



To be submitted to the Council meeting on 14<sup>th</sup> July, 2016

## **CABINET**

**8<sup>th</sup> June, 2016**

**PRESENT:** Councillor Oxby (in the Chair)  
Councillors Chase, Hyldon-King, James, Patrick, Watson, Wheatley

Officers in Attendance:

Rob Walsh	Chief Executive
Ange Blake	Director of Economy and Growth
Tony Maione	Chief Legal Officer (Monitoring Officer)
Tony Neul	Assistant Director - Environment
Sharon Wroot	Director of Finance, Operations and Resources
Beverly Stanton	Scrutiny and Committee Advisor

Officers also in attendance:

Mark Cawood	Planning and Building Control Manager
Wendy Fisher	Capital and Assets Programme Manager
Iain Lovell	Head of Communications, Print and Marketing
Guy Lonsdale	Finance Group Manager

Also in attendance – Councillors Burton, Bolton, Harness, Shepherd and Shreeve.

There was 65 members of the public and 3 members of the press in attendance.

### **CB.1 APPOINTMENT OF CHAIRMAN AND DEPUTY CHAIRMAN**

It was noted that at the Annual General Meeting of the Council held on 26<sup>th</sup> May, 2016 Councillor Oxby had been appointed the Chairman and Councillor Watson the Deputy Chairman of Cabinet for the ensuing Municipal Year.

### **CB.2 APOLOGIES FOR ABSENCE**

There were no apologies received for this meeting.

CB.3 **DECLARATIONS OF INTEREST**

There were no declarations of interest in any items on the agenda for this meeting.

CB.4 **MINUTES**

The minutes of the Cabinet meeting on 13<sup>th</sup> April, 2016 were approved as a correct record.

CB.5 **HUMBERSTON FITTIES**

Cabinet considered a report from the Portfolio Holder for Finance, Resources and Inclusion on the management arrangements for Humberston Fitties.

Councillor Shreeve spoke as a ward councillor for the Humberston and New Waltham ward . He explained that it was important to note that the closed period for the Fitties was in place to reinforce its status as a holiday destination rather than a residential park, and not originally as a flood risk measure. Whilst addressing risk, Councillor Shreeve stated his view that it should be borne in mind that the Fitties had not been subject to any serious flooding in the recent past. He firmly accepted flood risk as an everyday factor but the proposed mitigation was a key concern of the joint scrutiny panel's consideration of the flood risk assessment. He noted that the joint scrutiny panel, of which he was a member, had recommended no increase in the closed period. The panel was of the view that as surge tides were predictable events and that weather forecasting techniques would always ensure that there would be adequate warning of a surge and that the implementation of warnings leading to evacuation would enable the local authority to demonstrate its duty of care. The Environment Agency confirmed the view that adequate notice of surge tide would always be available. Furthermore such surges were not restricted to the proposed extended close period, but were equally likely during the late summer months of September and October. The existence of a resilient evacuation plan would therefore be a matter of great importance. Councillor Shreeve reported on steps taken to create a fully integrated evacuation plan, and noted that this had been reviewed by a number of stakeholders, including the Environment Agency, who commended it as an excellent mitigation measure. He added that the plan built on the excellent day to day patrols that the Neighbourhood Watch members routinely undertake and now formed the most important step in enabling residents to mitigate flood risk and eliminate risk to life.

Councillor Shreeve believed that the extended closure of the Fitties did not mitigate risk but that adequate warnings and the implementation of

the integrated evacuation plan would do so, and enable North East Lincolnshire to demonstrate duty of care whenever such a tidal surge threatened the Fitties. The Ward Councillors, in support of the Residents' Associations, firmly proposed that the existing close period be maintained.

Councillor Harness spoke as a Ward Councillor for the Humberston and New Waltham ward. He opposed the increase to the Fitties closed period and urged Cabinet to maintain the closed season as the two months of January and February. He agreed with the points raised by Councillor Shreeve. Councillor Harness feared that the proposed increase to the closed season would threaten the future existence of a unique community. He noted that there was a flood risk mitigation plan for an evacuation of the Humberston Fitties in the event of a weather event coinciding with high tides and referred to the predicted high tides in December 2013. Due to the accuracy of advance warnings provided by modern forecasting systems, residents vacated the site and the Humberston Fitties survived without flooding when other parts of the east coast were flooded. He felt that there was also scope to improve the sea defences and divert the creek if there was the will to do so. Councillor Harness congratulated those involved in producing the integrated evacuation plan, which he felt mitigated the risks highlighted in the report.

Ms. Mandy Duckworth spoke on behalf of the Humberston Fitties Tenants' Association. She commented on the outcome of previous flood risk assessments and raised concern at the apparent lack of common professional advice between those assessments. She felt that the evacuation plan would mitigate any flood risk and noted that the Fitties was the only site of its type in the whole of the Humber estuary to have such a plan in place. In order to be consistent, she suggested that the same advice would need to be applied to other areas at risk along the coast and argued that they were at greater risk as they did not have an evacuation plan in place.

Ms. Duckworth referred to a review of the health and wellbeing of caravan and chalet residents carried out by East Riding of Yorkshire Council. It found that the chalet park lifestyle was found to be beneficial to the well-being of residents with existing long-term health conditions and improving quality of life. However, the stress and expense of living away for the standard two month closure caused discomfort and exacerbated those conditions. She suggested that the risk of life was therefore increased and more likely to occur, by any extension to the closed season.

Ms. Duckworth referred to the impact of extending the closed period with regard to tenants not being able to claim Council Tax exemptions. She also noted the loss of income resulting from an extended closed period and the associated impact on the Council Tax payers of the Borough.

Ms. Duckworth referred to Cabinet's previous decision to agree the principle only of a disposal by long leasehold and challenged the

potential outcome of the resulting negotiations, including whether they would be commercially sensitive. She concluded by imploring the Council to fully consult with the tenants on any disposal and reminded Members that these decisions affect real peoples' lives.

Mr. Paul Harwood spoke on behalf of the Fitties Community Association. He explained that Black & Veatch had provided one of the five flood risk reports that existed and there were no common matters between the other four. He stated his view that nobody from Black & Veatch had ever physically visited the Fitties. He stated that the flood risk had remained the same for the last 25 years and the sea defences had not been breached in that time. Furthermore, the tidal surge of 2013 showed that the sea defence worked perfectly. He believed that to extend the closed season was an unjust resolution by North East Lincolnshire Council on financial grounds. Mr Harwood stated his view that the Council receive a 23% return on capital invested from the rent paid to the Council by Fitties occupants. Mr. Harwood explained that this was a good rate of return and to extend the closed season was a careless business decision for North East Lincolnshire Council.

Councillor Patrick stated that Black & Veatch and the Environment Agency had recommended the new closed season. He congratulated the Neighbourhood Watch group on creating the Evacuation Plan, but unfortunately when Black & Veatch received and considered it, it did not change their advice nor recommendation on a suitable length for the closed season to mitigate the risks considered. Councillor Patrick explained that North East Lincolnshire Council had priorities and one of the fundamental ones was the protection of life. Therefore, he was happy to support the recommendations put forward in the Cabinet report.

Ms. Wroot explained that Officers had worked with the Portfolio Holder, Neighbourhood Watch and residents to create an evacuation plan which they hoped would satisfy Black & Veatch's concerns. Unfortunately, it did not satisfy them and their advice to extend the closed period remained.

Cabinet sought advice from the Monitoring Officer on whether the Council could be liable if the recommendations within the report were refused.

Mr. Maione explained that, because a report had been received which indicated evidence of risks and potential mitigating measures, failure to consider these findings and give them proper weight could open North East Lincolnshire Council to legal challenges. All decisions by the Council need to be reasonable and be based on consideration of all advice received. Failure to make reasonable decisions could lead to serious legal consequences to follow as well as civil liability.

Councillor James showed concern over the four other reports that had been prepared but not included within the final Cabinet report with the recommendations. Councillor James clarified that she did not think she

could make this decision as not all the information had been shared, especially because the other reports were not in agreement with Black & Veatch's advice.

Ms. Wroot explained that the Black & Veatch report was the most recent version of an independent assessment and the flood risk assessment had been received from the Environment Agency. Therefore, the latest information has been used to make sure all the correct information and advice had been relayed to Cabinet members.

Mr. Maione explained that part of the assessment from Black & Veatch included the evacuation plan. Therefore, this report provided advice based on the most up to date information. In response to a query on consistent planning decisions and floor risk assessment, Mr. Maione stated that planning decisions that might appear to be contradictory from other sites could not be considered as part of this decision because each planning application and each site had to be considered on its individual merits for planning purposes. He stated that there had been four reports, but the Black & Veatch and Environment Agency advice was the most recent. These reports and advice had been prepared against the context of up to date information on not only the Evacuation Plan but also factoring in external factors such as climate change.

Councillor James proposed an amendment to defer consideration of the recommendations until all the information she referred to had been received and considered by Cabinet.

The Monitoring Officer sought a seconder for the amendment proposed by Councillor James. No Members seconded the proposed amendment and it was therefore declared to have fallen.

Councillor Patrick moved the recommendations in the report as laid out with the exception of making a reference to the Environment Agency's recommendations in Recommendation 1; this was seconded by the Leader. On a show of hands, with all in favour save for Councillor James who voted against, it was:

RESOLVED –

- (1) That the recommendations by Black & Veatch and the Environment Agency; namely to increase the Closed Season by two further months of each year, resulting in the overnight restriction of the months of November and December as well as January and February of each year, with immediate effect be adopted and approved.
- (2) That as a consequence of recommendation one, the agreed set of clauses and terms within the leases be renewed and harmonised to 2021 without delay.

- (3) That the Director of Finance, in consultation with the Portfolio Holder for Finance, Resources and Inclusion and the Solicitor to the Council, be authorised to approve the detailed terms of new leases.
- (4) That the Solicitor to the Council be authorised to complete all requisite legal documentation in relation to the matters outlined in the points above.
- (5) That it be noted that the discussions with Bourne Leisure, as set out in section 1.28 of the report now submitted, had now been completed and an agreed set of conditions in relation to the pre-emption clause had been drawn up.
- (6) That it be noted that progress with the specialist agent, to advise on the disposal, is now at tender stage, as outlined in section 1.29 of the report now submitted.
- (7) That the responses to the earlier considerations of the Select Committee review, as provided in section 1.8 of the report now submitted, be adopted.

CB.6

**CHILDREN'S SOCIAL CARE STATUTORY COMPLAINTS AND COMPLIMENTS ANNUAL REPORT 2015/16**

Cabinet considered a report from the Portfolio Holder of Children and Young People on the Children's Social Care Statutory Complaints and Compliments Annual Report 2015/16.

RESOLVED – That the Children's Social Care Statutory Complaints and Compliments Annual Report for 2015/16 be accepted and approved.

CB.7

**PROVISIONAL OUTTURN REPORT 2015-16**

Cabinet considered a report from the Portfolio Holder for Finance, Resources and Inclusion on the Council's provisional outturn position for 2015/16.

RESOLVED –

- (1) That the Provisional Financial Outturn Report be referred to Scrutiny for consideration .
- (2) That the slippage requests in respect of the 2015/16 capital scheme, as detailed in Annex 2 of the report now submitted, be approved.
- (3) That the revised 2016/20 Capital Programme, as detailed in Annex 2 of the report now submitted, be approved.

CB.8

**ENVIRONMENTAL POLICY**

Cabinet considered a report from the Portfolio Holder for Energy and Environment to adopt and publish a clear statement of approach to environmental management.

RESOLVED –

- (1) That the Environmental Policy Statement (at Appendix A of the report now submitted) be approved and published on the internet.
- (2) That the statement be referred to the Regeneration, Environment and Housing Scrutiny Panel for further consideration.

CB.9 **ENERGY AND CARBON VISION REPORT**

Cabinet considered a report from the Portfolio Holder for Energy and Environment on the Council's vision and approach to energy and carbon.

RESOLVED –

- (1) That the emerging "vision and ambition" set out in Appendix 2 of the report now submitted, be approved for incorporation within a wider "public facing" document and that the scope of the commissioning priority be amended to reflect this .
- (2) That the decision of the Portfolio Holder for Environment Tourism and the Visitor Economy ,and the approval by the Energy and Carbon Board, to sign the Climate Local Declaration (at Appendix 3 of the report now submitted) be noted.
- (3) That a further report , setting out proposed commitments under the Climate Local Declaration be received by Cabinet in September 2016.

CB.10 **ADOPTION OF CENTRAL GRIMSBY CONSERVATION AREA, CONSERVATION AREA APPRAISAL 2016 AND MANAGEMENT PLAN 2016**

Cabinet considered a report from the Portfolio Holder for Energy and Environment on the adoption of the Grimsby Conservation Area Appraisal and Management Plan 2016.

RESOLVED - That the Central Grimsby Conservation Area, Conservation Area Appraisal and Management Plan 2016, as attached, be approved and adopted.

CB.11 **COMMUNITY LEARNING SERVICES – FUTURE GOVERNANCE**

Cabinet considered a report from the Portfolio Holder for Regeneration, Skills and Housing on the governance arrangements for Community Learning Services.

RESOLVED – That the formation of an Improvement Board in accordance with Appendix A to the report now submitted be approved.

CB.12 **GREATER LINCOLNSHIRE DEVOLUTION PROPOSAL**

Cabinet considered a report to confirm the decisions of Council on the above in so far as they relate to the executive decision-making arrangements.

RESOLVED – That the recommendations approved by Council at the Annual General Meeting on the 26<sup>th</sup> May 2016 in so far as they relate to the executive decision-making arrangements, be confirmed.

CB.13 **EXCLUSION OF PRESS AND PUBLIC**

RESOLVED - That the press and public be excluded from the remainder of the meeting on the grounds that discussion of the following business was likely to disclose exempt information within paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).

CB.14 **CORPORATE SCHOOL MEALS CONTRACT**

Cabinet considered an officer decision record on the Corporate School Meals Contract.

RESOLVED – That the officer decision record be noted.

There being no further business, the Chairman declared the meeting closed at 3.10.p.m.