CABINET

Wednesday, 2nd December, 2015

Present: Councillor Miles Parkinson (in the Chair), Councillors Clare Cleary, Paul Cox, Munsif Dad, Gareth Molineux and Ken Moss

In Attendance: Councillors Bernard Dawson, Tony Dobson, Terry Hurn, Kerry Molineux and Paul Thompson

1 Apologies for Absence

There were no apologies for absence.

2 Declarations of Interest and Dispensations

There were no declarations of interest or dispensations.

3 Minutes of Cabinet - 21st October 2015

The Minutes of the meeting of Cabinet held on 21st October 2015 were submitted for approval as a correct record.

Resolved - That the Minutes be received and approved as a correct record.

4 Minutes of Boards, Panels and Working Groups

The Minutes of the following meetings were submitted:

a) Health and Communities Working Group - 15th September 2015
b) Regeneration and Housing Panel - 21st September 2015
c) Leader’s Policy Development Board - 15th October 2015

Resolved - That the Minutes of the above meetings be received and noted.

5 Report of Urgent Cabinet Decision - Hyndburn Used Furniture Store

The Leader of the Council (Councillor Miles Parkinson) submitted a copy of a signed Urgent Cabinet Decision form relating to the release of the Council’s final quarter payment to Hyndburn Used Furniture Store.

Resolved - That the Urgent Cabinet Decision be noted.

6 Reports of Cabinet Members

The Leader of the Council announced that the Council would shortly be advertising in regard to a public consultation exercise to be carried out on proposals to dispose of open space land adjacent to Bank Mill House, Great Harwood. It was hoped that the land would be utilised by local residents for leisure activities.
7 Commercial Joint Ventures

The Leader of the Council submitted an update report setting out the overall financial position on the Council’s three main Commercial Joint Ventures, which were Globe Enterprise Limited, Barnfield and Hyndburn Limited and Barnfield and Hyndburn Partnership. Approval of the report was not deemed a key decision.

Reasons for Decision

1) The Council and Barnfield Construction Limited were partners of the Barnfield and Hyndburn Partnership which was created in 1995 with Barnfield having a 70% stake and the Council 30%. As partners, the Council and Barnfield did not have the limited liability that surrounded a company and that was the reason that the economic activity of the Partnership had largely been limited. The Partnership had made a book loss on its trading activities for over seven years and the last year in which it had received any rental income was 2006. The Partnership was to be dissolved on completion of the domestic housing development (Mill Gardens) on the Premier Mill site in Great Harwood and income from property sales would be divided between the partners.

2) Barnfield and Hyndburn Limited had been formed in 1997 with Barnfield Construction Limited owning 70% of the Company and the Council 30%. The Company had two assets which generated its activities: namely Norden Court and Alan Ramsbottom Way. Norden Court was a development of nine industrial units in Great Harwood with all units currently being occupied by tenants. Renewal of leases was strong and was not an area of great concern. Alan Ramsbottom Way was land which had been developed for industrial units with most having been sold to the private sector. The Company’s financial position over the last three years had been strong and its Reserves had increased.

3) Globe Enterprise Limited was the largest of the three joint ventures and in addition to the Council and Barnfield Construction Limited had a third partner, Mr. and Mrs. Nevison. Each partner owned 1/3 of the Company. The Company had been formed to develop the former Platts Mill at Scaitcliffe Lodge and its primary aim had been to invest and regenerate parts of Hyndburn. The Company’s assets were the Globe Building in Accrington, the Accrington Superbowl and Cinema Complex, associated retail and office space and the remaining Waterside Offices at St. James Court in Accrington and Great Harwood Town Hall. Due to a downturn in income from increased vacancy levels due to the Recession, the Company’s Shareholder value had shrunk over the last three years, however, its management accounts for 2015 indicated a return to annual profitability.

4) Each joint venture provided a vehicle to enhance the commercial, economic and environmental development of areas of Hyndburn and had ensured job protection and job creation over the last 20 years. The Council had gained financially as its value in all three organisations had grown through their commercial success.

There were no alternative options for consideration or reasons for rejection.

Resolved - That the report be noted.

8 Piggy Park Food Growing Area, Rishton

The Portfolio Holder for Education, Leisure and Arts (Councillor Ken Moss) submitted a report seeking approval to lease land at Piggy Park, Rishton to the PROSPECTS Foundation for the purpose of a local food growing site. Approval of the report was not deemed a key decision.
Reason for Decision

Cabinet had previously agreed the granting of a 15 year lease to the Rishton Food Growing Association for the purpose of a local food growing project and on the basis that the Association became a properly constituted body with capacity to enter into the lease. The Association had become a constituted body but was not incorporated for the purpose of entering into a lease with the Council and members of the Association were reluctant to take on personal liability for complying with the terms of the draft lease by signing a lease as trustees. The PROSPECTS Foundation had offered to become the Council’s tenant for the purpose of complying with the lease terms, whilst enabling the project to progress quickly. The Foundation would, in turn, appoint the Rishton Food Growing Association to manage the site on it’s behalf as it’s agent.

The current proposal enabled the project to progress without the need for the Council to take on management responsibility for the food growing plots whilst encouraging a local community group to become involved in managing it’s own scheme. The PROSPECTS Foundation acting as the Council’s tenant meant the community group would not be exposed to the risk of financial loss if the project was not a success.

Alternative Options Considered and Reasons for Rejection

1) Do nothing. The Council would continue to maintain the land as open grass.

2) Hyndburn Borough Council manage the site as an allotment. The site would be managed by the Council’s Allotments Manager and tenants would have to sign a tenancy agreement with the Council.

Resolved

1) That the lease of Piggy Park in Rishton to the PROSPECTS Foundation be agreed; and,

2) That authority be delegated to the Head of Regeneration and Housing, following consultation with the Portfolio Holder for Education, Leisure and Arts, to agree the detailed terms of the lease.

Hyndburn Temporary Accommodation Policies

The Portfolio Holder for Regeneration and Housing (Councillor Clare Cleary) submitted a report relating to temporary accommodation usage in Hyndburn for homeless households and seeking approval of the newly drafted temporary accommodation policies. Approval of the report was not deemed a key decision.

Reasons for Decision

1) Following a series of Supreme Court Judgements in May 2015 on three homeless cases, Part 7 of the Housing Act 1996 had been clarified and a series of principles had been outlined by the Court that needed to be applied by local authorities when assessing priority need and vulnerability. More in depth assessments would now need to take place and the likely outcome for Hyndburn was that more households presenting as homeless would be classed as being in priority need and would consequently be entitled to assistance with accommodation. The new ruling mainly affected single people. The Court had also provided guidance for local authorities for policies that should be in place in regard to the procurement of temporary accommodation and the allocation of temporary accommodation
to homeless households. The policies had to be up to date, publically available and approved by democratically accountable Members of the Council.

2) The newly drafted policies were ‘common’ across several Lancashire local authorities and would assist in County wide procurement of temporary accommodation if needed in the future. The policies taken together set out how Hyndburn Borough Council would meet it’s responsibilities for the provision of temporary accommodation to people who were homeless or threatened with homelessness. Both policies would be annually reviewed or more frequently if needed, or when new legislation was enacted that needed to be reflected.

Alternative Options Considered and Reasons for Rejection

The local authority had a requirement to provide temporary accommodation to homeless households owed a duty under Part 7 of the Housing Act 1996. That duty, along with the recent Supreme Court Ruling, required the local authority to have up to date and publically available policies in place for the procurement of sufficient units of temporary accommodation and their allocation to homeless households. An alternative option not to develop those policies would conflict with the Council’s statutory duty.

Resolved

(1) That Hyndburn’s temporary accommodation usage and associated costs over the last four / five years be noted;

(2) That the policies for the procurement of temporary accommodation and the allocation of temporary accommodation to homeless households (attached as Appendices 1 and 2 respectively to the report) be approved; and,

(3) That authority be delegated to the Head of Regeneration and Housing, following consultation with the Portfolio Holder for Regeneration and Housing, to:-

  a) Monitor the impact of the recent Supreme Court Judgements referred to in the report, together with any resulting increase in need for temporary accommodation for single people.

  b) Review the existing temporary accommodation arrangements in the Borough in light of the policies attached to the report.

  c) Introduce new temporary accommodation arrangements as and when appropriate, subject to demand.

10 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

The Portfolio Holder for Regeneration and Housing submitted a report on the introduction of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015. Approval was sought to impose a penalty charge relating to the breach of the Regulations and for the Statement of Principles which the Council would follow in determining the amount of a penalty charge. The Statement of Principles was attached as Appendix A to the report. Approval of the report was not deemed a key decision.


Reasons for Decision

1) The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 came into force on 1st October 2015 and private landlords now had to ensure that a working smoke alarm had been installed on each storey of a privately rented home, that a working carbon monoxide alarm had been placed in each room which contained a solid fuel burning combustion appliance and at the start of each tenancy that checks that appropriate alarms were in working order had been carried out. Practical enforcement of the new requirements would be undertaken by officers in the Council's Regeneration and Housing Services Department.

2) The Council had a duty to serve a remedial notice within 21 days on landlords found to be in breach of the Regulations. The landlord had 28 days to comply with the requirements of the notice and failure to do so could result in the landlord paying a penalty charge if the Council decided that such should be imposed. The reason for the introduction of a penalty charge was that the Council had a duty to arrange remedial actions where landlords failed to comply with the remedial notice and those costs would need to be recovered. The landlord would be able to appeal to the Council and then to a First-Tier Tribunal against the Council’s decision to serve a penalty charge notice.

3) The Regulations did not apply to registered providers of social housing and excluded student halls of residence, hostels and refuges, care homes, hospitals and other accommodation relating to healthcare provision.

Alternative Options Considered and Reasons for Rejection

The Council had no alternative but to comply with the Regulations, however, it might decide not to introduce a penalty charge.

Resolved

(1) That the introduction of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015, which conferred on the Council new responsibilities and legal duties from 1st October 2015, be noted;

(2) That the levying of a penalty charge by the Council in respect of breaches of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 be agreed and the Head of Regeneration and Housing be delegated authority to:-

(i) Determine whether to impose a penalty charge in each case.

(ii) Determine the amount of each penalty charge having regard to the Council's Statement of Principles.

(iii) Determine the amount of any early payment discount in accordance with Regulation 9(2) of the Regulations.

(iv) Review fixed penalty charge notices at the request of the landlord in accordance with Regulation 10 of the Regulations and to confirm, vary or withdraw fixed penalty charge notices following such review.
(3) That the Statement of Principles (Appendix A to the report) which the Council would follow in determining the amount of a penalty charge be approved.

11 Garage Plot Rental Charge 1st April 2016

The Portfolio Holder for Resources (Councillor Gareth Molineux) submitted a report seeking approval for increased garage plot rents, issue of new tenancy agreements and the introduction of a refundable deposit scheme from 1st April 2016. Approval of the report was deemed a key decision.

Reasons for Decision

1) Garage plots were rented to members of the public and it was a condition of the tenancy agreement that the plots were not used for commercial purposes and that any garage on the plot had to be erected and maintained at the tenant’s own expense. Tenants were also responsible for obtaining planning permission and paying rates in connection with the use of the plots. A significant number of garage tenants did not have a signed tenancy agreement as they predated the formation of the Hyndburn Borough Council in 1974. The more recent form of tenancy agreement was in need of updating and amendment. A common form of tenancy where possible, would ensure consistency for tenants and assist with the management of the garage plots.

2) The Council last increased the annual garage plot rent on 1st April 2007 and it appeared reasonable to increase the rents at a rate lower than annual national inflation and having taken into consideration annual rents charged by neighbouring local authorities.

3) The proposed refundable garage plot deposit would act as a deterrent to garage plots being left in an unacceptable condition by previous tenants and would stop the small number of tenants who were selling their garage to a third party without informing the Council.

Alternative Options Considered and Reasons for Rejection

1) No change. The option to continue to charge rents at the existing amount had been rejected on the grounds that a larger rent increase would be required at a future date.

2) Lower rent increase. That option had been rejected on the grounds that the average rate of annual national inflation since 2007 was 2.67% and it appeared reasonable to increase the rent at a rate lower than annual inflation and to a rate broadly comparable with other neighbouring local authorities.

Resolved

(1) That garage plot rents be increased from £75.00 to £90.00 per annum (excluding VAT) with effect from 1st April 2016;

(2) That authority be delegated to the Chief Planning and Transportation Officer, in consultation with the Executive Director (Legal and Democratic Services), to issue new garage plot tenancy agreements to all existing and new garage plot tenants; and,
(3) That the Chief Planning and Transportation Officer be authorised to introduce a refundable garage plot deposit scheme for all new garage plot tenancy agreements in accordance with the provisions set out in Section 3.6 of the report.

12 Oswaldtwistle Players and Accrington Theatre Group Licence Agreement

The Portfolio Holder for Resources submitted a report seeking approval to agree terms and for the grant of a storage licence agreement between the Council and the Trustees of Accrington Theatre Group and also between the Council and the Trustees of Oswaldtwistle Players. Approval of the report was not deemed a key decision.

Reasons for Decision

The Accrington Theatre Group and Oswaldtwistle Players had relocated their theatre props and stage equipment to a jointly shared room at the Council’s Willows Lane Depot. Previously the equipment had been stored in the basement of the Clayton Civic Theatre which it was proposed would be used by the Clayton Amateur Boxing Club. It was proposed that the shared use of one room to the Trustees of the two Theatre Groups at a nominal annual licence fee be permitted. The Groups were both volunteer organisations who brought social benefit to the local community through the provision of theatre based cultural and social activities. It was felt that the granting of licences on those terms was justified as they would promote and improve the social wellbeing of the Borough. They would also free up other Council owned premises for other social wellbeing purposes.

Alternative Options Considered and Reasons for Rejection

Do nothing. The storage rooms at Willows Lane were unused and surplus to the Council’s present needs. In their present condition, they served no useful economic or social purpose.

Resolved

(1) That authority be delegated to the Head of Regeneration and Housing to agree terms and to the Executive Director (Legal and Democratic Services) to grant a licence to the Trustees of Accrington Theatre Group for use of a storage room at the Council’s Willows Lane Depot, the main terms of which were shown in Section 3.3 of the report;

(2) That authority be delegated to the Head of Regeneration and Housing to agree terms and to the Executive Director (Legal and Democratic Services) to grant a licence to the Trustees of Oswaldtwistle Players for use of a storage room at the Council’s Willows Lane Depot, the main terms of which were shown in Section 3.3 of the report; and,

(3) That the granting of the two licences be authorised and agreed on the grounds of promoting and improving the social wellbeing of the Borough.
13 **Review of Whistleblowing Policy**

The Portfolio Holder for Resources submitted a report seeking consideration and approval of a revised and updated Whistleblowing Policy. The draft Policy was appended to the report. The report was not deemed a key decision.

*Reasons for Decision*

The current Policy had been adopted in 2010 to assist Council employees, Councillors and Contractors to raise concerns about wrongdoing or malpractice with the Council without fear of harassment or other reprisal. The revised Policy reflected the latest advice and guidance to local authorities as published by the Charity “Public Concern At Work” in its last Biennial Review in 2011 and by the National Audit Office in a good practice guide for public sector works and employers published in November 2014.

*Alternative Options Considered and Reasons for Rejection*

1) The suggested Policy was in draft form and could be revised to reflect any comments or concerns Cabinet had; and,

2) The Council was not required by law to have a Whistleblowing Policy, but most local authorities did and that was recognised good practice endorsed by the National Audit Office. If the Council had such a Policy, it seemed sensible to review it from time to time to keep it up to date.

**Resolved**

- That the draft Whistleblowing Policy attached to the report, be approved.

14 **Selective Licensing Scrutiny Review**

A report setting out the recommendations made by the Resources Overview and Scrutiny Committee on 27th October 2015 in relation to a review carried out by that Committee on Selective Licensing was submitted. The report was not deemed a key decision.

The Portfolio Holder for Regeneration and Housing responded to the recommendations of the Committee as follows:-

(1) That Rent Repayment Orders be applied for in all cases where a landlord had been convicted of renting out a licensable property without a licence.

*Cabinet Response: Recommendation accepted.*

(2) That should capacity allow, the Portfolio Holder be requested to explore opportunities to recognise and reward good landlords who met their responsibilities.

*Cabinet Response: Recommendation rejected as it was deemed to be subjective as to who was a good or bad landlord. All landlords had to abide by the Scheme.*

(3) That the current policy be amended to clarify that in order to meet the general costs of the selective licensing scheme, the licensing fee was fixed and non-refundable.

*Cabinet Response: Recommendation accepted.*
(4) That should the existing Scheme be renewed or a further area designated, the use of new website technology to improve the efficiency of the scheme, including online receipt of applications be investigated.

_Cabinet Response:_ Recommendation accepted.

(5) That the Executive Director (Legal and Democratic Services) be requested to instruct the Council's Land Charges Officer to outline in the local land charges response, if the search property was within a selective licensing area.

_Cabinet Response:_ Recommendation accepted.

**Reasons for Decision**

Cabinet was the relevant body to receive the report.

**Alternative Options Considered and Reasons for Rejection**

Cabinet could accept, reject or vary any of the recommendations detailed in the report.

**Resolved**

- That the Cabinet's responses to the recommendations of the Resources Overview and Scrutiny Committee, as set out above, be agreed and reported back to the Committee.

The following item was submitted as urgent business with the Chair’s agreement in accordance with Section 100B(4) of the Local Government Act 1972, the reason being to ensure confirmation of technical details relating to the consultation had been received from the Government Department.

**15 Public Space Protection Order**

The Deputy Leader of the Council (Councillor Paul Cox) submitted a report on the results of the recent consultation exercise on the introduction of public space protection orders under Part 4, Chapter 2 of the Anti-Social Behaviour, Crime and Policing Act 2014. Cabinet was requested to consider the introduction of a number of public space protection orders in the Borough. Approval of the report was not deemed a key decision.

**Reasons for Decision**

1) Under Sections 59-75 of the Anti-Social Behaviour, Crime and Policing Act 2014, local authorities had the power to make public space protection orders. The suggested orders had been proposed as a response to complaints and concerns raised by Council Officers, Councillors, User Groups of parks and open spaces and members of the public in respect of the activities of dogs and dog fouling in childrens’ play areas, bowling green, cemeteries and town centre areas. From that information and evidence, Officers were satisfied that the statutory criteria had been met and that there were reasonable grounds for making an order.

2) The Council had carried out a consultation exercise in accordance with Section 72 of the Anti-Social Behaviour, Crime and Policing Act 2014 and the results relating to recommendation 2.1 of the report were relatively clear. The results were set out at Paragraph 3.5 of the report. The results demonstrated public support for the orders. The
results for the exclusion of dogs from designated areas of Council owned sports pitches were not as clear. The consultation results in full were appended to the report.

3) A public space protection order could be put in place for up to three years after which it had to be reviewed.

**Alternative Options Considered and Reasons for Rejection**

The alternative was for dog control measures to remain as they were, but evidence and experience had shown that certain practical measures, as proposed, needed to be put in place to balance the needs of dog owners with the wider use of public spaces.

**Resolved**

1) That the introduction of public space protection orders for the following be agreed:

   (i) Exclusion of dogs from Council owned childrens’ play facilities.

   (ii) Dogs to be kept on leads within Hyndburn's main town centre areas as defined in the Borough of Hyndburn Local Plan.

   (iii) Dogs to be kept on leads in the Borough’s cemeteries.

   (iv) Exclusion of dogs from designated Council owned bowling greens.

2) That, in relation to the exclusion of dogs from designated areas of Council owned sports pitches, a public space protection order in respect of the same should not be introduced;

3) That the public space protection orders be put in place for three years, after which they be reviewed as required by the Act; and,

4) That authority be delegated to the Head of Environmental Partnerships to:

   (i) Take all action required to introduce the public space protection orders referred to above, following consultation with the Executive Director (Legal and Democratic Services), that would include the text of the orders.

   (ii) Determine the level of any Fixed Penalty Notices issued in respect of the public space protection orders, together with the amount of any discount for early payment (the Fixed Penalty Notice could specify two amounts; a lower one if paid within 14 days (suggested £60 to be consistent with other fixed penalties imposed by the Council) and a maximum higher amount of £100).
(iii) Determine the length of the proposed period of education and amnesty when anyone found contravening the public space protection order would be advised and written to informally, rather than served with a fixed penalty notice.

(iv) Take action, as he deemed appropriate, to implement or enforce the public space protection orders referred to above.

The following item was submitted as urgent business with the Chair’s agreement in accordance with Section 100B(4) of the Local Government Act 1972, the reason being to ensure the latest up to date information was included in the report.


The Portfolio Holder for Resources submitted a report on the financial spending of the Council at the end of October 2015 and the prediction of the outturn position to the end of the financial year in March 2016. The financial detail of the report was appended to the report. The spend against Budget in the seven months of the year was £6,464,229 against a Budget of £6,548,415 leaving a positive variance of just over £84,000. The forecast spend for the year to 31st March 2016 was £11,407,000 against a Budget of £11,489,000. A surplus of £81,000 by the end of the 2015/16 financial year was forecasted, making a Budget surplus of slightly more than 0.7% on the overall activities of the Council. There were small overspends in Environmental Health, Planning and Transportation and Parks and Open Spaces. Regeneration and Property Services was predicting a large adverse variance of £211,000. However, savings across other Budget areas outstripped those negative variances and the current prediction was for an overall surplus of £81,000 by the end of the financial year. Approval of the report was not deemed a key decision.

Reasons for Decision

To inform Cabinet of the financial spending of the Council at the end of October 2015 and the prediction of the outturn position to the end of the financial year in March 2016.

There were no alternative options for consideration or reasons for rejection.

Resolved - That the report be noted and Corporate Management Team asked to continue to identify savings and generate a surplus on the 2015/16 Budget to assist with future potential financial pressures on the Council.

17 Exclusion of the Public

Resolved - That, in accordance with Section 100A(4) Local Government Act 1972, the public be excluded from the meeting during the following item, when it was likely, in view of the nature of the business to be transacted, or the nature of the proceedings, that there would otherwise be disclosure of exempt information within the Paragraph at Schedule 12A of the Act specified at the item.
Disposal of Land at Walmsley Avenue, Rishton

Exempt Information under the Local Government Act 1972, Schedule 12A, Paragraph 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information)

The Portfolio Holder for Regeneration and Housing submitted an exempt report seeking approval to dispose of Council-owned public open space off Walmsley Avenue, Rishton for the purpose of housing development. A plan showing the Council’s land edged black was appended to the report. Approval of the report was not deemed a key decision.

Reasons for Decision

The reasons for the decision were set out in the exempt report.

Alternative Options Considered and Reasons for Rejection

The alternative options considered and reasons for rejection were set out in the exempt report.

Resolved

(1) That the disposal of the Council’s land at Walmsley Avenue, Rishton (shown edged black on the plan attached to the report) to Calico Property Developments Limited at less than market value, for the purpose of residential development, be agreed; and,

(2) That authority be delegated to the Head of Regeneration and Housing, following consultation with the Portfolio Holder for Regeneration and Housing, to agree the detailed terms of the disposal.

Signed: ..............................................

Date: ....................................................

Chair of the meeting

At which the minutes were confirmed