

Notice of Meeting

Council

A Meeting of the Test Valley Borough Council will be held on

Date: Wednesday, 11 April 2018

Time: 16:00

Venue: Crosfield Hall, Broadwater Road, Romsey, Hampshire, SO51 8GL

when your attendance is required to consider the business set out in the agenda.



Head of Legal and Democratic Services

For further information or enquiries please contact:

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Legal and Democratic Service

Test Valley Borough Council,
Beech Hurst, Weyhill Road,
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PUBLIC PARTICIPATION SCHEME

If members of the public wish to address the meeting they should notify the Legal and Democratic Service at the Council's Beech Hurst office by noon on the working day before the meeting.

Council

Wednesday, 11 April 2018

AGENDA

- 1 Prayers
- 2 Apologies
- 3 Public Participation
- 4 Declarations of Interest
- 5 To approve the minutes of the meeting of the Council held on 23 February 2018
- 6 Mayor's Announcements
- 7 To receive and adopt Committee reports 4 - 9
To receive and, where necessary, adopt report of Committees.
- 8 Questions on resolved items - Rule 11.1
- 9 Questions under Rule 11.2
- 10 Notice of Motion - Rule 12
- 11 Property Purchase under Head of Estates Delegation 10 - 13
To receive information related to property purchases approved by the Head of Estates in consultation with the Member Panel for property investment.
- 12 Exclusion of the Public 14 - 14
The following report is confidential.

13 Confidential Annex - Property Purchase under Head of Estates Delegation

- Information relating to the financial or business affairs of any particular person (including the authority holding that information);

ITEM 7 To receive and, where necessary, adopt the following reports of Committees:

To receive and, where necessary, adopt the following reports of Committees:

(Some reports may involve the disclosure of exempt information. If the Council wishes to debate them, for each individual case the Council will need to adopt a suitable motion).

7.1 To receive the minutes of the following meetings:

- 7.1.1 Planning Control Committee – 6 February 2018
- 7.1.2 Licensing Committee – 13 February 2018
- 7.1.3 Cabinet – 14 February 2018
- 7.1.4 Southern Area Planning Committee – 20 February 2018
- 7.1.5 Overview and Scrutiny Committee – 21 February 2018
- 7.1.6 Southern Area Planning Committee – 6 March 2018
- 7.1.7 Southern Area Planning Committee – 13 March 2018
- 7.1.8 Cabinet - 14 March 2018
- 7.1.9 Planning Control Committee – 20 March 2018
- 7.1.10 Overview and Scrutiny Committee – 21 March 2018
- 7.1.11 Northern Area Planning Committee – 29 March 2018
- 7.1.12 Southern Area Planning Committee – 3 April 2018

(Note: in relation to 7.1.11 and 7.1.12 these minutes are not included in the minute book and will be presented at the next Council meeting but members are able to ask questions on resolved items.)

7.2 To adopt recommendations from the following:

- 7.2.1 Licensing Committee – 13 February 2018
 - 7.2.1.1 Re-adoption of Part II of the Local Government (Miscellaneous Provisions) Act 1976) (APPENDIX A)

Recommended:

That the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 be adopted to apply throughout the Borough of Test Valley with effect from 12 May 2018.

7.2.2 Northern Area Planning Committee – 29 March 2018

Recommendations to follow (if any)

7.2.3 Southern Area Planning Committee – 3 April 2018

Recommendations to follow (if any)

7.2.4 Planning Control Committee – 10 April 2018

Recommendations to follow (if any)

APPENDIX A

Report to the Licensing Committee on 13 February 2018

ITEM Re-adoption of Part II of the Local Government (Miscellaneous Provisions) Act 1976

Report of the Head of Legal and Democratic (Portfolio: Corporate)

Recommended:

- 1. That notice be given of the Council's intention to pass a resolution applying the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 with effect from 12 May 2018.**
- 2. That notice of such intention be published for two consecutive weeks in a local newspaper/s circulating in the area.**
- 3. That notice of such intention be served upon all parish councils, and on the Chairman of any parish meeting, affected by the resolution.**

Recommended to Council:

That the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 be adopted to apply throughout the Borough of Test Valley with effect from 12 May 2018.

SUMMARY:

- Part II of the 1976 Act contains provisions relating to the licensing of private hire and hackney carriage vehicles, drivers and operators.
- Although previously adopted by the Council, previous case law and a legal challenge involving another local authority necessitate the re-adoption of the legislation.

1 Introduction

- 1.1** The report provides details of a proposal to readopt the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 within the Borough Council's area.

2 Background

- 2.1** Part II of the 1976 Act contains provisions in relation to the licensing of private hire and hackney carriage vehicles, drivers and operators. The legislation contains provisions that allow local authorities to control the operation and use of private hire and hackney carriage vehicles and to protect the public by ensuring that vehicles are fit for use as licensed vehicles and drivers are 'fit and proper' to act as such.

APPENDIX A

- 2.2 The Borough Council previously resolved on 8 August 1978 to adopt Part II of the Act and that it would come into force on 9 October 1978. Case law has seen decisions to prosecute for offences under Part II challenged successfully because a Council could not demonstrate – some 35 years after the event – that it had given the appropriate notices in its adoption of Part II; the paperwork was simply not available. A review of the Borough Council's records evidenced the resolution above, but unfortunately there is no evidence of the other aspects of the adoption process as set out in paragraph 2.4 of this report.
- 2.3 There is a general awareness that these challenges have taken place and in order to have a recent and robust position which would not be challengeable it is suggested that it would be beneficial to readopt the resolution for the purpose of clarity for the future and to ensure certainty in any enforcement action take under the legislation. In doing so, Council records will ensure that the necessary paperwork to evidence the re-adoption is available.
- 2.4 It is therefore proposed that the Committee recommend to Council that authority be given for the provision of notice of the Council's intention to readopt the provisions of Part II of the 1976 Act. In accordance with the statutory requirements notice will consist of the publication of a notice of intention in a local newspaper for two consecutive weeks and service of the notice on the Parish and Town Councils within the Borough.

3 Corporate Objectives and Priorities

- 3.1 There are no direct links to the Corporate Plan. Nonetheless re-adoption will help ensure taxi licensing standards within the Borough in addition to ensuring public safety of our community and visitors.

4 Consultations/Communications

- 4.1 A public notice will be placed in a local newspaper for two consecutive weeks and all Parish and Town Councils will be served with a copy of the notice. No further consultation is necessary as the re-adoption merely confirms the existing position with regard to private hire and hackney carriage licensing.

5 Options and Option Appraisal

- 5.1 The options are either to readopt the legislation or, not to readopt. Re-adoption of the Act will provide clarification and certainty whereas failure to readopt the legislation may result in uncertainty in the Council's ability to take enforcement action, particularly against unlicensed drivers, vehicle owners and operators. Re-adoption is without prejudice to the Council's previous adoption made pursuant to the Act. There is no intention to change the existing position with respect to Part II of the 1976 Act and therefore all policies, practices, conditions and delegations will continue unchanged.

APPENDIX A

6 Resource Implications

- 6.1 There will be a cost implication relating to the publication of the statutory notice which will be met by existing budgets.

7 Legal Implications

- 7.1 Where the Town Police Clauses Act 1847 (relating to the licensing of hackney carriages) is in force throughout a District Council, section 45(3) of the 1976 Act provides that a Council may resolve that Part II of the Act is to apply in the area. The Council may not pass a resolution adopting Part II of the 1976 Act unless it has (a) published a notice of intention to pass the resolution in a local newspaper circulating in the area for two consecutive weeks and (b) served a copy of the notice, not later than the date on which it is first published in the newspaper, on each Parish or Community Council within the area to be affected.

8 Equality Issues

- 8.1 An Equalities Impact Assessment (EQIA) has not been undertaken as the report does not concern the implementation of a new policy or procedure; it is concerned with remedying a specific legal matter only.

9 Other Issues

- 9.1 Community Safety – none specific.
- 9.2 Environmental Health Issues – none specific.
- 9.3 Sustainability and Addressing a Changing Climate – none specific.
- 9.4 Property Issues – none.
- 9.5 Wards/Communities Affected – the whole Borough.

10 Conclusion

- 10.1 Adoption of Part II of the 1976 Act is vital if the Borough Council is to be able to undertake its activities in respect of the licensing of hackney carriage and private hire drivers, vehicles and operators. Unfortunately, some evidence that the adoption process has been fully complied with has not survived in the nearly 40 years since the original adoption. To remedy this it is proposed to readopt the legislation; this is purely an administrative procedure and has no implication for the ongoing provision of the licensing function.

APPENDIX A

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
Part II Local Government (Miscellaneous Provisions) Act 1976			
Council minute dated 8 August 1978			
Decision in Aylesbury Vale District Council -v- Call a Cab			
<u>Confidentiality</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	0		
Author:	Michael White	Ext:	8013
File Ref:	MW/		
Report to:	Licensing Committee	Date:	13 February 2018

ITEM 11 Property Purchase under Head of Estates Delegation

Report of the Finance Portfolio Holder

Recommended:

- 1. That the decision to pursue the purchase of the properties identified in the Confidential Annexes to the report be noted.**
- 2. That, following completion of the purchase, the budget for property investments be re-established in the Council's Capital Programme at £3M, with the additional sum to be financed from the Capital Receipts Reserve.**

SUMMARY:

- In November 2015, Council approved a delegated authority to the Head of Estates, in consultation with a Member Panel, to purchase property investments where the timing of the normal Council approval process would reduce the Council's ability to complete the purchase.
- The Head of Estates, after consulting the Panel, has recently exercised his authority to progress the purchase of two properties in Andover.
- In accordance with the original approval, this report is presented to update Council on the details of the purchases.

1 Introduction

- 1.1 The Council's Medium Term Financial Strategy (MTFS) sets the aim of working to a position where the Council is not dependent on the government's revenue support grant by 2020/21.
- 1.2 The workstream known as Project Enterprise has been established to progress this element of the MTFS.

2 Background

- 2.1 In recognition of the fast pace of the local property market, Council approved a delegated authority to the Head of Estates, in consultation with a cross-party Member panel, to purchase property investments from a pre-approved capital budget. A sum of £3M was approved for this purpose.
- 2.2 The panel consists of Cllrs North, Giddings, Hurst, Stallard and Ward.

- 2.3 The panel was established as a means of enabling approval of property investments where the timing of the traditional Council approval process would reduce the Council's ability to complete the purchase. The reason for the use of the Panel in this case is set out in section 6 of Confidential Annex 1.
- 2.4 A requirement of setting up the panel was that the details of any property approvals would be reported to the next Council meeting. The panel has recently confirmed its support for a report recommending the purchase of two houses in Andover. The purpose of this report is to update Council on that decision.

3 Corporate Objectives and Priorities

- 3.1 Project Enterprise has been established to support the objectives of the MTFs, by increasing the Council's income in order to reduce its reliance on government support. The income generated from the investment approved by the Member Panel will work towards achieving this objective.
- 3.2 The properties considered by this report will also help to deliver the Corporate Plan objective of, Live where the supply of homes reflects local needs.

4 The Properties

- 4.1 The report to the Member panel recommended the purchase of two houses. A copy of the report and the marketing details for both properties are attached as Confidential Annexes.
- 4.2 All five Councillors on the Panel agreed the purchases as shown in the Annexes.
- 4.3 Should either purchase be completed, it is expected that the Council will lease the houses to Valley Housing Ltd (the Council's 100%-owned property management company) for future management and letting.

Property 1

- 4.4 The first property is a three-bedroom former Council-owned house in Andover. See Confidential Annex 2 for property details.
- 4.5 Further to the consultation with the Member panel, a purchase price has been agreed with the vendor within the recommended budget limit.
- 4.6 The building survey was carried out on 13th March 2018 and has confirmed that the property is in good condition. Minor works required to ensure the property is of a lettable standard can be contained within the approved budget.
- 4.7 The Council's legal team has begun the conveyancing process to complete the purchase.

Property 2

- 4.8 The second property is a four-bedroom former Council-owned house in Andover. See Confidential Annex 3 for property details.
- 4.9 A maximum purchase price was recommended to the panel based on an estimate of works required to the house and the returns stipulated in the Investment Strategy.
- 4.10 On 16 March 2018, the vendor rejected the Council's maximum bid. Therefore, the purchase of this property will not be completed.

5 Risk Management

- 5.1 An evaluation of the risks associated with the matters in this report indicates that further risk assessment is not needed because the issues covered do not represent significant risks.
- 5.2 The risks associated with the purchases are explained in section 8 of the Confidential Annex.

6 Resource Implications

- 6.1 The business case for the purchases is shown in more detail in section 4 of the Confidential Annex.
- 6.2 The amount approved to complete each purchase is £213,000 and will be financed from a pre-approved budget of £3M in the Council's Capital Programme.
- 6.3 With only one acquisition expected to be completed, the amount remaining in the Capital Programme budget is forecast to reduce to £2.79M.
- 6.4 It is recommended that this budget be re-established at £3M after the completion of the purchase, with the additional amount to be financed from the Capital Receipts Reserve.

7 Legal Implications

- 7.1 The legal work required to complete the property purchase will be carried out by the Council's Legal & Democratic Services team.
- 7.2 Delegated authority is already in place for an onward lease from the Council to VHL for future management of the properties.

8 Conclusion and reasons for recommendation

- 8.1 The Head of Estates has exercised his delegated authority to progress the purchase of two houses after consultation with the cross-party Member panel established for that purpose.

8.2 This report provides Council with the details of that decision and the progress made since the decision was taken.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
None			
<u>Confidentiality</u>			
<u>Report</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
<u>Annexes</u>			
It is considered that the annexes contain exempt information within the meaning of paragraph 3 of Schedule 12A of the Local Government Act 1972, as amended. It is further considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information because the information relates to the financial or business affairs of both the Council and third parties.			
No of Annexes:	3	File Ref:	
(Portfolio: Finance) Councillor Giddings			
Officer:	Carl Whatley	Ext:	8540
Report to:	Council	Date:	11 April 2018

ITEM 12

Exclusion of the Public

Recommended:

That, pursuant Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following report on the grounds that it involves the likely disclosure of exempt information as defined in the following Paragraphs of Part 1 of Schedule 12A of the Act, as amended, indicated below. The public interest in maintaining the exemption outweighs the Public interest in disclosing the information for the reason given below:

**Property Purchase under Head of
Estates Delegation – Confidential Annexes**

Paragraph 3

It is considered that the annexes to this report contains exempt information within the meaning of paragraph 3 of Schedule 12A of the Local Government Act 1972, as amended. It is further considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information because the information relates to the financial or business affairs of the Council and third parties who are necessarily identified, which information is commercially sensitive and which by its disclosure would have an adverse effect upon the interests of those third parties and the Council as they seek to settle agreed terms of business.