City Surveyor in consultation with the Leader, Place Scrutiny Committee Chair, the Chief Executive and Growth Director and the Chief Finance Officer.

RESOLVED that the urgent decision be noted.

68

OVERVIEW OF REVENUE BUDGET

The Chief Finance Officer presented the report advising Members of the overall financial position of the Housing Revenue Account (HRA) and General Fund Revenue Budgets for the 2017/18 financial year and to seek approval for the General Fund working balance, HRA working balance, a number of supplementary budgets and the creation of new earmarked reserves.

The Chief Finance Officer advised Members that the General Fund currently had an underspend of £964,022 of which £425,000 was due to the delay in finalising the arrangements for the transfer of management of Exeter's valley parks to the Devon Wildlife Trust. The HRA had an underspend of £4,132,405 which was mainly due to the delay in delivering the programme of works.

Members were advised of the five new earmarked reserves being proposed and that there were a number of supplementary budgets totalling £1,880,480, of which £335,000 related to the HRA that had been requested as part of the 2018/19 budget.

Corporate Services Scrutiny Committee considered the report at its meeting on 28 June 2018 and its comments were reported.

RECOMMENDED that Council:-

- (1) approves the net transfer of £2,419,076 from Earmarked Reserves as detailed in paragraph 8.3.6 of the report presented to the meeting;
- (2) approves supplementary budgets of £1,880,480 as detailed in paragraph 8.3.8 of the report presented to the meeting;
- (3) notes Earmarked Reserves at 31 March 2018;
- (4) notes the Council Tax account and collection rate;
- (5) notes the outstanding sundry debt, aged debt analysis and debt write-off figures;
- (6) notes the creditor payments performance;
- (7) taking into account the overall financial position of the Council, approves the General Fund working balance at 31 March 2018 at £4,692,404;and
- (8) approves the Housing Revenue Account working balance at 31 March 2018 at £10,212,244 and approves the Council Own Build working balance at £256,943.

69

CAPITAL MONITORING 2017/18 AND REVISED CAPITAL PROGRAMME FOR 2018/19 AND FUTURE YEARS

The Chief Finance Officer presented the report advising Members of the overall financial performance of the Council for the 2017/18 financial year in respect of the annual capital programme and sought approval of the 2018/19 revised capital programme, including commitments carried forward from 2017/18.

Members were advised that the expenditure in 2017/18 amounted to £10,331,102 which represented 79.6% of the revised Capital Programme. There was a further funding request for an additional budget of £40,000 for the replacement of lifts at Mary Arches Street Car Park. This was due to an increase in costs following advice from a specialist consultant that a more robust solution was needed.

Corporate Services Scrutiny Committee considered the report at its meeting on 28 June 2018 and its comments were reported.

RECOMMENDED that Council approves the:-

- (1) overall financial position for the 2017/18 Annual Capital Programme; and
- (2) amendments and further funding request to the Council's annual capital programme for 2018/19.

TREASURY MANAGEMENT 2017/18

The Chief Finance Officer presented the report on the current Treasury Management performance for the 2017/18 financial year and the position regarding investments and borrowings at 31 March 2018. The report was a statutory requirement and was for information only with no key decisions required. Members were advised that the net interest was £82,031 and currently the Council had no longer term borrowing in respect of the General Fund.

The Chief Finance Officer highlighted a fixed term deposit relating to Guildford Borough Council which had exceeded the level set out in the Treasury Management Strategy made available to a lower tier authority. He advised Members that he considered this to be a low risk investment for the Council and no further action would be taken to recover the funds early, although procedures had been put in place to ensure such actions would not be repeated.

Corporate Services Scrutiny Committee considered the report at its meeting on 28 June 2018 and its comments were reported.

RECOMMENDED that Council notes the content of this report.

71 EXETER CITY GROUP LTD BUSINESS CASE (AUGUST 2018 TO MARCH 2019)

The Chief Executive & Growth Director confirmed that he was no longer a named Director for the Development Company.

The Chief Executive & Growth Director presented the report proposing the establishment of a group of wholly-owned Council companies (ECG). The Council owned its own housing stock but the Housing Revenue Account was very limited as to what it could build and the aspiration of the ECG was to build high quality affordable and social housing in the city. The business case set out how the ECG would operate and that it would be financed by the City Council. A Director, currently David Bartram, was proposed to be the Council's shareholder representative on the Board.

Members were advised of a proposed additional recommendation:-
'That Members agree that the Vaughan Road development identified for year two of the Development Company's operation will go forward, subject to the remaining assurance work. This is in order to ensure that the Housing Revenue Account is not disadvantaged and that the Development Company is able to deliver on Members' expectations on Affordable Housing.'

In response to a Member's question, the Chief Finance Officer clarified that the Council would borrow the required £4.25 million identified in the business case from the Public Works Loan Board (PWLB) at a rate of 2.5% and then lend to the company at the higher rate of 4.86%, therefore giving the Council a net interest rate of 2.3% on the loan. The reason for this was because the Council was constrained by state aid rules.

Members were advised that the Council's shareholder representative would liaise with the Steering Group to ensure the Council's interest for retaining the necessary control over the ECG and to ensure that it had autonomy to carry out the proposed actions in the Year One business case.

The Leader advised of the changes and the additional recommendation proposed by Corporate Services Scrutiny Committee. He stated that before the report was considered by Council on 24 July 2018, he would meet with the Chair and Deputy Chair of Corporate Services Scrutiny to clarify the Committee's proposed changes to recommendation (7).

In response to a Member, it was clarified that the proposed condition regarding the development of a Registered Provider of Social Housing (RP) would not preclude the Housing Revenue Account from building homes.

The Portfolio Holder for Housing Revenue Account supported this exciting proposal that would bring forward affordable and social housing for the city.

Members welcomed the proposal which would support the building of good quality affordable homes for the residents of Exeter.

The Leader proposed the recommendation that was agreed by Corporate Services Scrutiny Committee, with the amendment to recommendation (7) to replace the Portfolio Holder for Economy and Culture with Portfolio Holder for People and clarification with the Chair and Deputy Chair of Corporate Services Scrutiny Committee regarding Members to be consulted with and the additional recommendation as advised by the Chief Executive & Growth Director.

This was agreed by the Executive.

Corporate Services Scrutiny Committee considered the report at its meeting on 28 June 2018. A revised recommendation had been supported at the Corporate Services Scrutiny Committee.

RECOMMENDED that Council:-

- (1) approves the establishment of Exeter City Group Ltd and Exeter City Living Ltd;
- (2) notes that whilst Exeter City Homes Ltd and Exeter City Living Property Ltd have already been registered at Companies House, no approval was being sought for the Companies' activities as their financial impact on the Council had not yet been assessed;
- (3) the Year One Business Case at Appendix A of the report presented at the meeting be implemented by Exeter City Living Ltd for the period August 2018 to the end of March 2019;
- (4) develop a Registered Provider of Social Housing (RP) to take ownership of any social housing created as a result of Exeter City Living Ltd works, subject to a satisfactory business case demonstrating the RP's viability being approved by the Council. The Registered Provider would be established and functional in advance of the availability of the social housing. The two work streams to be linked to ensure appropriate staging would coincide;
- (5) approves a loan of £4.35 million to Exeter City Living Ltd in order to implement and complete the year one Business Case set out in Appendix A of the report presented at the meeting;

- (6) approves the Management Agreement set out in Appendix B of the report presented at the meeting;
- (7) delegate authority to the relevant Director (currently David Bartram) to agree any necessary amendments to the Management Agreement in consultation with the Leader of the Council, the Chief Finance Officer and the appropriate three Portfolio Holders (currently the Portfolio Holder for Place and Commercialisation; the Portfolio Holder for People and the Portfolio Holder Housing Revenue Account) and three Members of Scrutiny as appropriate – subject to clarification with the Chair and Deputy Chair of Corporate Services Scrutiny;
- (8) approve the Articles of Association for Exeter City Group Ltd and its subsidiary companies as set out in Appendix C of the report presented at the meeting;
- (9) delegated authority be given to the City Solicitor and Head of Human Resources in consultation with the City Surveyor to sell at open market value any council owned land identified in the Year One Business Case; and
- (10) delegated authority be given to the appropriate Director (currently David Bartram) to act in the role of Shareholder Representative and to undertake the activities and decisions as identified in the Shareholder Representative Delegated Powers Document (Appendix D, of the report presented at the meeting), including the ability to financially commit up to £499,999 funding for use by Exeter City Living Ltd for matters not in the Year One Business Case (August 2018 – end March 2019); and
- (11) agree that the Vaughan Road development identified for year two of the Development Company's operation be brought forward to year one, subject to the remaining assurance work. This is in order to ensure that the Housing Revenue Account is not disadvantaged and that the Development Company is able to deliver on Members' expectations on Affordable Housing.

72

UPDATING THE COUNCIL'S PROCUREMENT AND CONTRACT PROCEDURES

The Corporate Manager – Commercial and Procurement presented the report updating Members on the review of the current "Procurement and Contracts Regulations, which set out how the Council's undertakes its procurement activities and contracts with third party suppliers, and proposing new procedures titled "Procurement and Contract Procedures (July 2018)" for Members to approve.

Members were advised that the implementation of new Procedures was a major step on the journey towards ensuring that the procurement process was transparent and making the necessary improvements. It was important to recognise that the implementation of updated Procedures was just one part of the further progress required. Further activity would be necessary to help embed the positive change in how the Council undertook procurement which would include transforming supporting processes and systems as well as strengthening the resource capacity to support effective procurement across the Council.

The Corporate Manager – Commercial and Procurement brought to Members attention the recommendation that the Section 151 Officer be granted delegated

authority to sign off any final amendments in conjunction with the Portfolio Holder for Support Services. Any amendments would be reported back to Members.

The Portfolio Holder for Support Services supported the proposal which provided clarity and accountability and welcomed self-delivery as the first model for procurement of Council's services and goods.

RECOMMENDED that Council:-

- (1) approves substituting the current "Contracts and Procedures Regulations – May 2017" with the new "Procurement and Contract Procedures (July 2018)" and supporting Procedural Notes;
- (2) agrees that, whilst the Procedures (July 2018) as set out in the circulated report be adopted with immediate effect, where necessary, the current "Regulations" (May 2017) may apply until 1 June 2019 to afford the necessary time to fully transition to the new Procedures; and
- (3) grant delegated authority to the Section 151 Officer in conjunction with the Portfolio Holder for Support Services to sign off any amendments (e.g. Procedural Note for Evaluation). Any updates to be reported back to Members as part of the wider update on progress.

73

REVIEW OF ENVIRONMENTAL HEALTH AND LICENSING STATUTORY SERVICE PLAN 2018/19

The Environmental Health and Licensing Manager presented the report seeking approval for the adoption of the Environmental Health and Licensing Statutory Service Plan 2018/19 which set out the Council's regulatory function in respect of food safety, health and safety, licensing, environmental permitting and other statutory functions over the forthcoming year.

The Environmental Health and Licensing Manager highlighted some of the challenges and achievements of the service during 2017/18:-

- Food business inspections - a target of 96% achieved.
- 4,465 requests for the service including food safety, health and safety regulation, infectious disease control, air quality, environmental permitting, contaminated land, licensing and antisocial behaviours, statutory nuisance as well as staff supporting health promotion and training activities.
- 342 antisocial behaviour cases, with a further 59 more complex cases which were all very time consuming for the service.
- good levels of compliance with regards to CCTV coverage which became mandatory in all Exeter Hackney Carriage vehicles.

The Leader welcomed the work that the Council was undertaking in this area in particular the CCTV installation in Exeter Hackney Carriage vehicles.

In response to Member's questions, the Environmental Health and Licensing Manager commented that the working relationships with partner agencies such as the Police and Fire Authorities and the voluntary sector had improved considerably over the past three years. The food business premises were inspected anything between six months and three years depending on their rating and if there were any reports to the Council.

Place Scrutiny Committee considered the report at its meeting on 14 June 2018 and its comments were reported.

RECOMMENDED that Council approves:-

- (1) the Statutory Service Plan 2018/19; and
- (2) the Environmental Health and Licensing Manager be authorised to change the Statutory Service Plan in the light of centrally issued guidance and/or to meet operational needs.

74

EXETER CITY CLEAR STREETS CHARTER

The Service Manager Community Safety and Enforcement presented the report on introducing the Clear Streets Charter for Exeter. The Charter sets out how Exeter City Council and Devon County Council proposed to work together to ensure that the built environment of the City, was as safe and obstacle free as possible.

Members welcomed the development of this Charter acknowledging the adverse impact that pavement clutter had on those affected by sight loss or mobility problems.

In response to Member's questions, the Service Manager Community Safety and Enforcement clarified that Place Scrutiny Committee would receive updates on the implementation of the Charter.

The Environmental Health and Licensing Manager clarified the position with regard to the difficulties of commercial waste collection and A-board enforcement which was a Devon County Council function.

Place Scrutiny Committee considered the report at its meeting on 14 June 2018 and its comments were reported.

RESOLVED that Clear Streets Charter be supported.

75

PARKING BACK OFFICE AGENCY AGREEMENT

The Service Manager Community Safety and Enforcement presented the report which sought approval for Devon County Council to provide a parking back office function to the Authority under an agency agreement. This agreement would be cost neutral to the City Council as Devon County Council would be taking up operational occupation of an Exeter City Council owned empty office.

Members welcomed the way forward.

Place Scrutiny Committee considered the report at its meeting on 14 June 2018 and its comments were reported.

RESOLVED that Exeter City Council enter into a five year agency agreement with Devon County Council to provide parking back office function be approved.

76

MANAGING HARBOUR AUTHORITY RESPONSIBILITIES

The Service Manager Community Safety and Enforcement presented the report on the options for discharging the Council's Harbour Authority duties to an appropriate standard as soon as was practically possible. He advised that subsequent Marine

advice had indicated that the 'Duty Holder' should be independent to the Harbour Master with marine and Health and Safety experience who was able to provide the Harbour Board with reassurance by checking and reporting back to the Executive.

Members were circulated with an amendment to the recommendation with regards to the 'Duty Holder'. The City Solicitor and Head of HR advised that the Duty Holder role should be in consultation with the relevant Portfolio Holder. This was agreed by Executive.

In response to a Members question, the Service Manager Community Safety and Enforcement clarified that the Port Users Group and Exe Estuary Partnership had been consulted.

Members noted that updates on the Harbour Authority duties would be brought back to Executive.

Place Scrutiny Committee considered the report at its meeting on 14 June 2018 and its comments were reported.

RECOMMENDED to Council that:-

- (1) a new Harbourmaster post be created within the Waterways establishment and recruit a suitably experienced and qualified candidate to the role;
- (2) two new Harbour Patroller posts be created within the Waterways establishment and recruit suitably experienced and qualified candidates to the roles;
- (3) the Duty Holder role be delegated to the Service Manager with responsibility for waterways and the Principal Health and Safety Manager in consultation with the relevant Portfolio Holder for waterways and the Constitution be amended accordingly; and
- (4) the options for a Harbour Revision Order be explored with the Port User Group.

77

SUSTAINABLE FINANCING MODEL FOR EXETER INFRASTRUCTURE

The Chief Executive & Growth Director presented the report seeking support to explore a solution to structural challenges of building in the city through a new sustainable financing model that puts development outcomes back into the hands of the city's leaders, so as to deliver the outcomes that the city had been asking for.

The existing development model for Exeter was under strain and arguably broken and the private sector currently controlled the majority of development in Exeter. A city-controlled fund source could control the financing and delivery of projects and subsequently control the outcomes that deliver what the city and residents had been asking for, as well as profit retention for the city. This would be a joint venture and the setting up of a Company would enable borrowing to be at a favourable rate and enable funding from Central Government to be sought.

The Portfolio Holder for City Transformation, Energy and Transport welcomed this proposal to explore different ways to achieve and control the growth of the city.

Corporate Services Scrutiny Committee considered the report at its meeting on 28 June 2018 and its comments were reported.

RESOLVED that:-

- (1) officers commit support, time and energy into exploring the benefits, risks and mechanics of a collaboration in a City Development Fund as a means of financing and delivering future developments in the Greater Exeter region and within the city. Developments will embrace innovative solutions and a fresh approach to the procurement process to successfully compete with the scale and agility of private sector development funds;
- (2) the City Council encourage other public sector institutions within the city to commit resources to exploring the proposal for a City Development Fund; and
- (3) it be noted that the fund would operate and be governed under the following four key principles: -
 - Publicly owned: The Fund is owned and controlled by Exeter's public-sector institutions;
 - Impact driven: The Fund has place-making as its ultimate goal. All developments are measured for success on the basis of long term impact, outcomes and social benefit;
 - Professionally run: Experienced, world class team of fund and asset directors; and
 - Locally retained profits: All excess profits from developments are kept within the Fund and recycled back into Exeter developments.

78

EQUALITY AND DIVERSITY POLICY

The Environmental Health and Licensing Manager presented the report which sought approval for an updated Equality and Diversity policy and to note actions to implement the Policy.

Corporate Services Scrutiny Committee considered the report at its meeting on 28 June 2018 and its comments were reported.

RECOMMENDED to Council that the updated Equality and Diversity Policy be approved.

79

THE COUNCIL'S HEALTH AND SAFETY AT WORK POLICY

The Environmental Health and Licensing Manager presented the report on the Council's Health and Safety at Work policy which had been revised to reflect changes to the council structure, legislation and best practice. This report highlighted the main revisions that had been made which included terms of reference for a new Health and Safety Committee and a new Safety Representatives Committee.

The Leader welcomed the policy and the way forward.

In response to a Member's question, the Environmental Health and Licensing Manager clarified the role that the Members had in respect of their duties with regards to the Council's Health and Safety.

Corporate Services Scrutiny Committee considered the report at its meeting on 28 June 2018 and its comments were reported.

RECOMMENDED to Council that the Corporate Health and Safety Policy be adopted.

80 **THE COUNCIL'S ANNUAL HEALTH AND SAFETY REPORT FOR 2017**

The Environmental Health and Licensing Manager presented the report on the Council's activities and performance in health and safety at work during 2017. Members were advised that there were no serious matters to report.

Corporate Services Scrutiny Committee considered the report at its meeting on 28 June 2018 and its comments were reported.

RESOLVED the content of the Annual Report be noted.

81 **LOCAL DEVELOPMENT SCHEME**

The Chief Executive and Growth Director presented the report approving a revised Local Development Scheme which provided a revised timetable for plan preparation. Members were advised of the main factors that had delayed the preparation of the Greater Exeter Strategy Plan (GESP).

RESOLVED the Local Development Scheme attached at Appendix A to the report presented to the meeting be approved, with effect from 20 June 2018.

82 **HONORARY ALDERMAN**

The Corporate Manager Democratic and Civic Support presented the report setting out a proposal to offer the position of Honorary Freeman of the City to Mrs Margaret Anne Baldwin in recognition of her outstanding service to the Council over her near 12 years of office on the Council.

Members supported the offer of the position of Honorary Alderman to Mrs Margaret Anne Baldwin.

RECOMMENDED that, in accordance with Section 249 of the Local Government Act 1972, the Right Worshipful the Lord Mayor be requested to convene an Extraordinary Meeting of the Council, on the rising of the Ordinary Meeting of the Council on 24 July 2018, to consider granting the position of Honorary Alderman of the City to Mrs Margaret Anne Baldwin.

83 **APPOINTMENT OF OUTSIDE BODIES**

The report of the Corporate Manager Democratic and Civic Support was submitted to appoint Members to serve on outside bodies. Members were advised that should it be necessary to re-appoint representatives during the course of the year, it was proposed to grant delegated powers to the Corporate Manager Democratic and Civic Support to appoint representatives in consultation with the Group Leaders.

RECOMMENDED to Council that:-

- (1) appointments be made to those outside bodies set out in the Appendix to the report presented at the meeting; and

- (2) the Corporate Manager Democratic and Civic Support be granted delegated powers, in consultation with the Group Leaders, to appoint, when necessary, representatives to outside bodies during the course of the Municipal Year.

84 **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - EXCLUSION OF PRESS AND PUBLIC**

RESOLVED that under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following item on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1,2, 3 and 4 of Part 1, Schedule 12A of the Act.

85 **CREATION OF THE NEW POST OF LITIGATION LAWYER**

The Corporate Manager Democratic and Civic Support left the meeting before consideration of this item.

The City Solicitor and Head of HR presented the report on identifying the business case for the creation of the new part time (0.8 fle) post of Litigation Lawyer. Members were advised that legal services had experienced a significant increase in demand for its services and the creation of this post would increase the ability of Legal Services to provide a comprehensive, responsive legal service to the Council.

Members were updated on the age of the demographics of the service and the importance of succession planning.

Members supported the proposal.

RECOMMENDED to Council:-

- (1) the creation of a new part-time post of Litigation Lawyer (four days per week) be approved; and
- (2) an additional budget of £23,500 per annum be agreed to cover the cost of this part time post.

86 **ST LOYES EXTRA CARE SCHEME**

Councillor Leadbetter declared an interest as the Devon County Council Cabinet Member for Adult Social Care and Health Services.

The Housing Enabling Officer presented the report on the development of an Extra Care scheme that would deliver 53 self-contained apartments and communal areas for older persons with care needs that precluded them from being able to live in their existing homes. He advised of the identified need for 201 extra care apartments within Exeter, detailed in the Devon County Council report "Devon Commissioning Strategy for Extra Care Housing".

The report addressed the cost related to the building. The decision as to how the building would be managed and the care provided would be subject to a future report by the Service Lead Tenant Services.

In response to a Member's question, the Director (BA) clarified the gross income that the development could regenerate for the Housing Revenue Account depend on future decisions regarding the management of the building.

RECOMMENDED that Council:-

- (1) approve additional capital budget of £3.15 million;
- (2) agree to enter into the build contract for the construction of the extra care scheme with the preferred contractor on the condition that the total development does not exceed £14 million; and
- (3) agree to part-fund the project using retained Right to Buy receipts to save relinquishing them to central government.

(The meeting commenced at 5.34 pm and closed at 6.58 pm)

Chair

The decisions indicated will normally come into force 5 working days after publication of the Statement of Decisions unless called in by a Scrutiny Committee. Where the matter in question is urgent, the decision will come into force immediately. Decisions regarding the policy framework or corporate objectives or otherwise outside the remit of the Executive will be considered by Council on 24 July 2018.