

Public Document Pack



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06 September 2013

CITY COUNCIL

Monday 16 September 2013

2.00 pm

Council House (Next to the Civic Centre), Plymouth

Members:

The Lord Mayor, Councillor Mrs Pengelly, Chair

The Deputy Lord Mayor, Councillor Churchill, Vice Chair

Councillors Mrs Aspinall, Ball, Mrs Beer, Bowie, Bowyer, Mrs Bowyer, Casey, Coker, Damarell, Darcy, Philippa Davey, Sam Davey, Mrs Dolan, Drean, Evans, K Foster, Mrs Foster, Fox, Fry, Gordon, Haydon, James, Jarvis, Jordan, Martin Leaves, Michael Leaves, Sam Leaves, Lowry, Dr. Mahony, McDonald, Monahan, Morris, Murphy, Mrs Nelder, Nicholson, Mrs Nicholson, Parker, Penberthy, Rennie, Ricketts, Dr. Salter, Singh, John Smith, Peter Smith, Stark, Stevens, Jon Taylor, Kate Taylor, Tuffin, Tuohy, Vincent, Wheeler, Wiggins, Williams and Wright.

Members are invited to attend the above meeting to consider the items of business overleaf.

This meeting will be broadcast live to the internet and will be capable of subsequent repeated viewing. By entering the Council Chamber and during the course of the meeting, councillors are consenting to being filmed and to the use of those recordings for webcasting. Although the public seating areas are not filmed, by entering the meeting room and using the public seating area, the public are consenting to being filmed and to the use of those recordings for webcasting.

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Tracey Lee
Chief Executive

CITY COUNCIL

AGENDA

PART I – PUBLIC MEETING

1. APOLOGIES

To receive apologies for absence submitted by councillors.

2. MINUTES (Pages 1 - 18)

To approve and sign as a correct record the minutes of the meeting held on 22 July 2013.

3. DECLARATIONS OF INTEREST (Pages 19 - 20)

Councillors will be asked to make declarations of interest in respect of items on this agenda. A flowchart providing guidance on interests is attached to assist councillors.

4. APPOINTMENTS TO COMMITTEES, OUTSIDE BODIES ETC (Pages 21 - 22)

The Interim Director for Corporate Services will submit a schedule of vacancies on committees, outside bodies etc and of changes notified to us.

5. ANNOUNCEMENTS

- (a) To receive announcements from the Lord Mayor, Chief Executive, Interim Director for Corporate Services or Assistant Director for Law, Democracy and Governance;
- (b) To receive announcements from the Leader, Cabinet Members or Committee Chairs.

6. QUESTIONS BY THE PUBLIC

To receive questions from and provide answers to the public in relation to matters which are about something the council is responsible for or something that directly affects people in the city, in accordance with Part B, paragraph 11 of the Constitution.

Questions, of no longer than 50 words, can be submitted to the Democratic Support Unit, Plymouth City Council, Civic Centre, Plymouth, PL1 2AA, or email to democraticsupport@plymouth.gov.uk. Any questions must be received at least five complete working days before the meeting.

CABINET AND CO-OPERATIVE SCRUTINY BOARD RECOMMENDATIONS

7. FINANCE: NEW CAPITAL SCHEMES (Pages 23 - 24)

Cabinet Member: Councillor Lowry

The City Council will be asked to approve two new capital schemes relating to the Marjon link road and vehicle and plant replacement Phase 4 which were identified in the capital and revenue monitoring report submitted to Cabinet.

The minute of Cabinet held on 6 August 2013 and the Cabinet report can be viewed using the following link: <http://tinyurl.com/mmkjs4l>

8. URBAN ENTERPRISE: NEW ENTERPRISE UNITS AT OCEAN STUDIOS (Pages 25 - 34)

Cabinet Member: Councillor Evans (Council Leader)

The City Council will be asked to agree that, subject to a favourable outcome to both the European Regional Development Fund and the Growing Places Fund applications, the council acts as guarantor for Ocean Studios Community Interest Company (CIC) for repayment of the balance of the Trust's loan from the LEP outstanding to a maximum of £794,000 on the terms set out in the Cabinet report, with authority to agree the Heads of Terms to be delegated to the Director for Place. Approval will also be sought for a capital contribution of £794,000 from the Investment Fund.

The minute of Cabinet held on 6 August 2013 will be submitted together with the report considered at Cabinet.

9. REDEVELOPMENT OF THE CIVIC CENTRE AND FUTURE ACCOMMODATION REQUIREMENTS (Pages 35 - 52)

Cabinet Member: Councillor Lowry

The City Council will be asked to approve the capital budgets to achieve decant of the Civic Centre.

The minutes of Cabinet held on 3 September 2013 will be submitted together with the public report considered at Cabinet. (Please see also agenda item 17 below).

**10. THE BRILLIANT CO-OPERATIVE COUNCIL (Pages 53 - 62)
SUSTAINABLE THREE YEAR PLAN**

The City Council will be asked to approve a revised approach to financial planning over the medium term and to support a council-wide transformation programme based on co-operative values to substantially reduce the operating costs of the council and ensure the maximum possible investment in achieving Corporate Plan objectives.

The minute of the Co-operative Scrutiny Board held on 4 September 2013 and the minute of Cabinet held on 3 September 2013 will be submitted together with the report considered at Cabinet.

11. WEBCASTING (Pages 63 - 68)

The Assistant Director for Law, Democracy and Governance will submit a report on a four year webcasting contract.

**12. CONSTITUTIONAL CHANGES: PLANNING (Pages 69 - 100)
COMMITTEE CODE OF PRACTICE AND TERMS OF
REFERENCE**

The Assistant Director for Law, Democracy and Governance will submit a report on changes to the constitution, in particular to amend the Planning Committee Code of Practice and Planning Committee terms of reference.

**13. ARRANGEMENTS FOR CODE OF CONDUCT (Pages 101 - 120)
COMPLAINTS**

The Assistant Director for Law, Democracy and Governance will submit a report asking the City Council to adopt the arrangements in the written report to update the process for handling complaints under the councillors' code of conduct pursuant to Section 28 of the Localism Act 2011.

14. MOTIONS ON NOTICE

To consider motions from councillors in accordance with Part B, paragraph 14 of the Constitution.

15. QUESTIONS BY COUNCILLORS

Questions to the Leader, Cabinet Members and Committee Chairs covering aspects for their areas of responsibility or concern by councillors in accordance with Part B, paragraph 12 of the constitution.

16. EXEMPT BUSINESS

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 2 and 3 of Part 1 of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

PART II (PRIVATE MEETING)

AGENDA

MEMBERS OF THE PUBLIC TO NOTE

that under the law, Council is entitled to consider certain items in private. Members of the public will be asked to leave the meeting when such items are discussed.

17. REDEVELOPMENT OF THE CIVIC CENTRE AND FUTURE ACCOMMODATION REQUIREMENTS (E3) (Pages 121 - 138)

Further to agenda item 9 above, the private report submitted to Cabinet on 3 September 2013 will be submitted.

18. SENIOR MANAGEMENT RESTRUCTURE (E2 AND 3) (Pages 139 - 148)

The Chief Executive will submit a report on the proposed Senior Management Structure.

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City Council

Monday 22 July 2013

PRESENT:

The Deputy Lord Mayor, Councillor Churchill, Vice Chair in the Chair.

Councillor K. Foster, Vice Chair for the meeting.

Councillors Mrs Aspinall, Ball, Mrs Beer, Bowie, Bowyer, Mrs Bowyer, Casey, Coker, Damarell, Darcy, Philippa Davey, Sam Davey, Mrs Dolan, Drean, Evans, Mrs Foster, Fox, Fry, Gordon, Haydon, James, Jarvis, Jordan, Michael Leaves, Sam Leaves, Lowry, Dr. Mahony, McDonald, Monahan, Morris, Murphy, Mrs Nelder, Nicholson, Mrs Nicholson, Parker, Penberthy, Rennie, Ricketts, Dr. Salter, John Smith, Peter Smith, Stark, Stevens, Singh, Jon Taylor, Kate Taylor, Tuffin, Tuohy, Vincent, Wheeler, Wiggins, Williams and Wright.

Also in attendance: Carole Burgoyne (Director for People), Tim Howes (Assistant Director for Law, Democracy and Governance), Judith Shore (Democratic and Member Support Manager), Nicola Kirby (Democratic Support Officer).

Apologies for absence: The Lord Mayor (Councillor Mrs Pengelly), Councillor Martin Leaves and Tracey Lee (Chief Executive)

The meeting started at 2.00 pm and finished at 7.35 pm.

Note: At a future meeting, the Council will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

22. **APPOINTMENT OF VICE CHAIR FOR THE MEETING**

In the absence of the Lord Mayor, the Deputy Lord Mayor took the Chair.

Agreed that Councillor Foster is appointed as Vice Chair for this meeting.

23. **MINUTES**

Agreed the minutes of the meeting of the City Council held on 10 June 2013 subject to an amendment in relation to question no 15 which was asked by Councillor Mrs Lynda Bowyer and not Councillor Ian Bowyer.

24. **DECLARATIONS OF INTEREST**

The following declarations of interest were made in accordance with the code of conduct from councillors in relation to items under consideration at this meeting –

Name	Item	Interest	Reason
Councillor Mrs Aspinall	Minute 35 – Opposition to the process of privatisation taking place within the Royal Mail	Private	Her daughter and daughter's partner are employees of the Royal Mail.
Councillor Mrs Aspinall	Minute 36 – Happy birthday NHS	Private	She has a NHS pension.
Councillor Damerall	Minute 24 - Appointment to committees, outside bodies etc	Disclosable pecuniary interest	Employee of Plymouth Community Homes.
Councillor Gordon	Minute 32 – Fire cover in Plymouth	Private	He is vice-chair of the Devon and Somerset Fire and Rescue Authority.
Councillor Jordan	Minute 35 – Opposition to the process of privatisation taking place within the Royal Mail	Disclosable pecuniary interest	His wife is employed by the Royal Mail and he is a member of the Communication Workers' Union.
Councillor Sam Leaves	Minute 35 – Opposition to the process of privatisation taking place within the Royal Mail	Disclosable pecuniary interest	Her husband has a Royal Mail pension.
Councillor Sam Leaves	Minute 36 – Happy birthday NHS	Private	She is a NHS employee.
Councillor Dr Mahony	Minute 36 – Happy birthday NHS	Private	He has a NHS pension.
Councillor McDonald	Minute 36 – Happy birthday NHS	Private	She has a NHS pension.
Councillor John Smith	Minute 32 – Fire cover in Plymouth	Private	He is a member of the Devon and Somerset Fire and Rescue Authority.

Councillor Jon Taylor	Minute 36 – Happy birthday NHS	Private	He is a NHS employee.
Councillor Wheeler	Minute 30 – Neighbourhood Planning: Neighbourhood Forums and Areas	Private	He is a member of a local group in Barne Barton referred to in the report.

25. **APPOINTMENTS TO COMMITTEES, OUTSIDE BODIES ETC**

The report of the Director for Corporate Services was submitted.

The City Council noted –

- (a) that the election of Councillor Morris to the City Council, following a by-election at the Southway Ward, had had very little impact on the political balance of committees, which would remain the same;
- (b) the following changes notified to the Assistant Director for Law, Democracy and Governance –

Committee etc	Membership
Licensing Committee	Councillor Morris to replace Councillor Mrs Nelder
Working Plymouth Overview and Scrutiny Panel	Councillor Morris to replace Councillor Fox
Tamar Bridge and Torpoint Ferry Joint Committee	Councillor Wright to replace Councillor Mrs Nelder

Agreed the following appointments –

	Committees and Other Bodies	Membership	Appointments 2013/14
(a)	Plymouth Community Homes	Two vacancies arising from resignations of former Councillor Browne and Councillor Williams	Cllr Monahan Cllr Morris
(b)	Plymouth Energy Community Limited	One councillor vacancy	Cllr Penberthy

(Councillor Damarell declared a private interest in respect of item (a) above).

26. **ANNOUNCEMENTS**

The Deputy Lord Mayor –

- (a) welcomed Councillor Morris to this his first meeting of the City Council since his election as a representative of the Southway Ward;
- (b) congratulated the Democratic Support Services Team on their achievement in reaching the finals of the MJ Award for Excellence in Democratic Services.

Councillor Evans (Council Leader) reported that, although the outcome of the city of culture bid had been disappointing, he was intending to harness the enthusiasm generated and bring forward plans on individual initiatives.

Councillor Williams (Cabinet Member for Children and Young People) announced that -

- (a) the length of time to complete legal care proceedings in Plymouth had been reduced from 56 to 26 weeks and the council had moved to second place in performance tables for England and Wales;
- (b) the council had been successful in bidding for funds from the Department for Education for three primary schools: Widewell Primary; Woodford Primary and Holy Cross Primary Schools and for a new school in Derriford.

Councillor Penberthy (Cabinet Member for Cooperatives and Community Development) announced that with regard to pay day loan companies, the ICT department had taken action to ensure that there was no access to their websites in community sites. J C Decaux had agreed to ensure that bus stops did not carry their advertisements and he was working with Plymouth City Centre Company. Agreement had also been reached to convert a shop in Frankfort Gate for credit unions.

Councillor Coker (Cabinet Member for Transport) announced that the Heart of the South West LEP had put forward transport schemes following the government announcement of indicative funding of £40.6m. The LEP had now been advised that it would receive only £20.1m which was very disappointing.

27. **QUESTIONS BY THE PUBLIC**

Four questions had been received from members of the public in relation to matters which, in the opinion of the Lord Mayor, were relevant to the business of the meeting in accordance with paragraph 10 of the constitution.

Mr Williams (Q3) attended the meeting and in the absence of Councillor Lowry, Councillor Penberthy responded as set out below -

Question No	Question By	Cabinet Member	Subject
Q3/13-14	Mr Williams	Councillor Lowry (Cabinet Member for Finance)	Code of Conduct for Bailiffs
<p>Does the authority have an extant code of conduct for its bailiffs? If so, will this be published in a leaflet to the general public, as it did in the days of the Community Charge? If not, will it devise such a code of conduct?</p>			
<p>Response:</p> <p>As part of the bailiff contract process there is a specification document which details the code of conduct, or operational guidelines that we expect our provider to adhere to.</p> <p>This will not be published in a leaflet to the general public but it is intended to publish the details on the Council's website in due course.</p> <p>Some of the detail contained within the contract is:</p> <p>Bailiffs will</p> <ul style="list-style-type: none"> • carry full and proper photographic identification; • adopt a firm but polite attitude; • introduce himself or herself, establish the identity of persons present and explain the purpose of the visit and powers of the Bailiff; • Not make any attempt to levy or remove goods without first consulting with Plymouth City Council where it is evident that a person is mentally impaired, frail, disabled, confused, ill, or living off limited income; • not enter premises if it appears that the only persons present are young people under the age of 18; • seek guidance from the Council before continuing action where English is not understood; • only enter by lawful means; • provide the required copies of the relevant rating regulation as appropriate where distraint takes place; • Exercise due care to avoid any unnecessary damage to goods being removed. 			

In the absence of the questioner for Q4, a written response would be sent to Mr Sharpe as set out below -

Question No	Question By	Cabinet Member	Subject
Q4 13/14	Mr Sharpe	Councillor Smith (Deputy Leader)	Plymstock swimming pool
<p>Please can Plymstock Residents have an update regarding a public swimming pool in Plymstock, and can also a consultation day be arranged on the subject as we appear to be no nearer having one than twenty years ago?</p>			
<p>Response:</p> <p>There is no update on the situation with Plymstock Pool other than previously advised in previous answers concerning Sherford. As stated in earlier replies, consultation on Sherford has occurred on several occasions and therefore a consultation day is not necessary.</p> <p>The local planning policy document for this area clearly sets out the need for Sherford to provide a Sports Hub north of Elburton incorporating a swimming pool and, as advised previously, the policy document was the subject of extensive public consultations in 2006. Also, as advised previously, the Planning Committee's decision on the planning application in 2012 was made following consideration of public opinion and following extensive public consultations.</p> <p>The required S106 has been drafted and discussed between the lawyers of PCC, SHDC and DCC and, I understand that our lawyers can see no reason why it cannot be signed shortly. The planning permission can then be issued to facilitate the commencement of development during this financial year. The S106 would ensure (amongst other things) that there would be the phased delivery of the sports centre and that this would incorporate a 4 lane heated 25m swimming pool in phase 1 (years 1-3).</p>			

Mr Taylor Wickenden (Q5) attended the meeting and in the absence of Councillor Lowry, Councillor Penberthy responded as set out below -

Question No	Question By	Cabinet Member	Subject
Q5 13/14	Mr Taylor-Wickenden	Councillor Lowry (Cabinet member for finance)	£60 court charge
<p>Why would the Labour Council have the nerve to add a £60 charge upon already indebted households who are being brought to court because of the Bedroom tax and council tax rises and how would this affect Labour's child poverty targets?</p>			

Response:

Due to the Government's changes as part of the Welfare Reform, the Council has worked very closely with partners to engage with the people of Plymouth who are affected. We have worked with Social Landlords to find ways to support tenants that are affected by the 'bedroom tax' and have been proactive in working with individuals, and families, to help manage their finances; offering advice about unclaimed benefits and discounts and exemptions as well as offering the 12 monthly payment option and weekly instalments.

However, despite this support, we are still aware that inevitably more people will fall into debt and therefore are subjected to recovery action. As with anyone who defaults on a payment, our recovery action includes issuing reminders. As a last resort, if the payment remains outstanding we do issue a court summons and obtain a Liability Order. Even at this stage we work with our customers to help support with them offering alternatives ways to pay the debt, taking into account their individual circumstances.

The £60 summons cost represents the administrative costs incurred by the Council to get an account to that stage of recovery action.

Court Costs for Council Tax debts are reviewed each year and the decision was made to not increase costs during 2013/14, taking into account the financial impact of the Welfare Reform on council tax payers.

The austerity cuts at a national level are also impacting local government. We are being forced to take financial sums out of our spend while endeavouring to ensure that this doesn't affect our most vulnerable households.

While at a local level we are working hard to reduce our child poverty levels, it appears that current government policy is making this difficult for us to achieve.

Mr O Hara (Q6) attended the meeting and Councillor Vincent responded as set out below -

Question No	Question By	Cabinet Member	Subject
Q6 13/14	Mr O'Hara	Councillor Vincent (Cabinet member for Environment)	the city's nitrogen dioxide diffusion tube results for 2012

With operations at MVV's new incinerator impending and the associated HGV traffic increase, comprehensive recording of local 'background' AQ data is crucial. Data from the Weston Mill Drive location samplers, near the primary school, are particularly important. When will PCC publish the city's nitrogen dioxide diffusion tube results for 2012?

Response:

Monitoring data is presented in an annual progress report to DEFRA. Once the report has been accepted by DEFRA it is made available to the public and uploaded to the Councils website. It is anticipated that this information will be updated in the next few months.

However, a spread sheet containing the full set of monitoring results across the city will be sent to Mr O'Hara by email.

For immediate reference, the 2012 annual nitrogen dioxide results for the monitoring at 3 Weston Mill Drive is 31.43 micrograms per metre cubed.

The National Air Quality Objective for nitrogen dioxide is 40 micrograms per metre cubed.

28. **CORPORATE PLAN 2013/14 - 2016/17**

Councillor Evans (Council Leader) presented the Cabinet recommendation for approval and Councillor Peter Smith seconded the proposal (Cabinet minute 15 refers).

During the debate, the lack of information on how the plan would be funded was raised and councillors were advised that the funding arrangements would be set out in the Medium Term Financial Plan which would be presented in due course.

Concerns were also expressed about the lack of consultation on the change of arrangements for convening councillors for prayers prior to the council meeting. Councillor Stevens (Chair of the Constitutional Review Group), offered to meet with any councillors who had concerns, prior to the meeting of the Constitutional Review Group next week.

Agreed that the Council's Corporate Plan 2013/14 – 2016/17 is adopted as submitted.

29. **ANNUAL REPORT ON TREASURY MANAGEMENT ACTIVITIES FOR 2012/13**

Councillor Wheeler (Chair of the Audit Committee) presented the Annual Report on Treasury Management Activities 2012-13 for noting as required by the CIPFA Treasury Management Code of Practice (Audit Committee minute 15 referred).

Councillor Lowry seconded the proposal.

The Annual Report on Treasury Management Activities 2012-13 was noted.

30. **NEIGHBOURHOOD PLANNING: NEIGHBOURHOOD FORUMS AND AREAS**

The report of the Directors for Corporate Services and Place was submitted on Neighbourhood Planning: Neighbourhood Forums and Areas and Councillor Vincent (Cabinet Member for Environment) moved the recommendation in the written report for approval.

The recommendation was seconded by Councillor Penberthy (Cabinet Member for Cooperatives and Community Development) who indicated that the responsibility had been delegated to local authorities but had not been funded in full.

Agreed to grant delegated authority to the Assistant Director for Planning Services, in consultation with the Portfolio Holder for Cooperatives and Community Development, to publicise applications for Neighbourhood Forums and Areas, to consider representations and to determine the applications.

(Councillor Wheeler declared a private interest in respect of the above item).

31. **IMPLEMENTATION OF THE LIVING WAGE AT PLYMOUTH CITY COUNCIL**

The Assistant Director for Law, Democracy and Governance introduced the report of the Director for Corporate Services on the implementation of the living wage at Plymouth City Council.

Councillor Peter Smith (Deputy Leader) moved the recommendation in the written report, amended as follows –

‘to adopt the principles of the Living Wage and its implementation.’

Councillor Kate Taylor seconded the proposal.

Agreed to adopt the principles of the Living Wage and its implementation.

MOTIONS ON NOTICE

The following motions had been received from councillors in accordance with Part B, paragraph 14 of the Constitution.

32. **Fire Cover in Plymouth**

Councillor Evans moved and Councillor Fry seconded the following motion -

‘Council believes that the proposals by Devon and Somerset Fire and Rescue Authority to cut fire cover in the city are unacceptable. The suggestion by Councillor Healey that Plymouth taxpayers pay twice to maintain current levels of service must be resisted.’

During the debate the issues raised included -

- (a) the decision was made by the fire and rescue authority despite strong evidence and alternatives put forward by the council;
- (b) the plans did not take account of plans for growth or vulnerable citizens;
- (c) there would be longer response times to domestic and major incidents;
- (d) there had not been a meaningful consultation process;
- (e) the plan had been reviewed by the Overview and Scrutiny Management Board and concerns had been conveyed to the fire and rescue authority;
- (f) the response by Councillor Mark Healey (Chair of Devon and Somerset Fire and Rescue Authority) was not acceptable and it was noted that he had not attended any of the consultation events in the city;
- (g) the council was willing to work with the fire and rescue authority to achieve mutually acceptable arrangements;
- (h) the fire and rescue authority had made no attempt to remodel itself;
- (i) the fire and rescue authority would be considering a proposal on 4 September 2013 to establish an integrated planning group for the proposals relating to Plymouth.
- (j) the government had reintroduced a fund for authorities to bid for to reduce the planned cut from 10 per cent to 7.5 per cent.

Following a vote, the motion was agreed as submitted.

(Councillors Gordon and John Smith declared private interests in respect of the above item).

33. **UK Strategic Transport Corridor**

Councillor Evans moved and Councillor Peter Smith seconded the following motion-

‘Council believes Plymouth should be on the UK Strategic Transport Corridor and will campaign to this end.’

During the debate the issues raised included -

- (a) the city was not on the UK Strategic Transport Corridor even though the city had a university, naval base and was a strategic port with cross channel ferries;

- (b) if the city was part of the network, there would be greater opportunities to improve rail and road connectivity and a higher priority given in the allocation of the scarce local transport monies;
- (c) it was vital for growth, business confidence, jobs and tourism.

Following a vote, the motion was agreed as submitted.

34. **Camels Head Waste Water Treatment Works**

Councillor Evans moved and Councillor Coker seconded the following motion -

'The Council is extremely concerned about the recurrence of odour issues at the Camels Head Waste Water Treatment Works.

We welcome the repairs to the screening system that commenced last week and the planned for investment of £4M to replace the old tanks with modern ones in 2015 and urge SWW to ensure that this investment is made at the very start of their 2015 -20 investment programme.

Council officers will work with SWW to deliver these improvements but as a city council we will be prepared to use our legal powers to resolve any odour issues affecting the local community both now and until a permanent modern solution is provided.'

During the debate the issues raised included -

- (a) whilst the planned investment was welcomed, the delay in implementation remained a concern and South West Water was urged to bring the scheme forward;
- (b) shareholders should write and express their concerns;
- (c) residents in Turnchapel, experienced similar problems. Copies of any correspondence between Councillor Michael Leaves as a former Cabinet Member and South West Water were requested by the Council Leader;
- (d) the council should investigate what action could be taken against the smell as a statutory nuisance.

Following a vote, the motion was agreed as submitted.

35. **Opposition to the Process of Privatisation taking place within the Royal Mail**

Councillor Stevens moved and Councillor Jon Taylor seconded the following motion-

‘Plymouth City Council wishes to place on record its opposition to the process of privatisation taking place within the Royal Mail and the threat to the ‘six day, one price goes anywhere’ delivery. These proposals will lead to higher prices and a worse service for Plymouth residents.

Unjustified closures of Post Offices will have a detrimental impact on the local economy and result in the loss of true community facilities.

Council officers will convey these views to the Secretary of State for Business, Innovation and Skills seeking assurances that services in Plymouth will be protected and request Plymouth's Members of Parliament to oppose the sell-off of Royal Mail.’

During the debate, the issues raised included -

- (a) the removal of freepost for the armed forces;
- (b) the perceived benefits of exposing the service to competition;
- (c) that Royal Mail was a profitable service;
- (d) the removal of the control on prices.

Following a vote, the motion was agreed as submitted.

(Councillor Jordan and Sam Leaves withdrew from the meeting during consideration of this item).

(Councillor Mrs Aspinall declared a private interest in respect of the above item).

36. **Happy Birthday NHS**

Councillor Philippa Davey moved and Councillor Peter Smith seconded the following motion as they were proud of the NHS which provided free services for everyone and treatment according to clinical need.

‘This council wishes to offer its congratulations to the NHS on celebrating its 65th birthday.’

In accordance with the Rules of Debate (paragraph 4.2) in the Constitution, the council approved an extension of time for Councillor Davey to introduce the motion.

Councillor McDonald moved the following amendment –

‘This council wishes to offer its congratulations to the NHS on celebrating its 65th birthday and agrees a vote of no confidence in the Secretary of State for Health, Rt Hon Jeremy Hunt MP.’

The Assistant Director for Law, Democracy and Governance expressed concern that the amendment was not relevant to the original motion and the council agreed to adjourn the meeting to discuss the position.

Following the adjournment, Councillor McDonald withdrew her amendment and moved a further amendment to be added after the word ‘birthday’ as follows -

‘and as long as the Rt Hon Jeremy Hunt MP is Secretary of State for Health we are fearful it won’t celebrate any more.’

The amendment was seconded by Councillor Tuffin.

During the debate, the issues raised included –

- (a) that openness and transparency were essential but that a dedicated helpline for whistle blowers had been scrapped;
- (b) the recent announcements of failing trusts;
- (c) the need for change and modernisation in the NHS;
- (d) there was a need to guard against those wishing to dismantle the service;
- (e) the need to address health inequalities.

Following a vote, the amendment was agreed.

Following summing up by Councillor Philippa Davey, the substantive motion, as amended, was put to the vote and agreed.

(Councillor Sam Leaves withdrew from the meeting during consideration of the above item).
(Councillors Mrs Aspinall, Dr Mahony, McDonald and Jon Taylor declared personal interests in the above item).

37. **Supporting the Financial Transaction Tax**

Councillor Williams moved and Councillor Penberthy seconded the following motion -

‘Council notes that:

- Local government has seen massive real term cuts in central grant funding under the Coalition over the last few years. The June 2013 Comprehensive Spending Review places further extreme pressure on public sector budgets for the foreseeable future;
- Many of these cuts have had a direct detrimental impact on the city’s most vulnerable and needy residents. For example, the introduction of a local Council Tax Support Scheme, with less funding, providing less benefit to those people who are struggling to pay their daily living expenses;
- There are better, and fairer, ways of generating central government revenue that will ease the need to squeeze local government to the point of crippling front line services and vital support to our citizens;
- Extending the current Financial Transaction Tax, (FTT), on shares to other asset classes such as bonds and derivatives could raise £20bn of additional revenue in the UK a year;
- At least 11 European nations including France, Germany, Italy and Spain are moving ahead with FTTs on shares, bonds and derivatives estimated to raise £30bn a year.

Council believes that:

- Revenues from the FTT could help repair the damage caused by cuts in public services since 2010 and that;
- Local government deserves to receive a significant proportion of FTT revenues, making an important contribution to both capital and revenue expenditure such as reversing cuts to council tax benefits;

Council motion:

This council notes the suffering forced upon local residents as a result of this Coalition government's cuts programme and asserts that there is an alternative to its ideologically driven attack on public services – namely the levy of a financial transaction tax on the speculative activities that have accelerated the recent enrichment of the few to the detriment of the many. The council therefore calls upon Government to enact the FTT and use the revenues from this measure to reverse on-going shrinkage in central grants to our council and instructs the Chief Executive to write to the Prime Minister and Chancellor to this effect.'

During the debate, the issues raised included -

- (a) that an agreed international approach was required, so that there was not a negative impact on those countries proceeding individually;
- (b) that in France, the expectations on yield had not been met and pension funds would be seriously affected;
- (c) a scheme could be designed so that payment of the tax was difficult to avoid and automated systems would make it easy to collect.

Following a request from ten councillors for a recorded vote, there voted –

For the motion (30)

Councillors Mrs Aspinall, Bowie, Casey, Coker, Damarell, P. Davey, S Davey, Evans, Fox, Gordon, Jarvis, Lowry, McDonald, Morris, Mrs Nelder, Parker, Penberthy, Rennie, Singh, J. Smith, P. Smith, Stevens, J. Taylor, K. Taylor, Tuffin, Tuohy, Vincent, Wheeler, Williams and Wright.

Against the motion (19)

Councillors Ball, Mrs Beer, Bowyer, Mrs Bowyer, Darcy, Drean, Foster, Mrs Foster, Fry, James, Jordan, Michael Leaves, Sam Leaves, Dr Mahony, Monahan, Nicholson, Mrs Nicholson, Ricketts and Stark.

Abstentions (1)

Deputy Lord Mayor (Chair)

The following members were absent (7)

Councillors Mrs Dolan, Haydon, Martin Leaves, Murphy, Mrs Pengelly (Lord Mayor), Dr Salter and Wiggins.

The motion was agreed for the reasons stated, as follows –

‘The council therefore calls upon Government to enact the FTT and use the revenues from this measure to reverse on-going shrinkage in central grants to our council and instructs the Chief Executive to write to the Prime Minister and Chancellor to this effect.’

Following the decision, Councillor Evans (Council Leader) asked the Assistant Director for Law, Democracy and Governance to provide him with a written note on the implications of a councillor speaking on an item where they had a disclosable pecuniary interest.

38. **DESIGNATION OF THE SECTION 151 OFFICER**

The Assistant Director for Law, Democracy and Governance introduced the report of the Director for Corporate Services on the designation of the Section 151 Officer.

Councillor Lowry (Cabinet Member for Finance) proposed and Councillor Bowyer seconded the recommendations.

Agreed that Malcolm Coe, the Assistant Director for Finance, Efficiencies, Technology and Assets is designated as the council’s officer responsible for the administration of its financial affairs in accordance with Section 151 of the Local Government Act 1972, with effect from 13 August 2013.

39. **QUESTIONS BY COUNCILLORS**

In accordance with paragraph 12 of the constitution, the following questions were asked of the Leader, Cabinet Members and Committee Chairs covering aspects of their areas of responsibility -

	From	To	Subject
1	Councillor Ball	Councillor Coker	Parking at Devil’s Point was difficult as spaces were being used by workers at Royal William Yard and Cllr Coker was asked what action was being taken.
	Councillor Coker responded that officers were working with the Royal William Yard and he was hoping to sign off a proposal in the next month.		
2	Councillor Stark	Councillor Evans	He congratulated Cllr Evans on the success of the recent city of culture open day and proposed that the city should be an English City of Culture as an independent venture.
	Councillor Evans responded that he had not heard the term but that the city had a successful track record in new ventures.		

3	Councillor Bowyer	Councillor Lowry	<p>An assurance was sought that future tenders would reflect the living wage principle and Cllr Lowry was asked when the decision would be effective from.</p> <p>Councillor Lowry responded that in principle yes, tenders would reflect that the council would pay a living wage and they would work with partners. Officers were also looking at how it could be applied to commercial tenders. The decision would be effective from the date of the meeting for City Council employees and a paper would be submitted on procurement arrangements.</p>
4	Councillor Drean	Councillor Coker	<p>Was the council receiving revenues for lorries and other vehicles parking overnight at Bretonside Bus Station?</p> <p>Councillor Coker responded that some revenue was being received but that there were concerns about vehicles arriving after staff left and leaving early in the morning. Officers were looking at ways and costs of addressing the issue.</p>
5	Councillor Ball	Councillor Coker	<p>An assurance was sought that the council would not cut school crossing patrols.</p> <p>Councillor Coker responded that there had been no changes since 2009 and although it was not a statutory requirement, the council would continue to support them.</p>
6	Councillor Stark	Councillor Vincent	<p>How many public clocks were his department responsible for? In particular he referred to Derry's Clock where minute hands were missing.</p> <p>A written response would be provided on the number of clocks and Cllr Vincent responded that Derry's Clock was currently being refurbished.</p>
7	Councillor James	Councillor McDonald	<p>Were there any protocols in place between agencies to deal with people with mental health disorders?</p> <p>Councillor McDonald responded that changes had taken place and in terms of care, the Glenbourne Unit had made some beds available. At present there was not a great deal of information being shared between agencies but in future and as part of commissioning, the Joint Strategic Needs Assessment would expect information sharing, including protocols. Any further information would be sent to Councillor James.</p>
8	Councillor Stark	Councillor Williams	<p>The Fostering and Adoption Panels required two rooms for their meetings and an assurance was sought that these would be made available. Councillor Williams was also asked whether it was fair that 60 per cent of rooms in the Council House were devoted to the Labour Group?</p>

	Councillor Williams responded that she would raise the issue and ensure that two rooms were available for the panel meetings. The designation of accommodation generally was the responsibility of asset management.
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Please note that questions, answers, supplementary questions and supplementary answers have been summarised.

During consideration of the above item, a motion was moved, seconded and agreed to suspend Council Procedure Rule 10.1 and continue the meeting beyond 7.30pm.

DECLARING INTERESTS – QUESTIONS TO ASK YOURSELF

What matters are being discussed?

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Does the business relate to or is it likely to affect a disclosable pecuniary interest (DPI)? This will include the interests of a spouse or civil partner (and co-habitees):

- any employment, office, trade, profession or vocation that they carry on for profit or gain
- any sponsorship that they receive including contributions to their expenses as a councillor or the councillor’s election expenses from a Trade Union
- any land licence or tenancy they have in Plymouth
- any current contracts leases or tenancies between the Council and them
- any current contracts leases or tenancies between the Council and any organisation with land in Plymouth in they are a partner, a paid Director, or have a relevant interest in its shares and securities
- any organisation which has land or a place of business in Plymouth and in which they have a relevant interest in its shares or its securities

No

Yes

Declare interest and leave (or obtain a dispensation)

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Does the business affect the well-being or financial position of (or relate to the approval, consent, licence or permission) for:

- a member of your family or
- any person with whom you have a close association; or
- any organisation of which you are a member or are involved in its management (whether or not appointed to that body by the council). This would include membership of a secret society and other similar organisations.

Yes No You can speak and vote

Will it confer an advantage or disadvantage on your family, close associate or an organisation where you have a private interest more than it affects other people living or working in the ward?

Yes No Declare the interest and speak and vote

Speak to Monitoring Officer in advance of the meeting to avoid risk of allegations of corruption or bias

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Cabinet members must declare and give brief details about any conflict of interest* relating to the matter to be decided and leave the room when the matter is being considered. Cabinet members may apply to the Monitoring Officer for a dispensation in respect of any conflict of interest.

*A conflict of interest is a situation in which a councillor’s responsibility to act and take decisions impartially, fairly and on merit without bias may conflict with his/her personal interest in the situation or where s/he may profit personally from the decisions that s/he is about to take.

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CITY COUNCIL

16 September 2013

**APPOINTMENTS TO COMMITTEES, OUTSIDE BODIES ETC**

Report of the Interim Director for Corporate Services.

The City Council is asked to consider the following appointments –

	Committees and Other Bodies	Membership	Appointments 2013/14
(a)	Devon and Somerset Fire and Rescue Authority	One vacancy arising from resignation of Councillor Martin Leaves. Current representatives are Councillors Gordon and John Smith.	Councillor Stark
	The council's representation is proportional with two representatives nominated by the Labour Group and one from the Conservative Group. The term of office is continuing until such time as the councillor resigns or is replaced by the authority.		
(b)	Standing Advisory Committee for Religious Education *	One vacancy arising from resignation of Councillor Ricketts. Current representatives are Councillors Mrs Aspinall, Drean, Gordon, Singh and Stark.	
	The council's representation is proportional with three representatives nominated by the Labour Group and three from the Conservative Group. The term of office is continuing until such time as the councillor resigns or is replaced by the authority.		

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CITY COUNCIL

16 September 2013



CABINET MINUTE 24 OF 6 AUGUST 2013

Finance - Capital and Revenue Monitoring Report: Recommendation to the City Council

Further to minute 23 above,

the City Council is Recommended to agree the new schemes to be added to the capital programme totalling £3.3m as follows –

- | | |
|--|-------|
| ● Marjons Link Road | £1.5m |
| ● Vehicle and Plant Replacement Phase IV | £1.8m |

Note:

The full report in connection with this minute is available on the website

www.plymouth.gov.uk/democracy

or by contacting Democratic Support on 01752 304867

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CITY COUNCIL

16 September 2013



CABINET MINUTE 25 OF 6 AUGUST 2013

URBAN ENTERPRISE: NEW ENTERPRISE UNITS AT OCEAN STUDIOS

Anthony Payne (Director for Place) submitted a written report on the Ocean Studios development at the Royal William Yard, which was a £4.06 million building project which could unlock £3.27 million public funding to create 1,900 square metres of affordable artists' studios.

The report indicated how the delivery of the project would be facilitated by a capital contribution of £794,000 from the City Council's Investment Fund and how the potential financial impact of the council acting as guarantor to a loan of similar value would be mitigated.

Councillor Evans (Council Leader) introduced the proposals and advised Cabinet Members that the council would be liable for any outstanding payments at the end of the 10 year loan period.

Patrick Bowes (Urban Enterprise Project Manager) also reported on the proposals.

Alternative options considered and reasons for the decision –

As set out in the report.

Agreed that subject to a favourable outcome to both the European Regional Development Fund and the Growing Places Fund applications and the approval of the City Council, the council agrees –

- (1) to act as guarantor for Ocean Studios Community Interest Company (CIC) for repayment of the balance of the Trust's loan from the LEP outstanding to a maximum of £794,000 in accordance with an agreed Heads of Terms between Plymouth City Council and the Ocean Studios CIC which mitigates the potential financial impact upon the council. Authority to agree the Heads of Terms to be delegated to the Director for Place;
- (2) to make a capital contribution of £794,000 from the Investment Fund.

Note:

The full report in connection with this minute is available on the website

www.plymouth.gov.uk/democracy

or by contacting Democratic Support on 01752 304867

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PLYMOUTH CITY COUNCIL

Subject: Urban Enterprise: New Enterprise Units at Ocean Studios.
Committee: Cabinet
Date: 6 August 2013
Cabinet Member: Councillor Evans
CMT Member: Anthony Payne (Director for Place)
Author: Patrick Bowes, Urban Enterprise Project Manager
Contact: Tel: 01752 304882
e-mail : Patrick.bowes@plymouth.gov.uk
Ref: Your ref. PB /UE
Key Decision: Yes
Part: I

Purpose of the report:

Ocean Studios development is a £4.06 million building project which could unlock £3.27 million public funding to create 1,900 sq metres of affordable artists' studios in a deprived area that has the strong will to provide 104 new jobs, safeguarding 40, and forms one of the 'Plans for Jobs' projects. This report explains how the delivery of the project is facilitated by a capital contribution of £794,000 from the City Council's Investment Fund. In addition, the Council will act as guarantor to a loan of similar value, and this report explains how the potential financial impact of this enabling role will be mitigated.

Ocean Studios is a Community Interest Company (CIC) in the creative sector, one of the priority sectors identified for growth. Plymouth artists have been appealing for studio space for a long time and Ocean Studios is the product of many years cooperation between several networks of local creative producers. The vacant, derelict Cooperage building at Royal William Yard – a Grade I listed building – provides the project with a fitting home.

Ocean Studios will provide a unique mix of studio space, fully equipped workshops and business support to help stem the loss of over 600 student graduates in arts related degrees from the City's University and College of Art who seek workspace and infrastructure but end up moving away from Plymouth because no such facilities currently exist. Ocean Studios based at Royal William Yard currently have a waiting list of 151 artists which is indicative of the actual demand.

Additionally, Ocean Studios will run an extensive education and outreach programme focussing on the residents of Stonehouse as well as the many recovery houses and homeless centres nearby so that participants can take the vital stepping stone from worklessness, crime and addiction to recovery, self-esteem and eventual employment.

The primary funder is the European Regional Development Fund (ERDF) which seeks to address economic disparity issues in some of the most deprived parts of the South West Competitiveness area through supporting regeneration and creating and safeguarding jobs. This project forms part of the wider, extended Urban Enterprise Programme in Plymouth which is a job creation programme made up of revenue and capital elements which targets mainly unemployed people and equips them with the advice, skills and knowledge to set up their own business.

In addition to the £1.978 million sought from ERDF, Ocean Studios will be seeking a loan of £0.794 million from the Growing Places Fund (GPF) administered by the Local Enterprise Partnership matched by the Investment Fund to enable delivery of the project and the Council proposes to act as guarantor for any balance of the loan outstanding at the end of the 10 year repayment period. The remainder of the funding package will be made up by £0.445 million from English Heritage and £0.052 million from others.

The Local Enterprise Partnership (LEP) has indicated that the Council acting as guarantor will be a condition of their funding offer. Therefore without this support the project, with a total value of £4.06m is very unlikely to proceed. The report sets out the mitigation measures proposed to limit the financial liability on the Council.

The rationale for this capital project is to respond to the lack of managed workspace provision in the deprived wards and provide an enterprise culture centred around enterprise hubs which create new work opportunities for local people and for them to grow their new start businesses and is embraced by the recently approved 'Plan for Jobs' as one of the nineteen projects.

The Brilliant Co-operative Council Corporate Plan 2013/2014 – 2016/17:

The commitments included within this project fully supports the Co-operative Council's approach to ensuring that customers are engaged and that local needs are met. The project is integrated with the Plan for Jobs which recognises that addressing the significant issues of unemployment and worklessness cannot be tackled by the Council alone, and requires a multi-partnership approach to have the greatest impact on the lives of Plymouth residents.

The Urban Enterprise programme helps deliver the Corporate Plan's four key outcomes:-

- Pioneering Plymouth – through the cultural offer providing value to the city
- Growing Plymouth – through creating a strong economy creating a range of job opportunities
- Caring Plymouth – through helping people take control of their lives and communities
- Confident Plymouth – Citizens wanting to live and work in Plymouth through introducing new enterprise hubs in the heart of deprived communities

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

The cost of the capital project is estimated at £4,063 and will be met from the following sources of funding

£1.978m	-	ERDF
£0.794m	-	Growing Places Loan (re-payable by Ocean Studios)
£0.794m	-	Plymouth City Council Grant (met from the Investment Fund)
£0.445m	-	English Heritage Grant
£0.052m	-	Other Sources

It should be noted that project delivery and funding arrangements are directly between Ocean Studios CIC and the funders (with the exception of the Council's Grant). The Council will be acting as accountable body in respect of the Investment Fund contribution but is not associated with the procurement or project delivery.

The decision will require the Council to act as Guarantor to a Growing Places Fund (GPF) loan up to a maximum of £0.794 million and secured by a charge against Ocean Studios lease should the project

fold. This guarantee will only come into effect at the end of the 10 year loan period should Ocean Studios CIC not be able repay the loan at that time. The Council will have no liability should the project fold within this initial 10 year period. Should it be necessary for the Council to step in as guarantor at the end of this period, this will involve the Council paying off the Growing Places Loan and entering into a loan itself with Ocean Studios as explained in 4.6.

The development appraisal submitted with Ocean Studios business case makes clear that the capital repayment of the GPF loan in years 1 – 10 is likely to be significant. However, it is anticipated the loan will be repaid directly by them through a combination of retained surpluses and a commercial loan arrangement at the end of the 10 year period if necessary.

In order to mitigate the financial liability upon the Council, further refinement of the Heads of Terms seeks to achieve the aim that the Council will be funder of last resort. In the event that the Council is required to step in as guarantor, Ocean Studios CIC have been agreed to provide security in the form of a legal charge against the 35 year lease of the building of which 25 years will be left at year 10. Ocean Studios lease the building from Urban Splash.

The directors of Ocean Studios have carried out extensive research to ensure the project is viable and robust. This has included research into the demand from artists and the local Stonehouse community. Liaising with the higher and further education institutions has also formed part of this demand analysis. In addition to this the directors have investigated other successful studio models nationally to ensure the delivery of Ocean Studios achieves the high level of success anticipated. Whilst the the business case appears robust, it is important that the Council recognises there is an element of risk associated with an investment on this nature.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

In order that the proposal progresses satisfactorily through the ERDF application process, a number of key requirements need to be met which demonstrate that the economic disparities of Plymouth are being addressed and the core outputs of job creation and managed workspace area are being met. This needs to be set in the context of providing new opportunities for the local community, in particular those isolated from the labour market and demonstrate sustainability and long term value for money.

Ocean Studios wish to explore the opportunities to use the rates rebate and the new business rates retention scheme to help reduce their costs and therefore increase repayments on the GPF loan. The Council will need to consider this as against rates legislation at a later date, as a formal decision cannot be made on this matter until after occupation of the building.

Equality and Diversity

Has an Equality Impact Assessment been undertaken? No

As part of the ERDF requirements the proposal submitted by the Millfields Trust needs to demonstrate a positive contribution towards equality or opportunity. The Trust has its own Equality Policy and has proposed Equality Indicators as part of their application for ERDF funding.

Recommendations and Reasons for recommended action:

It is recommended that

1. Subject to a favourable outcome to both the ERDF and GPF applications, the Council agrees to act as guarantor for Ocean Studios CIC for repayment of the balance of the Trust’s loan from the LEP outstanding to a maximum of £794,000 in accordance with an agreed Heads of Terms between Plymouth City Council and the Ocean Studios CIC which mitigates the potential financial impact upon the Council. Authority to agree the Heads of Terms to be delegated to the Director of Place.

2. Subject to a favourable outcome to both the ERDF and GPF applications, the Council agrees to make a capital contribution of £794,000 from the Investment Fund.

Reason – (1) The Heads of Terms will be further refined to mitigate the financial liability upon the Council and take account of comments made by officers.

(2) The money invested through the investment fund meets the key criteria of significant leverage, creating jobs, and a rental income from the vacation of a Council owned premises

Alternative options considered and rejected:

The Regional Growth Fund (RGF) has been comprehensively researched as potential match but an application made under RGF 2 in June 2011 was unsuccessful.

An initial application to the LEP for a Growing Places Fund loan of £1.65 million was rejected on the grounds that the return of investment was insufficient.

A subsequent offer from the LEP was to meet the shortfall of £1.588 million 50/50 with PCC’s Investment Fund on condition that PCC act as guarantor at the 10 year stage (now subject of this report) or offer the whole amount with a pay back guarantee after 5 years. The latter was rejected in favour of the former.

Published work / information:

Cabinet – 12 February 2013 – Building for Jobs – Plymouth Investment Fund
<http://www.plymouth.gov.uk/mgInternet/documents/s44381/Building%20for%20jobs%20-%20Plymouth%20Investment%20Fund.pdf>

Background papers:

None

Sign off:

Fin	AF/Pla ceF EDC 1314 004.2 3.07.1 3	Leg	SC/I 6157	Mon Off	DV S 24/ 07/ 13	HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? Yes													

1.0 Background

- 1.1 The primary goal is to create jobs through halting the artistic exodus from Plymouth providing affordable artistic workspace that forms a creative hub, capable of attracting talent locally as well as from across the region. However, for some people, employment may be an unrealistic or a very distant aspiration and for those on recovery programmes, premature return to employment could set back the recovery. Therefore, in addition to job creation, Ocean Studios will through outreach programming aim to bring at least 10 people into economic activity who previously have been suffering from either substance or alcohol abuse. This in turn will generate an annual benefit in excess of £250,000 per annum.
- 1.2 This Urban Enterprise hub scheme has been conceived to create jobs for local people from a deprived ward and bring social, cultural and economic benefits. As well as the provision of specialist provision for artists in the form of a unique managed workspace, the integration of education and outreach programmes also ensures accessibility to all, offering local people, some with specific barriers, the opportunity to acquire skills in a range of art disciplines as a catalyst for them to seek work opportunities elsewhere.
- 1.3 The total cost of the project is £4.06 million with £1.978 million being applied for from ERDF, £0.794 million being applied for from Growing Places Fund, £0.794 million from the Investment Fund, £0.445 million from English Heritage, and £0.052 million from others.
- 1.4 The Urban Enterprise extension – Strategic Investment framework (SIF) Phase 2 discussion paper to Cabinet Planning on 26th November explained the difficulties that a project such as Ocean Studios CIC would have in paying back the entirety of its Growing Places Fund (GPF) loan within the 10 year stipulated term for repayment owing to its status as a social enterprise. The outcome was a letter sent expressing the Council's potential intent to act as a guarantor of the capital loan repayment beyond the 10 year Growing Places Fund loan, subject to Cabinet decision on this report and the Council being able to agree suitable contractual arrangements with the LEP for the guarantee.
- 1.5 The Building for Jobs – Plymouth Investment Fund Report to 12th February Cabinet makes clear the types of project that might benefit from the fund citing Ocean Studios as an example of a quality business premises that would fill a current gap in the market at the same time as leverage funding from ERDF and GPF and forms the basis of an application for gap funding. This forms the rationale for recommending a capital contribution of £0.794 million from the Investment Fund, explained in 2.4 below.
- 1.6 The Ocean Studios CIC project also features in 'Plans for Jobs' 'Project 5' which aims to create a series of managed business hubs to support the growth of start-ups, capitalising upon the success of the Urban Enterprise programme, through the development of a series of projects specifically targeting disadvantaged groups in the City.

2.0 Capital Programme Business Case

- 2.1 The project status details and programme milestones are consistent with the ERDF and GPF timescales. With regard to costs / budget and risks, a detailed assessment of cost and an agreed schedule of consultant costs and due diligence surveys has been produced and submitted as part of the various ERDF and GPF funding applications.

- 2.2 A full application was submitted to ERDF on 28th February and will be reported to the 16th September ERDF Competitiveness Operational Group meeting.
- 2.3 A GPF loan offer is expected to be made after the 23rd July LEP Board meeting after due diligence.
- 2.4 A full Capital Programme Business Case (CPBC) was submitted to the Capital Delivery Board on 19th July following meetings held between the Council and Ocean Studios. This provided information about the project details, and its request for a capital contribution from the Investment Fund on the basis that the project delivers:-
- Leverage of £3.27 million from other public sector funding
 - Creates 104 jobs, safeguards a further 40 jobs and will involve approximately 40 construction jobs
 - A rental income from a premises which artists will vacate and move into Ocean Studios

The CPBC also provided an update of material submitted in the ERDF and GPF applications, to inform the required contractual arrangements with the Council as guarantor and what the financial risks to the Council would be at the end of year 10, and how they are mitigated through the Heads of Terms described below.

- 2.5 The business case indicates an annual operational surplus will be achieved. It should be noted that the current plan is based on 100% occupancy (assumption evidenced by actual demand) after first and second years at 85% and 95% occupancy. The return on investment highlights a limited level of financial risk to the Council at year 10. Performance against the business plan will be regularly monitored, and it has been agreed Ocean Studios CIC would formally assess whether the outstanding loan could be repaid from commercial borrowing from year 5 of the GPF loan term
- 2.6 Legal Services, Finance and Capital Strategy teams have been involved through the project development stages.
- 3.0 **Mitigation of PCC role acting as guarantor**
- 3.1 The Council has already shared draft Heads of Terms with Ocean Studios who believe they are reasonable and realistic. The Heads of Terms will be further refined in response to any terms of offer made by the Local Enterprise Partnership should a loan offer materialise. Plymouth City Council will prepare a legal charge, a deed of guarantee with the LEP (which together with the Heads of Terms document will be drafted to ensure the Council is the funder of last resort), and the loan arrangements after year 10 with Ocean Studios CIC.
- 4.0 **Heads of Terms**
- 4.1 The overarching requirement from the Council's perspective is that Ocean Studios must explore every opportunity to minimise the Council's liability in its proposed role to act as guarantor.
- 4.2 At the expiration of 5 years after the date of the LEP loan agreement, Ocean Studios CIC will instigate an assessment of whether the GPF loan then outstanding could be repaid from commercial borrowing over a term of up to a further 20 years.

- 4.3 If commercial borrowing can then be arranged, Ocean Studios CIC will enter into the relevant funding obligations, and once in receipt of the commercial loan monies, will repay all GPF funding then outstanding.
- 4.4 If the assessment of commercial borrowing does not identify any suitable lender, Ocean Studios CIC will repeat the process outlined in 4.2 at the end of years 6, 7, 8 and 9.
- 4.5 If these further assessments prove ineffective, the Council will undertake to provide funding (not exceeding £0.794 million) to enable the GPF funding outstanding to be repaid at the expiration of 10 years from the original loan agreement.
- 4.6 The outcome of 4.5 would be the Council repay such outstanding borrowing to the LEP and Ocean Studios CIC will enter into a new loan agreement with the Council on the prevailing Public Works Loan Board Maturity Rate (PWLB), and on the same basis as in the Heads of terms, except that the loan period shall be an additional 15 years.
- 4.7 Ocean Studios CIC will also enter into a Legal charge for the benefit of the Council over the site and premises from completion of the guarantee agreement with the LEP. This charge may rank behind any charge imposed by any other external funder of the development works, such as the LEP.

5.0 Next steps

- 5.1 After a positive discussion at the 23rd July 2013 LEP Board meeting, a final unconditional offer letter is required from the LEP by 30th August to allow sufficient time for the appraisal work to be completed in connection with the ERDF grant application referred to in 5.2 below.
- 5.2 Following the 22nd July ERDF Competitiveness Operational Group meeting, a number of pre-appraisal issues need to be addressed in readiness for recommending a decision at 16th September ERDF Competitiveness Operational Group meeting which includes confirmation of match funding.
- 5.3 Contractual arrangements between the Council and Ocean Studios and the LEP to be finalised after successful outcomes to the ERDF and GPF applications.

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CITY COUNCIL

16 September 2013



CABINET MINUTES 38, 38A AND 45 OF 3 SEPTEMBER 2013

REDEVELOPMENT OF THE CIVIC CENTRE AND FUTURE ACCOMMODATION REQUIREMENTS

Minute 38

Anthony Payne (Director for Place) and David Trussler (Interim Director for Corporate Services) submitted a report seeking authority to award the contract for the redevelopment of the Civic Centre and adjoining car park to the preferred bidder, to agree where services and staff will be relocated following an options appraisal, to agree the financial resources and to ask the City Council to agree capital resources.

Councillor Lowry (Cabinet Member for Finance) introduced the proposals and computer generated images of the proposals relating to the Civic Centre were shown to Cabinet. It was emphasised that the proposals were subject to further work and planning considerations and Councillor Lowry hoped that the public would be provided with an opportunity to express their views.

Cabinet Members welcomed –

- (a) the new jobs that would be created;
- (b) the improvements to the Civic Centre building;
- (c) the proposed new Arts Centre;
- (d) the improved working and IT facilities for staff; and
- (e) the improved environment for the city which would create a causeway from the City Centre to the Hoe.

Cabinet Members' attention was also drawn to the separate private report, referred to in minute 45 below, which included commercially sensitive information.

Alternative options considered and reasons for the decision –

As set out in the report.

Minute 53 of the Co-operative Scrutiny Board of 21 August 2013 was also submitted endorsing the recommendations in the written reports and seeking an update in three months' time with further information to be provided as set out in the minute.

The Chair expressed his gratitude to Les Allen (Transformation Programmes Manager) and Alwyn Thomas (Civic Centre Project Director) (who were in attendance at the meeting) for their work on this project.

Agreed –

- (1) to award the contract for the re-development of the Civic Centre to Resurgam (West End) Limited, being the party selected as preferred bidder following the public procurement exercise;
- (2) the preferred locations for services to be redeployed to and the assets for redevelopment / lease, to support services decanting from the Civic Centre identified in the private report referred to in minute 45 below;
- (3) the revenue budgets to achieve decant of the Civic Centre as identified within the private report referred to in minute 45 below;
- (4) to delegate authority to the Cabinet Member for Finance to award contracts and approve leases within the agreed budget to redevelop the facilities identified within the private report referred to in minute 45 below.

Minute 38a

Further to minute 38 above, the City Council is Recommended to agree appropriate capital budgets to achieve decant of the Civic Centre, as identified within the private report referred to in minute 45 below.

Minute 45 (Exempt Business E3)

Further to minutes 38 and 38a above, Anthony Payne (Director for Place) and David Trussler (Interim Director for Corporate Services) submitted a private report relating to the contract for the redevelopment of the Civic Centre and adjoining car park and future accommodation requirements for the City Council, which contained commercially sensitive information.

Note:

The full report in connection with this minute is available on the website

www.plymouth.gov.uk/democracy

or by contacting Democratic Support on 01752 304867

PLYMOUTH CITY COUNCIL

Subject: Redevelopment of the Civic Centre and Future
Accommodation Requirements

Committee: Cabinet

Date: 3 September 2013

Cabinet Member: Councillor Mark Lowry

CMT Members: Anthony Payne (Director for Place)
David Trussler (Interim Director for Corporate
Services)

Authors: Les Allen, Accommodation Transformation Programme
Manager
Alwyn Thomas, Civic Centre Project Director

Contact details: Tel: 01752 304127
Email: les.allen@plymouth.gov.uk

Tel: 01752 304307
Email: alwyn.thomas@plymouth.gov.uk

Ref:

Key Decision: Yes

Part: I

Purpose of the report:

- (1) To award the contract for the redevelopment of the Civic Centre and adjoining car park to the preferred bidder;
- (2) To agree where services and staff would be relocated, the financial resources and to ask the City Council to agree capital resources.

The Brilliant Co-operative Council Corporate Plan 2013/14 -2016/17:

The sale of the Civic Centre will contribute to the Pioneering Council by allowing greater flexibility and efficiency in delivering services; the Growing Council by facilitating the Arts Centre and creating a substantial number of jobs and training opportunities and the Confident Council by regenerating this site in a way in which all residents of Plymouth can be proud, with an internationally branded, top quality hotel.

The future locations of staff and services decanting from the Civic Centre will support the Pioneering and Caring priorities of the council by providing the essential customer services in the centre of the city. This moves the more process driven elements to other areas across the city reducing the cost of operating and limiting expenditure to essential sites thus freeing up finances for front line services and removing inequalities in access across public buildings.

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land:**

The resolution of the Civic Centre site links to the Accommodation Transformation Strategy and forms part of the council's Medium Term Financial Plan. The annual revenue cost to the Council of the recommended solution can be contained within existing revenue budgets held for the Civic Centre. Full financial information is contained in the Part II report.

There will be a requirement for Capital investment in assets to achieve the occupancy levels required and further investment in ICT infrastructure to support decant and flexible operations in the future.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

Resolution of the Civic Centre site removes one of the biggest financial risks to the council. This has featured on the strategic risk register since the listing of the buildings in 2007. Doing nothing and maintaining the building in its current status represents a serious health and safety risk as significant investment is required to ensure structural stability and builds up increased liability for the future.

A number of opportunities have been created by seeking alternate ways of working resulting in opportunities for closer working with partners to improve community safety and deliver services more aligned to the needs of the city. The provision of more flexible ways of working across the city will improve service delivery and access to services across the city in the long term.

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? Yes

Recommendations and Reasons for recommended action:

- I. To award the contract for the re-development of the Civic Centre to the party selected as Preferred Bidder following the public procurement exercise.

- Reasons:
- i) To implement the conclusion of the public procurement process.
 - ii) Sale of the site for redevelopment will:
 - a) Deliver economic, physical and social regeneration
 - b) Maintain the Council House for formal meetings and ceremonies

- c) Reduce the accommodation operating costs over a period of 25 years
- d) Remove the liability to maintain a grade II listed building

- 2. To agree the preferred locations for services to be redeployed to and the assets for redevelopment / lease, to support services decanting from the Civic Centre.

Reason: To progress lease negotiations and contract specification, procurement and award to meet the timelines required to support the sale of the Civic Centre programme.

- 3. To agree the revenue budgets and seek appropriate capital budgets required from Council to achieve decant of the Civic Centre as identified within the attached Part II report.

Reason: To progress all work streams required to decant from the Civic Centre.

- 4. To delegate authority to Cabinet Member for Finance to award contracts and approve leases within the agreed budget to redevelop the facilities identified in the attached Part II report.

Reason: There will be a number of contracts and leases to be approved which will be in excess of currently approved delegations of authority and will need to be approved quickly to support commercial decisions.

Alternative options considered and rejected:

To award the contract to another contractor would not be lawful as it would contravene the procurement process undertaken.

Doing nothing and maintaining the building in its current status represents a serious health and safety risk as significant investment would be required by the council to ensure structural stability and builds up increased liability for the future.

The delivery of a preferred bidder for the Civic Centre has provided the driver to identify alternate accommodation across the city. As such a large number of options have been identified and reduced to a small number of alternate options taking into account the operating cost envelop which needs to be maintained, the opportunities available on the market at this time and the requirements of the Council's services at the point of change.

The alternate options are still subject to lease negotiations and procurement competition to obtain the best value for money available but include utilising opportunities such as partnership working with some services moving to partner locations.

Published work / information:

Civic Centre & Accommodation Strategy Update 20 January 2009

<http://www.plymouth.gov.uk/mgInternet/documents/s17553/Civic%20Centre%20Accomm%20Strat%20update.pdf>

Accommodation Strategy June 2009

<http://www.plymouth.gov.uk/mgInternet/documents/s18978/Accommodation%20strategy.pdf>

Accommodation Strategy Report 10 August 2010

<http://www.plymouth.gov.uk/mgInternet/documents/s25099/Accommodation%20Strategy%20Business%20Case.pdf>

Accommodation Strategy – Civic Centre Options 28 November 2006

<http://www.plymouth.gov.uk/mgInternet/documents/s10375/Accommodation%20Strategy%20-%20Civic%20Centre%20Options.pdf>

Background papers:

Title	Part I	Part II	Exemption Paragraph Number							
			1	2	3	4	5	6	7	
Future of Civic Centre 23 August 2011		x			x					
Accommodation Strategy – Civic Centre 25 September 2007		x			x					
Equality Impact Assessment for Customers	x									
Equality Impact Assessment for Staff	x									

Sign off:

Fin	TPOCI31 4002SRA0 7-08-2013	Leg	18164 /ALT	Mon Off	TH22/ 08	HR		Assets	.	IT		Strat Proc	JK/S PU/C P/32 9/08 13
Originating SMT Member: n/a													
Has the Cabinet Member(s) agreed the content of the report? Yes													

ACCOMMODATION TRANSFORMATION PROGRAMME / CONTRACT AWARD FOR THE REDEVELOPMENT OF THE CIVIC CENTRE

I. Background:

Since July 2004 work has been undertaken on options to secure a strategy for dealing with the City Council's administrative estate. Windsor House was secured as a long term strategic site, leaving the key remaining issue as the Civic Centre.

In June 2007 DCMS wrote to the Council confirming that the Civic Centre campus had been approved for listing as a Grade II listed building.

In January 2009 Cabinet approved the preparation of a joint report by the Council and English Heritage of a detailed brief summarising the repair and refurbishment specification to be adopted by the Council and/or a purchaser (investor/developer) in the event that the building was either reoccupied or disposed of by the Council. In addition approval was given for the Civic Centre campus to be formally marketed upon receipt of the refurbishment brief and to approve the Council as the lead procurer of the new Civic Offices.

Alongside of this Cabinet approved the principles of the Accommodation Strategy and its on-going development and for the progression of negotiations with our Local Strategic Partners (including Devon & Cornwall Constabulary and the Primary Care trust) about the opportunity of developing a co - location centre.

The key principles of the strategy were:

- The Council should agree to aim for stage 4 of the 'Without walls' evolutionary model, and a target for an overall 80% desk to employee ratio.
- All meeting rooms to be bookable centrally
- All furniture to be corporately owned, with existing furniture budgets centralised under Property & Economic Development
- A fundamental re-evaluation, in partnership with key suppliers of office furniture design and specification to take place
- Implement standard signs and corporate identity across all corporate buildings

The principles of the accommodation strategy, including co-location with health partners, have been installed in all the main corporate buildings via the first phase of the accommodation strategy delivery with the exception of the Civic Centre which was excluded due to the uncertainty around its future occupation by the Council.

In 2011 Cabinet agreed that the Council would continue to explore the opportunity for freehold disposal as part of the Competitive Dialogue process. Subject to this not being possible it approved a proposal for the redevelopment of the Civic Centre to be put out for European procurement via the Official Journal of the European Union (OJEU) with a view to the Council taking a lease-back of reduced space in a refurbished Civic Centre.

The report explained the position in terms of the Civic Centre which can be summarised as:

- A city centre site of 0.936 ha (2.31 acres) including a surface car park of approximately 0.29 ha (0.72 acres).
- The civic centre and council house was completed in the early 1960's opening in 1963 and was grade II listed in 2007.
- The building has a significant maintenance backlog.
- A feasibility study jointly commissioned with English Heritage was completed in April 2010 and concluded that the building could be sufficiently repaired to give it 50 years of life but at a significant cost.
- It also concluded that there were alternative uses for the building as either office, a hotel or residential use. These options are supported in planning terms.
- It houses 1008 staff on 13 floors in the tower.
- Accommodation for elected members, Council meetings & Civic Reception facilities are provided in the Council House.

2. The Issues:

There are a host of issues in relation to the Civic Centre building which means that the Council does not see its long term future linked to the building.

- The building provides sub-standard accommodation which has suffered from a lack of comprehensive capital investment. In particular:
 - Poor thermal insulation with singled glazed metal framed windows.
 - Only 3 lifts currently work and they are at the end of their useful life and beyond economic repair and need to be replaced.
 - The cladding on the outside of the building is failing which has led to the temporary works to protect those outside from falling masonry. Twice yearly scaling is carried out to remove loose elements and it is estimated that the panels will need to be completely replaced by no later than five years time.
 - The grade II listing placing restrictions on capital works that can be carried out and consequently increasing the cost of those works.
 - The building in its present state represents a serious health and safety risk as significant investment is required to ensure structural stability.
- The need for the present sized accommodation is diminishing and will diminish further in the future as new ways of working including home working are rolled out and the Council pursues an alternative service delivery model.
- The Council House will still have value to the Council for public meetings and ceremonies.
- The Council has limited capital to fund the repairs backlog and refurbishment of the building and such investment is not a priority for the Council.
- The Council has advice from Counsel that there are no grounds to mount a challenge to the listing. Current legal advice is that the position has not changed.

The present situation of our use and occupation of the building in its present state cannot, therefore, continue beyond the next 5 years in the absence of significant capital investment.

3. Objectives:

The August 2011 report and subsequent considerations have identified a number of objectives to be achieved.

- Deliver economic, physical and social regeneration.
- Provide a reduced level of office accommodation to reflect current and future working practices (flexible working, home-working etc.).
- Provide a city centre based 'first stop' for customers.
- Maintain (if practicable) the Council House for formal meetings and ceremonies.
- Reduce the accommodation operating costs.
- Remove the liability to maintain a grade II listed building.
- Improve the environmental credentials of the Civic Centre building.

4. Options

The August 2011 report set out five different options to achieve all or some of these objectives. It was not believed at the time, following a soft market test exercise, that the option of a freehold sale was achievable. These options were:

- a. Re-development of the site requiring consent for demolition.
- b. Carry out a full refurbishment of the buildings by the Council.
- c. A sale and leaseback of the buildings.
- d. A sale and leaseback of part of the buildings.
- e. Continue with the existing maintenance regime (the status quo option albeit limited to the life of the building in its current condition, estimated as 5 years at this time).

It was recommended then, that option d, the sale and leaseback of part of the civic centre tower would be the most cost-effective solution. In order to develop that solution, an Official Journal of the European Union (OJEU) procurement exercise was carried out with a view to the council taking a leaseback of reduced space in a refurbished building. In addition it was agreed that the Council would continue to explore the opportunity for freehold disposal.

5. Best Value Analysis

Officers have undertaken a Best Value analysis to confirm that the decision of Cabinet in August 2011 to seek to vacate the Civic Centre still provides best value for the Council. The results are shown in the Part II report.

6. Procurement Project:

A Contract Notice for the redevelopment was published in the OJEU on 08 September 2012.

Following a successful Bidder's Day held at Plymouth's Guildhall, the first stage of the procurement process commenced with the authority requiring interested parties to complete a Pre Qualification Questionnaire (PQQ). Applicants had to meet the minimum requirements for economic and financial standing (financial capabilities) and technical and professional capacity (relevant technical experience and resources) and had to meet the legal eligibility criteria, as set out in the PQQ.

The four highest scoring applicants were taken forward to the Invitation to Submit Solutions Stage (ISS). During this phase participants were required to engage in dialogue with the authority to develop their solutions and to enable them to be tested against the authority's requirements.

The ISS stage required participants to propose their solutions for the project by responding to specific questions detailed in the ISS questionnaire. Key questions related to cost to the council, job creation and environmental impact in addition to planning fit and the likelihood of obtaining listed building consent. Four companies were involved during this phase and the council continued to dialogue with the two highest scoring participants following evaluation of the ISS submissions. Two companies were then taken forward to the final tender stage.

The authority closed dialogue on the 15 March 2013 once it could identify one or more solutions capable of meeting its needs and issued the Call for Final Tenders on that date. Participants had until the 18 April to submit their final tender. They presented their solutions to senior councillors and officers on the 19 April 2013. The two submissions were then evaluated by officers against the published evaluation criteria and a Preferred Bidder has been identified. The Preferred Bidder is identified in the Part II report.

7. Solution Offered by the Preferred Bidder

The solution offered by the Preferred Bidder allows the Council to vacate the Civic Centre entirely, thus meeting the objective of removing liability for a Grade II Listed Building. The Civic Centre and car park will then be redeveloped into a high quality internationally branded hotel (4 star), feature apartments, restaurants, other food and beverage operations and, subject to grant funding by a third party, an Arts Centre, achieving the objective of physical regeneration of the site.

This solution will result in the creation of a significant number of jobs and training opportunities. The Preferred Bidder is committed to providing local jobs for local people and has begun establishing working relationships with local firms. They will create training courses for school leavers and unskilled workers to develop their skills and experience levels in addition to training courses for students, school leavers and the long term unemployed in connection with Plymouth City College's Employer Endorsement Scheme. All posts will be advertised with the 1000 Club, of which they are a member.

The company offers a long term commitment to the City of Plymouth with an estimated 128 permanent jobs along with apprenticeships, work placements and training courses in the Leisure & Tourism sector; all being made available directly through the Preferred Bidder once the redevelopment is complete and fully operational.

An estimated further 233 permanent jobs will also be available across the food/beverage, health and cultural sectors once the scheme is fully let and operational.

Additionally, 449 jobs will be generated through the Civic Centre project construction process alone. This achieves the objective of economic and social regeneration. The jobs created are a direct contribution to the Plan for Jobs. Project number 1 says "By creating a new partnership of public and private sector landowners we will accelerate, unblock and maximise local employment from the regeneration of the West End including the Theatre Royal, Pavilions and Civic Centre".

Once refurbishment has finished, the public space surrounding the building will experience all the usual benefits of major investment in a thirteen floor city centre development. Activity at street level from the new uses will increase significantly. The design solutions by the architects will generate many more leisure-orientated trips to this area of the city, which is likely to become a destination or hub with its own identity. Many more leisure-orientated visitors will be attracted to the city generally, and they will congregate here and be ideally positioned for walking to nearby shops or to the Hoe as its world-famous visitor attraction. The new uses will attract all ages, business travellers and families, from home and abroad.

The proposal involves the transfer of the freehold interest in the Civic Centre and its rear car park (not the Council House) to the Preferred Bidder at nil consideration. The company will then apply for planning permission and listed building consent to re-develop the property. Once planning permission is achieved there is a legally binding development obligation on the developer to complete the re-development within 2 years. It will not be possible for the developer to "sit on his hands" and land-bank the property. It is anticipated that contracts will be signed this year, once the funders have completed all usual due diligence and the contract will only be conditional on obtaining planning consent. The developer will be under a legally binding obligation to diligently pursue the planning application.

The benefits to the Council of this proposal include the elimination of one of its most significant financial risks in terms of the repair costs anticipated for the Civic Centre; the creation of significant numbers of jobs and training opportunities along with the economic regeneration benefits of having an internationally branded, high class hotel in the centre of the city.

The Council House will be retained meeting the objective of its continued use for civic purposes.

The redevelopment will also meet the objective of improving the environmental credentials for the Civic Centre by improving its rating from E to B.

8. Evaluation

Submissions were evaluated using the criteria listed in table 2 overleaf.

Table 2: Evaluation Criteria

Ref	Issue	Available Score	Weighting	%age of overall score
Pass/Fail Questions				
AI.1	Purchase of Freehold			
AI.2	Solution for Provision of Office Accommodation (specification)			
AI.3	AI.3 Capital Contribution			
AI.4	AI.4 Financial Guarantee			
AI.5	English Heritage			
AI.6	Form of Lease to Council			
Scored Questions				
<u>Technical Proposals</u>				9%
BI.1	Quantum of Leaseback	10	9%	
<u>Contractual</u>				3%
CI.1	The Contract	10	3%	
<u>Financial Proposals</u>				45%
DI.1	Financial Proposal	10	43%	
DI.2	Capital Contributions	10	2%	
<u>Deliverability</u>				17%
EI.1	Funding/Occupiers/Surveys/ Capacity/Vibrancy of proposal	10	12%	
EI.2	Planning	10	5%	
<u>Environmental Factors</u>				11%
FI.1	Energy Performance	10	1%	
FI.2	Carbon Emission	10	10%	
<u>Economic Factors</u>				15%
GI.1(i)	Number of Jobs	10	8%	
GI.1(ii)	Clear statement re job creation	10	3%	
GI.1(iii)	How will jobs be created?	10	4%	
TOTAL		110	100%	100%

The Preferred Bidder scored a total of 83%

The second placed bidder scored a total of 74%

9. Current Position Post Procurement Exercise

The outcome of the procurement exercise is a freehold disposal with no requirement for the council to leaseback space. This allows the council to utilize the current market conditions to procure a better financial deal to meet its space requirements with a revised estimated cost over 25 years as follows as detailed in the Part 11 report.

10. Route to Decant

In anticipation of the preferred bidder being selected the Accommodation Transformation Programme commenced work on the potential decant of the Civic Centre based largely upon the concept of operations used to deliver the Corporate Accommodation Strategy. A Senior Responsible Officer and Programme Manager were appointed at the start of April 2013 to deliver a coordinated delivery of the Civic Decant with a cogent solution for the operational accommodation to meet the needs of the Council's Transformation Programme.

The team sought to achieve a realistic delivery time table in consultation with the preferred bidder for the Civic Centre and equitable operating costs. The solution needed to deliver a 'Front of House' where the services to the public could be delivered within the city centre (an objective) and provide sufficient accommodation to meet the needs of the current occupation levels of the Civic Centre on a hot desking ratio of no greater than 8:10 at this time, in other locations across the city. This effectively reduces the accommodation footprint by 7% in the first instance. Given the changing nature of local authority finances the delivery of a flexible operating base with flexible infrastructure and ICT will be essential to service provision as Plymouth moves into the future. The remaining objectives of reducing accommodation levels and operating costs over 25 years will be achieved in this way.

11. Time Table

The current proposed timeline has the Council vacating the Civic Centre by November 2014 with vacant possession being provided in December 2014 / January 2015. This is a timeline which the Council is keen to achieve. The current programme for the Preferred Bidder shows that planning permission will be sought April – August 2014. To achieve the vacant possession date work will need to be commenced and leases agreed on a number of properties prior to planning permission being granted for the Civic Centre. This exposes the council to the risk and associated wasted costs in the event that planning approval is not obtained. In mitigation, significant dialogue between the developer, planning and English Heritage to gain accord on the route forward has been completed and thus this risk is seen as low.

The Accommodation Transformation Programme will seek to de-risk the impact on service delivery by decanting the civic in a phased approach up to December 2014 taking advantage of the delivery of buildings early and any partnering opportunities which may present themselves. To achieve this will require significant coordinated effort across all departments.

12. The Approach

When the decision was taken in 2011 to commence dialogue with the market the authority had understood that the cost to refurbish the Civic Centre was significant and outside the authorities' ability to finance. It also understood that there was likely to be a little interest in the outright purchase of the building given the state of the market, the results of a soft market testing exercise and the condition of the building. Further to this the authority would potentially need to lease back a number of floors in order to make the commercial deal possible, deliver a solution to the building and maintain its iconic status within the city; whilst using the development to help stimulate the provision of jobs, economic activity and regeneration in the city. The dialogue process delivered a solution for the whole building surpassing the authority's expectations and totally achieving the aims originally set in 2011.

Since the decision in 2011 and the outcome in 2013 the financial markets have changed alongside the political landscape and the availability of funding for local authorities. With the city commencing a whole scale transformation programme, and the future shape and structure of the organisation at this time unknown, the delivery of an accommodation infrastructure to support service delivery must be a flexible one to meet the needs of the business both now and in the medium term.

A number of options were investigated to deliver a coordinated solution to the civic centre into a solution which would add value to the transformation programme and the changing nature of the operations of Plymouth City Council. Clearly with the physical condition of the Civic Centre, the option to do nothing does not exist and the need to remove the asset liability remains as does the need to create jobs, economic activity and regeneration of an iconic landmark within the city. As such the options investigated were as follows:

- Option A Refurbish the current Civic Centre
- Option B Provide a whole scale New Building to replace the current Civic Centre
- Option C Provide a number of refurbished buildings across the city to replace capacity
- Option D Provide a flexible operating base in the medium term

Option A

Option A looked at remaining in the Civic Centre with it being refurbished by Plymouth City Council in the immediate future. This option had already been looked at in 2011 to form the original decision to commence competitive dialogue. As discussed earlier, the costs of this had been calculated however in order maintain a rational approach, it was decided that this should be tested again. In doing so with a group of independent Professional Quantity Surveyors the investigation arrived at a cost detailed in the Part II report. This level of funding on maintaining business as usual was not supported and the option was rejected.

Option B

Option B looked to provide a whole scale new building to accommodate the staff, services and technology currently housed within the Civic Centre. The costs based upon this option are detailed in the Part II report. This did not include the cost of site assembly or resource to conduct decant. Further to this the time line to achieve site assembly and delivery would have a negative impact upon the potential solution for the Civic Centre. Although sites were available, the cost to provide a building which would be excessive in terms of size given potential operating models was not seen as a sound investment in business as usual at this time and as such this option was rejected.

Option C

Option C looked to accommodate staff in multiple locations across the city investing in assets largely owned by the authority. However due to the nature of current service provision and the need to maintain a city centre presence this would necessitate heavy investment in an asset that the authority did not own. It would also require significant investment in ICT infrastructure, disruption to services prior to transformation and the termination of a number of commercial leases that the city has with partners providing income to the city. This option was also rejected given the size of the investment in assets that were not owned by PCC and did not provide the long term solution given the changing nature of the business as a whole.

Option D

Option D sought to accommodate staff in leased accommodation and a number of unoccupied commercial properties taking advantage of current market conditions whilst the authority completes its transformation over the next five years altering its shape, size, and structure and operating model accordingly. This will allow the authority to develop its strategy for wider asset rationalisation within its transformation programme alongside its partners desire to do the same achieving economies of scale across the board. The cost to achieve this is detailed in the Part II report with an ongoing revenue support requirement which is subject to further review. The option of remaining in the Civic Centre during this five year period was discounted due to the negative impact on the proposed solution for the Civic Centre and the anticipated repair costs over that period of 5 years.

Recommended Option

Option D is the recommended option delivering an operating base for the city based upon a mixture of leased and owned assets which remain flexible in terms of size to allow the Council to adapt to the changing nature of service delivery across the city and the changes in public sector financing.

The infrastructure will be delivered over the next 18 months decanting staff and services as elements become available with the final element being the customer facing areas which will decant in the latter quarter of 2014. The programme will achieve an 8:10 hot desking ratio and will seek to compress to 6:10 alongside the delivery of technological solutions to allow mobile working to take place. The expectation is that approx. 290 staff will be deemed mobile and as such will have ICT solutions to meet their needs. The remaining staff will be deemed flexible unless flagged for specific permanent desks. This arrangement will be delivered across the estate with all staff from the CEO down working in this way.

This provides the smallest operating cost at this time. This information is likely to change as the lease negotiations continue in an attempt to gain the most beneficial offer possible for the authority. As a result of this the paper seeks to have the delegated authority to agree the leases to be given to Cabinet Member for Finance in consultation with the Director of Corporate Resources.

The solution allows the public to have direct access to services in the city centre through the provision of a 'Front of house' through a commercial property along the same lines as a high street bank would provide. A preferred solution is being pursued and seen as appropriate, again these are subject to lease negotiations. The support elements are then located in a number of buildings which are either owned by the authority or leased. The aim was to cause minimal disruption to services and to sustain the economic links between the 1000 staff and the city centre.

13. Capital Requirements

The capital requirements to achieve the programme are set out in the Part II report. This is spread across a large number of projects within ICT and the building environment. Revenue Requirements

Further to the capital requirements to deliver this programme of works, there will be a number of revenue costs immediately associated with decant of the Civic Centre. These are detailed in the Part II report.

14. Co-operative Scrutiny Board

The Co-operative Scrutiny Board considered this matter on 21 August 2013 and endorsed the recommendations set out in this report. The minute of the Board is attached.

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CITY COUNCIL

16 September 2013



CO-OPERATIVE SCRUTINY BOARD MINUTE 61 OF 4 SEPTEMBER 2013

THE BRILLIANT CO-OPERATIVE COUNCIL SUSTAINABLE THREE YEAR PLAN

Tracey Lee (Chief Executive) and Councillor Tudor (Leader) presented a report that identified some of the key financial challenges that the Council faced over the coming three years, proposed a revised approach to financial planning over the medium term and sought approval for a Council-wide transformation programme based on Co-operative Values to substantially reduce the operating costs of the Council and ensure the maximum possible investment in achieving the Corporate Plan objectives.

Since 2009/2010 the Council had already reduced its expenditure by circa £30m through efficiency savings and service reductions. With the impact of the reduction in government funding, Welfare Reform, reductions in Revenue Support Grant and the localisation of the Council Tax benefit and Business Rates receipts and the increased demand for Council services, the Council faced an estimated funding gap over the next three years of circa £65m. The value of these savings equated to the complete shutdown of Exeter City Council for five years.

The proposed Transformation Programme would deliver a fundamental change in the way that the Council goes about its business, delivering significant savings in four key areas –

- economic growth initiatives that would provide financial dividends for the Council, a more commercial approach to the way that the Council runs its services and smarter procurement and commissioning;
- customer-led service design, transforming the way the Council interacts with customers to meet their demands and preferences;
- creating an integrated approach to health, wellbeing and social care commissioning, working co-operatively across all local communities and partners;
- smarter, evidence based decision-making for the Council using co-operative principles and support services delivering against the Council's new organisational requirements.

To support the delivery and implementation of the Transformation Programme, the council would develop two 'enabling programmes' focused on –

- better use of the Council's physical and technical infrastructure and assets to better service the needs of the organisation now and into the future;
- ensuring that Members and staff are engaged and supported through the Transformation Programme and that they have the necessary skills to deliver.

In response to questions raised by Members, it was reported –

- (a) the cuts from Central Government were unprecedented and as such there would be reductions in Council services although currently no decisions had been taken; however the three year plan outlined how this would be achieved;
- (b) engagement with the local community would continue as part of the scrutiny process;
- (c) this situation provided a good opportunity to undertake more effective working with neighbouring authorities (such as the Council administering the Business Rates Scheme for the whole of Devon);
- (d) the Corporate Management Team was undertaking a series of road shows (73 in total) across the whole authority, to share the values, objectives and outlining the new Corporate Plan; members of staff would be asked to make a commitment to be open to change and not to dismiss it;
- (e) an undertaking was made to provide a detailed breakdown of the estimated funding gap of circa £65m.

The Chair thanked Tracey Lee and Councillor Evans for attending the meeting and for the transparency and openness with which they had shared the financial challenges facing the Council. The Chair also offered the Board's assistance in undertaking effective scrutiny, in order to add value to this process.

The Board agreed to endorse the recommendations to City Council, as follows –

- (1) adopt a longer term approach to addressing the reduction in funding available to the Council, planning for a balanced indicative budget in each of the coming three years;
- (2) support the implementation of Council-wide transformation programme, based on Co-operative Values, to substantially reduce the operating costs of the Council and ensure the maximum possible investment in achieving the Council's objectives;
- (3) agree Cabinet review earmarked reserves and balances to ensure that the Transformation Programme reserve is adequate to cover cashflow requirements for the period of 2013/14 to 2016/17 (managing the overall costs incurred and savings achieved across each financial year);
- (4) a further report is presented by Tracey Lee (Chief Executive) and Councillor Evans (Leader) to the Co-operative Scrutiny Board at its meeting on 16 October 2013, setting out the Transformation Programme and its key elements, including the governance proposals, in more detail to enable effective scrutiny.

CITY COUNCIL

16 September 2013



CABINET MINUTE 42 OF 3 SEPTEMBER 2013

THE BRILLIANT CO-OPERATIVE COUNCIL SUSTAINABLE THREE YEAR PLAN

Tracey Lee (Chief Executive) submitted a report identifying some of the key financial challenges that the council would face over the coming three years and proposing a revised approach to financial planning over the medium term. The report also sought support for a council-wide transformation programme based on co-operative values to substantially reduce the operating costs of the council and ensure the maximum possible investment in achieving Corporate Plan objectives.

Councillor Evans (Council Leader) introduced the proposals and indicated that -

- (a) the council was taking a structured approach to dealing with an unprecedented reduction in funding by the government;
- (b) a three year strategy was being proposed which it was hoped would provide a balanced financial position;
- (c) the transformation programme would need to be driven both by management and politicians.

Councillor Lowry (Cabinet Member for Finance) referred to recent press statements by Oliver Colville MP, relating to requests for further spending proposals in the city and indicated that no such requests had been submitted to the local authority. Councillor Lowry indicated that he would welcome a meeting with Oliver Colville MP or representatives of any other local authorities should they wish to contact him.

Tracey Lee (Chief Executive) advised Cabinet Members that the council would await the local government settlement in December 2013/ January 2014 and would be working with partners across the city on the major transformation programme.

Alternative options considered and reasons for the decision –

As set out in the report.

Cabinet was advised that the proposals would be considered by the Co-operative Scrutiny Board on 4 September 2013 and that the recommendations would be submitted direct to the City Council meeting for consideration.

The City Council is Recommended to -

- (1) adopt a longer term approach to addressing the reduction in funding available to the council, planning for a balanced indicative budget in each of the coming three years;

- (2) support the implementation of a council-wide transformation programme, based on co-operative values, to substantially reduce the operating costs of the council and ensure the maximum possible investment in achieving the council's objectives;
- (3) agree that Cabinet reviews earmarked reserves and balances to ensure that the Transformation Programme reserve is adequate to cover cashflow requirements for the period of 2013/14 to 2016/17 (managing the overall costs incurred and savings achieved across each financial year).

Note:

The full report in connection with this minute is available on the website

www.plymouth.gov.uk/democracy

or by contacting Democratic Support on 01752 304867

PLYMOUTH CITY COUNCIL

Subject: The Brilliant Co-operative Council Sustainable Three
Year Plan

Committee: Cabinet

Date: 3 September 2013

Cabinet Member: Councillor Evans

CMT Member: Tracey Lee (Chief Executive)

Authors: Giles Perritt, Head of Policy, Performance and
Partnerships

Contact details Tel: 01752 304464
Email: giles.perritt@plymouth.gov.uk

Ref:

Key Decision: No

Part: I

Purpose of the report:

This report identifies some of the key financial challenges that the Council faces over the coming three years, proposes a revised approach to financial planning over the medium term, and seeks support for a Council-wide transformation programme based on Co-operative Values to substantially reduce the operating costs of the Council and ensure the maximum possible investment in achieving Corporate Plan objectives.

Funding for local government has been significantly affected by the Coalition Government's plans to reduce the national deficit. Since 2009/10, there have been a number of changes to the Local Government funding regime that have resulted in an overall reduction in income to the Council from central government of £9.5m per year. The Council has already reduced expenditure in this period by c£30m, through efficiency savings and service reductions.

In July 2013, the Department for Communities and Local Government published the detail of its funding intentions for 2014-15 and 2015-6 with a 'real terms' cut of 10% in overall funding for local government. It is now clear that £1bn has, in addition, been set aside from the settlement for allocation to some Councils, but not to others. Therefore underlying the headline 10% real terms cut in funding lies a 15% real terms reduction in the basic allocation affecting all authorities including Plymouth.

Sir Merrick Cockell, the Chair of the Local Government Association has said: "This cut will stretch essential services to breaking point in many areas. While positive steps have been taken to target NHS funding at social care, the fact remains that some councils will simply not have enough money to meet all their statutory responsibilities. Services such as culture and leisure facilities, school support, road maintenance and growth related programmes will bear the brunt of these cuts".

Responsibility for the funding of Council Tax benefit has been transferred to local authorities with effect from the current financial year, but prior to the transfer of this responsibility, a 10% top slice of resources was taken by the government. This, coupled with other anticipated impacts from Welfare Reform is anticipated to add further pressure of around £1.5m annually to Council budgets.

Reductions in Revenue Support Grant and the localisation of Council Tax benefit and Business Rate receipts have resulted in a significant transfer of financial risk from central to local government.

In contrast to the forecast reduction in resources, the demand for key Council services is increasing. For example, the growth in the proportion of older people requiring social care is putting pressure on both local authorities and health services nationally. Current forecasts anticipate a 2% increase on social care expenditure year on year in Plymouth, equating to annual financial pressures of £4.5m.

There are a number of financial impacts on the Council identified as being the result of the broader economic climate. These include reduced income from commercial rents and inflationary increases in contracted services and utility costs.

Taken together, the above factors will contribute to an estimated funding gap for the Council over the next three years of circa £65m. To put this into context, this equates to the entire annual net expenditure on environmental services and economic development, covering refuse collection and disposal, all street services and the Council's support for businesses and employment. The value of these savings equates to almost five times the entire annual revenue budget of Exeter City Council.

The respected economic 'think tank', the Institute for Fiscal Studies, (IFS), has stated that: "The UK faces the longest, deepest, sustained period of cuts to public services spending at least since World War II..."

The Brilliant Co-operative Council Corporate Plan 2013/14 – 2016/17:

In July 2013, the Council adopted a new Corporate Plan, to be a Brilliant Co-operative Council. The plan contains ambitious objectives around the themes of Pioneering, Growing, Caring and Confident Plymouth. Each objective identifies outcomes by which the delivery of the objectives will be measured. Commitments are made to promoting economic growth, improving Council services, health and social care outcomes and the reputation of the city. The plan also identifies Co-operative values which will inform the way that the Council goes about its business.

Given the financial climate described above in which the Council will have to operate over the life of the Corporate Plan, a substantially revised approach to financial planning and delivering financial efficiencies will be needed. The Council has sought advice from Ernst and Young concerning the robustness of its financial estimates for future years and the nature and scale of changes that it will have to make to its structure and delivery arrangements to meet its financial challenges and deliver the Corporate Plan.

The proposed Transformation Programme will deliver a fundamental change in the way that the Council goes about its business, delivering significant savings in four key areas:

- Economic growth initiatives that will provide financial dividends for the Council, a more commercial approach to the way that we run our services, and smarter procurement and commissioning.
- Customer-led service redesign, transforming the way the Council interacts with customers to meet their demands and preferences.
- Creating an integrated approach to health, wellbeing and social care commissioning, working co-operatively across all local communities and partners.
- Smarter, evidence based decision-making for the Council using co-operative principles, and support services delivering against our new organisational requirements.

To support the delivery and implementation of Transformation Programme we will develop two 'enabling programmes' focussed on:

- Better use of the Council's physical and technical infrastructure and assets to better serve the needs of the organisation now, and into the future;
- Ensuring that Members and staff are engaged and supported through the transformation programme, and that they have the necessary skills to deliver.

The Transformation programme will help us to 'grow' ourselves out of the financial challenges that we face whilst focussing on, and improving, the customer experience and maximising opportunities from partnership working across the city. We already have an excellent track record across these areas such as generating income through building additional homes and attracting more businesses into the city. This needs to be expanded and developed in a structured and sustainable programme.

The Transformation programme alone will not enable us to close the £65m gap. Alongside this we will need to take proactive action to manage down the cost drivers and escalating pressures that we face, and comprehensively review all services delivered by the Council, both statutory and discretionary, followed by proposals for changes in the level, cost and nature of provision. The terms of reference for the review will be bound by the Co-operative Values of the Council, and will focus on contributing as far as possible to the delivery of the Corporate Plan objectives.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

Councils throughout the country have had to enact drastic action in order to balance budgets. There are no easy solutions.

Over the last three years, Plymouth City Council has successfully managed net revenue savings of circa £30m through a number of delivery programmes. The scale of future financial challenges however is such that the Council will require upfront investment in capacity and support to enable it to bring about the fundamental changes described above in the coming years.

Revised financial planning arrangements will result in a longer term approach to addressing the funding available to the Council, planning for a balanced indicative budget in each of the coming three years.

The Transformation programme, as a whole, is a fundamental strand which will enable us to develop a three year sustainable financial plan to deliver the Council's co-operative vision. However, there will be a need to incur up front set up costs to structure, plan and provide capacity to deliver long term financial and service benefits. Earmarked reserves and balances will be reviewed in order to top up the existing Transformation Programme reserve in 2013/14 which will be used to 'smooth' the cashflow differences of costs vs savings between specific financial years. As a guide, it is estimated that the net benefit, (accounting for associated spend), from the Transformation Programme will deliver more than 50% of the Council's entire forecasted three year funding gap.

To supplement internal funding, officers are investigating opportunities for draw down of national funding streams that have been specifically set up to support transformation, such as resources available for Health and Social Care Integration.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

Implications with respect to the above areas relating to the response to individual recommendations will be explored in detail as related proposals are brought forward.

Equality and Diversity

An Equality Impact Assessment has not been undertaken as part of the preparation of this report, but assessments will be necessary as part of the implementation of its recommendations.

Recommendations and Reasons for recommended action:

1. That Council adopt a longer term approach to addressing the reduction in funding available to the Council, planning for a balanced indicative budget in each of the coming three years.
2. That Council support the implementation of a Council-wide transformation programme, based on Co-operative Values, to substantially reduce the operating costs of the Council and ensure the maximum possible investment in achieving our objectives.

3. That Cabinet review earmarked reserves and balances to ensure that the Transformation Programme reserve is adequate to cover cashflow requirements for the period of 2013/14 to 2016/17 (managing the overall costs incurred and savings achieved across each financial year)

Alternative options considered and rejected:

A one year financial planning horizon will not support the long term decision making required to deliver the objectives of the Corporate Plan
 The Council's financial stability will be put at risk unless a transformative approach is taken to revising its delivery arrangements in the coming years.
 Attempting to implement the Transformation Programme without additional support and capacity will seriously prejudice the Council's ability to deliver it effectively

Published work / information:

[LGA local government finance briefing for Leaders, Lead Members and Chief Executives 31 July 2013](#)
[Local Government Chronicle 27 June 2013](#)
[Spending Round 2013](#)

Background papers:

Title	Part I	Part II	Exemption Paragraph Number							
			1	2	3	4	5	6	7	
Ernst and Young Interim Report to Plymouth City Council July 2013		x			x					

Sign off:

Fin	MC13 14.12	Leg	18291 /DVS	Mon Off	18291 /DVS	HR	X	Assets	X	IT	X	Strat Proc	X
Originating SMT Member: Tracey Lee													
Have the Cabinet Members agreed the contents of the report? Yes													

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PLYMOUTH CITY COUNCIL

Subject:	Webcasting
Committee:	City Council
Date:	16 September 2013
Cabinet Member:	Councillor Peter Smith
CMT Member:	Assistant Director for Law, Democracy and Governance (Tim Howes
Author:	Tim Howes, Assistant Director for Law, Democracy and Governance
Contact details:	Tel: 01752 305403 Email: tim.howes@plymouth.gov.uk
Ref:	DSU/TH/GP
Key Decision:	N/A
Part:	I

Purpose of the report:

The purpose of the report is to seek approval to undertake a four year webcasting contract with the flexibility to extend to five years following the 12 month trial period which has been undertaken since August 2012. The report details the successes of the trial period and considers the future costs and resource requirement. The report comes before council because of a commitment at City Council in June 2012 to bring the results back.

The Brilliant Co-operative Council Corporate Plan 2013/14 -2016/17:

This report reflects the value of being democratic and our objective of a Caring Plymouth in the emerging corporate plan.

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land:**

The annual revenue cost of webcasting is estimated at just under £20,000 per year, resulting in a total contract cost of around £74,000. In addition staff support is required as described later in the report.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

Webcasting increases public access to the Councils democratic process for members of the public who for example, work during the times which meetings take place, cannot access the council house due to a disability or cannot find the time to attend meetings for other reasons such as care commitments. Webcasting makes meetings more inclusive across all communities within Plymouth. Access to the public gallery in the Council Chamber is by means of a steep stair case which can prove problematic to elderly members of the public or those with mobility problems.

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? No

Recommendations and Reasons for recommended action:

It is recommended:

1. that the City Council agree to continue with the webcasting of meetings;
2. to share the costs and resources implications evenly across the City Council.

Alternative options considered and rejected:

In respect of recommendation 1. - Not to webcast meetings would be a retorgade step in the opening up of Council meetings and the Democratic process in general

In respect of recommendation 2. – there is no alternative as the cost and resources implications cannot be absorbed within the Democratic Support budget.

Published work / information:

[Plymouth City Council Constitution](#)
[Minute 13a of City Council meeting of the 25 June 2012](#)

Background papers:

None

Sign off:

Fin	djnI 314. 16	Leg	TH0 126	Mon Off	TH0 126	HR		Assets		IT		Strat Proc	JK/S PU/ CP/3 32/0 913
Originating SMT Member: Timothy Howes													
Has the Cabinet Member(s) agreed the content of the report? n/a													

1. Introduction

The Council wants to encourage open government and get more people involved in the decision-making process. The webcasting trial over the past year has opened up those meetings held in the council chamber through webcasting, which is the live or recorded transmission of video over the internet.

2. Results of the trial period

The trial period has seen almost 100 thousand hits in total. These hits include –

- live views
- archive views
- individual document hits
- presentation hits

In terms of live hits (as opposed to archive hits) the average is 194 compared to an average of around 20 people physically attending meetings such as Planning Committee and City Council in the Council House. There have been almost 29 thousand archive views of our meetings in the last year. The meeting with the highest live viewing figures was planning committee on 15 August 2013 which saw at least* 1553 people watching the meeting live! (*figures are quoted as 'at least' because more than one viewer in an organisation or a household only counts as 1 view. For instance, if all Plymouth City Council staff watched a webcast this would count as 1 hit).

The number of hours predicted has proved adequate for current use and so any contract undertaken will be for the same number of hours. A full breakdown of web casting statistics is provided at appendix A.

3. Potential for partnership working and cost recovery

Officers are currently in talks with two partner organisations with regards to hosting their meetings in the Council House. As part of the hosting offer the meetings would be webcast and resource implications dealt with by a service level agreement. This would recover some of the costs of the system. The system has also been used at a Royal Institute of British Architects event held in the Council Chamber and a ceremony for the Outreach Awards.

4. System Potential

There is the possibility to make the meetings more interactive by

- running polls on agenda items
- providing space for a live twitter
- linking to a facebook feed during the meeting.

This would allow greater participation by members of the public watching a live webcast, and support the democratic value.

5. Resource requirement

Each webcast takes around twice the length of the meeting to administer – this includes the set up before the meeting, the actual webcast during the meeting and the time to perform checks after each webcast. At present two Democratic Support staff are required for every meeting webcast. Given the small number of staff in the Democratic Support team, it is not possible to administer the system within the team on an on-going basis. As a tool which could be utilised across the City Council, it is proposed that the administration of it is shared across the council with some nominated operators in each Directorate.

Appendix A – Statistics by Committee

Committee	Date	Live Views	Archive Views
City Council	30 July 2012	643	2508
Planning Committee	23 August 2012	235	1490
Cabinet	23 August 12	62	1182
City Council	24 September 2012	798	1918
Planning Committee	18 October 2012	63	2575
Planning Committee	8 November 2012	43	974
City Council	3 December 2012	203	1802
Planning Committee	6 December 2012	116	2489
Planning Committee	3 January 2013	203	794
Overview and Scrutiny Management Board	9 January 2013	292	776
Overview and Scrutiny Management Board	14 January 2013	62	437
Devon and Cornwall Police and Crime Panel	17 January 2013	18	1105
City Council	28 January 2013	346	1334
Planning Committee	31 January 2013	61	978
Devon and Cornwall Police and Crime Panel	8 February 2013	81	932
City Council	25 February 2013	382	606
Plymouth Plan Event	5 March 2013	27	895
Planning Committee	7 March 2013	66	562
Planning Committee	4 April 2013	53	575
Devon and Cornwall Police and Crime Panel	9 April 2013	43	569
City Council	22 April 2013	257	634
City Council	23 April 2013	21	288
Cabinet	21 May 2013	13	252
Planning Committee	23 May 2013	83	262
City Council	10 June 2013	220	363
Health and Wellbeing Board	13 June 2013	31	225
Cabinet	18 June 2013	9	82
Planning Committee	20 June 2013	43	68
Planning Committee	18 July 2013	14	808
City Council	22 July 2013	162	707
Cabinet	6 August 2013	16	235
Planning Committee	15 August 2013	1553	263
Cabinet	3 September 2013		
Total		6219	28,688

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PLYMOUTH CITY COUNCIL

Subject:	Constitutional Changes: Planning Committee Code of Practice and Terms of Reference
Committee:	City Council
Date:	16 September 2013
Cabinet Member:	Councillor Peter Smith
CMT Member:	Tim Howes (Monitoring Officer)
Author:	Judith Shore (Democratic and Member Support Manager)
Contact details:	T: 01752 304494 Email: judith.shore@plymouth.gov.uk
Ref:	
Key Decision:	N/A
Part:	I

Purpose of the report:

To recommend changes to the constitution, in particular to amend the Planning Committee Code of Practice (Part G of the constitution) and Planning Committee terms of reference (Part E of the constitution).

The changes have been made in response to the Local Government Association and Planning Advisory Service updated guidance on Probity in Planning for Councillors and Officers issued in April 2013).

The main changes are as follows:

Code of Practice (Appendix A):

- Section 6.6 – ‘officers and serving councillors must not act as agents for people pursuing planning matters within Plymouth City Council’s jurisdiction.’
- 12.3 – ‘Members should inform the planning officer if they intend to enter the owner’s property unaccompanied and seek clarification from the planning officer whether it is appropriate for them to be accompanied by an officer.’
- Section 12.13 – ‘a record that a Planning Committee site visit has taken place should be made through a Planning Committee minute.’

Terms of reference (Appendix B):

- Widening the types of application considered by the Planning Committee to include close relatives of employees or Members; 2.2.2 c) ‘ the application is submitted by an employee or Member of the Council, or a close relative of an employee or Member of the Council living in the same property’ and 4.3 ‘For the purposes of the Planning Committee functions a close relative is defined as: a husband or wife (or civil partner), a son or daughter, a father or mother; or a brother or sister.’

The Brilliant Co-operative Council Corporate Plan 2013/14 – 2016/7:

The changes encourage greater transparency in the democratic process.

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land:**

There are no material implications resulting from these changes to the constitution.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

There are no material implications resulting from these changes to the constitution.

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? No

Recommendations and Reasons for recommended action:

It is recommended that Council agree the following:

1. To adopt the revised Planning Committee Code of Practice
2. To adopt the change to the Planning Committee's terms of reference

Alternative options considered and rejected:

The Constitution Review Group considered these amendments before recommending them to council. One option would be to do nothing in which case the Code of Practice and Terms of Reference would be out of date and not entirely reflect national guidance.

Published work / information:

Council constitution

<http://www.plymouth.gov.uk/constitution>

Background papers:

None

Sign off:

Fin	djn13 14.17	Leg	18374/ DVS	Mon Off	18374/ DVS	HR		Assets		IT		Strat Proc	
Originating SMT Member Tim Howes													
Has the Cabinet Member(s) agreed the content of the report? n/a													

Appendix I

“Probity in Planning” Planning Committee Code of Practice

**Authors: Assistant Director of Planning, Head of Development
Management and Senior Lawyer**

Contents

- 1. Introduction**
- 2. Status of the Code**
- 3. General Role and Conduct of Councillors and Officers**
- 4. Declaration and Registration of Interest and Bias**
- 5. Predetermination, Predisposition or Bias**
- 6. Development Proposals Submitted by Members, Officers and the Council**
- 7. Lobbying**
- 8. Ward Member Involvement in Planning Application Process**
- 9. Roles of Members and Officers at Planning Committee**
- 10. Order of Planning Committee Considerations**
- 11. Public Speaking at Planning Committee**
- 12. Site Visits**
- 13. Decisions Contrary to the Development Plan**
- 14. Decisions Contrary to Officer Recommendation**
- 15. Appeals and Inquiries**
- 16. Quality of Service**
- 17. Monitoring and Review of Decisions**
- 18. Training**
- 19. Complaints**

I.0 INTRODUCTION

- I.1 The conduct of both Officers and Members in Local Government needs to be of the highest standing: on this depends the bond of trust between Councils and their local people, which is essential if Councils are to play their part in leading communities and improving people's quality of life. The local administration of the planning system has come under close scrutiny. The Nolan Committee's Third Report investigated standards in public life, and was followed by the Local Government Act 2000 which introduced a structure by which local authorities were to promote high standards of conduct, through a National Code of Conduct for Members. In 2013 the Local Government Association provided updated guidance on "Probity in Planning" and the Localism Act 2011 has created a new Standard regime with a more local focus.
- I.2 This Code offers clear guidance and advice as to procedures and practices to elected Members, Officers and members of the public in connection with the determination of planning applications and other applications. This Code will ensure that not only are the applications determined in a fair and impartial way, but also in a way which is seen to be fair and impartial. The introduction of the Local Government Act 2000 and associated legislation provides the necessary statutory framework, by which these standards may be achieved, maintained and regulated by each local authority.
- I.3 Clearly, one of the key purposes of the planning system is to control development in the public interest. When performing this role the Local Planning Authority and elected members are making decisions that necessarily affect land and property interests, as well as the financial value and settings of land holdings. Clearly, there is a need to make decisions that are open, impartial and based on sound judgement and reason. The process of determining applications should leave no grounds for a suggestion that a decision has been impartial, biased or ill founded in any way. Decisions must always be made on planning grounds and planning grounds alone.
- I.4 This Code of Good Practice has been adapted from national guidelines on probity to take account of the local situation. Two particular areas of the Localism Act are relevant to this code. Firstly, with regard to pre-determination the Act makes it clear that it is proper for councillors to play an active part in local discussions and that they should not be liable to legal challenge as a result, provided they maintain an open mind. Secondly, and related to pre-determination, the act introduces a new requirement for developers to consult local communities before submitting planning applications for certain developments. This gives Members and local residents a chance to comment when there is still genuine scope to make changes to proposals at both pre-application and post submission stage.
- I.5 The Terms of Reference for Planning Committee is set out in the Council's Constitution (<http://www.plymouth.gov.uk/constitution>) which specifies the matters that are delegated to be considered by Planning Committee.

2.0 STATUS OF THE CODE

- 2.1 This Code sets out the basis as to how Officers and Members should determine planning and other relevant applications submitted to the Council and ensures that conduct accords with the Council's Codes of Conduct for Members and Officers which is contained within the Councils Constitution.
- 2.2 This Code is contained in the Council's Constitution. A breach of this Code, depending on the circumstances, does not usually amount to a breach of criminal law but may adversely affect the standing of the City Council. It could result in a decision being judicially reviewed or allegation of a breach of the Code of Conduct or a complaint of maladministration made to the Local Government Ombudsman.

3.0 GENERAL ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

- 3.1 Elected Members are guided by the Council's Code of Conduct, the seven principles of public life and the Localism Act 2012. This Code is further amplified by reference to the Council's constitution in respect of general Council procedures as well as further amplification in specific Codes of Conduct such as the advice contained in this Code.
- 3.2 Councillors and Officers have different but complementary roles with the determination of planning applications and it is important that an open, respectful and transparent relationship is developed based upon mutual trust and understanding of each other's positions. It is important for the overall standing of the Council and the achievement of national performance targets that they work as an effective team. The role of a Councillor when determining a planning application is to have an overriding duty to the whole community and, accordingly, in deciding the outcome of an application to make a reasoned decision taking into account the provisions of the Development Plan and all relevant material considerations. All decisions should be taken in the interests of Plymouth as a whole.
- 3.3 The basis of the planning system is that consideration is given to all development proposals and these are determined against the wider public interest. Much is often at stake in such decisions and in the process for local people and development interests, as well as for the City of Plymouth itself. Given the nature of these decisions opposing views are often held by those involved. Whilst these views must be taken into account in the determination of planning applications, as stated above, the Planning Committee must not favour any person, group or locality. Members must therefore take steps to ensure that in their discharge of their Planning Committee duties the distinction between this role and their role as an individual Ward Councillor is constantly made clear. If Members wish to act in the latter capacity they must make that clear at the outset. Members who do not feel that they can act in this way should consider whether they are best suited to serve on the Planning Committee, especially if they feel that they will often be placed in the position of wishing to represent constituents and wishing to

speak as a Ward Member rather than a Member of the Planning Committee (See paragraph 5.4).

- 3.4 In reaching a decision Members should ensure they read, consider and take account of the relevant material considerations connected with the application and should not favour any person, group or locality or put themselves in a position where they may appear to do so.
- 3.5 All decisions should be made in an open and transparent manner by the Members of the Planning Committee and this should not at any time be compromised in any way. Therefore, such actions as messages being passed to Members of the Planning Committee during a debate should be avoided as this could give an impression of undue influence from a third party. In the first instance in an emergency any notes should be passed to the Democratic Support Officer.
- 3.6 Members should always address the Planning Committee through the Chair and avoid speaking directly to one another since it is important that all matters being discussed are clearly heard and acknowledged by everyone at the meeting.
- 3.7 In order to ensure that decisions are taken on planning grounds and are sound it is incumbent on all Planning Committee Members to give full consideration to reports prepared by Officers and familiarise themselves with all relevant national planning guidance (including the National Planning Policy Framework), Development Plan policies and other material considerations well in advance of the consideration of a development proposal at the Planning Committee itself. It is important also that Members are seen to be meeting this provision of the code.
- 3.8 The role of Officers is to advise Councillors and the Council as a whole (through the Cabinet and relevant Portfolio Holders) and to carry out work as set out in the Corporate Plan and agreed Business Plans. Officers are employed by the Council, not by individual councillors, and it follows that instructions to them may only be given through a decision of the Council, the Cabinet, the relevant Portfolio Holders, or the Planning Committee.
- 3.9 The conduct of Officers who advise on the determination of planning applications is contained generally in the Council's protocol for Member/employee relations and is supplemented by guidance from their professional bodies, such as Royal Town Planning Institute, the Law Society, and the Institute of Legal Executives. Officers may not be instructed by any Member to conduct themselves in a manner which would place them in conflict with their professional codes of conduct.

3.10 Members should abide by the following advice:

- Members should always pass a copy of any lobbying correspondence to the Assistant Director for Planning at the earliest opportunity;
- Members should never pressurise or lobby Officers for a particular recommendation;
- Members should promptly refer to the Assistant Director for Planning any offers made to them of planning gain or constraint of development;
- Members should inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches including inappropriate offers of gifts or hospitality (see also paragraph 3.12);
- Members should never use political group meetings to dictate how they should vote on a planning issue and should not lobby fellow Members regarding concerns or views, nor attempt to persuade other Members to vote in a particular way.

3.11 Officers are required to act impartially at all times in determining applications and providing advice at the Planning Committee. Officers will be expected to conduct themselves in all they say and do in a manner which totally preserves this position of impartiality.

3.12 During the determination of an application, it is possible that Officers and Members may be offered hospitality by an interested party. Even though this rarely occurs in Plymouth, it is important to recognise that, if at all possible, these offers should be politely declined. However, any Members receiving any gift or hospitality, in their capacity as Members, over the value of £25, should provide within 28 days of receipt written notification of the details to the Monitoring Officer of the Council for entry into the register of gifts and hospitality which is open to public inspection and located in the Democratic Support Office. Similarly, for Officers, in the event that the receipt of hospitality is unavoidable, they must ensure that the hospitality is of a minimal level and declare its receipt as soon as possible by completing a "Hospitality Declaration Form" and submit this to the Assistant Director for Planning for signature.

4.0 DECLARATION AND REGISTRATION OF MEMBER AND OFFICER INTERESTS AND BIAS

4.1 Members and Officers are required to give a general notice of interest that they hold usually upon their election or appointment to office and are under a duty to maintain that declaration and amend, as necessary, within 28 days of becoming aware of any such changes, throughout their term of office.

- 4.2 A register of Members' interests will be maintained by the Council's Monitoring Officer and is available for public inspection. A register of Planning Officers' interests will be maintained by the Assistant Director for Planning.
- 4.3 Furthermore, Members and Officers are under a duty to declare interests as and when matters arise at Planning Committee. Guidance on these issues may be sought by the Council's Monitoring Officer. The decision as to whether an interest ought to be declared rests with the individual Councillor or Officer involved.
- 4.4 There are three types of interest, 'personal' 'prejudicial' and pecuniary. A member will have a personal interest in a Planning Committee decision if:
- If the matter relates to an interest in respect of which the Member has given notice in the statutory register of Member's interests; or
 - The decision might reasonably be regarded as affecting their well being or financial position or that of a relative or friend or employer to a greater extent than other Council Tax payers, ratepayers or inhabitants of the Authority's area.
- 4.5 Where a Member considers he or she has such a personal interest in a matter, he must always declare it.
- 4.6 A personal interest will become a prejudicial interest if a member of the public with knowledge of the relevant facts would reasonably regard that interest as so significant that it is likely to prejudice the Member's judgement of the public interest. There are exceptions to this, however and full details are given in the Council's constitution.
- 4.7 Where any Member of the Council considers that they have a prejudicial interest they should discuss this situation with the Monitoring Officer or his representative as soon as they realise this is the case:
- Complete a standard form and pass it to the Democratic Support Officer prior to the start of Planning Committee;
 - Ensure they do not participate at any stage in the consideration of the planning application if following advice from the Monitoring Officer they consider that any decision they take could be challenged on the grounds of bias;
 - Ensure they do not seek or accept any preferential treatment, or place themselves in a position that could lead to the public to think they are receiving preferential treatment because of their position as a councillor;
- 4.8 With regard to Planning Officer interests the Assistant Director for Planning Services will check the Officer declarations list and advise the Officer accordingly if they feel that alternative arrangements are necessary in presenting the report.
- 4.9 Pecuniary interests are defined in regulations. The regulations in general will mean that a member will have to register any interest they or their husband or wife or civil partner has in:

- any employment, office, trade, profession or vocation that they carry on for profit or gain
- any sponsorship that the councillor receives including contributions to the councillor's expenses as a councillor; or the councillor's election expenses from a Trade Union.
- any land licence or tenancy they have in Plymouth;
- any current contracts leases or tenancies between the council and them,
- any current contracts leases or tenancies between the council and any organisation with land in Plymouth in which they are or have a partner, a paid director, or have a relevant interest in its shares and securities;
- any organisation which has land or a place of business in Plymouth and in which they have a relevant interest in its shares or its securities.

If a Councillor has a pecuniary interest they must leave the meeting immediately and can not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting.

- 4.10 Members should also not give grounds for a suspicion that any such interests may arise and have not been declared.
- 4.11 When an application is to be determined, there is an expectation that it will be dealt with transparently, openly and in a fair way. Members will be expected to take account of all relevant evidence and give it appropriate weight in the decision making process and arrive at a reasoned sound decision.
- 4.12 An alternative approach may be for the Planning Committee Member to refrain from making any public statement on an application and to invite another Ward Member to attend the Planning Committee to speak on the local ward issues and for the Member of the Planning Committee, if s/he has not made a public statement in support of or against the application, to confine his/her comments to the relevant planning issues, taking into account the interests of the City as a whole.

5.0 PREDETERMINATION OR PREDISPOSITION

- 5.1 Members of the Planning Committee need to ensure that they do not fetter their ability to participate in the decision making process on an application by making up their mind or clearly indicating that they have made up their mind on how they will vote prior to the consideration of the application by the committee.
- 5.2 The Planning Committee should, when considering an application, take into account all views that are expressed in such a way that they are openly heard and fairly considered in a balanced way before the committee reach a decision.

- 5.3 Members of the Planning Committee can have a predisposition to an initial view, where the member is clear they are still willing to listen to all the material considerations presented at the Planning Committee before deciding on how to exercise their vote on behalf of the community.
- 5.4 The fettering of a members discretion as set out in 5.1 and then taking part in the decision making process will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a risk of bias or predetermination or a failure to not take into account all of the factors enabling the application to be considered on its merits.
- 5.5 The Localism Act 2011 now sets out that a member who has expressed a preference for a particular outcome of an application as it proceeds to determination, will **not** be taken to have had a closed mind when making the decision just because they have previously done or said anything to indicate their view in respect of the matter. However, it is important that a fair minded observer would think that the Member was open to changing their mind in the light of different or additional information, advice or evidence presented.
- 5.6 It will be evident that the appropriate action is not clear cut and will depend on the circumstances of a particular case and application. Planning Committee members need to avoid bias and predetermination and take account of the general public's (and the Ombudsman's) expectation that a planning application will be processed and determined in an open and fair manner. To do this, Members taking the decision on an application must take account of all the evidence presented before arriving at a decision, and should avoid committing themselves one way or another before hearing all the arguments.
- 5.7 A situation can arise when a Member of the Planning Committee represents a Ward within which a contentious application is lodged. If, prior to the matter being considered by the Planning Committee, that Member decides to make a public statement, and either supports or opposes the application, it will be difficult for that Member to be seen to subsequently determine the application transparently, openly and fairly. Accordingly, the Member should make an open declaration, in relation to his or her position and not vote on the determination of the application at Planning Committee. The open declaration should be noted in the Planning Committee minutes. The Member will also be required to vacate their seat within the Planning Committee and to sit within the public gallery for the duration of the consideration of the item, and where they have exercised their right to speak as a Ward member, they can address the Planning Committee at the appropriate time in accordance with the Ward Member speaking arrangements (see section 11).
- 5.8 Ultimately it is the responsibility of the individual member to ensure that their role on the Planning Committee is not compromised and it is also for them to strike the balance that may need to be made between ward and other interests and the requirements of the Planning Committee.

6.0 DEVELOPMENT PROPOSALS SUBMITTED BY MEMBERS, OFFICERS AND THE COUNCIL

- 6.1 In accordance with the Council's Officer Code of Conduct (June 2000), employees must declare any financial or non-financial interests which relate to their work to the appropriate Director, Assistant Director, or Head of Service, including membership of any organisation not open to the public without formal membership and commitments of allegiance. Such declarations will be maintained in documents which will not be publicly disclosable.
- 6.2 Such declarations can be made on a regular basis without any known future applications coming forward. In such situations, planning and other associated applications will not be allocated to that employee to deal with.
- 6.3 However, it will sometimes occur that an employee only identifies a conflict of interest in the course of determining an application. At this point it is the responsibility of the employee to immediately raise the declaration with the Director, Assistant Director, or Head of Service and for the employee to take no further action in the determination of the case. Again, a record of the declaration will be maintained in documents which will not be publicly disclosable.
- 6.4 In all instances where there is a conflict of interest the appropriate procedure would be for officers to notify the Director, Assistant Director, or Head of Service of that conflict and to have no further part in the determination of the application.
- 6.5 Any proposals submitted by Members and Officers shall be dealt with so as to give no grounds for accusations of favouritism. For this reason reference is made in the Terms of Reference for Planning Committee for decision making involving Council employees or Members.
- 6.6 Officers and serving Councillors must not act as agents for people pursuing Planning matters within Plymouth City Council's jurisdiction.
- 6.7 Any application submitted by Plymouth City Council shall be processed in the same transparent and impartial manner as for any other applicant.

7.0 LOBBYING

- 7.1 It is recognised that lobbying is a normal and perfectly legitimate element of the process of considering planning applications. If a Member, who is not on the Planning Committee to determine an application, wishes to support a particular viewpoint then that Member has a right to appear at Planning Committee and seek permission to address the meeting.
- 7.2 It is, however, important that Members protect their impartiality and integrity in planning matters. Planning Committee Members will not breach the Code by listening to or receiving viewpoints from residents or other interested parties provided that they make it clear that they are keeping an open mind. However expressing an intention to vote one way or another before a Planning Committee meeting would prejudice impartiality.

8.0 WARD MEMBER INVOLVEMENT IN PLANNING APPLICATIONS PROCESS

- 8.1 Ward members have a central role in helping to represent the views of local people and other stakeholders at both pre-application and planning application stage. Ward councilors bring strong community leadership, extensive local knowledge and an up to date understanding of current issues. Planning officers have to act impartially at all times, but will provide support and advice to ward councilors on planning matters in order for them to play this community leadership role. This will include the involvement of ward members in negotiations on planning obligations.
- 8.2 Planning obligations negotiated under Section 106 of the Town and Country Planning Act, 1990 must be seen to mitigate the effects of development whilst recognising that each must comply with council planning documents, policies and guidance and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).
- 8.3 To be lawful, a planning obligation must meet all of the following statutory tests. It must be:
- (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.
- (These apply to both future and existing Section 106 obligations and to CIL payments).

- 8.4 To this end, where the need for a planning obligation is anticipated by a planning officer, ward councillors will be consulted at an early stage of the pre-application and planning application process. The views of ward councillors on planning obligations will be sought electronically through weekly lists and shall be considered in any decision taken by the Planning Committee or by an officer acting under delegated authority.

Information available to Ward Councillors

- 8.5 The following information will be available to ward councillors via the City Council website in order to help inform their consideration of a development proposal at both pre-application and submission stages:

- The Statement of Community Involvement, which sets out the principles, expectations and best practice for everyone involved in the planning process.
- The Sustainable Neighbourhood Assessments, which set out in detail an assessment of existing infrastructure, gaps in provision and key local issues within every neighbourhood in the city.
- The Infrastructure Needs Assessment, which sets out strategic infrastructure that is needed in parts of the city to support the overall growth agenda of the city.
- A summary of existing Section 106 agreements within every ward, which is updated quarterly.
- The planning policy framework, as set out in Policy CS33 of the Core Strategy and the Planning Obligations and Affordable Housing SPD: these provide the policy context for the negotiation of planning obligations and it will be important for ward members to be familiar with these.

- 8.6 To further assist ward councillors in considering to what extent they wish to make comments on development proposals, every week ward councillors will be sent by email only:

- A list of registered Development Enquiry Service requests where the applicant has indicated that they do not wish the pre-application to be confidential. Where an applicant has indicated that a pre-application enquiry is confidential these will not appear in the weekly list.
- A list of registered planning applications with links (where applicable) to details of the proposed Section 106 Obligations Heads of Terms, which will show what the developer is proposing for the Section 106 agreement and which provides a starting point for members to consider Section 106 matters on a particular planning application.

Ward Member Involvement at Development Enquiry Service (DES) Pre-Application Stage

- 8.7 In accordance with the principles set out in the Statement of Community Involvement, councillors should review the weekly DES list. Upon receipt of the DES list ward councillors must contact the named case officer **within 10 working days** if they wish to draw attention to any particular planning or Section 106 related issues or concerns, specifying which site within their ward this relates to. This will enable officers, ward councillors and the developer to more positively engage together in progressing the pre-application discussions and take account of key local issues at an early stage. It is at this stage a ward councillor should also indicate whether they wish to receive an informal presentation from the developer/agent where this is a major development. (Informal presentations for minor or householder proposals will only be provided in exceptional circumstances at the discretion of the Assistant Director of Planning). Pre-application presentations to local ward councillors will enable the developer to positively engage with ward councillors at an early stage in the development process, without compromising the decision making process
- 8.8 Where requested, for major developments, the planning case officer will facilitate the opportunity for an informal presentation of the development proposal by the developer/agent to ward councillors, at pre-application stage. A request for an informal presentation can be made by ward councillors, the developer/agent or by planning officers. Informal DES presentations will generally be undertaken within 4 weeks of the Development Enquiry Service application being registered, and will be carried out fully in accordance with the Council's Code of Good Practice for Members and Officers, and the general advice contained in the National Model Code of Conduct (Local Authorities (Model Code of Conduct) Order 2007 - SI 2007/1159). Wherever possible meetings will be arranged for all members within the ward affected by the proposal to reflect member availability, but in order not to unduly delay pre-application discussions members will be expected to prioritise attendance at any DES meetings requested.
- 8.9 The purpose of these DES presentations is to inform ward councillors of emerging proposals for major developments and enable key local issues of relevance to the development, including any Section 106 matters, to be identified. Such early engagement will enable the developer to understand and address any significant local concerns as early in the development process as possible including any priorities to mitigate the impact of the proposed development. The collection and expenditure of Community Infrastructure Levy (CIL) payments will not be a matter for discussion at these meetings since CIL is non-negotiable and the expenditure will be determined through the governance of the Council's Regulation 123 List.
- 8.10 The developer's presentation will be limited to the facts of the development proposal.
- 8.11 Ward councillors will be given the opportunity to ask questions concerning any aspect of the proposal, including Section 106 matters. Unless a matter is commercially confidential and sensitive, developers will be expected to provide comprehensive answers to questions from ward councillors.

- 8.12 The planning case officer will highlight the key planning issues, summarising policy issues, third party views and other issues for consideration. Key issues raised at the DES meeting will be written up as part of the case officer's report to Planning Committee.
- 8.13 Ward councillors will be at liberty to express opinions in support or opposition for the proposals at the meeting if they wish, unless they are also a member of the Planning Committee.
- 8.14 Where a ward councillor is also a member of Planning Committee this will be declared at the start of the meeting. The planning case officer will then make it clear that the Planning Committee Member is at the meeting to understand the issues and to ask questions of clarification, but will remain open minded so as to avoid any suggestions of pre-determination.
- 8.15 Local ward councillor involvement at pre-application stage will not affect the speaking rights of the member at Planning Committee provided the local ward Councillor has followed the Council's Code of Good Practice for Members and officers.
- 8.16 The advice given at DES stage does not necessarily bind the formal determination by the Local Planning Authority of any subsequent planning application.
- 8.17 **Under no circumstances should Planning Committee Members meet with developers/landowners (or their advisors) without the presence of a Planning Officer.** To do so will be a breach of this code and may prejudice the integrity of any subsequent decisions made on any application. Councillors who are not members of Planning Committee are advised to seek advice from Planning Officers prior to agreeing to meet with developers or landowners.

Ward Member Involvement at Planning Application Stage

- 8.18 In accordance with the principles set out in the Statement of Community Involvement, councillors should review the weekly list of planning applications. It is the councillor's responsibility to initiate contact with the case officer named in the weekly list **within 10 working days** of the publication of the list if they wish to draw attention to any particular planning or Section 106 related issues or concerns.
- 8.19 Where a ward councilor requests a presentation on a registered major planning application, this must be done within **10 working days** of receiving the weekly list. (Presentations for minor or householder proposals will only be provided in exceptional circumstances at the discretion of the Assistant Director of Planning). The purpose of any presentations at this stage is to inform ward councillors of the content of the planning application in order to enable ward councillors to make formal representations on the application within the published consultation period. The collection and expenditure of Community Infrastructure Levy (CIL) payments will not be a matter for discussion at these meetings since CIL is non-negotiable and the expenditure will be determined through the governance of the Council's Regulation 123 List.
- 8.20 Wherever possible meetings will be arranged for all members within the ward affected by the proposal to reflect member availability, but in order not to unduly delay the

determination of planning applications members will be expected to prioritise attendance at any planning meetings requested. This date will normally be within 3 weeks of receipt of the request for the meeting. Members can still make comments on a planning application within the statutory consultation period of 21 days.

- 8.21 The advice and discussions at any meeting will not necessarily bind the formal determination by the Local Planning Authority of the planning application.
- 8.22 Under no circumstances should Planning Committee Members meet with a developer without the presence of a Planning Officer and other Members are advised to seek advice from Planning Officers prior to meeting a developer.

9.0 ROLES OF MEMBERS AND OFFICERS AT PLANNING COMMITTEE

9.1 Officers and Members have specific roles at Planning Committee. In particular the following Members and Officers will be identified at the Planning Committee:

- Chair of Planning Committee
- Vice Chair of Planning Committee
- Other Members of Planning Committee
- Lead Planning Officer
- Legal Officer
- Democratic Support Officer
- Case Officer
- Other professional inputs (as determined by the Assistant Director for Planning)

9.2 More information on the roles and responsibilities of the above Officers and Members are outlined in a guidance note which will be available at all Planning Committees, a copy of which can be found on the Council's website.

10.0 ORDER OF PLANNING COMMITTEE CONSIDERATIONS

10.1 All decisions that are to be made by the Planning Committee will be based upon written reports by Officers supplemented, where necessary, by a brief oral presentation which may include a site plan, an aerial photograph of the site, photographs of the site, key application plans and drawings, video and other relevant material that the Officer considers will assist the Planning Committee in the consideration of the proposal.

10.2 In most cases the Assistant Director for Planning will make a recommendation to the Planning Committee to either refuse planning permission, with reasons, or to approve planning permission, with conditions. In exceptional circumstances the Assistant Director for Planning may not be in a position to make a recommendation to the

Planning Committee through the main report. Where this is necessary reasons will be given as part of the Officer report and presentation to the Planning Committee. The Assistant Director for Planning may also need to report updates on specific aspects of a proposed development or undertake presentations of development proposals with the applicant at the early stages of a proposal. Where this is the case these will be separately identified on the Planning Committee agenda. In order to ensure efficient and effective decision making the Assistant Director for Planning will generally seek from the Planning Committee delegated authority to determine a planning application after the expiry of an advertisement period, or upon receipt of additional details, or will seek delegated authority to refuse permission where a Section 106 agreement linked to a resolution to grant consent is not, in his/her opinion, being expedited with sufficient speed by the applicant or will seek to defer to the Assistant Director for further negotiations in consultation with Chair, Vice Chair, and Lead Opposition Group Member for Planning.

- 10.3 Where further detail and clarification on a published report is required, this will be provided in the form of a written addendum report, to be made public no later than 5.00 p.m. the day prior to the Planning Committee meeting. Officers will always seek to ensure that the use of addendum reports is kept to the absolute minimum.
- 10.4 In exceptional circumstances, a further oral report may need to be provided at the Planning Committee meeting itself.
- 10.5 The order for consideration of all planning applications will be as follows:
 1. Planning Officer Oral Presentation;
 2. Any Planning Committee Member(s) with a prejudicial interest who wish to speak for or against a proposal (who will then leave the room);
 3. Any eligible Ward Councillor(s) who wish to speak for or against the proposal;
 4. Any Public Speaker who wishes to speak against the proposal;
 5. Any Public Speaker who wishes to speak in favour of the proposal;
 6. Questions to the Planning Officer by Planning Committee Members;
 7. Planning Committee Members debate and consider the proposal;
 8. Planning Committee Members move and debate any alternative motions to the recommendation. The Democratic Support Officer clarifies the wording of the alternative motion and the Chair puts these to the vote as appropriate (refer also to section 14);
 9. Chair of Planning Committee puts the original recommendation to the vote, if necessary;
 10. Formal Decision of Planning Committee on the proposal.

- 10.6 If Members request a point of clarification arising from what they have heard from any of the Speakers, to assist them with their consideration of the proposal, the Chair may, at his or her complete discretion, ask for a short adjournment so that the Lead Planning Officer can consult directly with the Speaker.

11.0 SPEAKING AT PLANNING COMMITTEE

- 11.1 Once the Planning Committee agenda and accompanying papers are made available to the public five days prior to the Planning Committee meeting, anyone who wishes to speak must notify the Council's Democratic Support Section (details of which will be on the agenda papers) that they wish to speak, give details of the item upon which they wish to speak under Part I and whether they wish to speak as a supporter, objector, or Ward Councillor. Notification must be made in person by either telephone, fax, letter or e-mail and must be received by no later than 4.30 p.m. two working days before the Planning Committee meeting. An individual who wishes to speak at Planning Committee must register personally.
- 11.2 The Members who will be permitted to speak as Ward Members are normally only those Members whose ward boundary falls within the 'red line' of the planning application site. However, exceptionally other Members will be allowed to speak at the discretion of the Chair provided that they represent an adjacent ward to where the red line is located and in the Committee's opinion the development directly affects residents in that adjacent ward and any of those residents have submitted letters of representation within the statutory notice period. When such an exception is made the reason will be provided as part of the Planning Committee minutes. Other Members can speak at Planning Committee, but as an objector or supporter and provided they meet the other requirements in section 11.
- 11.3 The other participants allowed to publicly speak at the Planning Committee will be the applicant or agent and/or third party objectors and supporters or professional agents appointed by them to speak. In the case of third parties only those who have made written representations on the planning application during the statutory consultation period will be eligible to speak. In the case of Public Rights of Way applications there will also be a further participant, the landowner, who will be allowed to speak after the Officer presentation, and any Members, objectors and supporters have spoken.
- 11.4 In all circumstances the maximum number of public speakers will be one objector and one in support of the development proposal (plus a landowner for Public Rights of Way applications). If there are several persons wishing to speak (whether objectors or supporters) preference will be given to the first person who properly registers to speak. However the Democratic Support Officer will advise other people who wish to speak of the nominated speaker and, if that speaker is agreeable, then an alternative speaker can be put forward provided all the other criteria in section 11 is satisfied.

- 11.5 Speakers who have notified that they wish to speak need to attend the Planning Committee at least quarter of an hour before the start of the meeting and should register their details with the Democratic Support Officer. They will need to provide their name, the application they are to speak on, and whether they are an objector or supporter of the proposal.
- 11.6 Speakers will be allowed to speak for up to a maximum of five minutes and there will be no further involvement of the speaker in the deliberations of the Planning Committee, except as outlined in paragraph 10.6. Speakers will NOT be given an opportunity to ask questions of the Members of the Planning Committee.
- 11.7 Speakers are not expected to provide any presentational material for the Planning Committee. However, if a speaker wishes to submit any presentational material to supplement their speech they must do so no later than the deadline for speaking as outlined in paragraph 11.1. The material must only deal with issues raised through the formal representations procedure on that particular application. Any other presentational material that is produced by speakers will not be accepted and will be disregarded.
- 11.8 In the event an application is deferred, anyone wishing to speak at the subsequent Planning Committee meeting must register in the normal way. Any previous speaker will not be given preference over other eligible speakers.
- 11.9 Speakers should not interrupt other speakers or interrupt the Planning Committee debate.
- 11.10 Speakers are advised not to make slanderous statements or any other racial motivated, discriminatory or inflammatory remarks.
- 11.11 The Chair can suspend the right to public speaking in relation to an individual item or the whole Planning Committee if he/she considers it necessary to maintain order at the meeting.
- 11.12 The Chair can also require a speaker to cease speaking and leave the meeting if in the opinion of the Chair the speaker's statement falls within 11.9 or 11.10 above.
- 11.13 The Chair of Planning Committee at any time may adjourn the Planning Committee and ask for the public gallery to be cleared to maintain order at the meeting if there is any activity or behaviour which, in his/her opinion, is disrupting the proper consideration of a planning application and/or the conduct of the business of the Planning Committee.

- 11.14 The Chair of Planning Committee at any time may require a Member of the Planning Committee to leave the meeting and take no further part in the proceedings if, in his or her opinion the Member has made statements that fall within 11.9 or 11.10.

12.0 SITE VISITS

- 12.1 Planning Committee Members will be expected to be familiar with the site and the issues surrounding the Officer recommendation when they arrive at a Planning Committee meeting.
- 12.2 If, prior to a Planning Committee meeting, a Member considers that additional illustrative material would assist the Planning Committee to visualise the impact of the proposed development (over and above the planning application drawings and plans and the material forming part of the Officer's presentation to the Planning Committee) they should advise the Assistant Director for Planning at least three working days before the Planning Committee meeting clearly specifying what additional material is needed and why.
- 12.3 Officers will normally organise a site visit ahead of any formal recommendation if they feel this would benefit Members' understanding of the proposal. These site visits will be held prior to the Planning Committee meeting and Members will be expected to give priority to attending this at the arranged time. If Members wish the Planning Committee to visit other sites on the Planning Committee agenda not already included in the scheduled site visit they should advise the Assistant Director for Planning at the earliest opportunity. If Members cannot attend the scheduled site visit they will still be expected to have familiarised themselves with the site. Members should, however, inform the planning officer if they intend to enter the owner's property unaccompanied and seek clarification from the planning officer whether it is appropriate for them to be accompanied by an officer.
- 12.4 If a Member of Planning Committee moves a resolution for a site visit at a Planning Committee meeting not having attended the scheduled visit under paragraph 12.3 Planning Committee will exercise a strong presumption against agreeing to defer the planning application for a further site visit.
- 12.5 If during the course of the consideration of any application a Member moves a resolution for a site visit on a site which was not included in the Scheduled site visit the Member will need to give an explicit reason that must explain why the need for a site visit was not apparent prior to the Planning Committee meeting. In such cases the deferment for a site visit will need to be agreed by Planning Committee members through a majority vote.
- 12.6 If a site visit is to be made by the Planning Committee it will consist of an inspection of the site (and adjoining sites and buildings as necessary) with the assistance of Officers.

The purpose of the site visit is to assess the site and surroundings in the context of the development proposals under consideration, relevant development plan policies and proposals, and identified material considerations. It does not form part of the formal Planning Committee meeting.

- 12.7 Site visits conducted by the Planning Committee will normally be unaccompanied (by third parties). As such there is no obligation on the Council to notify the applicant or objectors of the arrangements for a site visit. However it may be necessary to contact the applicant and/or landowner of the site and/or adjacent sites to gain permission to access private property. Before Members enter the site(s) or building(s) Officers will explain to any applicants, objectors, or supporters in attendance the procedure for the conduct of the visit. Officers will then explain to Members the issues relating to the Planning Committee item pointing out any site related matters as necessary. Members will be encouraged to ask Officers questions of fact.
- 12.8 Under no circumstances are Members of the Committee or Officers to enter into any discussions with Ward Members, applicants, supporters or objectors on the site visit regarding the merits or demerits of the proposal. During the site visit Members and Officers should avoid comments that could be interpreted as deliberations on the proposal itself, restricting themselves to questions of clarification or observations of fact. If, in the opinion of the Chair of the Planning Committee, the conduct of Members, Officers or third parties is of such a nature as to be potentially in conflict with any of these requirements, or the safety of the Members or Officers is in question, he/she will immediately suspend the site visit. If the Chair of the Planning Committee does suspend a site visit the application will be determined by a subsequent Planning Committee without further recourse to a site visit (even if a further request is made by a Member).
- 12.9 Ward Members will be notified and may be present at a site visit but this is only to accompany the Planning Committee members, it is not an opportunity for the Ward Members to put forward any case for or against the proposal. The Ward Member is only present to assist with any clarification that may be required in connection with local area issues and to hear the explanation given by the Officer.
- 12.10 The purpose of Planning Committee site visits is:
- For Members of the Planning Committee to familiarise themselves with the site and its surroundings and the location of relevant parts of the proposal.
 - For Officer(s) to provide factual information to Members regarding the site and the proposed development.
 - For the applicant or their agent to be present on the site, either to enable access or to ensure health and safety procedures are followed.
 - At the Chair's discretion, to visit third party premises.

- To seek clarification on details of the planning application from officers, through the Chair.
- 12.11 All site visits will commence with the Chair of the Planning Committee making a statement to all in attendance regarding site visit procedures. The statement is as follows:
- “May I remind Members of the Planning Committee that the purpose of this site visit is solely to view the site and seek clarification on the planning application from officers. Planning Committee Members cannot engage in a debate or answer questions about the development. Members cannot discuss the merits or otherwise of the proposal with developers, ward councillors or local residents.”
- 12.12 The Chair of the Planning Committee is able to suspend a site visit at any time if they are not conducted in an appropriate manner or where there are health and safety issues.
- 12.13 A record that a Planning Committee site visit has taken place should be made through a Planning Committee minute.

13.0 DECISIONS CONTRARY TO THE DEVELOPMENT PLAN

- 13.1 The general principle in planning is that where the Development Plan is up to date and relevant, planning applications should be determined in accordance with it unless material considerations indicate otherwise.
- 13.2 All applications must be assessed in accordance with Section 38(6) of the Planning and Compensation Act 2004 and Section 70 of the Town and Country Planning Act 1990 as amended by Section 143 of the Localism Act 2011.

14.0 DECISIONS CONTRARY TO OFFICER RECOMMENDATION

- 14.1 Department of Communities and Local Government Circular 03/09 advises that the most common cause for costs being awarded against a Local Planning Authority is where there are unsubstantiated reasons for refusal. However, the circular recognises that planning can often involve judgements concerning the character and appearance of a local area and the precise interpretation and application of development plan policy requirements. As such the circular states:

“Planning Authorities are not bound to accept the recommendations of their officers. However, if officers’ professional and technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce

relevant evidence on appeal to support the decision in all respects. If they fail to do so costs may be awarded against the authority". (DCLG Circular 03/09, paragraph B20, April 2009).

- 14.2 Planning applications can also give rise to local controversy and sustained opposition, leading to Members being actively lobbied (see Section 7). However local opposition or support for a proposal is not, in itself, a ground for refusing or granting planning permission, unless it is founded upon valid planning reasons. Planning authorities will be at risk of costs for unsubstantiated reasons for refusal that rely almost exclusively on local opposition for their justification.
- 14.3 Once the Planning Committee agenda has been published any member may seek advice from Planning Officers, irrespective of the recommendation made on any particular planning application, and discuss what options there are with the Assistant Director for Planning or the Head of Development Management.
- 14.4 If a decision is to be made contrary to the Assistant Director for Planning recommendation, then the Members proposing, seconding or supporting a contrary decision must agree the planning reasons leading to this decision and must also give Officers an opportunity to explain the implications of such decision prior to the vote. The reasons for the decision must be given prior to the vote and shall be minuted.
- 14.5 In the event that the Planning Committee is minded to grant an application contrary to Officers recommendation then they MUST provide:
- (i) Full conditions and relevant informatives;
 - (ii) Full statement of reasons for approval (as defined in Town & Country Planning (General Development Procedure) (England) (Amendment) Order 2003);
 - (iii) Relevant Local Plan and Local Development Framework policies and proposals.
- 14.6 Where a Member of the Planning Committee moves a motion to refuse an application contrary to the Officers' recommendation then the Member moving the motion MUST provide:
- (i) Full reasons for refusal, which must include a statement as to demonstrable harm caused and a list of the relevant plan and policies which the application is in conflict with;
 - (ii) Statement of other policies relevant to the decision.
- 14.7 In the event of a Member motion to refuse, which is seconded, the Chair will if necessary adjourn the meeting for a few minutes to allow Officers to advise of any

other relevant planning issues to assist them with their reasons. Vague, generalised or inaccurate assertions about a proposals' impact, which are unsupported by an objective analysis, are more likely to result in a costs award.

- 14.8 If the Member moving the motion does not meet the requirements of (i) and (ii) above the motion shall be not be deemed to have been properly made.
- 14.9 If, in the opinion of the Assistant Director for Planning the possible decision of the Planning Committee to refuse planning permission would carry a high risk of an award of costs against the Local Planning Authority, s/he shall formally ask the Planning Committee to defer a decision and this advice will be formally minuted. The purpose of the deferral shall be to provide time for a full consideration by Officers of the Planning Committee's concerns about the application, such that Officers may advise of grounds of refusal, should the Planning Committee remain minded to refuse the application. In making an assessment about the level of risk of a cost award, the Assistant Director for Planning shall have regard to:
- The application's level of compliance with the Local Development Framework and other adopted policies;
 - The robustness of the evidence that can be cited to support a refusal of planning permission;
 - All other material considerations.
- 14.10 Any decision made during the Planning Committee forms the full and final decision of the Council (subject to agreed matters for deferral and final ratification) and it is therefore essential that both Members and Officers carefully follow the above procedure in order to provide a legally binding decision.

15.0 APPEALS AND INQUIRIES

- 15.1 In the event that planning permission is refused either under delegated powers conferred on the Assistant Director for Planning or by the Planning Committee, an applicant may exercise his/her right of appeal. Officers are responsible for preparing the Council's evidence for these appeals, and the vast majority of these are dealt with by written representations involving an exchange of statements. On occasions specialist Counsel and consultant support is needed to supplement the evidence of Officers.
- 15.2 In the case of an applicant exercising his/her right to an informal hearing or a Public Inquiry Officers will be responsible for presenting the Council's evidence and attending to present that evidence. Members are at liberty to attend in their capacity as Ward Members and may be called to give evidence as a Ward Member. Members of the Planning Committee will not normally be required to attend to present the Council's case.

- 15.3 In the case where the Planning Committee has refused planning permission contrary to Officer's recommendations Officers will normally prepare and present the evidence in their role as employee of the Local Planning Authority. It will be for the Assistant Director for Planning to identify the officers to prepare and present the evidence.
- 15.4 It should not be necessary for Members of the Planning Committee to become involved in preparing and presenting the case at appeal on an overturn decision, because the reasons for refusal and statements on relevant policies put forward by the Members in reaching their decision should be sufficient to defend the case. However, there may be some situations where in an inquiry a Member involvement as a relevant witness is necessary in order to provide a full and accurate case. In circumstances where the Assistant Director for Planning considers this to be the case the Member will be expected to attend any Informal Hearing or Public Inquiry in support of the Council's case.
- 15.5 In exceptional circumstances the Assistant Director for Planning may not be able to prepare the Council's evidence to the hearing or inquiry because the Officer's earlier recommendation on the grounds of refusal is so prejudiced by the earlier advice given. In these circumstances a nominated Member of the Planning Committee together with an externally appointed consultant will need to present the Council's evidence.

16.0 QUALITY OF SERVICE

- 16.1 The responsibility to provide a quality service is shared by both Officers and Members. Unnecessary delay at any point in the process of determining an application can result in customer commitments not being met. It can also mean costly delays and can damage the reputation of Plymouth City Council, the Planning Committee itself and its individual Members and Officers. This could have wider implications for the regeneration of Plymouth in terms of how investors, and indeed local people, perceive the city.
- 16.2 Therefore, when making decisions Members and Officers need to ensure primarily that a fair and reasonable planning decision is made, but that in so doing account must also be taken of customer commitments.

17.0 MONITORING AND REVIEW OF DECISIONS

- 17.1 Members should also play an active part in regularly reviewing the outcome of planning decisions so that lessons can be learned and the future consideration and determination of planning application proposals can be improved as part of a broader commitment to continuous improvement.

- 17.2 Every year the Planning Committee will undertake an Annual Site Visit to review completed projects and look at key regeneration sites that form part of the Local Development Framework. There may also be the need for review site visits during the determination stage of planning applications.
- 17.3 Members should assist in the preparation of the Local Development Framework/Local Plans by engaging in key consultation stages and discussing with Officers the application of key policies. The Chair of Planning Committee will also meet regularly with the relevant Portfolio Holder to discuss the interrelationships between policy development and policy application.
- 17.4 Members should therefore ensure that they are available for review visits as and when necessary throughout the year and for a whole day of visits for the Annual Site Visit.

18.0 TRAINING

- 18.1 No Member may sit at a Planning Committee meeting without first having received appropriate mandatory training as set out in paragraph 18.2. This training will expire if the Member has not sat on the Planning Committee within 12 months of receiving the training, or has had a gap of at least 6 months from the Planning Committee. Where the training has expired the Member may not sit on the Planning Committee until they have received the mandatory training.
- 18.2 Given the complex legislative framework for determining planning applications and the constant reforms and changes to procedure within the planning system, the Assistant Director for Planning will provide a Planning Committee Training Programme comprising regular sessions covering:
- An annual Planning Committee training session that will provide an overview of the key role of planning in the city and the role of Members in the planning process. This training will normally be held once the annual list of Planning Committee members are known and should be attended by both new and existing Members. Training will be undertaken by appropriate Legal and Planning Officers. If Members join Planning Committee after this training or act as a substitute for a Planning Committee Member, they will receive separate training.
 - Training Workshops on new Council and Central Government policy and legislation or other Planning issues that either Members request or Officers recommend.
 - Annual Site Visit.
- 18.3 The above training will usually be open to all Members of the Council to enable them to have a better understanding of planning issues in their role as Ward Councillors.

- 18.4 Members will be expected to make themselves available to attend these training sessions in order to keep up to date on the latest planning and development issues. It will be the responsibility of each individual Member to ensure that they have had at least the annual training in order to be able to sit at a Planning Committee meeting. The Assistant Director for Planning will maintain a register of Member training. Training will be provided using a range of training methods.

19.0 COMPLAINTS

- 19.1 A complaint that a Member or Officer has breached this code should be made in writing to the Head of Legal Services and would be referred to the Monitoring Officer for investigation and determination.
- 19.2 A complaint made in writing regarding the determination of a planning application or a related planning matter would be investigated by the Assistant Director for Planning and/or an appropriate officer of the Planning Department in accordance with the Council's complaints procedure.
- 19.3 A complaint may be made to the Local Government Ombudsman in the event that a complainant was not satisfied with the result of an investigation under the Council's complaints procedure. This must be made on the appropriate prescribed form and submitted direct to the Local Government Ombudsman.

Paul Barnard, Assistant Director for Planning
Peter Ford, Head of Development Management
Julie Rundle, Senior Lawyer

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PLANNING AND THE PLANNING COMMITTEE

I. FUNCTIONS

The relevant functions of the Council are:

I.1 Planning and Conservation

- A** All the Council's functions in relation to Town and Country Planning and Development Control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended.

Commons registration

- B** All the Council's functions in relation to common land or town and village greens or unclaimed common land, or unlawful works on common land and to register the variation of rights of common as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended.

Highways Use and Regulation

- C** All the Council's functions in relation to the regulation of the use of highways set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended.

High Hedges

- D** All the Council's functions in relation to applications and complaints about high hedges under Part 8 of the Anti-Social Behaviour Act 2003.

Trees

- E** The powers to preserve trees under Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999 and to protect important hedgerows under the Hedgerows Regulations 1997.

I.2 Policy

The Council decides whether to adopt the Local Development Framework, on the recommendation of Cabinet.

2 MATTERS SPECIFICALLY DELEGATED TO THE PLANNING COMMITTEE

2.1 In relation to policies and strategies the Committee will:

Advise the Cabinet on the implementation of the Development Plan, Local Development Framework and other planning policies and strategies.

2.2 Within the policies laid down by the Council, the Committee will

2.2.1. Determine applications relating to town and country planning, commons registration, village greens, the making or confirmation of Tree Preservation Orders where there are objections that cannot be resolved and the use or regulation of highways that would have a significant impact on two or more wards of the Council.

2.2.2 Determine individual applications for planning permission and any other application made under planning legislation where:

- a) it is an application for 10 or more dwellings or non-residential floor space of 1000 sq m or more and more than 5 written representations raising valid planning considerations have been received during the statutory consultation period; or
- b) the application is substantively contrary to a Local Development Framework proposal and the officer recommendation is to approve;
- c) the application is submitted by an employee or Member of the Council, or a close relative of an employee or Member of the Council living in the same property (see paragraph 4.3 for definition of a close relative).
- d) a Member of Council has, within 3 weeks of being sent notification of an application, written to the Assistant Director for Planning directing its determination by the Committee and given reasons for this ;
- e) the matter is referred to the Committee by the Assistant Director for Planning under one of the following criteria:
 - there are finely balanced policy or precedent issues;
 - there are probity issues or public interest reasons for the matter to be determined by the Committee;

- the matter is an unusual response to a particular set of issues that warrants debate by the Committee.

2.2.3 Approve the principal terms of major planning agreements; or any substantive changes to the terms of major planning agreements that have been specifically agreed by the Planning Committee on a previous occasion.

In relation to Highways Matters the Committee will:

2.3.6. Determine the confirmation of Orders to create divert or stop up footpaths or bridleways.

2.3.7. Determine applications to modify the definitive map.

2.3.8. Determine applications that are referred by either the Assistant Director **for** Planning or the Assistant Director **for** Transport.

3. MATTERS DELEGATED TO OFFICERS

3.1 All other non executive functions in respect of planning highways and transport have been specifically delegated to the Director for Place

4. GENERAL

4.1. Substitute Members

Any member of Council may act as substitute provided they have undergone the Council's prescribed Member planning training course.

4.2 Planning Committee Procedures are found in the Planning Committee's Code of Good Practice.

4.3 For the purposes of the Planning Committee functions a close relative is defined as: a husband or wife (or civil partner), a son or daughter, a father or mother; or a brother or sister.

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PLYMOUTH CITY COUNCIL

Subject: Arrangements for Code of Conduct complaints
Committee: City Council
Date: 16 September 2013
Cabinet Member: Councillor Peter Smith
CMT Member: Tim Howes (Assistant Director for Law, Democracy and Governance)
Author: Tim Howes, Assistant Director for Law, Democracy and Governance
Contact details: Tel: 01752 305403
Email: tim.howes@plymouth.gov.uk
Ref:
Key Decision: n/a
Part: I

Purpose of the report:

To update the process for handling complaints under the Councillors Code of Conduct pursuant to Section 28 of the Localism Act 2011

The Brilliant Co-operative Council Corporate Plan 2013/14 -2016/17:

This is a legal requirement but links to our values of 'we are responsible' and 'we are fair'.

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land:**

All resource implications will be met from existing budgets.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

None

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? No

Recommendations and Reasons for recommended action:

The Council formally adopt these arrangements in accordance with section 28 of the Localism Act 2011.

Alternative options considered and rejected:

None, this is a legal requirement.

Published work / information:

None

Background papers:

None

Sign off:

Fin	djn1314. 13	Leg	TH 0125	Mon Off	TH 0125	HR		Assets		IT		Strat Proc	
Originating SMT Member Tim Howes													
Has the Cabinet Member(s) agreed the content of the report? Yes													

1.0 Introduction

Under the Localism Act 2011, the Council must have in place arrangements under which allegations under the Councillors' Code of Conduct can be investigated, and under which decisions on allegations can be made.

Following the previous adoption of the new Code of Conduct these new arrangements have been drafted and were considered initially by the Standards Advisory Group who recommended minor amendments to give greater clarity to complainants. The arrangements were subsequently approved by the Constitution Review Group on 23 July 2013 with a minor amendment to include reference to the informal arrangement for Group Leaders and whips to be made aware of complaints by Councillors.

The document follows a standard process adopted throughout local government, but it has been adapted to match issues which are unique to Plymouth.

2.0 The Arrangements

Arrangements for handling of allegation under the Code of Conduct against Members of Plymouth City Council ("the Council")

Introduction

This procedure applies to complaints about alleged breaches of the Code of Conduct by Members of Plymouth City Council, pursuant to Section 28 of the Localism Act 2011.

For the purposes of this procedure the person who makes the complaint is described as "the Complainant" and the person about whom the complaint is made is "the Member". In this procedure "Member" includes "Co-opted Member".

The adopted code of conduct for Members is attached at appendix A to these arrangements and is also available in the constitution on the council's website.

Summary of how the procedure works

Stage 1 – Making a complaint

In order to make a complaint you must send your complaint in writing to the Monitoring Officer (see paragraph 1.1 below for details of how to do this and where to send your complaint).

Stage 2 – Assessment of your complaint

If informal resolution is not possible the Monitoring Officer will assess the complaint and decide whether to investigate the allegations contained in it. If the Monitoring Officer decides that the complaint should be investigated, he/she will undertake a process (details of which are set out below) to determine whether or not the complaint is upheld. If the complaint is not to be investigated the Monitoring Officer will write to you to explain why. In some cases the Monitoring Officer may consider informal resolution of your complaint if appropriate.

Stage 3 – Investigation of the complaint

If the Monitoring Officer does investigate your complaint, the final summary investigation report and finding will be published on the Authority's website. In cases where the Monitoring Officer upholds your complaint, he/she will consult with the Council's Standards Advisory Group on what if any sanctions should be imposed in respect of the breach.

There are no appeal mechanisms within this procedure. Should you be dissatisfied with the Monitoring Officer's decisions and/or actions at any point, a member of the public may complain to the Local Government Ombudsman or to the courts.

Stage 1

How to complain about Member conduct and what you and the Member are told after you have made a complaint

1.1 How to complain

- 1.1.1 If you want to complain that a Member of the Authority has breached the Authority's Code of Conduct you must make your complaint in writing;
- 1.1.2 You can do this by completing a complaint form, which you can obtain by telephoning 01752 305403 or contacting the Monitoring Officer by email at tim.howes@plymouth.gov.uk The complaint form explains what information you should include in the form.
- 1.1.3 You are not, however, required to use the complaint form, and can make your complaint in writing to: The Monitoring Officer, Plymouth City Council, Civic Centre, Plymouth, PL1 2AA or tim.howes@plymouth.gov.uk
- 1.1.4 If you do not use the complaint form and write to the Monitoring Officer instead you should clearly set out the following information in your letter:
- the name of the Member you believe has breached the Code of Conduct;
 - what the Member has done that you believe breaches the Code of Conduct, and which paragraphs of the Code you believe they have breached. (If you are complaining about more than one Member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct).
 - you should be specific, wherever possible, about exactly what you are alleging the Member said or did;
 - you should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe;
 - you should confirm whether there were any witnesses to the alleged conduct and provide their names and contact details if possible;
 - you should provide any relevant background information;
 - you should say what action you think would be appropriate to resolve your complaint;
 - you should say whether you would like your identity and the details of your complaint to be kept from the Member(s) you are complaining about and, if so, explain why. Any such request will be taken into account but your anonymity cannot be guaranteed.

1.2 What happens once you submit a complaint?

- 1.2.1 All complaints about Member conduct will be dealt with by the Authority's Monitoring Officer.
- 1.2.2 If the Monitoring Officer is unsure whether you are actually making a complaint, or any details of your complaint, he/she will contact you to clarify.

1.2.3 If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the police or other regulatory agencies. In particular a breach of the process around Disclosable Pecuniary Interests is in most instances a criminal offence which should be investigated by the Police.

1.3 What you and the Member are told next

1.3.1 If the Monitoring Officer is clear that you are making a complaint that a Member of the Authority has breached the Authority's Code of Conduct, where the Monitoring Officer considers it appropriate, he/she will try to resolve your complaint informally (see Stage 2 below).

1.3.2 If informal resolution is not appropriate or is unsuccessful, the Monitoring Officer will:

- (i) write to you to acknowledge that he/she has received your formal complaint and to inform you that the Member you are complaining about will usually be provided with your identity, unless you write back within 5 working days asking for this not to happen; and
- (ii) unless there are good reasons not to, write to the Member you are complaining about:
 - (a) stating that a formal complaint has been made against them;
 - (b) providing them with your name (unless you have asked that this information is not provided and/or the Monitoring Officer considers there are good reasons not to provide it);
 - (c) stating the relevant paragraphs of the Code you believe the Member has breached; and
 - (d) stating that the complaint will be considered by the Monitoring Officer.

Stage 2 – Assessment

2.1 Assessing your complaint and making a decision

2.1.1 The Monitoring Officer will assess all complaints on a case by case basis and, in doing this, will also take into account relevant guidance, professional advice and the criteria set out below and may seek the views of the Independent Person (see paragraphs 3.1.2. and 3.2 below).

2.1.2 The Monitoring Officer will also take into account any relevant criteria and factors.

2.1.3 Given the limited sanctions available to the Monitoring Officer to apply in the event of a breach of the Code, the Authority expects this complaints procedure to be proportionate to the issues raised and the expected outcomes.

The following criteria will be considered in deciding what action, if any, to take:

- a) **Has the complainant submitted enough information to satisfy the Monitoring Officer that the complaint should be referred for investigation or other action?**

If not:

The information provided is insufficient to make a decision. So unless, or until, further information is received, no further action will be taken on the complaint.

- b) **Is the complaint about someone who is no longer a member of the Council, but is a member of another authority? If so, should the complaint be referred to the monitoring officer of that other authority?**

If yes:

The complaint will be referred to the monitoring officer of that other authority to consider.

- c) **Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?**

If yes:

There may be nothing more to be gained by further action being taken.

- d) **Is the complaint about something which happened so long ago that there would be little benefit in taking action now?**

If yes:

Further action may not be warranted.

- e) **Does the complaint appear too trivial to justify the cost or inconvenience of further action?**

If yes:

Further action will not be warranted.

- f) **Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?**

If yes:

Further action will not normally be warranted.

- g) **Is the complaint anonymous?**

If yes:

No action will normally be taken unless there are compelling reasons to suggest otherwise, e.g. if it includes documentary or photographic evidence indicating an exceptionally serious or significant matter.

- h) **With respect to complaints made by a Councillor, has the complaint been referred to the respective groups for informal resolution?**

If no:

The complaint will be referred to the Group Whips and Leaders for resolution without the requirement for a formal complaint process.

2.1.4 After reviewing your complaint, the Monitoring Officer will do one of the following:

- (a) decide that no action should be taken on your complaint (and inform you of this decision and the related reasons); or
- (b) decide that informal resolution is appropriate; or
- (c) decide to investigate your complaint (and inform you of this decision and the related reasons); or
- (d) pass the matter to the Police or other regulatory agency. (see Disclosable Pecuniary Interests at paragraph 3.4)

2.2 How are you told about the Monitoring Officer's decision?

2.2.1 Within 5 working days of making a decision, the Monitoring Officer will provide you and the Member you are complaining about with a written document, containing his/her decision. This is called a "Decision Notice".

2.3 What information will the Decision Notice contain?

2.3.1 This will be prepared having regard to any professional advice and the information it contains will depend upon what information the Monitoring Officer decides should be provided. Normally, however, the Decision Notice will:

- contain your name and a written summary of your complaint;
- contain the Monitoring Officer's decision;
- record the main points the Monitoring Officer considered, the conclusion and the reasons.

2.3.2 the Monitoring Officer will first consider whether providing these or any details is in the public interest or would undermine a person's ability to investigate your complaint (as this may be necessary at a later stage).

2.3.3 If there has been no finding against the Member, the Decision Notice will not contain the name of the Member.

2.4 Decision Notices are made public

2.4.1 After the Decision Notice has been sent to you and the Member you are complaining about, the Authority will publish the Decision Notice on its website.

2.5 A decision of 'no action' and your right to ask for a review of that decision

2.5.1 The Monitoring Officer's decision is final. Where the Monitoring Officer has decided that no action should be taken on your complaint, there is no right to ask for a review of the decision. In these circumstances, a member of the public may complain to the Local Government Ombudsman at www.lgo.org.uk or in writing The Local Government Ombudsman, PO Box 4771, Coventry CV4 0EH.

2.6 What is informal resolution?

2.6.1 Where the Monitoring officer decides that it would be appropriate to seek informal resolution, he/she will contact you to find out if your complaint can be resolved immediately, without recourse to formal investigation.

2.6.2 Unless there are good reasons not to, the Monitoring officer will normally advise the Member at this stage that a complaint has been received and provide the Member with such details as the Monitoring Officer considers appropriate.

2.6.3 There will be a whole range of actions that may be appropriate to try and resolve your complaint informally. Some examples are: the Monitoring Officer having a discussion with the Member you have complained about; arranging for the Member to do something which you have asked them to do; arranging a discussion between you and the Member; obtaining an apology from the Member.

- 2.6.4 It is important, therefore, that you tell us in your complaint what action you think would be appropriate to resolve your complaint.

Stage 3 Investigation following assessment

3.1 Monitoring Officer decides to investigate your complaint

- 3.1.1 Where the Monitoring Officer decides that a complaint should be investigated further, he/she may ask you, the Member, any witnesses and any other relevant people to provide them with detailed information or explanations, possibly by way of an interview.
- 3.1.2 The Monitoring Officer may arrange for the investigation to be carried out on his or her behalf by another person. In determining the complaint the Monitoring Officer will seek and take into account the views of at least one Independent Member appointed by the Authority for such purposes. The Monitoring Officer may take into account the views of an Independent Person on any other matter concerning the investigation.
- 3.1.3 Information obtained in conducting the investigation will only be released to third parties where this will allow your complaint to be dealt with properly.
- 3.1.4 In addition to taking into account the views of the Independent Person, the Monitoring Officer will, when seeking to reach a finding on the complaint, take into account relevant guidance and professional advice. The Monitoring Officer may also consult with the Council's Standards Advisory Group which is comprised of six councillors.

3.2 The role of the Independent Person

- 3.2.1 The role of the Independent Person, under Section 28(7) Localism Act 2011, is:
- to give views, which must be taken into account by the Monitoring Officer before he/she makes a decision on an investigation he/she has decided to investigate;
 - give views, if requested by the Monitoring Officer, on any other allegation;
 - to give views to a Member if that person's behaviour is the subject of an allegation.

3.3 What happens when your complaint is investigated and the investigation is completed?

- 3.3.1 Once the investigation is completed, the Monitoring Officer will, after consulting with the Standards Advisory Group:
- (i) find that the Member has failed to comply with the Authority's Code of Conduct ("a finding of failure"); **OR** find that the Member has not failed to comply with the Authority's Code of Conduct ("a finding of no failure");
 - (ii) prepare a written summary report of the investigation which contains a statement of the finding;
 - (iii) send a copy of the report to you and the Member as soon as is reasonably practicable after making the decision; and

- (iv) publish a summary report and finding on the Authority's website. The name of the Member will only be published where there is a finding of failure on the part of the Member.

3.3.2 In cases where the Monitoring Officer upholds your complaint, he/she will consult with the Council's Standards Advisory Group on what if any sanctions should be imposed in respect of the breach.

3.3.3 The possible sanctions for breach of the code are:

- A reprimand of the Member by letter;
- Report to Council proposing a formal censure to Council;
- Refer findings to full council for information;
- Publication of the reprimand or censure by press release or other appropriate publicity;
- Recommendation to the Group Leader (or in the case of un-grouped members, recommend to council or committee) that he/she be removed from any or all committees of the Council;
- Recommendation to the Leader of the council that the Member be removed from the Cabinet, or removed from particular portfolio responsibilities;
- Recommendation of training for the Member

There is no power to suspend or disqualify the Member or to withdraw member's allowances or special responsibility allowances.

3.3.4 The decision of the Monitoring Officer is final. There is no entitlement to appeal against the Monitoring Officer's decision on a complaint. In these circumstances, you may be able to complain to the Local Government Ombudsman.

3.4 Disclosable Pecuniary Interests

3.4.1 If the complaint relates to a disclosable pecuniary interest, the Monitoring Officer will either pass the complaint directly to the Police or recommend that the Complainant contacts the Police.

3.4.2 In respect of disclosable pecuniary interests it is a criminal offence if, without reasonable excuse, a Member fails to tell the Monitoring Officer about his/her disclosable pecuniary interests, either for inclusion on the register if they are newly elected, co-opted or appointed member, or to update the register if they are re-elected, or re-appointed, or when they become aware of a disclosable pecuniary interest which is not recorded in the register but which relates to any matter;

- That will be or is being considered at a meeting where they are present, or
- On which they are acting alone.

3.4.3 It is also a criminal offence for a Member to knowingly or recklessly provide false or misleading information, or to participate in the business of the authority where that business involves a disclosable pecuniary interest. It is also a criminal offence to continue working on a matter which can be discharged by a single member and in which they have a disclosable pecuniary interest.

3.4.4 If the Member is found guilty of such a criminal offence, they can be fined up to £5,000 and disqualified from holding office as a councillor for up to five years.

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COUNCILLORS' CODE OF CONDUCT

I. **The Code of Conduct**

Plymouth City Council has adopted this code which sets out the conduct expected of elected and co-opted members of the council.

Holders of public office have a duty to:

- a) declare any private interests relating to their public duties and
- b) take steps to resolve such conflicts in a way that protects the public interest.

The code is intended to be consistent with Nolan's Seven Principles of Public Life namely that councillors will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

General principles of public life

Preamble

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, non-departmental public bodies, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

2. Who does the code apply to?

The code applies to councillors and co-opted members. When the code refers to councillors, this includes co-opted members

Co-opted member means any person who is a member of any committee or sub-committee of the council but is not one of its councillors. This includes any officer who is a statutory member of a committee and has voting rights.

3. When does the code apply?

It applies to councillors when they:

- a) conduct the business of the council (including the business of their office as a councillor or co-opted member) or
- b) act, claim to act or give the impression they are acting as a representative of the council

4. Does the code apply when councillors represent the council on another body?

When councillors are representing the council on another body, they must follow the code unless it conflicts with a legal duty of the other body.

5. Courtesy and equality

Councillors must treat other people with courtesy and must not bully anyone. They must not do anything that could lead the council to break equality laws.

The general equality duty applies to 'public authorities'. In summary, those subject to the general equality duty must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected

characteristic* and those who do not.

- Foster good relations between people who share a protected characteristic* and those who do not.

These are often referred to as the three aims of the general equality duty.

* Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, sex, sexual orientation and race – this includes ethnic or national origins, colour or nationality, religion or belief (or lack of belief).

6. **Intimidation**

Councillors must not intimidate or try to intimidate anyone who is involved in any complaint about any alleged breach of the code of conduct.

7. **Impartiality of council officers**

Councillors must not do anything which would be likely to prevent officers or contractors from being impartial.

It should be noted that the council's constitution includes a protocol about Member/Officer relations.

8. **Information**

Councillors must not stop anyone getting information they have a legal right to.

Councillors must not pass on information given to them in confidence or information they should know is confidential unless:

- they are required to by law or
- they have the consent of someone authorised to give it or
- it is to get professional advice and the person given the information agrees not to pass it on to anyone else or
- passing on the information is reasonable, in the public interest (whistleblowing), made in good faith and made in compliance with the reasonable requirements of the council.

9. **Cabinet members**

At a Cabinet meeting

Cabinet members must declare and give brief details about any conflict of interest* relating to the matter to be decided and leave the meeting room when the matter is being considered. Cabinet members may apply to the Monitoring Officer for a dispensation in respect of any conflict of interest.

Making individual executive decisions

Cabinet members must declare and give brief details about any conflict of interest* relating to the matter to be decided and refer the matter to the Leader for a decision.

Cabinet members may apply to the Monitoring Officer for a dispensation in respect of any conflict of interest.

If the Leader has a conflict of interest*, s/he will refer the matter to the Cabinet.

* A conflict of interest is a situation in which a councillor's responsibility to act and take decisions impartially, fairly and on merit without bias may conflict with his/her personal interest in the situation or where s/he may profit personally from the decisions that s/he is due to take.

10. Disrepute

Councillors must not act in a manner which could be seen to bring the council or the role of councillor into disrepute.

11. Misuse of position

Councillors must not try to use their position improperly to gain an advantage or disadvantage for themselves or others.

12. Use of council resources

When councillors use the council's resources or let other people use them, they must follow any reasonable rules set by the council and make sure that resources are not used improperly for political purposes (including party political purposes).

13. Publicity

Councillors must take into account the Code of Recommended Practice on Local Authority Publicity.

14. Advice of Monitoring Officer and Responsible Finance Officer

Councillors must consider any advice given by the Monitoring Officer or Responsible Finance Officer when taking decisions.

15. Giving reasons for decisions

Councillors must give reasons when required to by the law or by any council procedures.

PECUNIARY AND PRIVATE INTERESTS AT MEETINGS

16. Does a councillor have a disclosable pecuniary interest in the business of the committee?

Disclosable pecuniary interests are defined in regulations and include the interests of a councillor's spouse or civil partner or cohabitee. A councillor has a disclosable pecuniary interest in:

- any employment, office, trade, profession or vocation that the councillor carries

on for profit or gain; or that their spouse civil partner or cohabitee carries on for profit or gain;

- any sponsorship that the councillor receives including contributions to their expenses as a councillor; or contributions to their election expenses from a Trade Union;
- any land licence or tenancy they have in Plymouth; or that their spouse civil partner or cohabitee has
- any current contracts leases or tenancies between the council and the councillor; or between the council and their spouse civil partner or cohabitee;
- any current contracts leases or tenancies between the council and any organisation with land in Plymouth in which he or she is a partner, a paid Director, or has a relevant interest in its shares and securities;
- any current contracts leases or tenancies between the councillor's spouse civil partner or cohabitee and any organisation with land in Plymouth in which he or she is a partner, a paid Director, or has a relevant interest in its shares and securities;
- any organisation which has land or a place of business in Plymouth and in which he or she a relevant interest in its shares or its securities.
- any organisation which has land or a place of business in Plymouth and in which the councillors spouse, civil partner or cohabitee has have a relevant interest in its shares or its securities.

Full details are given in Appendix A.

17. What should a councillor do if they have a disclosable pecuniary interest?

17.1 If a councillor:

- attends a meeting of the council, the Cabinet, a committee or sub committee; or
- intends to take a delegated decision

and is aware that he or she has a disclosable pecuniary interest in any matter being or due to be dealt with; he or she must declare they have an interest, and the nature of it, at the start of the meeting, (or when they realise they have the interest if that is later).

17.2 If declaring an interest would involve revealing sensitive information a councillor need only say that they have an interest – they need not say what the interest is (see section 20).

17.3 The councillor may not participate in any discussion of the matter at the meeting or vote on the matter and must leave the meeting room when the matter is being considered. Councillors may apply to the Monitoring Officer for a dispensation in respect of any disclosable pecuniary interest.

18. Does a councillor have a private interest in the business of the committee?

The public is likely to consider that a councillor has a private interest in the business of a meeting if it affects the well being or financial position of:

- his/her family and close associates, or
- any organisation where he or she is a member, or where he or she is involved in

its management; or

- any organisation to which he or she has been appointed by the council.

19. What should a councillor do if he or she has a private interest?

19.1 When the council is determining any matter in which he or she has a private interest a councillor should declare his or her interest if the decision could confer a financial advantage or disadvantage on:

- his or her family, or
- his or her close associates, or
- an organisation where he or she is a member, or is involved in its management (whether or not appointed to that body by the council). This would include membership of a secret society and other similar organisations.

19.2 When the council is determining any matter in which he or she has a private interest a councillor should declare his or her interest if the decision relates to an approval, consent, licence, permission or registration for:

- his or her family, or
- his or her close associates, or
- an organisation where he or she is a member, or is involved in its management (whether or not appointed to that body by the council) This would include membership of a secret society and other similar organisations.

19.2 A councillor should declare an interest, and the nature of it, at the start of the meeting, (or when they realise they have the interest if that is later); **unless** describing the interest would involve revealing sensitive information (see section 20). If declaring an interest would involve revealing sensitive information a councillor need only say that they have an interest – they need not say what the interest is

19.3 Once a councillor has declared a private interest, they can stay in the meeting and speak and vote, unless their private interest is also a disclosable pecuniary interest (see section 16) and he or she does not have a dispensation (see section 21).

19.4 However, if the decision being taken is likely to confer an advantage or disadvantage on:

- a councillor's family
- his or her close associates or
- an organisation where he or she has a private interest

more than it will affect other people living or working in the ward, the councillor should discuss this matter with the Monitoring Officer, or his/her designee, in advance of the meeting as legal issues of bias may arise.

20 Sensitive information

Information about a councillor's interests is sensitive if making it public could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation. Councillors do not have to include information in the register of interests if the Monitoring Officer agrees that it is sensitive. If a councillor finds out that the

information has stopped being sensitive, they must tell the Monitoring Officer within 28 days and ask for it to be included in the register.

21 **Dispensations**

21.1 The council has power to grant dispensations for a member to be able to participate in or vote at meetings where they have a disclosable pecuniary interest. This may be because it considers that the business of the council, Cabinet or a committee is likely to be impeded by not granting a dispensation; or that granting the dispensation is in the interests of residents; or that the council considers it appropriate to grant a dispensation for other reasons.

21.2 A councillor who wishes to seek a dispensation should notify the Monitoring Officer as soon as possible of the situation. Several dispensations have already been granted that are likely to affect many or all councillors; these relate to decisions about:

- councillor's allowances, expenses or insurance
- ceremonial honours given to councillors
- Council Tax setting
- school meals or school transport and travelling expenses if the councillor is the parent or guardian of a child in full time education unless the decision relates particularly to the school their child attends
- school meals or school transport and travelling expenses if the councillor is a parent governor unless the decision relates particularly to the school of which they are a governor

22 **Registering interests**

22.1 The law requires councillors to register certain interests by writing to the Monitoring Officer within 28 days of the code starting to apply to them or 28 days of finding out that their interests have changed. There is an exception when sensitive information is involved (see section 21).

22.2 The interests that must be registered are:

Any disclosable pecuniary interest which is held by:

- them, or
- their spouse or civil partner, a person with whom they are living as husband and wife or a person with whom they are living as if they were civil partners; and
- any private interest that the council has decided should be registered

22.3 A councillor's disclosable pecuniary interests are defined by regulations, which may change from time to time; the present definitions are set out in Appendix A. They mainly relate to business interests (for example, their employment, trade or profession, contracts or any company with which they are associated) and wider financial interests such as, for example, trust funds, investments and assets including land and property).

22.4 A councillor should register the following private interests that he or she has:

- An organisation of which he or she is a member, or which he or she has

management responsibility for (whether or not appointed to that body by the council). This would include membership of a secret society and other similar organisations.

23 **Penalties for not registering disclosable pecuniary interests**

It is a criminal offence to fail to register disclosable pecuniary interests or to participate in business in which a councillor has a disclosable pecuniary interest.

Notes

- Plymouth City Council provides training about this code of conduct for councillors.
- Councillors may ask the Monitoring Officer, the Deputy Monitoring Officer or the Democratic and Member Support Manager for advice in relation to this code and the declaration of interests. Ultimately, as only the councillor concerned will be aware of all the details surrounding any particular situation, it is the responsibility of each councillor to decide how to comply with this code of conduct.
- Councillors are advised to seek advice prior to any meeting/other situation in which they consider an interest may arise.
- A councillor, when considering whether s/he has an interest, may find it useful to ask him/herself whether a reasonable member of the public – if he or she knew all the relevant facts – would think that the councillor's personal interest would be likely to affect his/her view of the situation.

Disclosable pecuniary Interests that must be registered are:

Employment, office, trade, profession or vocation - Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship - Any payment or provision of any other financial benefit (other than from Plymouth City Council) made or provided within the relevant period in respect of any expenses incurred by the councillor in carrying out their duties as a member, or towards their election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts - Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the council –

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

Land - Any beneficial interest in land which is within the area of the council.

Licences - Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.

Corporate tenancies - Any tenancy where (to the councillor's knowledge) –

- (a) the landlord is the council; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities - Any beneficial interest in securities of a body where –

- (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and
- (b) either -
 - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Note: In the above descriptions, the following words have the following meanings –

- “*body in which the relevant person has a beneficial interest*” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest

- “*director*” includes a member of the committee of management of an industrial and provident society;
- “*land*” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
- “*securities*” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

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