

# DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

## COUNCIL

### MINUTES OF THE MEETING HELD ON THURSDAY, 15 SEPTEMBER 2016

**Councillors Present:** Pamela Bale, Jeremy Bartlett, Jeff Beck, Dennis Benneyworth, Dominic Boeck, Graham Bridgman, Paul Bryant, Anthony Chadley, Jeanette Clifford (Vice-Chairman), Hilary Cole, James Cole, Roger Croft, Richard Crumly, Rob Denton-Powell, Lee Dillon, Lynne Doherty, Adrian Edwards, Sheila Ellison, Marcus Franks, James Fredrickson, Dave Goff, Paul Hewer, Clive Hooker, Carol Jackson-Doerge (Vice-Chairman), Marigold Jaques, Rick Jones, Tony Linden, Mollie Lock, Gordon Lundie, Alan Macro, Tim Metcalfe, Ian Morrin, Anthony Pick, James Podger, Garth Simpson, Richard Somner, Anthony Stansfeld, Virginia von Celsing, Quentin Webb (Chairman), Emma Webster and Laszlo Zverko

**Also Present:** Sarah Clarke (Legal Services Manager), Mac Heath (Head of Children and Family Services), Peta Stoddart-Crompton (Public Relations Officer) and Rachael Wardell (Corporate Director - Communities), Robert Alexander (Group Executive (Conservatives)), Moira Fraser (Democratic and Electoral Services Manager), Jo Reeves (Policy Officer) and Honorary Alderman Andrew Rowles (Honorary Alderman)

**Apologies for inability to attend the meeting:** Councillor Steve Ardagh-Walter, Councillor Peter Argyle, John Ashworth, Nick Carter, Councillor Keith Chopping, Councillor Billy Drummond, Councillor Manohar Gopal, Councillor Mike Johnston, Councillor Graham Jones, Councillor Alan Law, Honorary Alderman Royce Longton, Honorary Alderman Joe Mooney, Councillor Graham Pask and Honorary Alderman Alan Thorpe

**Councillor(s) Absent:** Councillor Howard Bairstow and Councillor Nick Goodes

#### PART I

#### 23. Appointment of Vice Chairman

The Chairman requested nominations for the position of Vice-Chairman of Council for the remainder of the Municipal Year 2016/17. In response to this request Councillor Carol Jackson-Doerge was nominated by Councillor Jeanette Clifford and the nomination was seconded by Councillor Anthony Pick. There were no further nominations for the position of Vice-Chairman.

Councillor Jeanette Clifford stated that Councillor Jackson-Doerge, a former Vice-Chairman of Council, was experienced, good humoured, stylish, knowledgeable and hard working and she had the attributes needed to fulfil the role of Vice-Chairman.

Councillor Anthony Pick commented that Councillor Jackson-Doerge had previously undertaken the role of Vice-Chairman with great dignity and would do so again.

**RESOLVED that** Councillor Carol Jackson-Doerge be appointed Vice-Chairman of Council for the remainder of the Municipal Year 2016/17.

The Vice-Chairman read and signed the Declaration of Acceptance of Office. Councillor Jackson-Doerge thanked the Council for electing her. She noted that this was a huge honour and she would support Councillor Webb to the best of her ability.

Councillor Jackson-Doerge thanked the outgoing Vice-Chairman, Councillor Jeanette Clifford, for her contribution to the Council since being elected as Vice-Chairman in May 2016.

## COUNCIL - 15 SEPTEMBER 2016 - MINUTES

### 24. Chairman's Remarks

The Chairman conveyed his sincere tanks to the previous Vice-Chairman, Councillor Jeanette Clifford, for her support during the first half of the year and also congratulated her on her appointment to the Executive.

The Chairman also thanked Jo Watt who had supported all Members, including all Chairman and Vice-Chairman, for the past 18 Years. He expressed gratitude for the contributions she had made during her time as a Member Support Officer and he wished her every success in her new role as Appeals Officer.

The Chairman reported that he had attended 57 events since the last Council meeting; Councillor Jeanette Clifford had attended ten events and Councillor Adrian Edwards had attended one event on the Chairman's behalf.

In particular he highlighted the Duke of Edinburgh's Awards, judging of the Queen's birthday card competition and the subsequent prize giving, The Bayer 10k race, being invited to the 'Dream of Production' event at Parsons Down School, the armed service briefing at Sandhurst, the 'Tigris' commemoration service and meeting relatives of the submariners who had died in 1943 tragedy, celebrating 10 years of the ASD Department at Theale Green School and attending the reaffirmation of the civic honour of the Royal School of Military Survey Freedom of the Town of Thatcham.

### 25. Minutes

The Minutes of the meeting held on 19 May 2016 and the extraordinary meeting on the 31 May 2016 were approved as a true and correct record and signed by the Chairman.

### 26. Declarations of Interest

Councillor Alan Macro declared an interest in Agenda Items 18 and 21, and reported that, as his interest was personal and prejudicial and a disclosable pecuniary interest, he would be leaving the meeting during the course of consideration of the matter.

Councillor Pamela Bale declared an interest in Agenda Items 18 and 21, but reported that, as her interest was personal and not prejudicial or a disclosable pecuniary interest, she determined to remain to take part in the debate and vote on the matter.

Councillor Lynne Doherty noted that she had previously declared an interest in item 17 (Short Breaks for Disabled Children) by virtue of the fact that she was employed by Homestart. She had been granted a dispensation by the Governance and Ethics Committee to speak and vote on associated matters. She was however no longer an employee of Homestart and therefore no longer needed to declare this interest.

Councillor Jeanette Clifford declared a personal interest in question 7(e) which she would be answering but it was noted that no decision on this matter was required. Councillor Clifford declared the interest by virtue of the fact that her son was employed by BT Openreach.

### 27. Petitions

Councillor Gordon Lundie, on behalf of Ms Sue Cocker, presented a petition containing 378 signatures relating to the West Berkshire Library Service.

The petition requested that the Council:

1. Publish the full Libraries' Needs assessment Report in the interests of transparency and decision making.

## COUNCIL - 15 SEPTEMBER 2016 - MINUTES

2. Consult with stakeholder groups on proposals resulting from the Needs Assessment in order to allow co-creation of practical joint solutions.
3. Discuss and decide on the proposals in Full Council so that all Members can participate'.

The Chairman thanked the petitioner for the petition. He explained that the petition would be referred to the appropriate Officers. He commented that in relation to points 1 and 2 the Council had committed to publishing the Needs Assessment and to consulting with the public. In relation to point 3 it was proposed that the final decision would be made at Council.

### 28. Public Questions

A full transcription of the public and Member question and answer sessions are available from the following link: [Transcription of Q&As](#).

- (a) **Question to be answered by the Portfolio Holder for Planning and Housing submitted by Paul Inman.**

A question standing in the name of Paul Inman on the subject of using s106 contributions from new developments (including the Living at the Racecourse development) to mitigate the harm of visitors to Greenham Common was answered by the Portfolio Holder for Planning and Housing. As the questioner was not present they would also be sent a written response to their question.

- (b) **Question to be answered by the Leader of the Council submitted by Balu Sidra.**

A question standing in the name of Balu Sidra on the subject of marketing costs for the Greenham Control Tower was answered by the Leader of the Council. As the questioner was not present they would also be sent a written response to their question.

*(Councillor Gordon Lundie left the meeting at 7.35pm)*

- (c) **Question to be answered by the Portfolio Holder for Planning and Housing submitted by John Gage.**

A question standing in the name of John Gage on the subject of a failure to identify the existence of an existing planning permission for change of use of the Control Tower to a visitor centre of was answered by the Portfolio Holder for Planning and Housing.

- (d) **Question to be answered by the Portfolio Holder for Highways and Transport submitted by Elizabeth O' Keefe.**

A question standing in the name of Elizabeth O' Keefe on the subject of measures being taken by the Council to ensure that the new link road on the Sterling Industrial Estate was built in accordance with the LEP funding requirements answered by the Portfolio Holder for Highways and Transport.

- (e) **Question to be answered by the Portfolio Holder for Highways and Transport submitted by Kim Hetheron.**

A question standing in the name of Kiim Hetheron on the subject of minimising disruption to businesses as a result of utility companies digging up the highway was answered by the Portfolio Holder for Highways and Transport. As the questioner was not present they would also be sent a written response to their question.

*(Councillor Jeremy Bartlett arrived at 7.40pm)*

## COUNCIL - 15 SEPTEMBER 2016 - MINUTES

### 29. **Membership of Committees**

The Leader of the Council took this opportunity to welcome Councillors Jeanette Clifford and Rick Jones to the Executive. Following their appointments it had been necessary to make some adjustments to other Committees.

The Leader of the Council therefore proposed that the Council approve the following appointments:

Councillor Keith Chopping to replace Councillor Rick Jones on the Governance and Ethics Committee.

Councillor Marigold Jaques to replace Councillor Rick Jones on the Communities Select Committee.

Councillor Marigold Jaques to replace Councillor Rick Jones as substitute on the Overview and Scrutiny Management Commission.

Councillor Jeanette Clifford to replace Councillor Garth Simpson on the Planning Advisory Group

The proposal was seconded by Councillor Emma Webster.

Council agreed to the changes to the membership of Committees.

### 30. **Licensing Committee**

The Council noted that, since the last meeting, the Licensing Committee had not met.

### 31. **Personnel Committee**

The Council noted that, since the last meeting, the Personnel Committee had met on 30 June 2016.

### 32. **Governance and Ethics Committee**

The Council noted that, since the last meeting, the Governance and Ethics Committee had met on 05 September 2016.

### 33. **District Planning Committee**

The Council noted that, since the last meeting, the District Planning Committee had met on 27 July 2016 and 30 August 2016.

### 34. **Overview and Scrutiny Management Commission**

The Council noted that, since the last meeting, the Overview and Scrutiny Management Committee had met on 07 June 2016.

### 35. **Changes to the Constitution - Part 11 (Contract Rules of Procedure) (C3134)**

The Council considered a report (Agenda Item 14) concerning proposed amendments to the Council's Contract Rules of Procedure (Part 11 of the Constitution).

## COUNCIL - 15 SEPTEMBER 2016 - MINUTES

**MOTION:** Proposed by Councillor James Fredrickson and seconded by Councillor Jeanette Clifford.

That the Council:

“the proposed amendments to Part 11 (Contract Rules of Procedure) be agreed and that the changes come into effect on the 16<sup>th</sup> September 2016”.

**AMENDMENT:** Proposed by Councillor James Fredrickson and seconded by Councillor Jeanette Clifford:

“That the recommendations set out in Paragraphs 2.1 and 2.2 set out in the report be approved and adopted subject to the following amendments:

### 11.4 Authority

That the first column of paragraph 11.4.4 be amended to read:

Total Contract Value  
per annum\*

Less than £100,000

£100,000 or more and less than £500,000

£500,000 or more and less than £2.5 million

£2.5 million or more

### 11.5 Tendering

That the first column of paragraph 11.5.2 be amended to read:

Total Value £

A Less than 10,000

B 10,000 or more and less than 100,000

C 100,000 or more and less than relevant EU threshold<sup>2</sup>

D Relevant EU threshold or more<sup>2</sup>

Councillor Fredrickson commented that the amendments which had been previously circulated to members and also tabled at the meeting were minor amendments to clarify the action required if contracts amounted to the exact value of some of the thresholds.

The amendment was put to the vote and declared **CARRIED**.

Councillor Fredrickson noted that the report sought to adjust the thresholds required for the Executive to sign off contracts. The key change was that contracts valued between £500k and £2.5m would be signed off by Heads of Service, in consultation with the relevant Portfolio Holder, under delegated authority. As these decisions were key decisions they would still have to appear on the Forward Plan for 28 days and would be subject to the Council's usual call-in procedures. This changes was designed to streamline decision making.

Councillor Lee Dillon commented that she was happy to support the changes as Members and the public would still be aware of forthcoming decisions as they would appear on the Forward Plan and the decisions could still be called-in. He requested that

## COUNCIL - 15 SEPTEMBER 2016 - MINUTES

the decisions be monitored to ensure that Heads of Service did not aggregate or disaggregate contracts to circumvent the agreed processes.

Councillor Alan Macro commented that, although not a contract, the Council had recently spent significant sums of money (around £250k) on legal fees associated with a Judicial Review. He stated that although he did not necessarily disagree with the decision to review he felt that the process was not transparent and he asked if this was something that the Governance and Ethics Committee could look into.

Councillor Clifford noted that the changes had involved a lot of work and she thanked all Members and Officers for their input. She noted that the Council had a duty to obtain best value and these changes represented a more mobile and streamlined process but retained the checks and balances described by Councillor Fredrickson.

Councillor Fredrickson thanked Councillors Dillon and Clifford for their comments. He responded to Councillor Macro by explaining that the sums he was quoting for the Judicial review covered a five year period and that large proportion of the costs had been funded by the Local Enterprise Partnership. He therefore stated that there was no need for the Governance and Ethics Committee to consider this matter.

The Substantive Motion, as amended, was put to the meeting and duly **RESOLVED**.

### 36. **A New Councillors Code of Conduct (C3066)**

The Council considered a report (Agenda Item 15) concerning revisions to the Councillor's Code of Conduct.

**MOTION:** Proposed by Councillor James Fredrickson and seconded by Councillor Graham Bridgman:

That the Council:

- (1) Approves and adopts the new Councillors Code of Conduct.
- (2) Delegates authority to the Monitoring Officer to make any required changes to the Council's Constitution in light of the new Councillors Code of Conduct.
- (3) Delegates authority to the Monitoring Officer to update the process for investigating alleged breaches of the Code of Conduct.
- (4) Delegates authority to the Monitoring Officer to publicise the revisions and replacement of the Councillors Code of Conduct in accordance with Section 28 (12) of the Localism Act 2011."

**AMENDMENT:** Proposed by Councillor James Fredrickson and seconded by Councillor Graham Bridgman:

That the Council:

"That the recommendation set out in paragraphs 2.1 (1), (2), (3) and (4) be approved and adopted subject to the following amendments:

Page 66 (of agenda pack) - "How does a Councillor register gifts and hospitality that they receive?" should be amended to read "How does a Councillor register gifts and hospitality they are offered or receive?"

Page 75 at 11.1 – "Other Interest" should be amended to read "Other Registerable Interest".

## COUNCIL - 15 SEPTEMBER 2016 - MINUTES

Page 78 (Flowchart) – “Has the Monitoring Officer granted you a Dispensation?” (in two places) should be amended to read “Has the Monitoring Officer or Governance & Ethics Committee granted you a Dispensation?”.

Councillor Fredrickson noted that this was a minor amendment to ensure that gifts, both received and offered, needed to be reported by Members and clarified the role of the Governance and Ethics Committee in respect of granting dispensations.

The amendment was put to the vote and declared **CARRIED**.

Councillor Fredrickson noted that the changes were largely cosmetic but were designed to ensure that Members met their legal duties under the Bribery Act 2010. Officers had been asked to review the guidance to ensure that it was clear and precise so that Members were able to understand their obligations. He thanked Councillor Quentin Webb for the work he had done on getting the changes made.

Councillor Graham Bridgman noted that a Task Group had been set up to review the documents. He paid tribute to the Officers especially Jo Reeves who had spent a lot of time on getting the work done. The document was designed to be more accessible on a tablet, and sought to clarify the Gifts and Hospitality Protocol. He reminded members of the need to declare gifts that were both received and offered.

Councillor Quentin Webb commented that it would be useful for Parish Councils to have sight of the revised document. Councillor Bridgman commented that it was hoped that a template could be produced for the parishes to use.

The Substantive Motion, as amended, was put to the meeting and duly **RESOLVED**.

### 37. **Response to the Motion that the Council investigates Webcasting (C3065)**

The Council considered a report (Agenda Item 16) which provided a response from the Webcasting Task and Finish Group to Councillor Alan Macro’s motion that the Council investigates the cost and practicality of webcasting all Council, Executive and Committee meetings which was put to the Council on the 02 July 2015.

**MOTION:** Proposed by Councillor James Fredrickson and seconded by Councillor \*:

That the Council:

- “(1) The Council to webcast meetings of particular public interest.
- (2) A project board of officers from Property, IT and Strategic Support be set up to make arrangements to complete the repairs and acquire the equipment needed to webcast meetings in the Council Chamber and at other locations.
- (3) The Governance and Ethics Committee to develop a Webcasting Policy, to include a procedure for identifying meetings to be webcast and guidance for Members.”

Councillor Fredrickson reported that following the submission of a Motion to Council by Councillor Alan Macro a cross party Task Group had been set up to look into webcasting Council meetings. He noted that the anticipated expenditure of £80k would be met from the Capital Programme and would not incur a revenue cost burden. He also highlighted that around £35k would be spent on equipment and that the remaining £45k was associated with maintenance costs that would have to be incurred in any event to ensure that the Council was meeting all its statutory requirements.

## COUNCIL - 15 SEPTEMBER 2016 - MINUTES

Councillor Fredrickson reported that the recent level of interest in the Full Council meeting where the Development Plan Document had been discussed had highlighted the need for the Council to consider webcasting future meetings. A process would be put in place whereby the agreement of the Group Leaders and relevant Officers would be required as to which meetings should be broadcast. He thanked Councillor Macro for agreeing to second the motion.

Councillor Macro congratulated the Task group on the work they had done to progress this matter. He welcomed the additional transparency that webcasting would provide.

The Motion was put to the meeting and duly **RESOLVED**.

### 38. **Short Breaks for Disabled Children (C3173)**

Prior to the discussion on this item commencing the Chairman clarified why Members were being asked to consider this matter. On 1 March 2016 and 31 May 2016, the Council made decisions relating to the budget for Short Breaks for disabled children.

Those decisions had now both been quashed by High Court judgement. As detailed in the executive summary in regards to decision 1, Justice Lang concluded that Members did not ask 'the right questions' regarding the Council's obligations under the Equalities Act 2010. In regards to decision 2, Justice Lang assessed that this decision addressed the flaws of decision 1. However, this decision was also quashed, as Justice Lang concluded that Members were not informed as to how to rescind the previous decision should they have been minded to, through suspending standing orders.

The Chairman commented that as a Council, Members and Officers were obviously disappointed with this result. This was particularly so for decision 2, given that Councillors received training regarding the rules of the constitution, including how to suspend standing orders.

The Chairman noted that the Council respected the Court's judgement and members were being asked to consider the matter completely afresh at this meeting. He invited Councillors to consider the issue with fresh eyes, casting discussions at the previous 2 meetings of Council concerning this matter aside."

*(Councillor(s) \* declared a personal and a disclosable pecuniary interest in Agenda item \* by virtue of the fact that \*. As his/her/their interest was personal and a disclosable pecuniary interest he/she/they left the meeting and took no part in the debate or voting on the matter).*

*(Councillor(s) \* declared a personal interest in Agenda item \* by virtue of the fact that \*. As his/her/their interest was personal and not a disclosable pecuniary interest he/she/they was/were permitted to take part in the debate and vote on the matter).*

*(Councillor Doherty clarified that although she had previously declared an interest in this item as she had now left the employment of a provider in July 2016 this conflict no longer existed.)*

The Council considered a report (Agenda Item 17) following the High Court decision on the 22nd July 2016 that ordered that the Council's previous decisions, made on the 01<sup>st</sup> March 2016 and the 31<sup>st</sup> May 2016, relating to the reduction in funding for short breaks be quashed.

**MOTION:** Proposed by Councillor Lynne Doherty and seconded by Councillor James Fredrickson:



## COUNCIL - 15 SEPTEMBER 2016 - MINUTES

That the Council:

1. "having considered this Report and its appendices fully agrees that the service redesign, reductions and budgetary measures proposed relating to short breaks funding are appropriate and proportionate following assessment of the statutory requirements.
2. Instructs that Officers robustly monitor the impact of the budgetary reduction and continue to work in close partnership with local providers of short breaks provision in West Berkshire."

Councillor Doherty, in introducing this item reminded Members that they were required to make a new decision on the redesign of short breaks for disabled children, for reasons already explained by the Chairman

Councillor Doherty explained that as elected Members it was their duty to question whether the proposed budget reduction was justifiable in the context of the important need to protect and promote the welfare of disabled children and their carers. She reported that the information set out within the report should enable Members to consider the impact on this extremely vulnerable cohort of residents.

Councillor Doherty commented that she could not fully comprehend the daily difficulties faced by these children or their families. She accepted that this was a highly emotive decision but that Members were charged with balancing the needs of all residents as well as this vulnerable group.

Councillor Doherty noted that the Council had received a petition containing 4,447 signatures from West Berkshire Mencap the previous day requesting that: 'West Berkshire Council change their mind on their proposal to cut the funding of disabled children's short breaks at West Berkshire Mencap'.

Councillor Doherty commented that she had carefully studied the information within the report and attached appendices, met with the services involved, both internal to the Local Authority and External Providers, she had met and heard from parents and she had compared 'Short Break Services' data from across the country. As a result she was of the opinion the Council provided a 'good' service to these children and their families.

The March 2015 Inspection had highlighted that the 'specialist team provides good quality child-focused work', She noted that the Disabled Children's Team worked hard to provide the support needed through Education, Health and Care Plans and were making good progress with required Special Education Needs and Disability (SEND reforms. This would be tested by the new Ofsted SEND inspections which had just started, but initial feedback from parents was positive.

Councillor Doherty cited an email from a parent received two weeks previously with regard to the Castlegate service: "my younger son who would literally run to their door to be let in so I can only assume he loved to go there and felt safe and secure".

Councillor Doherty commented that the financial implications were set out in paragraph 6.1 of the report. She asked Members to note that the spend for 2016/17 was actually £1,335,252.00 which totalled nearly 9% of the total Children's Services budget. Short Breaks, which were provided by voluntary groups, should be viewed as a part of a larger service delivered by the Local Authority for disabled children and their families. Members needed to determine if the level of expenditure was proportionate and justifiable in light of

## COUNCIL - 15 SEPTEMBER 2016 - MINUTES

other savings that had to be made made. The Council had protected frontline services for disabled children, and invested in at the last Full Council in the Getting to Good Paper. The Council continued to support and investment in its overnight facility Castlegate which provided the largest component of our Short Break Service and enabled the Council to meet its statutory obligations. She noted that there would be no change for the care packages for the highest level of need children.

Paragraph 8.3 explained that it was the discretionary element that might change, particularly for those individuals who did not meet statutory levels of need. Councillor Doherty stated that through her research and working knowledge of this area she believed that an effective service could still be delivered and that the Council would be able to minimise the effect such a reduction would have on the needs of both children and carers within West Berkshire.

The local offer which was promoted to all families would be key in ensuring clear detail in what and where support was available. It contained information not only on current providers who were continuing to deliver but also new providers and new supported services coming to some of our local communities that were self-funded and run by the communities themselves.

Transition Funding was enabling the Council to manage any changes carefully and over an extended period of time as the Council recognised that change could be difficult and even more so for vulnerable individuals.

Councillor Roger Croft commented, albeit that this was a very difficult decision, it was one of many that Councillors had to make . He urged all Members to take careful consideration of their legal duties (set out in section 7 of the paperwork), and the legal processes they were required to follow. Members had a duty to take account of legal restrictions, balancing the needs of all the District's vulnerable groups yet at the same time producing a balanced budget.

Members were being asked to consider reducing funding for shorts break for the carers of disabled children. The Council needed to make decisions on the balance of the services it was able to provide whilst being mindful of the needs of those they served.

Councillor Croft noted that the Council provided lots of services, around 800, all of which were important in varying degrees. The decision before Members was about balancing those difficult options and making decisions that were appropriate and proportionate given the wider context of all the Council's functions. The Council's financial position had meant that services had to be reduced in many discretionary areas including rural buses, neighbourhood wardens, cross boundary waste and recycling services to name but a few.

Councillor Croft stated that the Council's financial position had been well publicised and all decisions needed to take cognisance of the Council's duty to operate within a balanced budget. Unlike other organisations the Council did not have the luxury of being able to operate a deficit budget.

He asked Members to consider what kind of service would remain if Members were minded to approve this proposal and how that offer compared with other parts of England.

## **COUNCIL - 15 SEPTEMBER 2016 - MINUTES**

Councillor Richard Somner asked the Portfolio Holder to explain how this proposal would compare to other Local Authorities offering of Short Break Services.

Councillor Alan Macro Councillor noted that Justice Lang had made mention of the fact that at the 31 May 2016 meeting Members had not been informed about the ability to rescind the March 2016 decision. He had pointed this issue out at the time and his comments had not been well received.

Councillor Macro drew Members' attention to the statement of Christine Lanehan, the Director of the Council for Disabled Children, set out from page 250 of the paperwork. He made specific reference to paragraph 17 on page 255 where Ms Lanehan stated that the Council had misinterpreted the Government's intention regarding Aiming High Funding. She commented that in the final year of the ring fenced funding the Regulations and Short Breaks funding statement were introduced which made it clear to both parents and local authorities that it was the Government's intention that the local provision should continue.

Councillor Macro also commented on paragraph 18 of Ms Lanehan's statement where she stated that the Council's distinction between Aiming High short breaks provision and core provision was inaccurate as it carried the same statutory intent. In paragraph 19 she stated that in her view it was not appropriate for local authorities to focus solely on meeting assessed need as stated by the Council. He asked that Members take these comments into account in reaching a decision at the meeting.

Councillor Lee Dillon noted that the report directed Members to consider various pieces of legislation. He stated that Members also had a moral imperative to ensure that the Districts' most vulnerable individuals and their carers got the care that they required. The Care Act 2004 stated that where appropriate the Council should use reserves to fund services or seek to increase charges elsewhere to meet these costs. He accepted that in West Berkshire Council's case it would not be appropriate to use reserves but that the report did not set out any detailed analysis of charges that could potentially be increased. He asked Members to consider using some of the 2017/18 Transitional Funding to give more time to consider all the options for this important service.

Councillor Emma Webster sought assurance from the Portfolio Holder that in her opinion this proposal was both proportionate and appropriate given the Council's financial position.

Councillor Anthony Chadley, the Portfolio Holder for Finance, reminded members of the need to operate within a balanced budget. He noted that Members had been required to make very difficult decisions during the previous financial year and the Council was still in the same financial cycle. The Council would again be required to find additional savings for the forthcoming financial year. In terms of making use of the Council's reserves both the S151 Officer and the Council's external auditors were clear that the Council's current reserves were very close to the minimum reserve levels. Members could use reserves but any depletion would mean that the Council might be unable to respond to any other unforeseen emergencies.

Councillor Pamela Bale queried whether the Council had looked at other options and alternative income generation?

## COUNCIL - 15 SEPTEMBER 2016 - MINUTES

Councillor James Fredrickson stated that Members had a lot of information to consider at this meeting and that it was important to consider the decision afresh. The Council had decided to reduce funding for short breaks by £175k. Members were being asked to decide whether or not that decision could be justified. Members would need to balance the Council's statutory and discretionary responsibilities whilst being mindful of the needs of all residents and being mindful of the Council's budgetary environment. He stated that Members would need to determine if this proposal was appropriate and proportionate.

Councillor Fredrickson stated that a number of comments had been made about spending the Council's reserves. It would be permissible to suspend standing orders and agree to spend the reserves. As the Portfolio Holder for Finance had already stated the Council's reserves were very close to the minimum prudent level. Should the Council be minded to spend the reserves it might not be possible to react to an emergency or to fund other services.

Members had also discussed attaining other income. Council Tax had been increased already. Other income could be generated from other sources such as staff car parking charges or increasing other fees across the Council. These options were being looked at but were not unique to this proposal. Councillor Fredrickson queried whether cuts could have been made to other services instead. Members however had a duty to be mindful of the needs of all residents and service users and as Members made this decision they needed to be mindful of all the obligations that had to be met. Members needed to consider West Berkshire Council's offering in terms of this area with those of other authorities.

Councillor Doherty commented that mention had been made of how West Berkshire Council's offering compared with other authorities. During the research that she had conducted she had established that this Council's offering was good and would compare favourably with other authorities. The 'Local Offer' set out available services and she was pleased to note that new providers and community groups were coming into the market. She stated that the discretionary services would still be provided but just not by the Council.

Transition Funding had already been granted for this area as Members recognised that change was difficult. The funding had meant that the Council was able to work with partners to allow for positive transition to take place.

Councillor Doherty commented that should Members be minded to approve the recommendations she would, as set out in recommendation in 2.3. advocate that this process be continually reviewed to ensure the Council's offer was meeting need. The Council would however have reduce and realign budgets over the coming years to ensure that it continued to meet its statutory duties. Councillor Doherty commented that although this budgetary reduction might adversely impact on some people, in the light of the Council's need to appropriately balance all of its strategic aims and priorities and to fairly secure protection and support across the wide range of vulnerable people who need this, the recommendation remained to approve the proposal.

The Motion was put to the meeting and duly **RESOLVED**.

## COUNCIL - 15 SEPTEMBER 2016 - MINUTES

*In accordance with paragraph 4.17.3 of the Constitution immediately after the vote was taken Councillors Alan Macro, Lee Dillon and Mollie Lock asked that their vote against the proposal be recorded.*

### 39. **West Berkshire District Council (land at Englefield Road and North Street, Theale) Compulsory Purchase Order 2016 (C3172)**

*(Councillor Alan Macro declared a personal and a disclosable pecuniary interest in Agenda item 18 by virtue of the fact that was a Member of Theale Parish Council, he was a Governor at Theale Church of England Primary School and was a member of the project team.. As his interest was personal and a disclosable pecuniary interest he determined to leave the meeting and took no part in the debate or voting on the matter).*

*(Councillor Pamela Bale declared a personal interest in Agenda item 18 by virtue of the fact that she was a governor at Theale Green School (One of the discounted options) . As her interest was personal and not a disclosable pecuniary interest she determined to take part in the debate and vote on the matter).*

*(Councillor Alan Macro left the meeting at 8.30pm and returned at 8.40pm)*

The Council considered a report (Agenda Item 18) which sought approval to purchase land using compulsory purchase powers to replace Theale Church of England Primary School. The Council would be unable to provide sufficient primary school places in Theale by September 2017 if agreement to purchase the land by negotiation did not occur immediately.

**MOTION:** Proposed by Councillor Lynne Doherty and seconded by Councillor Dominic Boeck:

That the Council:

- 1. "Having given consideration to all the provisions of this report including the impact on Human Rights and Equalities, resolves to delegate to the Head of Legal Services authority to make a Compulsory Purchase Order(s) and other such powers as detailed in Section Error! Reference source not found. of this report.**
- 2. Whilst negotiations are continuing to take place, successful negotiated purchase agreements cannot be reached despite numerous attempts to engage over the last 18 months.**
- 3. Without the Council's involvement to acquire the necessary interests in land, the Council will be unable to unlock the site for the relocation of Theale Church of England Primary School. The school has already exceeded capacity and there is an urgent need to provide more primary school places in Theale to meet current demand and projected pupil modelling numbers. The proposal will assist with meeting the Council's duty to provide sufficient primary school places. "**

Councillor Doherty noted that the National Audit had warned that there was a national shortage of places at both primary and secondary level. West Berkshire Council had a duty to ensure that there were sufficient school places available to every West Berkshire resident child that requested one between the ages of five and 11 and thereafter to 17.

The Council had therefore been working with Theale Church of England Primary School to replace the existing school situated in Church Street in Theale as part of the Education Capital Programme. The existing school was already at over capacity and there was an urgent need to deliver suitable accommodation for a new school.

## COUNCIL - 15 SEPTEMBER 2016 - MINUTES

The land identified for the relocation was currently owned by Englefield Estate but was leased by Theale Parish Council. Negotiations had been progressing over the past 18 months with the freeholder but the Parish Council had not engaged and the Council was being forced to consider making a Compulsory Purchase Order (CPO) to acquire the land.

Councillor Emma Webster commented that it was sad that the Council was having to resort to a CPO and she hoped that the process could now be expedited.

Councillor Lee Dillon stated that while he supported the CPO route he hoped that the Council would not have to resort to this costly and time consuming process. He would prefer to see the costs spent on legal fees being used towards the building of the school.

Councillor Roger Croft explained that Members had suggested this CPO lightly. There was a need for additional school spaces in Theale. The Council wanted to agree a way forward with the Parish Council that would allow it to build this school. Unfortunately the Council had been unable so to do. The Council had only proposed the CPO so that it could build a new school for Theale based children to educate them without them having to travel too far. The Council did not like CPO's as they were expensive and coercive and it would introduce a further delay with no guarantee of success. If the Council did not undertake this CPO or it was not granted then there would sadly be no new school in Theale. He therefore recommend that Members support the motion so that the Council could take another step forward towards making a £7m investment in a new school in Theale.

Councillor Fredrickson stated that he too did not like making use of the CPO process but that it seemed that only option available to the Council to deliver this new school.

Councillor Boeck stated that he too would prefer to see all of the £7m spent on the school for the residents of Theale. Theale had a growing population and by 2017 there would be insufficient places available at the current school to meet demand. This would mean that pupils would have to be bussed to nearby schools or more temporary accommodation would need to be placed on the already over crowded site. Unfortunately Theale Parish Council had refused to relinquish the lease and as a last resort the Council was being forced to use the CPO process.

Councillor Doherty stated that the children deserved the new school and it was the council's duty to ensure that it was delivered.

The Motion was put to the meeting and duly **RESOLVED**.

*(Councillor Pamela Bale, in accordance with paragraph 4.17.3 of the Constitution requested that her abstention from voting be recorded.)*

### 40. **Members' Questions**

- (a) A question standing in the name of Councillor Billy Drummond on the subject of safety concerns on the A34 was answered by the Portfolio Holder for Highways and Transport. As the questioner was not present they would also be sent a written response to their question.

A full transcription of the public and Member question and answer sessions are available from the following link: [Transcription of Q&As](#).

### 41. **Exclusion of Press and Public**

**RESOLVED** that members of the press and public be excluded from the meeting for the under-mentioned item of business on the grounds that it involves the likely disclosure of

**COUNCIL - 15 SEPTEMBER 2016 - MINUTES**

exempt information as contained in Paragraphs 1 and 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the [Local Government \(Access to Information\)\(Variation\) Order 2006](#). [Rule 8.10.4 of the Constitution](#) also refers.

**42. West Berkshire District Council (Land at Englefield Road and North Street, Theale) Compulsory Purchase Order 2016 (C3172a)**

*(Councillor Alan Macro declared a personal and a disclosable pecuniary interest in Agenda item 21 by virtue of the fact that was a Member of Theale Parish Council, he was a Governor at Theale Church of England Primary School and was a member of the project team. As his interest was personal and a disclosable pecuniary interest he determined to leave the meeting and took no part in the debate or voting on the matter).*

*(Councillor Pamela Bale declared a personal interest in Agenda item 21 by virtue of the fact that she was a governor at Theale Green School (One of the discounted options) . As her interest was personal and not a disclosable pecuniary interest she determined to take part in the debate and vote on the matter).*

*(Councillor Alan Macro left the meeting at 8.42pm and returned at 8.44pm)*

The Committee considered an exempt report (Agenda Item 21) concerning the exempt Exchange Land Plan.

**MOTION:** Proposed by Councillor Lynne Doherty and seconded by Councillor James Fredrickson:

That the Council agrees the exempt element of the report.

The Motion was put to the meeting and duly **RESOLVED**.

*(The meeting commenced at 7.00 pm and closed at 8.44 pm)*

**CHAIRMAN** .....

**Date of Signature** .....