EXECUTIVE DECISION NOTICE

CABINET

A record of the decisions made at the meeting of the Cabinet held on Wednesday, 24 August 2016, at 10.00 a.m.

Present

Councillors

Sue Sanderson (Deputy Leader and Council Organisation and People Portfolio Holder) (Chairman)

Jonathan Brook Housing and Innovation Portfolio Holder
David Fletcher Environment Portfolio Holder
Chris Hogg Culture and Wellbeing Portfolio Holder
Peter Thornton Finance Portfolio Holder
Graham Vincent Economy Portfolio Holder

An apology for absence was received from Councillors Giles Archibald (Leader of the Council and Promoting South Lakeland Portfolio Holder).

Also in attendance at the meeting were Shadow Executive Members Ben Berry (Shadow Cabinet Leader (Promoting South Lakeland Portfolio)), Tom Harvey (Shadow Cabinet Deputy Leader (Council Organisation and People)), Janette Jenkinson (Shadow Cabinet (Economy Portfolio)) and David Williams (Shadow Cabinet (Culture and Wellbeing Portfolio)).

Apologies for absence were received from Shadow Executive Members James Airey (Shadow Cabinet (Environment Portfolio)), John Holmes (Shadow Cabinet (Housing and Innovation Portfolio)), Kevin Lancaster (Shadow Cabinet (Finance Portfolio)) and Mark Wilson (Leader of the Labour Group).

Officers

Inge Booth Senior Committee Services Officer
Lawrence Conway Chief Executive
John Davies Performance and Risk Officer
Nicola Hartley Senior Solicitor
Ian Hassall Assistant Director Strategic Development
Dan Hudson Development Strategy and Housing Manager
Richard Machin Senior Communications Officer
Shelagh McGregor Assistant Director Resources (Section 151 Officer)
Peter Notley Chief Accountant
Debbie Storr Director of Policy and Resources (Monitoring Officer)
David Sykes Director People and Places
CEX/41 CABINET EXECUTIVE DECISIONS

RESOLVED – That the Chairman be authorised to sign, as a correct record, the Executive Decisions made by Cabinet on 20 July 2016.

CEX/42 DELEGATED EXECUTIVE DECISIONS

RESOLVED – That the Delegated Executive Decisions made by Portfolio Holders or Officers on 7 and 21 July and 4 August 2016 be received.

CEX/43 DECLARATIONS OF INTEREST

RESOLVED – That it be noted that Councillors Jonathan Brook and Peter Thornton declared interests in Minute No. CEX/51.

CEX/44 LOCAL GOVERNMENT ACT 1972 - EXCLUDED ITEMS

RESOLVED – That it be noted that there are no excluded items on the agenda.

CEX/45 PUBLIC PARTICIPATION

Councillor Mark Wilson, Ulverston East District Ward Member, addressed Cabinet regarding the heavy rainfall experienced over the weekend in relation to the Ulverston area. He referred to the lack of warnings or communication received from the Environment Agency, the press and the Cumbria Message Service and advised that the Environment Agency’s only communication had been through tweets. He described how the two to three inches of rain had quickly turned culverts into raging torrents. The situation during Monday’s rainfall had been even worse. Councillor Wilson expressed the view that the Environment Agency’s communications response had not been satisfactory and sought a more robust approach. He drew attention to the fact that there had been a lot of talk and meetings on flooding prevention but wondered what measures had actually been put in place. Councillor Wilson invited the Leader and the Environment Portfolio Holder to visit Ulverston to see the after-effects of the flooding. He referred to work which had been carried out in Kendal following the floods of December 2015 and stressed that the residents of Ulverston also needed to feel secure.

Councillor Andrew Butcher, Mid Furness District Ward Member, spoke about events at his home, within his Ward and in particular on Steel Street. Following initial difficulty in communicating with the Environment Agency, he had eventually turned to the District Council’s Chief Executive for assistance. The Environment Agency had then immediately got back to him, and, along with the Fire Service, had attended at Steel Street, with two fire engines pumping water away. He expressed concerns about the stability of the South Ulverston flood wall and about difficulty for Siemens employees in leaving the premises. He referred to his disappointment in the tourists who had come to take photographs of the scenes. Councillor Butcher also expressed concerns with regard to the
six pumps within the Ulverston area and as to whether this might be exacerbating flooding issues. He also referred to the large storm pumps at Sandside and to the fact that nobody seemed to be aware who was responsible for activating them. Councillor Butcher alluded to the problems which could arise within the community should there be more flooding in Ulverston and urged the Cabinet to speak with the Environment Agency.

The Chairman thanked the Councillors for raising their concerns and drawing attention to the situation faced in Ulverston. She gave assurance that the Council would raise the matters with the Environment Agency so that the concerns could be investigated and addressed. She also advised that the situation would be brought to the attention of the South Lakeland Local (Flood) Recovery Group.

CEX/46   FORWARD PLAN

Copies of the latest draft Forward Plan had been circulated prior to the meeting.

The Director of Policy and Resources (Monitoring Officer) informed Members that the new item regarding the Cumbria Choice Allocations Policy Review would form a Budget and Policy Framework decision to be made by Council on 15 December 2016.

RESOLVED – That the contents of the latest draft Forward Plan as at 1 September 2016 be noted.

CEX/47   CORPORATE FINANCIAL MONITORING QUARTER 1, 2016/17

Summary

The Finance Portfolio Holder presented the quarterly monitoring report which provided details on the financial position of the Council at 30 June 2016. He provided clarification with regard to the Revenue variances to date and the known unavoidable budget pressures expected later in the year of circa £170K. These related to the annual insurance renewal process which would be circa £60K higher than budgeted for, due to increased property premiums following the flood event in December 2015 and to the new Property Services Contract which would include some implementation costs. Figures would be confirmed within the Quarter 2 report. The Portfolio Holder also provided clarification with regard to Table 5 within the report regarding the age of Sundry Debts. He explained how the number of overdue debts in the current year would always be higher than in the previous year, the previous year’s having subsequently been collected. The Chief Accountant added that the purpose of the table was to illustrate the general trend. The Assistant Director Resources (Section 151 Officer) undertook to provide further analysis over a three to four year period in future reports and it was suggested that comparison with other councils would also be of assistance.
Decision

RESOLVED – That the contents of the report be noted.

Reasons for Decision

Regular budget monitoring forms part of the corporate governance arrangements that support all Council priorities.

Alternative Options Considered and Rejected

There are no alternative options.

CEX/48 COUNCIL PLAN PERFORMANCE MONITORING QUARTER 1, 2016/17

Summary

The Council Organisation and People Portfolio Holder presented an update report on progress with the Council Plan 2014-19 for Quarter 1 of 2016/17. Monitoring the success of the Council Plan through scorecards informed of improvements and ensured that Council services addressed the needs of residents in an open and transparent way. The Council was committed to delivering high quality, cost-effective services that met the needs of residents and improved quality of life. To help achieve those goals, performance was measured regularly.

The Quarter 1 Council Plan Performance Monitoring report and its appendices had been considered by the Performance Sub-Committee on 27 July 2016. No recommendations had been forwarded to Cabinet by the Sub-Committee for this Quarter.

With regard to comments raised with regard to discrepancies, the Performance and Risk Officer explained that all services and external sites were checked to ensure that the data provided within the scorecards at Appendix 1 to the report was up-to-date. However, with regard to page 78 relating to the number of times the “Invest” website had been visited, he acknowledged that the commentary did not correspond with the graph, and undertook to ensure that this was updated. The Council Organisation and People Portfolio Holder informed Members that the process was continuously being refined and improved. The Housing and Innovation Portfolio Holder highlighted the fact that the report demonstrated that the Council was on course to delivery on its objectives and that the comments raised would form part of the ongoing improvement process.
Decision

RESOLVED – That

(1) the following be approved:-

   (a) the Council Plan Priority Scorecards, as detailed in Appendix 1 to the report; and

   (b) the details as presented in the Strategic Risk Register in Appendix 2 to the report; and

(2) it be noted that no recommendations had been made by the Performance Sub-Committee.

Reasons for Decision

The report is directly linked to the Council Plan’s commitment to ensure that the Council is equipped to provide the best, most cost-effective services.

Details regarding performance monitoring are published in line with the Council’s latest Performance Management Framework.

Alternative Options Considered and Rejected

None – the purpose of the report is to receive a performance update. Council must note successes, monitor progress and take action where appropriate.

CEX/49 NATIONAL PLANNING UPDATE (KEY DECISION)

Summary

The Housing and Innovation Portfolio Holder presented a report requesting consideration of an interim response to the Housing and Planning Act and the recent Court of Appeal Judgement in relation to Planning Obligations for Affordable Housing delivery.

The 2016 Housing and Planning Act introduced a duty to promote starter homes. A starter home was defined as a new dwelling, an affordable house for sale at a minimum of 20% below market price, up to a ceiling of £250,000 (or £450,000 in London). In addition, starter homes could only be purchased by first time buyers between the ages of 23 and 40 years of age. The terms under which starter homes could be sold or let, and the requirements for starter home provision in development, would be the subject of future regulations.
The Starter Homes initiative raised concerns about the Council’s approach to the delivery of affordable housing. Wider housing delivery issues were being addressed through the Affordable Housing Delivery Study and the outcome of this would be reported to Cabinet in September 2016. The forthcoming Development Management Policies document and replacement Local Plan would offer the opportunity to update the planning policy framework.

On 28 November 2014, the Government had introduced the National Planning Practise Guidance (NPPG) which aimed to reduce the regulatory and financial burden on small-scale development and make it easier for small and local builders to get involved in housing delivery. This guidance had subsequently been challenged in 2015 and parts of the NPPG had been quashed. However, following a Government challenge in 2016, the Court of Appeal had found in favour of the Government and the guidance had been re-instated shortly thereafter. The NPPG guidance had to be weighed against the statutory policies of the Development Plan and other material considerations.

As an interim position, clarification on how the Council would interpret national legislation and national guidance would assist in achieving consistent development management decisions and would give greater certainty to participants in the planning process. A proposed interim response was set out in paragraph 3.19 of the report.

In response to a concern raised, the Portfolio Holder acknowledged that the Planning Committee was responsible for making decisions on planning applications. This interim response was to provide guidance for application of the principles of the legislation within South Lakeland and a framework to assist in the decision-making process.

**Decision**

*RESOLVED – That*

(1) the report be noted; and

(2) the steps set out in paragraph 3.19 of the report and set out below, as an interim response to the 2016 Housing and Planning Act and Court of Appeal judgement on planning obligations, be endorsed:-

“3.19 An interim position has less weight than full policy and will not have development plan weight unless and until worked up through the Local Plan process. Nonetheless, as an interim position, clarification on how the Council will interpret national legislation and national guidance will assist in achieving consistent development management decisions and give greater certainty to participants in the planning process. The following actions are recommended:

1) That the forthcoming Development Management Development Plan Document address the following issues
• Starter Homes;
• Affordable Housing delivery on small sites in designated rural areas;
• The application of the Vacant Building Credit and the definition of ‘relevant buildings’.

2) That, in the interim, Policy 6.3 continue to be applied and that where the planning balance justifies the application of the new planning guidance, schemes of less than 10 dwellings in designated rural areas be allowed to contribute by means of a commuted sum equivalent to the cost of on-site provision (subject to viability testing).

3) That in the interim, in applying the vacant building credit, no vacant building credit shall be allowable

• where the local affordable housing needs which underpin development plan policy outweigh national planning practise guidance and the development is viable without application of the credit;
• where a building has been abandoned;
• where a building has been made vacant for the sole purpose of redevelopment;
• where an existing or recently expired consent incorporating an affordable housing contribution exists for substantially the same development.

4) That requirements for all forms of affordable housing should continue to be determined with regard to local incomes and house prices in line with the National Planning Policy Framework.

5) That updated viability evidence prepared in association with the Development Management DPD be required to advise on the implications of Starter Homes on scheme viability.

6) That, in areas where starter homes may be an appropriate response to meeting affordable housing needs such as Ulverston, the Council work with the Homes and Communities Agency to explore opportunities for direct delivery and other initiatives.”
Reasons for Decision

The Council Plan seeks to provide homes to meet needs. In that context it seeks to create 1,000 new affordable homes for rent between 2014 and 2025.

The decision addresses the 2016 Housing and Planning Act, which introduces a duty to promote starter homes and a recent Court of Appeal Judgment in relation to Planning Obligations for Affordable Housing.

Alternative Options Considered and Rejected

The Council could continue to seek to apply its current policies without modification and continue to seek on-site provision justified by local circumstances. There is a risk that if it were to do that, the policies would be found to be out of date at appeal which could compromise the effectiveness of efforts to secure affordable housing in future.

REGULATION OF INVESTIGATORY POWERS ACT 2000 ANNUAL REVIEW

Summary

The Regulation of Investigatory Powers Act 2000 (RIPA) Annual Review was presented by the Council Organisation and People Portfolio Holder. RIPA regulated covert investigations by a number of bodies, including local authorities and had been introduced to ensure that a framework was in place which allowed the Council to authorise and supervise surveillance in a manner that ensured compliance with the Human Rights Act.

The Annual Review related to the operation of the Council’s policies for the period between 1 April 2015 and 31 March 2016. No applications for any authorisations for Directed Surveillance or the use of or conduct of Covert Human Intelligence Sources had been received during this period.

In addition, the Office of Surveillance Commissioners was required to carry out periodic reviews of all of the Council’s regulated surveillance activities. The policy had been amended to take into account the findings of the last inspection by the Assistant Surveillance Commissioner in 2014. No changes were being proposed at this time.

Decision

RESOLVED – That the following be noted:-

(1) Cabinet has carried out the annual review of the operation of the Council’s policies and procedures with regards to the Regulation of Investigatory Powers Act 2000 for the year 2015/16; and

(2) no changes are required to the Council’s current guidance on surveillance under the Regulation of Investigatory Powers Act 2000.
Reasons for Decision

The proposals links into the Council Plan values of Excellence, Openness and Transparency.

Alternative Options Considered and Rejected

No changes have been suggested to the current Surveillance Policy.

Members could suggest changes to the policy. Save for minor textual changes, any significant changes would need to be considered against the legal and policy background.

CEX/51 APPOINTMENT OF REPRESENTATIVE TO SOUTH LAKES HOUSING

Summary

Note – Councillors Jonathan Brook and Peter Thornton declared Other Registrable Interests in this item of business by virtue of the fact that they were the Council’s representatives on the Board of South Lakes Housing, however, remained in the Council Chamber and took part in the discussion and voting.

Members were advised that Councillor Philip Dixon’s term as a Council representative on South Lakes Housing was due to expire in September 2016. Attention was, however, drawn to the fact that South Lakes Housing was currently carrying out a review of its governance arrangements and it was, therefore, being proposed that Councillor Dixon’s appointment should continue until the review had been completed.

Decision

RESOLVED – That

(1) it be noted that:-

(a) Councillor Philip Dixon’s term as a Council representative on South Lakes Housing is due to expire in September 2016; and

(b) South Lakes Housing is undergoing a review of its Board Membership; and

(2) Councillor Dixon’s continuing appointment be confirmed until the review has been completed.

Reasons for Decision

To assist in the delivery of the Council Plan through partnership working.
Alternative Options Considered and Rejected

Not to appoint representatives to outside bodies – this would affect Council’s ability to influence partners on important strategic issues.

The meeting ended at 11.15 a.m.