

MATTERS CONSIDERED BY THE CABINET AND/OR OTHER COMMITTEES

PLEASE NOTE: These are extracts from draft minutes and as such are subject to amendment.

a. ENVIRONMENT SELECT COMMITTEE RECOMMENDATIONS IN RELATION TO THE DEVELOPMENT CONTROL PROCEDURES

Environment Select Committee (6 October 2009)

The Chairman reported that the Development Control Working Group had met and made a number of recommendations for changes to the Development Control Protocol. He circulated the recommendations to the Committee.

Resolved: That the recommendations (**found at Appendix A to this document**) be presented to the Council.

Modern Local Government Group (22 October 2009)

The Chairman of the Environment Select Committee, who was also a Member of the Group, stated that there were a number of positive outcomes as a result of the Development Services Review. However, he also stated that there were certain aspects, in particular relating to the role of local members, the removal of printed plans from the agenda and the replacement of site meetings with site inspections, which were not, in his opinion, improvements.

The Chairman of the Environment Select Committee's opinion was that the previous arrangements for site meetings had never been challenged and increased public participation, that it was important to allow local members to speak again so that the Committee could benefit from their local knowledge and that the removal of printed plans had made it harder for Members to reach a conclusion on applications. He stated that the Environment Select Committee had therefore recommended the changes to the Constitution set out in the agenda papers. Another Member of the Group agreed with some of these points, although she thought that they should be addressed as part of the 12-month review.

The Chairman of the Modern Local Government Group expressed his concerns about the manner in which these recommendations had been made. In his opinion, it was bad practice to circulate a list of complex recommendations, which could only be understood with reference to the Constitution, at 10:15pm at night when less than half the Committee was present. He also stated that the Council had considered the matter in July and had agreed that the new arrangements would be reviewed in 12 months, so that an informed assessment could be made as to their success. He saw no reason to depart from this approach. A majority of Members of the Group concurred with these views.

Members discussed whether anything could be done to provide printed copies of plans and elevations to Development Control Committee Members before the 12 month review. Members noted both the difficulties that Development Control Committee Members were facing by not having printed plans despatched with the agenda and the difficulties that officers faced in scaling down sometimes very large

Item No. 5

plans/elevations to a legible format in A4. Members felt that it might be possible to reach a compromise position and asked officers to consider some alternative options. The Chairman of the Modern Local Government Group stated that if printed plans were reinstated, Members would need to accept that there might be some problems with the scales once the plans were reduced in size.

Resolved:

- (a) That the Council be recommended to reject the Environment Select Committee's recommendations and wait for the outcome of the 12-month review.
- (b) That officers be asked to investigate options for providing Members with printed plans.

Cllr. Walshe requested that his vote against this resolution be recorded.

Cabinet (22 October 2009)

The Chairman stated that the Modern Local Government Group had agreed to recommend to Council that the Environment Select Committee's recommendations should not be adopted and that they should wait for the review in a year's time. However, he stated that the Group had recommended that officers should investigate the possibility of providing hard copy plans to Members. Cabinet Members noted this recommendation.

b. LICENSING – MINOR VARIATIONS DELEGATION

Modern Local Government Group (27 August 2009)

The Licensing Manager informed Members that the Licensing Act had been amended to include a new minor variations procedure. He stated that this did not replace the existing variations procedure and was intended to work alongside it. The new procedure was intended to be a quicker and less costly process for minor variations that did not impact adversely on any of the Licensing Objectives. He informed Members that, amongst other restrictions, the new process could not be used for extending the period for the licence, to add the sale of alcohol to a licence, authorise an increase in the amount of time on any day during which alcohol may be served or to authorise the sale of alcohol between 11pm and 7am.

The Licensing Manager advised Members that the process would require a notice to be served for 10 days outside the premises, during which interested parties could make representations. He stated that there was a duty for Licensing officers to consult relevant responsible authorities where this was necessary. He stated that the Council had to issue a decision within 15 working days of the receipt of a minor variations application. The proposal was that officers be given delegated power to issue decisions on minor variations, as recommended by Government guidance.

The Chairman of the Licensing Committee addressed the Group. He had some

Item No. 5

concerns about the proposals and felt that the Council should defer taking a decision on this matter. He was particularly concerned that premises could be allowed to host live music by Officers under the new procedure, even where representations had been received in opposition. Other Members shared this concern. The Licensing Manager informed Members that the statute prescribed what matters were to be classified as minor variations.

Members agreed that if the proposals were taken forward, local Members should be actively notified by officers when minor variation applications were received, in addition to the Licensing Tracker e-mail. The Licensing Manager agreed to this.

Members queried whether the legislation required the decision-making process to be delegated to officers. The Community and Planning Services Director confirmed that although the process was prescribed by legislation, the method by which local authorities should determine applications was not. However, she reminded Members that the Government guidance recommended that this be delegated to officers as the most efficient method of handling these applications.

Members felt that it was important that the Licensing Committee, who would maintain an overview of this process, should debate these proposals before the matter was taken to Council for decision.

Resolved:

(a) That the Licensing Committee be consulted before the matter is sent to Council for decision.

(b) That, subject to the Licensing Committee's comments, the Council be recommended to approve the delegation set out in Appendix A to the report (Constitution Part 14 – Delegation to the Community and Planning Services Director).

Licensing Committee (20 October 2009)

To Follow.

C. OFFICER RESPONSIBILITIES AND DELEGATIONS – REMOVAL OF DESIGNATED PREMISES SUPERVISORS AT COMMUNITY PREMISES

Licensing Committee (20 October 2009)

To Follow.

Modern Local Government Group (22 October 2009)

The Licensing Partnership Manager informed Members that the ability for Community

Item No. 5

Premises to apply for the removal of the requirement to have a Designated Premises Supervisor (DPS) as part of their alcohol licence had been brought about by an amendment to the Licensing Act 2003, which had come into force on 27 July 2009. He informed Members that examples of Community Premises would be Church and Village Halls. Under the legislation, the responsibility for the sale of alcohol would move to the premises' Management Committee. He stated that the report recommended that officers be granted delegated authority to determine all such applications.

The Chairman of the Licensing Committee informed Members that his Committee were in favour of the proposed delegation. However, they had recommended a slight amendment which made clear that officers would only have delegation to remove the mandatory conditions requiring a DPS, rather than any discretionary conditions imposed by a Licensing Sub-Committee.

In response to Members' questions, the Licensing Partnership Manager confirmed that a Member of the premises' Management Committee would not need to be present whilst alcohol was being sold but that the Committee would retain responsibility for all events. If premises had any reservations about letting the hall out to other parties, they could ask the hirer to apply for a temporary event notice, which would make the conduct of the event the hirer's responsibility. In response to a further question, the Licensing Partnership Manager informed Members that if there were any concerns about the Management Committee's conduct, a review could be called for by a responsible authority or by members of the public.

A Member expressed some concern about the new legislation, as she felt that responsibility could be passed away from the premises. She was also concerned that not all premises were careful about who they hired to. However, she was prepared to support the delegation.

Resolved: That Council be recommended to approve the following delegation to the Community and Planning Services Director:

"To determine all applications for removal of the mandatory condition to have a Designated Premises Supervisor at Community Premises"

and that the Constitution (Part 13 – Delegation to the Community and Planning Services Director – Licensing) be amended accordingly.

d. STAG COMMUNITY ARTS CENTRE – DRAFT HEADS OF TERMS

Social Affairs Select Committee (28.07.09)

The Chairman introduced the discussion by reminding the Committee that mindful of the Full council's resolution on 11 November 2009, there was a need to give a clear steer to Cabinet consideration on 30 July 2009. It was in the interests of the District Council, the Town Council, residents and performers that the permanent lease for the Stag should be signed without delay to ensure future success and that the Town

Item No. 5

Council's stated intention of setting up a charity to run the Stag should be upheld. She proposed that the term headed "rent" be amended to read "one peppercorn initially for the first 5 years". She also proposed that under the section headed "rent review", a further sentence be added to read "d) that this clause does not jeopardise the lessee's ability to obtain external grant funding." She stated that the intention behind these proposals was to reassure the Town Council that the outcome of the rent review would be dependent on the circumstances which would be taken into account by an Independent Expert. Some Members expressed concern that these proposals might be difficult for an independent expert to interpret and it was agreed that the Council's legal department would need to be consulted about the wording.

A Member expressed concern that the Town Council might keep any surplus that was generated by the Stag Theatre. He believed that any surplus generated by the theatre should be reinvested in theatre. Members felt it was important that there were clear guidelines on what would happen to any surplus.

Some Members were concerned that the language used within the draft heads of terms was too loose and open to interpretation. The Head of Community Development informed Members that the Heads of Terms were designed to reflect the guiding principles on which a detailed lease would be drawn up. She also informed Members that detailed discussions with the Town Council would be taking place on Wednesday 29 July 2009. Members acknowledged that the wording in the lease would be much more detailed. However, they remained concerned that the wording in the Heads of Terms was open to interpretation, which they felt might lead to misunderstandings developing when the lease was being drawn up.

A Member thought it was important that the Lessee be required to insure the theatre to at least a specified minimum value, so that the District Council could be adequately compensated in the event of unforeseen damage occurring. Members felt that although the STAG was based in Sevenoaks, it was an asset for the whole of the District. A member stated that it would be reasonable for the District Council to receive a rent for the theatre in five years' time, if the STAG was generating a surplus.

A Member stated that there would need to be a fallback clause within the lease, if the two parties could not agree on an independent expert. Another Member suggested that there needed to be a requirement on the Lessee to maintain the property to a reasonable standard. He also suggested that an indemnity clause be included, so that the Lessee would indemnify the District Council against the cost of any necessary repairs that it had to undertake.

A Member suggested that the "rent review" should specifically refer to "reasonable reserves under Charity Commission guidelines."

The Portfolio Holder for Safe Community welcomed the Committee's consideration of the issues. However, she did not think it advisable to be too prescriptive about the reserve guidelines, as the lease was intended to last for 25 years and arrangements might change.

The Chairman stated that it was in the interests of the District Council to ensure that the STAG was successful.

Item No. 5

Resolved: That Cabinet consider the following comments:

- (a) Amend the term headed “rent” to read “one peppercorn initially for the first 5 years”.
- (b) Amend the section headed “rent review” by adding the following sentence - “d) that this clause does not jeopardise the lessee’s ability to obtain external grant funding.”
- (c) Refer to “reasonable reserves required by the Charity Commission” under section b) of the “rent review” section.
- (d) Clearly set out what would happen to any surplus generated by the Stag.
- (e) Review the wording of the Heads of Terms and ensure that there was no room for misunderstanding as to their meaning.
- (f) State in the preamble to the Heads of Terms that the Stag theatre was a financial asset in terms of the freehold of the building for the whole District.
- (g) Insert a term which requires the Lessee to maintain the theatre to a reasonable standard.
- (h) Insert a term which would require the Lessee to indemnify the District Council against the cost of any repairs which needed to be carried out.
- (i) Maintain the rent review clause (with the suggested amendments), as it was reasonable for the District Council to receive a rent after five years if the Stag theatre was making a surplus once the conditions in the rent review clause had been considered.
- (j) Insert a fallback clause, which would specify how the independent expert would be chosen in the event that the two parties were unable to agree.
- (k) Insert a term which would require the lessee to insure the Stag Theatre for at least a specified minimum value.

Cabinet (30.07.09)

The Chairman of the Social Affairs Select Committee stated that everyone wanted the STAG Theatre to be successful. However, she recognised that the Council Tax payers of both the District Council and the Town Council needed to be protected. She stressed that the rent review did not automatically mean that the rent would be increased. This would only happen if the conditions in the rent review allowed. She also informed Members of her Committee’s view that the wording of the Heads of Terms needed to be made as clear as possible. She finished by recommending her Committee’s comments to the Cabinet.

The Portfolio Holder for Safe Community thanked the Social Affairs Select

Item No. 5

Committee for a helpful review of the issues. She informed Members that both Councils had held a positive and constructive meeting on Wednesday 29 July 2009, at which both Councils reconfirmed their commitment to the STAG. She informed Members that the underlying principles had now been agreed.

The Portfolio Holder for Safe Community reported that there had been a recommendation to both Councils from the meeting, that a term be included which would allow the Town Council to sub-let the STAG to a non-profit making entity. She informed Members that there were a number of different ways of achieving this and that a firm choice of legal entity would be made by the Town Council by the end of the year. She also gave a commitment that the rent review clause would not jeopardise the Lessee's ability to obtain external grant funding.

The Portfolio Holder for Safe Community stated that a number of the Social Affairs Select Committee's comments related to detailed matters that would be included within the lease. She stated that their other comments supplemented the Heads of Terms and would be considered.

The Chairman thanked officers and members at both Councils for their hard work in reaching an agreement.

Cabinet (22 October 2009)

The Portfolio Holder for Safe Community informed Members that the Town Council had unanimously voted in favour of the Draft Heads of Terms and recommended that Council adopt them. The Head of Community Development stated that officers would now proceed to draw up the detailed lease, subject to the approval of the Heads of Terms.

A Member informed the Cabinet that, at the last meeting of the Social Affairs Select Committee, an amendment had been made to the Minutes in relation to the STAG. This made it clear that the freehold of the STAG Community Arts Centre was a financial asset for the whole District and asked if this could be taken account of in the lease. The Portfolio Holder for Safe Community replied that these were issues that would be considered when drafting the lease.

Resolved:

- (a) the Council be recommended to agree the Heads of Terms of a long term lease, set out in the Appendix to this report, to secure the future of the STAG by way of land disposal to Sevenoaks Town Council.
- (b) That Council be recommended to delegate authority to the Chief Executive in consultation with the Leader and Portfolio Holders to agree the detailed terms of the long term lease based on the approved Heads of Terms, together with a funding agreement relating to the approved grant.

e. PUBLICATION OF MEMBERS' REGISTER OF INTERESTS ONLINE

Standards Committee (14 July 2009)

The Democratic Services Manager informed Members that it would not be possible to send this item to Council on 21 July 2009 because of timing issues but stated that, if Members were minded to recommend online publication, this would be considered by Council on 15 September 2009. He also reported that the proposal would mean that all District Councillors and all Members of the Standards Committee would have their Registers of Interest published, unless they decided to opt out. However, it was not the intention to publish the Registers of Interest for any other town/parish councillors.

A Member stated that the Council should be looking to publish the Register of Interests for parish councillors online as well. The Democratic Services Manager stated that there would be some administrative difficulties in publishing town and parish councillors Registers of Interest at this time. He also stated that it might be preferable for any town/parish council that wanted to publish their Members' Registers of Interest to make this available on their own websites.

Members agreed that as long as individual Members could opt out, it was a positive move to make the Register of Interests available online. They noted that all Members' Register of Interest forms would continue to be open for public inspection at the Council offices. Members also agreed that whilst it might not be appropriate to publish the Registers of Interest of town and parish councils on Sevenoaks District Council's website, those Councils should be asked to consider publishing these on their own websites.

Resolved: That Council be recommended to agree the online publication of all District Councillors' and Standards Committee Members' Register of Interest forms, subject to any individual Councillor or Standards Committee member being able to opt out.

f. GAMBLING ACT – STATEMENT OF LICENSING POLICY

Licensing Committee (20 October 2009)

To Follow.

Cabinet – 22 October 2009)

The Portfolio Holder for Safe Community informed Members that the Council was required to publish the principles it intended to apply in determining licensing applications. This had to be done every three years.

The Chairman of the Licensing Committee informed Members that his Committee had reviewed this document in detail and made a number of comments. He particularly drew Members attention to new wording suggested by his Committee, which made it clear that Councillors who did not fall within the definition of an interested party could attend meetings of the Licensing Sub-Committees but did not have a right to speak unless asked to do so on by an interested party. The Chairman of Cabinet thanked the Licensing Committee for their work in reviewing the policy.

Item No. 5

Members discussed whether the Council should consider a “no casino” resolution. The Chairman stated that he did not want to tie the Council down to any particular decision but would prefer to judge individual applications on their merits. He stated that it was unlikely that any casino applications would be received in the near future. Members agreed that they wished to remain neutral on the issue.

Resolved: That the Council be recommended to adopt the Statement of Licensing Principles for the Gambling Act Policy, subject to the amendments suggested by the Licensing Committee.

Services Select Committee (27 October 2009)

To follow.

g. FINANCIAL STRATEGY

Performance and Governance Committee (8 September 2009)

A Member was concerned that the Balance Sheet contained within the Financial Strategy did not accurately reflect the current financial status of the Council. The Head of Finance and Human Resources advised that the figures had been agreed in February but that an additional clarifying page could be added to the Strategy.

ACTION 1 Now that the final accounts had been approved, the Corporate Resources Director undertook to update the figures included in the Balance Sheet of the Financial Strategy before it was presented to Council.

ACTION 2 The Head of Finance and Human Resources would ensure that the footers on the Financial Strategy stated 2009-13.

ACTION 3 The Corporate Resources Director would check the total amount of identified savings as set out on page 12 of the Strategy.

Resolved: That, subject to the amendments above, it be recommended to Cabinet that the Council be recommended to approve the Financial Strategy.

Cabinet (24 September 2009)

The Portfolio Holder for Finance and Value for Money informed Members that the Performance and Governance Committee had asked for the balance sheet on page 20 of the report to be updated now that the 2008/09 reports had been signed off. He stated that this would be included when the report was presented to Council in November.

The Chairman stated that there had been some concern amongst Members about the reduction in the Council’s balance sheet due to the increase in the pension fund deficit estimate at 31 March 2009. However, it was noted that the actuarial valuations of the fund produced every three years were the key figures, rather than the annual FRS 17 data included in the Statement of Accounts. The next valuation results were due to be reported to Members in November 2010.

Item No. 5

Resolved: That Council be recommended to approve the Financial Strategy.

h. ANNUAL REPORT

Cabinet (22 October 2009)

Members welcomed the Annual Report. A Member stated that he would submit his comments to the report's author about the description of the District and understood that these would be incorporated. Members commended the style of the report.

Resolved: That Council be recommended to approved the Annual Report for publication.