

Council

Friday, 28th February, 2014
2.30 - 4.00 pm

Attendees	
Councillors:	Wendy Flynn (Chair), Colin Hay, Andrew Chard, Ian Bickerton, Nigel Britter, Chris Coleman, Bernard Fisher, Jacky Fletcher, Rob Garnham, Les Godwin, Penny Hall, Rowena Hay, Peter Jeffries, Steve Jordan, Paul Massey, Helena McCloskey, Andrew McKinlay, John Rawson, Anne Regan, Rob Reid, Chris Ryder, Diggory Seacome, Duncan Smith, Charles Stewart, Klara Sudbury, Pat Thornton, Jon Walklett, Simon Wheeler (Vice-Chair) and Roger Whyborn

Minutes

1. APOLOGIES

Apologies were received from Councillors Barnes, Driver, Harman, Hibbert, Holliday, McLain, Prince, Stennett and Williams.

2. DECLARATIONS OF INTEREST

Councillor Ryder declared a possible future pecuniary interest in a section of the white land in Agenda Item 8 –Petition to Save the Leckhampton Fields.

Councillor Garnham declared a pecuniary interest in Agenda Item 8-Petition to Save the Leckhampton Fields and the Joint Core Strategy.

3. MINUTES OF THE LAST MEETING

In response to a question from Councillor Hall the Chief Executive explained that the issue raised would be included in next year's annual Pay Policy Statement.

The minutes of the meeting were approved and signed as a correct record.

4. COMMUNICATIONS BY THE MAYOR

The Mayor was pleased to announce that Cheltenham Borough Council had received accreditation for Investors in People, which it had now held for 18 years. She explained that the Managing Director of Investors in People South had said that Cheltenham was a great example of what could be achieved. She then presented the award to the Chief Executive.

5. COMMUNICATIONS BY THE LEADER OF THE COUNCIL

The Leader of the Council also congratulated officers for achieving IIP accreditation.

The Leader informed Members that the shadow Gloucestershire Economic Growth Joint Committee had held its first meeting yesterday. A report would be brought to Council on the process for approval of the Gloucestershire Strategic

Economic Plan. He reported that a roadshow would be organised in March to provide an update on the strategic plan which would be submitted to the Government at the end of March. The County Council would also be inviting district representatives to their scrutiny meeting as this would be a countywide scrutiny process.

6. PUBLIC QUESTIONS

There were no public questions.

7. MEMBER QUESTIONS

1.	Question from Councillor Andrew Chard to Cabinet Member Finance, Councillor John Rawson
	Can the Cabinet Member for Finance tell me what he expects to raise in the next Financial Year from the Late Night Levy in view of the number of licensed premises which are seeking minor variations in their license to avoid the Levy, compared to the figure he originally budgeted for?
	Response from Cabinet Member
	<p>I have heard it said several times by members of the public that the Late Night Levy is a device to balance the Borough Council's budget, but it is disappointing that a member of the Council, especially a member of the Licensing Committee, should believe this, or affect to do so. The amount of Late Night Levy income factored into the Borough Council budget for 2014/15 is precisely nil. This is because the proceeds of the Levy will be paid into a freestanding, ring-fenced fund that will be spent specifically on alleviating the problems associated with the night-time economy.</p> <p>The levy payments will be collected over a 12 month period starting on the 1st of April. Currently, all licensed premises pay an annual fee due on the anniversary of the issue of the licence. The levy will be due at the same time as the annual fee.</p> <p>The gross annual income from the Levy (taking into account the New Year's Eve exemption) is estimated to be £170,313. Deducting £23,000 for premises eligible for the 30 per cent reduction, £20,204 for variation applications received to date, and £3,153 for likely permitted costs, the net income is likely to be in the region of £124,000, though this is subject to any variation applications yet to be submitted. I would re-emphasise that this money was not included in the budget I presented on 14th February</p> <p>In terms of arrangements for spending the money, officers are currently working on a Memorandum of Understanding between Cheltenham Borough Council and the Police and Crime Commissioner. The Memorandum is likely to set up a joint advisory group to advise on how the money should be spent. The money will be spent retrospectively, so there is no possibility that we will spend or budget for money that we cannot collect.</p>

	<p>It was anticipated from the outset that some enterprises would vary the terms of their licences in order to cease serving alcohol after midnight and avoid the Late Night Levy. This is a generally positive outcome, as it contributes to reducing the problems associated with late night drinking. As I have already explained, there is no way that this could create a gap in the Borough Council budget or indeed affect it in any way at all.</p> <p>In a supplementary question Councillor Chard asked what the cost of administering all requested variations had been.</p> <p>In response the Cabinet Member Finance undertook to provide the information to the member in detail by email. He explained that 22 establishments had applied for variations in their licence to avoid the Late Night Levy and highlighted that the third paragraph of his response incorporated the figures for the reduction in premises varying their licences.</p>
2.	Question from Councillor Andrew Chard to the Leader, Councillor Steve Jordan
	Will the Leader of the Council urgently review the implementation of the Late Night Levy in Cheltenham?
	Response from Cabinet Member
	<p>Councillor Chard may be prone to panicking, but I'm not sure why he expects everyone to join in. The implementation of the Late Night Levy is progressing as anticipated so I'm not clear why he thinks it should be reviewed now before it has actually started.</p> <p>In a supplementary question Councillor Chard asked whether a non Cabinet member would have a seat on the joint advisory group.</p> <p>In response the Leader explained that the process for establishing the group was underway but he undertook to respond to the member in due course.</p>
3.	Question from Councillor Garnham to Cabinet Member Sustainability, Councillor Roger Whyborn
	During his budget speech on the 14th February the Cabinet Member for Finance spoke of incurring a fine of £50,000.00 (fifty thousand pounds) for not having a workable abatement system at the Crematorium. This was the first time many Councillors were aware of this penalty being imposed on this Council. Can Cllr Whyborn, tell this council how much has actually been paid in fines (or due to be paid) since the new Cremators were installed and when he envisages this Council no longer having to pay this fine?
	Response from Cabinet Member
	The Council is not liable to incur fines. Cremators may be operated legally and safely without abatement, indeed the previous system did not have abatement. What the cabinet member for Finance actually said was that once immediate priorities were achieved "it would be important to look at the abatement system so that the council could avoid paying the £50,000 contribution for not abating mercury."

	<p>It is however the case that costs will be incurred by the Council of the order of magnitude which you cite, if we do not re-instate abatement. The situation is that DEFRA provides guidance to the cremation industry on abating cremations to have mercury removed. Legislation requires the abatement of 50% of all cremation per annum carried out in this country by end of December 2012 or if crematoria are unable to abate, they can purchase abated cremation through the CAMEO burden sharing scheme. The Council had installed abatement equipment with the view to abating 100% of its cremations. This would have netted an income for the council from selling the additional 50% of abated cremation above the legal requirement. However, as the system has not been commissioned fully the council cannot confirm any abated cremation since the requirement came into force in December 2012. Therefore, the council is required to contribute to the burden sharing scheme by purchasing its required 50% abated cremations. The abatement system bequeathed to the council by the now bankrupt contractor, Crawfords is either not fit for purpose, or requires substantial expenditure to make it effective.</p> <p>This is matter of high priority investigation by officers, and is closely allied to the current evaluation as to whether or not to replace the cremators themselves; in other words it may not be cost-effective or sensible to retrofit a new abatement system. I have issued a member briefing note on this subject, and intend to make a definitive statement to members in the late Spring as to the intended way forward. In the meantime, officers are closely monitoring the refurbishment programme with a Crawfords abatement system at another very large crematorium, and proceeding with other necessary works on the main cremator plant.</p> <p>In a supplementary question Councillor Garnham suggested that the cost of approximately £2500 per week based on 50 cremations was a result of the inability of the Cabinet Member to manage his own portfolio. He asked whether it was time for the Cabinet Member Sustainability to apologise over this state of affairs.</p> <p>In response the Cabinet Member Sustainability stated that the assumption with regard to the figures expressed by the member was incorrect. He made reference to his recent briefing note circulated to members and stated that the cost was approximately £70 000 per year based on 1000 funerals per year out of a total of 2000 for which £45 was paid per unabated cremation. He did not believe that an apology was necessary. The situation was beyond the control of both officers and members and he paid tribute to the efforts of officers to recover the situation.</p>
4.	Question from Councillor Garnham to the Leader, Councillor Steve Jordan
	<p>This year sees the centenary of the start of the Great War. Will the Leader please ensure that some money gained from the capital receipts of the sale of North Place be ring fenced to provide for the refurbishment of the Cenotaph in the front of the Municipal offices, and that consideration be given to extending this work to other war memorials in the town.</p>

	Response from Cabinet Member
	The refurbishment of the Cenotaph is already scheduled to take place this year with a tendering process under way. The intention is to complete this work without any need to use the capital receipts from North Place/Portland Street. So far as other war memorials are concerned, we are happy to look at these as part of either the planned maintenance programme or the capital programme. Proposals for an expanded capital programme, using capital from the North Place/Portland Street sale, are intended to come to Council in July.

8. PETITION DEBATE-SAVE THE LECKHAMPTON FIELDS

A member asked for guidance on behalf of members of the Planning committee in participating in the debate bearing in mind that a planning application for the Leckhampton site had been submitted.

In response the Head of Legal Services, advised Members that they may be wearing several hats in relation to this matter. Firstly as a member of Council they were considering this petition, secondly all Members were formally involved in approving the JCS as a member of Council and thirdly some members would be dealing with the planning application for this land as a member of the Planning committee. It was common practice for members of a local authority to wear more than one hat and therefore he saw no impediment which would prevent any member from participating in the debate on this petition. What was important was that members recognised their respective role in each of these processes and kept an open mind as they moved from one process to another. On that basis a member could participate in the debate on the petition and still take part in a future debate at Council on the JCS as well as dealing with a planning application at Planning Committee in respect of this land.

The chair of the Planning Committee, Councillor Coleman, stressed that he was very capable of keeping an open mind. He was concerned that the advice just given appeared to contradict legal advice that the developers for this site could not attend a recent member seminar as this could prejudice future decisions on the application.

The Head of Legal Services explained the difference in status between the petition debate and the recent member presentation (which had been in private) and said that the subject of developer presentations was being taken forward as part of the current review of the Authority's planning code of conduct. He stressed that it was a personal decision for all members as to whether to participate in the petition debate and he repeated his advice that it would not be necessary for any member of Planning Committee to exclude themselves from this debate simply because of their involvement in the impending decision on the planning application for the land.

Other members of the Planning committee felt the guidance was not clear and on that basis Councillors Coleman, Fisher, Jeffries and Fletcher left the meeting.

The petitioner, Chris Nelson, introduced the petition.

He stated that the petition had received over a thousand signatures and it had been relatively easy to get people to sign it. He was confident that with a bit more time he could easily have got the support from 80% of residents in the Leckhampton ward, i.e. at least 4 000 people. The most significant concerns of residents were the traffic problems that the developments would cause in Shurdington and Church Road. A 40% increase in housing numbers in the ward would have a significant impact on the local infrastructure and compromise business and local traffic in the area.

He referred to the recent debate at Budget Council and he highlighted the comments made by members about their pride in the town and excellent work being done on new projects such as the Wilson. He questioned how this vision for Cheltenham's future would be affected if an extra 10,000 new homes were built in the town's remaining green spaces. Whilst accepting the need for a housing strategy and more affordable homes, the North West of Cheltenham, in the proposed Elms Park development, was a much more sustainable location from a traffic point of view. Failure to accept the demands of this petition would risk losing the unique character of Cheltenham creating a cramped environment with a distinct lack of green space. On that basis he urged members to listen to the comments made by the MP Martin Horwood, the conservative contender, Alex Chalk, the CPRE, the Cheltenham Chamber of Commerce, Estate Agents, LEGLAG, local parish councils, the local pig farming family and the individual objections on the JCS website and support the petition.

The Mayor invited the Leader, Councillor Steve Jordan to introduce his report.

The Leader thanked all those who had organised and signed the petition and he understood their concerns. He explained that the council was obliged to comply with the national planning policy framework (NPPF) which required the council to assess housing needs. This process had resulted in an assessment for 33,200 and new homes across the JCS area. In his personal view this figure was too high and his administration would be trying to influence the administration of the other two councils to reduce this figure as any new evidence became available. He entirely supported looking at brown field sites first but there was only a limited capacity in Cheltenham and the council was constrained by the NPPF. He reminded members that the JCS was a partnership and therefore he couldn't support unilaterally removing any potential development land from that process. However he would support officers doing further work regarding this land at this stage and coming back to Council in April with further advice for Members.

Regarding the traffic concerns raised by the petitioner, he considered these were entirely reasonable and the council was awaiting the results of further work by Highways at the county. If the results were not satisfactory then the development would not be allowed.

He referred to the recommendation in his report which was seconded by Councillor Rawson. He acknowledged the amendment proposed by Councillor Chard which had been circulated to Members at the start of this item and indicated that he was happy to accept the amendment. On that basis the following became the substantive motion.

“This Council directs that the JCS Team reconsider the status of Leckhampton and Up Hatherley as strategic sites within the JCS and explores the possibility of withdrawing these locations from the Strategy and report back to Council in April.”

In speaking for the amendment members made the following points:

- There had been over a thousand objections from local residents regarding these two sites and in relation to the planning application for Leckhampton there had already been over 600 objections with only five letters of support. This was an indication that these were the two most unpopular sites in the JCS and 50% of opposition related to these two sites. It would be misguided to ignore such strong public opinion backed up by some very strong reasons and would be a failure of local democracy risking future engagement with people in the south of Cheltenham.
- There was evidence that the development at Leckhampton would be a major risk to traffic flow on a highways network which was already close to capacity and had a high accident rate.
- Development on the Leckhampton Site would remove any flood protection which these fields offered to the surrounding area and destroy valuable farmland. The balancing ponds proposed by officers were not felt to be sufficient to alleviate this risk.
- Residents in the South West of Cheltenham would not accept houses being built in the green belt and Up Hatherley had originally been intended as a Green Belt boundary and also provided separation between Gloucester and Cheltenham. The prospect of 800 homes adjacent to Up Hatherley Way was horrendous to most people in the area. Once the green belt was destroyed it could never be restored.
- The need for more housing particularly in respect of young people and affordable housing was recognized but that new developments must have the right housing mix and be in the right location. There was evidence to suggest that South Cheltenham was the wrong place.
- A ward member wished it put on record that he suggested that the Chargrove land should be removed from the JCS.
- A ward member representing Swindon Village thought the motion was an entirely sensible approach but felt the council should be encouraging residents across Cheltenham to be united in working together to get the overall housing numbers in the JCS reduced rather than encouraging particular groups to get their areas removed.
- A member added a note of caution that the developments referred to in the motion were partly on Tewkesbury Borough Council land so the removal of these sites was not entirely a decision for this council.
- A member of the JCS Planning and Liaison scrutiny group expressed his disappointment that the amendment he proposed at Council on 5 September 2013 to remove these sites had not been accepted and consequently six months had been wasted
- A member urged the Leader to make it clear to the Leaders of the two other councils in the JCS partnership that he wanted to remove these areas from the JCS.

Councillor Chard, as proposer of the amendment, was delighted with the support from members of Council.

In his summing up, Councillor Jordan thanked members for their comments. In responding to the points made during the debate, he confirmed that his aim was to reduce housing numbers in the JCS and he hoped this would open up the possibilities for removing some sites. If this was the case he would be happy for all sites to be reconsidered. He noted that the two sites referred to in the amendment crossed into Tewkesbury borough and he acknowledged the need for him to work with the administrations in Gloucester and Tewkesbury and seek to persuade them if Cheltenham felt there was a need to change.

A recorded vote having been requested, upon a vote the recommendations in the report were all CARRIED.

RESOLVED THAT

This Council directs that the JCS Team reconsider the status of Leckhampton and Up Hatherley as strategic sites within the JCS and explores the possibility of withdrawing these locations from the Strategy and report back to Council in April.

Voting For 23: Councillors Bickerton, Britter, Chard, Flynn, Godwin, Hall, R Hay, C Hay, Jordan, Massey, McCloskey, McKinlay, Rawson, Regan, Reid, Seacome, Smith, Stewart, Sudbury, Thornton, Walklett, Wheeler, Whyborn

Against 0

No Abstentions

9. COUNCIL TAX RESOLUTION 2014-15

The Cabinet Member Finance introduced the report, the purpose of which was to enable the Council to set the Council Tax for 2014/15. The Council agreed its budget and level of Council Tax for 2014/15 at a meeting on 14 February 2014 and now it was required formally to approve the total Council Tax for residents of Cheltenham, including the Council Tax requirements of the precepting organisations, Gloucestershire County Council (GCC) and Gloucestershire Police.

The Cabinet Member Finance highlighted an error at Table E, Appendix 2 of the report in terms of the Council tax increase for the parish of Swindon Village which should read 7.61 %.

A recorded vote having been requested, upon a vote the recommendation in the report was unanimously CARRIED.

Voting for 24 : Councillors Britter, Chard, Coleman, Fisher, Flynn, Garnham, Hall, C Hay, R Hay, Jeffries, Jordan, Massey, McCloskey, McKinlay, Rawson, Regan, Reid, Seacome, Stewart, Sudbury, Thornton, Walklett, Wheeler, Whyborn

Against : 0

Abstentions: 0

10. NOTICES OF MOTION

The Leader of the Council introduced the motion as outlined on the agenda and explained that there had never been simultaneously the right solution and the right funding for the A417 "Missing Link". There was now however the opportunity to seek a single solution which would work for Gloucestershire. He explained that there was a county wide campaign to persuade the Government to fund the A417 Loop to the order of £255 million. This funding could not be achieved locally but it would now appear that there may be a chance that this project could be added to the national scheme of major road improvements to the benefit of all.

The Leader thanked Councillor Garnham and Godwin for their support. Councillor Garnham, as seconder of the motion urged the Cheltenham MP, Martin Horwood, to express his view.

Members supported the motion and highlighted how the accident figures for the stretch of the A417 concerned were significantly higher than the rest of the A417. They were unanimous in their view that safety was of paramount importance. In addition, the delays on this part of the A417 affected not only the economy of Gloucestershire but also of surrounding counties. Whilst other options had previously been suggested, this current option represented the only one which was likely to be taken forward.

Upon a vote the motion outlined was unanimously CARRIED.

RESOLVED THAT :

The campaign to complete the "Missing Link" by seeking government funding for the A417 Loop which will improve safety, reduce pollution and help the economy, be supported.

11. TO RECEIVE PETITIONS

No petitions were received.

12. LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION

RESOLVED that

In accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it was likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public were present there will be disclosed to them exempt information as defined in paragraphs 1 and 3, Part (1) Schedule 12 A Local Government Act 1972, namely :

Paragraph 1 : Information relating to any individual

Paragraph 3 : Information relating to the financial or business affairs of any particular person (including the authority holding that information)

13. EXEMPT MINUTES

The exempt minutes of the meeting held on 14 February 2014 were approved and signed as a correct record.

Wendy Flynn
Chair