

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Council**  
held on Thursday, 14th December, 2017 at The Ballroom, Sandbach Town  
Hall, High Street, Sandbach, CW11 1AX

### **PRESENT**

Councillor A Moran (Mayor/Chairman)

Councillor L Smetham (Deputy Mayor/Vice-Chairman)

Councillors C Andrew, A Arnold, D Bailey, Rachel Bailey, Rhoda Bailey, Baggott, P Bates, G Baxendale, M Beanland, D Bebbington, Bratherton, S Brookfield, D Brown, C Browne, B Burkhill, P Butterill, S Carter, J Clowes, S Corcoran, M Deakin, B Dooley, L Durham, S Edgar, I Faseyi, P Findlow, R Fletcher, T Fox, D Flude, H Gaddum, S Gardiner, S Gardner, L Gilbert, P Groves, M Hardy, A Harewood, G Hayes, S Hogben, D Hough, O Hunter, J Jackson, J Macrae, D Mahon, N Mannion, D Marren, A Martin, R Menlove, G Merry, B Moran, H Murray, J Nicholas, M Parsons, S Pochin, J Rhodes, B Roberts, J Saunders, M Sewart, M Simon, D Stockton, A Stott, G Wait, B Walmsley, G M Walton, L Wardlaw, M Warren, M J Weatherill, G Williams and J Wray

### **Apologies**

Councillors G Barton, E Brooks, C Chapman, H Davenport, W S Davies, M Grant, J Hammond, L Jeuda, M Jones, A Kolker and H Wells-Bradshaw

### **41 PRAYERS**

The Mayor's Chaplain said prayers at the request of the Mayor.

### **42 DECLARATIONS OF INTEREST**

Cllr S Carter declared an interest under item 15 – Questions, by virtue of being a Governor of Hurdsfield School, as he would be asking a question in respect of the school.

### **43 MINUTES OF PREVIOUS MEETING**

Consideration was given to the minutes of the meeting of the Council held on 19 October 2017.

### **RESOLVED**

That, subject to the correction of the spelling of the name of one of the public speakers (Mrs Hazel Faddes), under minute 32 and a correction to the initial of Cllr S Brookfield, under minute 40, the minutes be approved as a correct record.

## 44 MAYOR'S ANNOUNCEMENTS

The Mayor:-

1. Informed Members of the sad death of Honorary Alderman Ken Hemsley, a former Congleton Borough Councillor, who had represented Odd Rode and had also served on the former County Council. The Mayor had attended Ken's funeral on 17 November. Members to stood for a minute's silent tribute.
2. Announced that since the last meeting of Council, he and the Deputy Mayor had attended almost sixty events, details of which had been circulated around the Chamber. Events held on or around Remembrance Sunday had played an important part in the Council's civic year and this year it had been his privilege to represent the Council at seven separate Remembrance events. He had also attended two Poppy Appeal launches.
3. Announced that in October, along with Councillor Ainsley Arnold and Officers, he had met with the Chinese Consul General in Macclesfield, to discuss the potential for establishing civic and business links between China and Cheshire East and he wished this ongoing initiative well.
4. Stated that one of the joys of being Mayor was the opportunity to help celebrate what was good about the Borough and meeting some of those who went the extra mile to make Cheshire East such a special place. Over the last few weeks it has been his pleasure to help judge and then attend the Local Hero Awards and he had also attended the Your Champions Awards and an awards ceremony for foster carers. There could be no doubt that there were some very special people in the Borough.
5. Referred to the death in the summer of previous year of Tom Jackson from Congleton. Tom had been murdered whilst backpacking in Australia. What made such a sad event even more tragic was that Tom had died trying to save the life of a fellow tourist. On 7<sup>th</sup> November, on what would have been his 32<sup>nd</sup> birthday, the Mayor had joined Tom's family at Tatton, where they planted a tree and dedicated a bench to his memory. He was delighted that Cheshire East had been able to arrange this simple memorial to remember a very brave man. He added that he had rarely met such a wonderful family, a family who have coped with tragedy in a very dignified way and who, along with Tom's friends, had done much to ensure that he was not forgotten.
6. Announced that he had something important to say about the conduct of Members of the Council, and members of the public at Council meetings. He had been concerned to observe the behaviour of elected Members and of some members of the public at the last Council meeting and reminded the meeting of a number of things:

- That he had been elected by the Council to preside over its meetings and, when doing so, to act impartially.
- That he was committed to repaying the trust put in him, but that he expected from Members of the Council, and from the public, that the office of Mayor would be respected, as constitutional rules required. Members of the Council, and members of the public would be silent when the Mayor spoke and he would not tolerate any behaviour which disrespected the office of Mayor, or which sought to disrespect Members of the Council.
- He did expect Members of the Council to speak passionately about issues which came before meetings, but their contributions must be put to the meeting in a respectful manner.
- At the last meeting of Council, there had been examples of attempts by some to “drown-out” the contributions of others. There had also been some examples of inappropriate language being used by Members. There was also at least one example of a Member who felt it appropriate to “answer-back” after a ruling was made from the Chair. He reminded Members that the ruling of the Mayor on any issue at a Council meeting was final.
- This behaviour would not be tolerated, and he would use the powers vested in him by Council to deal with any similar instances, either today or in the future.

He thanked those present, in anticipation of their cooperation.

#### **45 PUBLIC SPEAKING TIME/OPEN SESSION**

Middlewich Town Cllr J Parry used public speaking time to address Council regarding the use of Section 106 monies, the definition of affordable housing and the recent rally against the downgrading of Crewe’s second fire engine.

Mr M Unett used public speaking time to address Council regarding public trust issues, infrastructure in Alsager and the timetabling of the Council’s decision-making meetings.

Mr T Wall used public speaking time to address Council regarding the reputation of the Council and budget expenditure. Cllr Paul Bates, Finance and Communication Portfolio Holder, responded.

Mr R Edwardson used public speaking time to address Council regarding the external independent review into Cheshire East Council’s organisational culture which was being undertaken by Sarah Messenger from the LGA.

#### **46 LEADER’S ANNOUNCEMENTS**

The Leader of the Council, in summary:-

1. Responded to comments, made during public speaking time, with regard to the concerns about provision for the fire service in Crewe. She stated that she was clear that this Conservative led Council had used a scrutiny process cross party to consider the concerns with regard to provision at the fire station in Crewe and indeed that continued. The Leader stated that her comments in relation to Laura's march and her understandable concern was simply to point out that actually this was a matter that had been considered cross party and was being considered within the Council's governance and through its representatives on the Fire Authority. It was recognised that times were tough and that the public purse was tough, but equally the Council had to work within its budget. If this wasn't done, whether it be Cheshire East Council the Fire Authority, or the Police Authority, it would not be possible to deliver any of the excellent services that they currently did.
2. Welcomed the comments made under public speaking time with regard to infrastructure, particularly with a focus on Alsager. She stated that she would urge the speaker to look at the Council agenda, not least with regard to Alsager School because its infrastructure was its health, education, and its highways, and it was that strategic infrastructure programme that she wanted to remind Council of, not least the successful bids made to Government by Cheshire East Council.
3. Stated that, with the adopted Local Plan and the future catalyst of HS2, she considered it more important than ever that Council ensured that it had the infrastructure to support these plans to benefit existing residents and support future growth.
4. Referred to the comments made during public speaking time, in relation to the use of 106 monies and affordable housing. She stated that there was a judgement to be made at the reserved matters stage, but that the overarching policy was for 30% affordable housing on the back of developments. However, within affordable housing, there was rightly consideration for provision in relation to the transit community, because they equally were deserving of support of a local area. She would, however, look to review the documentation that has been shared with Cllr Parry but this was her initial response.
5. Stated that in delivering the major schemes over recent years, including the Crewe Green Link Road, Basford West Spine Road, Alderley Edge Bypass and the M6 Junction 16 and 17 pinch point schemes, the Council had a strong pipeline of major strategic projects. A number of projects in the Council's Local Plan Infrastructure Development Plan were either on site or being developed with major progresses made in the current year. She considered that these projects would make a significant contribution to the regional ambitions, as set out in the revised Cheshire and

Warrington SEP and help prepare for the arrival of HS2 to the borough. Equally, she considered that the infrastructure investments would also help to support the wellbeing of communities. These investments would unlock new and good quality housing and employment land, as well as enabling residents to better access facilities and amenities to enhance quality of life; the Crewe lifestyle Centre for instance.

6. Reported that, In October the Middlewich Eastern Bypass project had been successful in its bid to be part of Government's Large Local Major Schemes programme and the receipt of Government grant funding towards the project. This scheme would provide a bypass to Middlewich town centre and enable access to the strategic employment site adjacent to the M6 motorway. Completion of this bypass would support the economic growth agenda by enabling a 1,000 new dwellings and over 2,000 additional jobs in the town.
7. Reported that, also in October, the Council had been successful in its two bids for funding from the National Productivity Investment Fund, receiving £5m for the North West Crewe Package and £3.5m for the Macclesfield Movement Strategy. The Crewe package included proposals for new highway infrastructure to provide additional capacity on the highway network in Leighton and supported delivery of the Local Plan.
8. Referred to the Macclesfield Movement Strategy, which drew upon the findings of the Macclesfield S-Paramics Traffic Modelling Programme, reported in May 2014. She considered that it was important to mention this because she felt that people considered that it had arrived "out of the blue" and the work on this had been going on for a long time. It looked to improve public transport, walking and cycling, whilst also developing a phased strategy for the implementation of localised highway infrastructure and capacity improvements.
9. Referred to the A500 dualling near to junction 16, and stated that it was expected that a planning application would be submitted in the following year; and she considered this would help address the existing congestion from the M6 and would be part of the forward plan for the vision of the Crewe hub.
10. Reported that the Council had been busy on planned schemes and had also to respond to the collapse of the water main on the A530 earlier in the year. She was clear that without the infrastructure that was in place at the David Whitby Way and Jack Mills Way, the impact on the surrounding traffic would have been considerable and she wished to put on record her thanks to all involved in dealing with the incident in such a timely manner. It had been a very

complex matter, not least because of the amount of infrastructure that was delivered to the town of Nantwich over the bridge.

11. Stated that she looked to 2018 to see the Crewe Green roundabout improvements commencing and advanced preparation works on Sydney Road Bridge, starting in the Summer. The Council would be working hard to coordinate these works, in close proximity to each other, to minimise the disruption to local residents and businesses.
12. Stated that, in moving towards the end of the year, she wished to recall some events in 2017 which had been difficult and particularly painful to local residents. Over a few short weeks in the summer there had been three separate occasions where communities had gathered together to remember those who had lost their lives in three very tragic events. Firstly, the Manchester bombing; then the attack at London Bridge and then, in late June, those who perished in the Grenfell Tower fire. In such troubled times, she considered it right and proper that political differences were put aside and that the Council unite to provide that important leadership to the community. She was reminded of the late Jo Cox MP, in her maiden speech to the House of Commons in 2015, where she had said “We are far more united and have far more in common with each other than things that divide us”. And the Leader believed that all agreed with her. The bombing in Manchester had had a very direct impact on the Council’s own community, in that Nell Jones, a student at Homes Chapel Comprehensive School had been killed. She and the Mayor had visited the school in the week following the attack. Equally Elaine McIver, a serving Cheshire Police Officer who had served the Cheshire community for over 19 years had also killed in the attack. She was sure that Members would wish to join with her in thanking those in the emergency services who worked tirelessly to keep the community safe. The tragic events of the summer could only serve to remind of the risks that they took every day to help people lead their lives.
13. Stated that she was delighted that, in his announcements, the Mayor had mentioned that the Council had found a way of remembering the sacrifice of Tom Jackson, a truly remarkable young man. She hoped that Tom’s family had found some comfort from the memorial at Tatton. She had had the privilege of visiting Tatton in the previous week, when she was reminded of the true meaning of Christmas. The magnificent mansion had been decorated to the theme of the “12 Days of Christmas”. She had learnt that the traditional 12 days of Christmas ran from Christmas Day to the Epiphany Eve on the 5<sup>th</sup> January. It was a period of merry making and feasting with different religious celebrations on each of the days. She encouraged all to visit Tatton and embrace this. The other message that Tatton always reminded her of was that the Council rightly looked to bring economic regeneration and growth and such spaces as Tatton were vitally important.

14. Paid tribute to the Council's staff, particularly in the Christmas season. She stated that the staff in Cheshire East, day in day out, delivered services to the public whatever their role and that they all contributed to making Cheshire East a wonderful place to live. She hoped that Members would join with her in sending Christmas and New Year good wishes to all staff and their families. She would particularly like to thank those staff who would be working over the festive season to keep services running and the roads safe.

15. Wished all Members a very happy Christmas and New Year.

**47 RECOMMENDATION FROM CABINET - COUNCIL TAX BASE 2018/19 - DOMESTIC RATES**

Cabinet, at its meeting on 5 December 2017, had considered a report setting out the Council Tax base calculation for 2018/19 for recommendation to Council.

**RESOLVED**

1. That, in accordance with the Local Authorities (Calculation of Tax Base) Regulations 1992, the amount to be calculated by Cheshire East Council as its Council Tax Base for the year 2018/19 be 147,003.80 for the whole area.
2. That no changes be made to the Council Tax Support Scheme for 2018/19, other than the annual increase in the allowances used and clarification following changes in other state benefits.

**48 RECOMMENDATION FROM CABINET - NON-DOMESTIC RATES TAXBASE 2018/19**

Cabinet, at its meeting on 5 December 2017, had considered a report on the Non-Domestic Rates Tax base for 2018/19 and resolved to note that:-

- (a) the non-domestic rates estimates and calculations for 2018/19 would be calculated in accordance with the regulations as follows:

	<b>2018/19</b>	<b>£m</b>
	Projected NDR net income after accounting adjustments	134.7
Less	Payable to DCLG (50% share)	-67.4
Less	Payable to Fire Authority (1% share)	-1.3
	<b>Cheshire East Council proportionate share</b>	<b>66.0</b>
Less	<i>Fixed Tariff payable to DCLG</i>	-24.2
Add	<i>Pooling arrangement levy reduction</i>	+0.8

Add	Section 31 Compensation grant*	+0.5
	Cheshire East Council Retained share	43.1

*\* to compensate for additional business rate discount measures introduced by DCLG since the inception of the BRRS scheme in April 2013*

- (b) the Director of Finance and Procurement in consultation with the Portfolio Holder for Finance and Communication will finalise these estimates based on the latest data for submission to the Department for Communities and Local Government (DCLG) in January 2018.

Cabinet had recommended to Council that, in accordance with the Local Authorities (Calculation of Tax Base) Regulations 1992, that the amount to be calculated by Cheshire East Council as its business rates tax base for the year 2018/19 be £134.7m.

## **RESOLVED**

That, in accordance with the Local Authorities (Calculation of Tax Base) Regulations 1992, the amount to be calculated by Cheshire East Council as its business rates tax base for the year 2018/19 be £134.7m.

## **49 RECOMMENDATIONS FROM CABINET - MID-YEAR REVIEW OF PERFORMANCE**

Cabinet, at its meeting on 7 November 2017, had considered a report on the Mid-Year Review of Performance for 2017/18.

Cabinet had resolved to:-

1. note the mid-year review of 2017/18 performance in relation to the following issues:
  - The summary of performance against the Council's six Strategic Outcomes (Section 1 of the report);
  - The projected service revenue and capital outturn positions, overall financial stability of the Council, and the impact on the Council's reserves position (Section 2);
  - The delivery of the overall capital programme (Section 2, paragraphs 179 to 187, Appendix 4 and Appendix 5);
  - Fully funded supplementary capital estimates and virements up to £250,000 approved in accordance with Finance Procedure Rules (Appendix 6);
  - Changes to Capital Budgets made in accordance with the Finance Procedure Rules (Appendix 9);

- Treasury management investments and performance (Appendix 10);
- Management of invoiced debt (Appendix 12);
- Use of earmarked reserves (Appendix 13);
- Update on workforce development and staffing (Section 3);
- The intention of the S.151 Officer to identify further financial mitigation, in relation to the Council's 2017/18 revenue budget, through a review of the calculation of the Minimum Revenue Provision, (Appendix 15) and the funding of other revenue costs through capitalisation or the appropriate use of available reserves;
- The intention to implement a flexible use of capital receipt strategy to be approved by full council (Appendix 14).

and

2. approved supplementary revenue estimates to be funded by additional specific grant (Appendix 11);

Cabinet had recommended that Council approve:-

- (a) Fully funded supplementary capital estimates and virements above £1,000,000 in accordance with Financial Procedure Rules as detailed in Appendix 8 of the report.
- (b) The Supplementary Capital Estimate of £12.6m for Poynton Relief Road as detailed in Appendix 8 and paragraphs 183-185 of the report.
  - To approve the forward funding of developer contributions to the scheme and to approve the underwriting, in principle, of any necessary gap funding required to deliver the proposed relief road.
  - That the scheme budget profile be adjusted accordingly in the capital programme.
- (c) The use of the flexibility to apply capital receipts to fund transformation projects as detailed in Appendix 14 of the report.

and

that Council note the financial implications of the change in the Minimum Revenue Provision (MRP) policy to the use of the annuity method as detailed in Appendix 15 of the report.

## **RESOLVED**

1. That the fully funded supplementary capital estimates and virements above £1,000,000 in accordance with Financial Procedure Rules, as detailed in Appendix 8 of the report, be approved.
2. That the Supplementary Capital Estimate of £12.6m for Poynton Relief Road as detailed in Appendix 8 and paragraphs 183-185 of the report be approved.
3. That the forward funding of developer contributions to the scheme and the underwriting, in principle, of any necessary gap funding required to deliver the proposed relief road be approved.
4. That the scheme budget profile be adjusted accordingly in the capital programme.
5. That use of the flexibility to apply capital receipts to fund transformation projects as detailed in Appendix 14 of the report be approved.
6. That the financial implications of the change in the MRP policy to the use of the annuity method, as detailed in Appendix 15 of the report, be noted.

## **50 RECOMMENDATION FROM THE CONSTITUTION COMMITTEE - REVIEW OF THE CONSTITUTION**

The Constitution Committee, at its meeting on 30 November 2017, had considered two reports recommending the approval and adoption of a revised constitution for Cheshire East Council.

The Council had undertaken a comprehensive review of the current constitution to ensure that it complied with all relevant statutory requirements, and had considered how its current processes and procedures should be altered to improve organisational efficiency and achieve good governance. The review had been guided by the seven key principles approved by the Committee at its meeting on 4<sup>th</sup> August 2017.

The Council had commissioned Bevan Brittan Solicitors to carry out a desktop review of the constitution and to assist in the drafting of a new constitution. Details of the review and the way in which it had been conducted, including the extensive member consultation and engagement that had taken place, were set out in the report to the Constitution Committee.

The report to the Constitution Committee was submitted to Council, together with the minute extract from the Committee, including recommendations to Council.

The report appended four documents:

Appendix A – A composite Explanatory Note of substantive issues which had been considered by the Constitution Sub-Committee, together with the Sub-Committee's recommendation against each issue, which were reflected in the draft constitution.

Appendix B – The draft Constitution

Appendix C – Those documents which formed part of the current constitution, but which recommended no longer to be in the constitution, together with a summary front-sheet setting out information on the "ownership" of each document.

Appendix D – A document on arrangements for dealing with standards complaints against members which, whilst not part of the current constitution or part of the proposed new draft Constitution, was required by law and would be referenced and hyperlinked from the revised Member Code of Conduct.

A table of financial limits set out in Appendix B, upon which officers had corrected a number of the references.

The Committee had also considered a number of matters which if agreed would require the inclusion of additional documents in the constitution or amendments to it as follows:

Appendix E – The Overview and Scrutiny Procedure Rules.

A colour-coded chart mapping out decision-making responsibilities. This would be completed on final approval of the revised constitution and incorporated into the document.

A hyperlink to guidance on the use of the Officer Decision Record (ODR) process. This would be completed in the final drafting of the document.

Certain issues in respect of the current draft provisions relating to the Staffing Committee terms of reference, the Investigation and Disciplinary Committee and the Employee Procedure Rules.(Appendix A). The Committee had considered a separate explanatory note on these issues, which included a response from Bevan Brittan and a recommended position in each case. It had been suggested in particular that the composition of the Staffing Appeals Sub-Committee should be changed from 3/5 members to 3 members, and that the terms of reference of the Investigation and Disciplinary Committee should be amended to provide that the procedure for filtering out and dealing with allegations which were

clearly unfounded, trivial or could best be dealt with under some other procedure be delegated to the Monitoring Officer in consultation with the Chairman of the Investigation and Disciplinary Committee and the Chairman of the Staffing Committee. The Committee had agreed with both proposed amendments.

The following Constitution Committee resolutions, which took into account those amendments agreed following Members' Speaking at the Constitution Committee meeting, were proposed and seconded:-

That subject to the resolutions below, Council be recommended to adopt the revised constitution of Cheshire East Council, as appended to the report at Appendix B, with an operative date of 1<sup>st</sup> January 2018:

1. the Overview and Scrutiny Committee Procedures as set out in Appendix E be approved for inclusion in the revised Constitution subject to the correction of any formatting and cross-referencing issues;
2. the provision within the draft constitution relating to attendance by members at the meeting of a body of which they are not appointed members be amended to make it clear that members can attend any meeting during the consideration of Part 1 business;
3. the Local Ward Member Protocol be amended to include a hyperlink to the definition of the term 'exempt information';
4. the provision relating to a one month Forward Plan be amended to provide that the Forward Plan shall cover a *minimum* period of one month (which would allow items to be included over a longer period);
5. the insertion into the Employment Rules of a section relating to the executive objection process for the appointment and dismissal of those chief officers and deputy chief officers not covered by paragraphs 4 and 5 be approved (page 252 of Appendix B);
6. the financial limits relating to virements (both revenue and capital) be clarified and the Acting Director of Legal Services in consultation with the Section 151 Officer be authorised to make any necessary amendments;
7. with regard to variations in capital programme scheme provision, consideration be given at a future date to the introduction of percentages alongside cash sums.
8. the reference, within the Planning and Development Control terms of reference, to the Portfolio Holders responsible for Development Control and the Local Development Framework being members of the Strategic Planning Board be deleted (Appendix B page 43 para 20);

9. the reference to approval routes within Section E of the Finance Procedure Rules be suitably clarified (Appendix B page 213 paras 20-22), which shall be delegated to the Acting Director of Legal Services;
10. paragraph 53 of the terms of reference of the Investigation and Disciplinary Committee be amended to provide that the procedure for filtering out and dealing with allegations which are clearly unfounded, trivial or can best be dealt with under some other procedure be delegated to the Monitoring Officer in consultation with the Chairman of the Investigation and Disciplinary Committee and the Chairman of the Staffing Committee;
11. paragraph 49 of the terms of reference of the Staffing Committee be amended to provide that a Staffing Appeals Sub-Committee of 3 members be established on an ad hoc basis;
12. all references to Cabinet Portfolios be brought up to date;
13. the commitment to provide further supporting information with regard to the colour-coded chart mapping out decision-making responsibilities and the provision of a hyperlink to guidance on the use of the Officer Decision Record (ODR) process be noted and endorsed; and
14. the arrangements for dealing with standards complaints against members (Appendix D) be referenced and hyperlinked from the revised Member Code of Conduct.

(With regard to resolution 6 above, an appendix was attached to the minute extract from the Constitution Committee, which set out an amended (clarified) table of approval limits for virements. The original table was included for comparison. Council was asked to approve the table as amended and this is appended to these minutes, for information).

### **Amendment 1**

An amendment to the recommendations to require that the draft changes to the Constitution to be subject to consultation, and be made available to residents and businesses of Cheshire East before then being submitted to the Annual Council meeting in May 2018 was proposed and seconded.

Following the debate on the amendment, a requisition for a named vote was submitted and duly supported. The amendment was put to the meeting with the following results:-

### **For**

Cllr D Bailey, Cllr J Bratherton, Cllr S Brookfield, Cllr C Browne, Cllr B Burkhill, Cllr S Carter, Cllr S Corcoran, Cllr I Faseyi, Cllr R Fletcher, Cllr D Flude, Cllr T Fox, Cllr A Harewood, Cllr S Hogben, Cllr D Hough, Cllr J Jackson, Cllr N Mannion, Cllr D Marren, Cllr J Nicholas, Cllr M Parsons, Cllr S Pochin, Cllr J Rhodes, Cllr B Roberts, Cllr A Stott and Cllr M Warren.

### **Against**

Cllr C Andrew, Cllr A Arnold, Cllr G Baggott, Cllr Rachel Bailey, Cllr Rhoda Bailey, Cllr P Bates, Cllr G Baxendale, Cllr M Beanland, Cllr D Bebbington, Cllr D Brown, Cllr P Butterill, Cllr J Clowes, Cllr M Deakin, Cllr T Dean, Cllr B Dooley, Cllr L Durham, Cllr S Edgar, Cllr JP Findlow, Cllr H Gaddum, Cllr S Gardiner, Cllr S Gardner, Cllr L Gilbert, Cllr P Groves, Cllr M Hardy, Cllr G Hayes, Cllr O Hunter, Cllr J Macrae, Cllr A Martin, Cllr R Menlove, Cllr G Merry, Cllr B Moran, Cllr H Murray, Cllr J Saunders, Cllr M Sewart, Cllr M Simon, Cllr L Smetham, Cllr D Stockton, Cllr G Wait, Cllr B Walmsley, Cllr G Walton, Cllr L Wardlaw, Cllr J Weatherill, Cllr G Williams and Cllr J Wray.

### **Not Voting**

Cllr D Mahon and Cllr A Moran.

The amendment was declared not carried, with 24 votes for, 44 against and 12 not voting.

**(At this point the meeting was adjourned for lunch)**

### **Amendment 2**

An amendment to the wording at Chapter 3, Part 2, Appendix 2 – Notices of Motion, Procedure at the meeting, to state that when a Notice of Motion has been moved and seconded, the mover “shall be entitled to make a speech introducing the Motion, lasting no more than three minutes in duration” was proposed and seconded.

The vote was taken on the amendment by show of hands and the amendments was declared not carried.

### **Amendment 3**

An amendment to Chapter 3, Part 4 – Approval levels to state that “All virements over £1m must be approved by full Council” was proposed and seconded.

The vote was taken on the amendment by show of hands and the amendment was declared not carried.

Following debate on the substantive motion, a requisition for a named vote on the substantive motion was submitted. The named vote was taken with the following results:-

### **For**

Cllr C Andrew, Cllr A Arnold, Cllr G Baggott, Cllr Rachel Bailey, Cllr Rhoda Bailey, Cllr P Bates, Cllr G Baxendale, Cllr M Beanland, Cllr G Bebbington, Cllr D Brown, Cllr P Butterill, Cllr J Clowes, Cllr M Deakin, Cllr T Dean, Cllr B Dooley, Cllr L Durham, Cllr S Edgar, Cllr JP Findlow, Cllr S

Gardiner, Cllr L Gilbert, Cllr P Groves, Cllr M Hardy, Cllr G Hayes, Cllr D Hough, Cllr O Hunter, Cllr J Macrae, Cllr A Martin, Cllr R Menlove, Cllr G Merry, Cllr B Moran, Cllr H Murray, Cllr J Saunders, Cllr M Sewart, Cllr M Simon, Cllr L Smetham, Cllr D Stockton, Cllr G Wait, Cllr B Walmsley, Cllr G Walton, Cllr L Wardlaw, Cllr M Warren, Cllr J Weatherill, Cllr G Williams and Cllr J Wray.

**Against**

Cllr D Bailey, Cllr S Brookfield, Cllr C Browne, Cllr B Burkhill, Cllr S Carter, Cllr S Corcoran, Cllr I Faseyi, Cllr D Flude, Cllr T Fox, Cllr A Harewood, Cllr S Hogben, Cllr J Jackson, Cllr D Mahon, Cllr Nick Mannion, Cllr J Nicholas, Cllr M Parsons, Cllr J Rhodes, Cllr B Roberts and Cllr A Stott.

**Not Voting**

Cllr R Fletcher, Cllr D Marren, Cllr A Moran and Cllr S Pochin.

The motion was declared carried, with 44 votes for, 19 against and 4 not voting.

**RESOLVED**

That subject to the resolutions below, the revised constitution of Cheshire East Council, as appended to the report at Appendix B, be adopted, with an operative date of 1<sup>st</sup> January 2018: -

- 1) the Overview and Scrutiny Committee Procedures as set out in Appendix E be approved for inclusion in the revised Constitution subject to the correction of any formatting and cross-referencing issues;
- 2) the provision within the draft constitution relating to attendance by members at the meeting of a body of which they are not appointed members be amended to make it clear that members can attend any meeting during the consideration of Part 1 business;
- 3) the Local Ward Member Protocol be amended to include a hyperlink to the definition of the term 'exempt information';
- 4) the provision relating to a one month Forward Plan be amended to provide that the Forward Plan shall cover a *minimum* period of one month (which would allow items to be included over a longer period);
- 5) the insertion into the Employment Rules of a section relating to the executive objection process for the appointment and dismissal of those chief officers and deputy chief officers not covered by paragraphs 4 and 5 be approved (page 252 of Appendix B);

- 6) the financial limits relating to virements (both revenue and capital) be clarified and the Acting Director of Legal Services in consultation with the Section 151 Officer be authorised to make any necessary amendments, as set out in the appendix to the minute extract from the Constitution Committee, which set out an amended (clarified) table of approval limits for virements, as attached.
- 7) with regard to variations in capital programme scheme provision, consideration be given at a future date to the introduction of percentages alongside cash sums.
- 8) the reference, within the Planning and Development Control terms of reference, to the Portfolio Holders responsible for Development Control and the Local Development Framework being members of the Strategic Planning Board be deleted (Appendix B page 43 para 20);
- 9) the reference to approval routes within Section E of the Finance Procedure Rules be suitably clarified (Appendix B page 213 paras 20-22), which shall be delegated to the Acting Director of Legal Services;
- 10) paragraph 53 of the terms of reference of the Investigation and Disciplinary Committee be amended to provide that the procedure for filtering out and dealing with allegations which are clearly unfounded, trivial or can best be dealt with under some other procedure be delegated to the Monitoring Officer in consultation with the Chairman of the Investigation and Disciplinary Committee and the Chairman of the Staffing Committee;
- 11) paragraph 49 of the terms of reference of the Staffing Committee be amended to provide that a Staffing Appeals Sub-Committee of 3 members be established on an ad hoc basis;
- 12) all references to Cabinet Portfolios be brought up to date;
- 13) the commitment to provide further supporting information with regard to the colour-coded chart mapping out decision-making responsibilities and the provision of a hyperlink to guidance on the use of the Officer Decision Record (ODR) process be noted and endorsed; and
- 14) the arrangements for dealing with standards complaints against members (Appendix D) be referenced and hyperlinked from the revised Member Code of Conduct.

51 **RECOMMENDATION FROM THE CONSTITUTION COMMITTEE -  
CALENDAR OF MEETINGS 2018/19**

Consideration was given to a report on the Calendar of Meetings 2018/19. The report had been considered by the Constitution Committee at its meeting on 30 November 2017.

The proposed scheduling of meetings for 2018-19 followed the pattern adopted in previous years.

The recommendations of the Constitution Committee were proposed and seconded.

## **RESOLVED**

That the Calendar of Public Meetings for Cheshire East Council 2018 - 2019 be approved.

### **52 HIGH SPEED RAIL - (WEST MIDLANDS CREWE) BILL (HS2 PHASE 2A) PETITIONING**

(During consideration of this item, reference was made to an area of land in Worsley, situated in the Cheshire West and Chester area. The Leader of the Council, Cllr Rachel Bailey, declared an interest in respect of this matter, by virtue of being a friend of the owners of the land).

Consideration was given to a report concerning petitioning in respect of the High Speed Rail (West Midlands – Crewe) Bill(HS2 Phase 2a).

On the 17<sup>th</sup> July 2017, the Government had deposited the High Speed Rail (West Midlands – Crewe) Bill (“the Bill”) in Parliament. The Bill was a hybrid Bill and included proposals for the HS2 line between Fradley and Crewe and provision to bring HS2 services to Crewe in 2027. The scheme was sometimes referred to as Phase 2a of HS2 and followed on from Phase 1, which concerned the route from Euston to Handsacre in Staffordshire, with a spur from Water Orton in Warwickshire to Curzon Street, Birmingham.

The proposals for Crewe in the Bill included the interventions needed to support 2 stopping HS2 trains per hour at Crewe and reducing journey times to London from Crewe to 55 minutes. The current plans did not support additional HS2 services from Crewe when phase 2b opened in 2033.

The Bill could have its second reading in early December 2017, with a 25 day petitioning period commencing the following day. Any individual, group of individuals or organisations “directly and specially affected” by the Bill had the right to petition against it.

It was reported that petitioning provided the opportunity for the Council to formally raise its concerns regarding the Bill before the House of Commons Select Committee. If a petition was not deposited it would not

be possible for the Council to appear before the Select Committee. There would be a further opportunity to petition against the Bill in the House of Lords in due course.

The report sought Council authorisation for Cheshire East Council to petition against the Bill during the relevant petitioning periods in the House of Commons and the House of Lords, in relation to those aspects of the Bill that prejudiced Cheshire East Council.

In November 2017, the Council had appointed Sharpe Pritchard, a firm of recognised Parliamentary Agents, through a Council procurement framework, to provide specialist advice and support in relation to the Council's options and position with regards to petitioning. The Council was working closely with these agents and it had been concluded that the most appropriate approach was for the Council to petition against the Bill.

All Members would be provided with updates as to what representations the Council was making in the petitions process.

## **RESOLVED**

1. That it is expedient for the Council to petition the High Speed Rail (West Midlands – Crewe) Bill, introduced in the 2017 – 19 session of Parliament.
2. That the Executive Director of Place shall have delegated authority, in consultation with the Leader of the Council and Director of Legal Services, to take all necessary and expedient steps to give effect to the resolution above.
3. That the Director of Legal Services shall have delegated authority to seal any necessary documents and confirm that Sharpe Pritchard LLP (Parliamentary Agents) be authorised to deposit and, if necessary, sign the Petition of the Council against the Bill.
4. That the Executive Director of Place shall have delegated authority, in consultation with the Leader of the Council to withdraw any aspect of the Council's Petition against the Bill, if this is no longer the appropriate course of action.

## **53 NOTICES OF MOTION**

**The following Notices of Motion had been submitted in Accordance with Procedure Rule 12:**

### **1. M6, J17 – Future Growth and Investment**

**Proposed by Councillor B Moran and seconded by Councillor G Baggott**

At M6, Junction 17, the delivery of the Local Plan depends on the ability of people to make reliable journeys on Highways England's strategic road network and that the adjacent local roads can cope with the additional traffic that will need to safely access and exit the Junction into the future. The arrival of the HS2 Hub at Crewe will place more demands on the road network in this area, but the growth of traffic on the M6 should not be at the expense of more congestion on local roads which will affect local journeys.

Future investment by Highways England into a major upgrade of Junction 17 should be a key consideration of Transport for the North as they commence their process of developing a Strategic Transport Plan for the North which will be the basis for determining Highways England's future programme. Consultation on this Plan starts in the New Year and I propose that the Portfolio Holder for the Environment, in conjunction with the Executive Director for Place, include within the Council's response, support for an early inclusion of a major scheme to improve capacity at Junction 17 in Highways England's next investment period.

This Motion reflects the question raised by Fiona Bruce MP, in the House of Commons on 30 November 2017. This concerned the need for improvements at Junction 17 to be prioritised in Transport for the North's Strategic Transport Plan, in order for Cheshire East Council to deliver continuing high levels of economic growth.

**RESOLVED:**

That the Motion stand referred to Cabinet.

**2. UK100 Clean Energy by 2050**

**Proposed by Councillor S Corcoran and seconded by Councillor S Hogben.**

This Council acknowledges;

- the historic commitments made at the 2015 United Nations Climate Change Conference in Paris toward the future of renewable energy;
- our responsibility to help secure an environmentally sustainable future for our residents and in relation to the global effects of anthropogenic climate change.

This Council subsequently notes that;

- despite the Paris Agreement placing no binding commitments upon Local Government institutions, we as a Council can still play our part in the global movement towards a sustainable energy future;
- additional benefits of the development of green industries include the potential to create well-paid, high-skilled employment locally, regionally and nationally;
- the UK100 Agreement pledge outlines the ambition for the UK regions to exceed the Paris Climate targets through achieving 100% 'clean energy' usage by 2050.

In light of this, this Council therefore resolves to;

- match the ambitions of the UK100 Agreement through pledging to achieve 100% clean energy across Cheshire East Council's full range of functions by 2050 (defined as 70% from fully renewable sources [Wind, Water, Solar], with the remainder from other low CO2 forms of energy production, in line with ambitious post-2040 energy mix forecasts;
- work in partnership with our residents and business community to deliver against the commitments made nationally and internationally at the 2015 Paris Summit;
- turn these commitments into reality through developing a 'route map' to a sustainable future, working together with Cheshire East's business, educational and residential communities as part of an integrated approach to a shared sustainable future.

#### References

For energy mix forecasts see Greenpeace, 'Energy Revolution', p.86:  
[www.greenpeace.org/international/Global/international/publications/climate/2015/Energy-Revolution-2015-Full.pdf](http://www.greenpeace.org/international/Global/international/publications/climate/2015/Energy-Revolution-2015-Full.pdf)

<http://www.uk100.org/>

#### **RESOLVED:**

That the Motion stand referred to Cabinet.

### **3. Local Plan Housing Land Supply**

**Submitted by Councillor S Corcoran and seconded by Councillor N Mannion**

That this Council notes that

- 1 in a recent planning appeal case the Inspector considered whether Cheshire East Council had a 5-year housing land supply and said, "To my mind, even though the calculated supply includes a 20% buffer, the 5-year supply should be considered to be marginal and, potentially, in doubt" and said "I conclude that it would be both

cautious and prudent in the circumstances of this case to regard policies for the supply of housing to be considered not up-to-date, thus engaging the tilted balance of paragraph 14 of the Framework."

- 2 the Local Plan assumes a housing need of 1800p.a.
- 3 a recent government consultation included a figure for housing need in Cheshire East of 1142 p.a.
- 4 if the 5-year housing land supply calculation were based on a housing need of 1142p.a. then Cheshire East would have a secure and robust 5-year housing land supply
- 5 in order to take advantage of the lower figure for housing need in calculating a 5-year housing land supply, the Local Plan will need to be refreshed

This Council requests that a report be presented to the next Cabinet meeting setting out the work required to refresh the Local Plan to ensure that Cheshire East has a secure and robust 5-year housing land supply.

**RESOLVED:**

That the Motion stand referred to Cabinet.

**4. Maintenance of Highways in Crewe**

**Proposed by Councillor J Rhodes and Seconded by Councillor S Brookfield**

This Council should review its current asset led management approach to the repair and maintenance of roads and footpaths in the light of its failure to adequately maintain the highways in the principal town of Crewe.

Furthermore, it should institute an open and transparent system for funding and spending on highways, as is currently used for local highways groups. This would prevent any possible accusation of favouritism towards any particular town or ward. The annual assessment of highways and the list of areas to be maintained should also be made available to Councillors and the public.

Lastly, a comprehensive scheme of repair for highways in Crewe should be drawn up and submitted to the relevant scrutiny committee, alongside an estimate of the 3 year budget requirement.

**RESOLVED:**

That the Motion stand referred to Cabinet.

## **5. Publication in full of Developer's Viability Assessments**

**Proposed by Councillor N Mannion and Seconded by Councillor B Roberts**

Viability Assessments, introduced under the provisions of the NPPF in 2012, are submitted by developers of larger sites as evidence to justify removing or reducing their contributions, most often with regard to our Local Plan requirement that a minimum of 30% of residential units in a development are designated as 'affordable'.

To date, the content of Viability Assessments submitted by planning applicants to Cheshire East have not been published, nor have any details been shared with the Council's planning committees.

However, a growing number of planning authorities, most recently Greenwich and Southwark councils, joined in November 2017 by Bristol City Council, have started to publish all viability assessments submitted by developers in full.

Therefore, in the interests of openness and transparency it is proposed that:

From 1<sup>st</sup> February 2018 all Viability Assessments submitted by developers shall be published in full on the Council's planning portal.

### **RESOLVED:**

That the Motion stand referred to the Strategic Planning Board.

## **54 QUESTIONS**

The following questions were asked by Members

1. Councillor S Carter referred to a question he had raised at July Council meeting in relation to roof problems at the school which he was a Governor of and thanked the Leader for her intervention in the matter. Councillor Rachel Bailey, Leader of the Council responded.
2. Councillor S Brookfield referred to money pledged for parking schemes, and having received no update on this, sought assurance that the schemes were still going ahead. Councillor Rachel Bailey, Leader of the Council responded.
3. Councillor D Bailey referred to Laura Smith MP campaign to stop the downgrading of the Fire Station in Crewe and asked the Leader about a press release issued and if the conservative members on the Fire Authority had seen the press release before it was issued.

Councillor Rachel Bailey, Leader of the Council and Councillor G Merry, member of the Cheshire Fire Authority responded.

4. Cllr H Murray referred to email security stating that he recently received confirmation that his emails were being intercepted by Cheshire East. He understood that it was legal for Cheshire East to intercept councillors' emails and at times that it was necessary to do so for legal reasons. He asked the following questions and that the written response be shared with all councillors:

1. How many councillors have had their emails intercepted in the last three years?
2. Who receives and who reviews the interceptions?
3. Who authorises and under what authority are they intercepted?
4. What was the process for member oversight?

Councillor JP Findlow, Portfolio Holder for Corporate Policy and Legal Services undertook to provide a response.

5. Councillor G Merry asked that now the bus review had been concluded would the Portfolio Holder explain how the views of residents had been taken into account. Councillor P Bates, Portfolio Holder for Finance and Communities responded.
6. Councillor D Flude asked what progress had been made on the air quality action plans and what actions had been taken to improve air quality, noting that from 31 December 2018 the government expected all local authorities to abide by air quality management. Councillor A Arnold, Portfolio Holder for Housing, Planning and Regeneration responded.
7. Councillor J Jackson thanked Sarah Messenger for conducting the review into the culture of the Council and allegations of bullying and asked the Leader about a quote relating to the location of an incident which had taken place. Councillor Rachel Bailey, Leader of the Council responded.
8. Councillor D Marren thanked the Leader for commissioning the LGA review. He asked if the Leader agreed with him that if an officer was pre disposed against women they should not be allowed to investigate complaints against women and female members. Councillor Rachel Bailey, Leader of the Council responded.
9. Councillor A Harewood thanked the Cabinet for visiting her ward and asked why elected councillors had not been allowed to attend. Councillor Rachel Bailey, Leader of the Council responded.

10. Councillor J Rhodes asked when the HMO legislation provisions would be implemented. Councillor A Arnold, Portfolio Holder for Housing, Planning and Regeneration responded.
11. Cllr Fletcher referred to the 110 houses which had not yet been built which had been sent a consultation letter on a planning application by the planning department and asked what the planning department had done with these envelopes when returned by Royal Mail and if the IT had been corrected so this mistake would not happen again. Councillor A Arnold, Portfolio Holder for Housing, Planning and Regeneration undertook to look into this and provide a written response.
12. Cllr Warren referred to the air quality progress report which went to the Audit and Governance Committee last week regarding the external investigation into the Council's monitoring report. The Air Quality Team had reviewed the processes and a number of new measures were now in place. Could the Portfolio Holder explain what these measures were? Councillor A Arnold, Portfolio Holder for Housing, Planning and Regeneration undertook to look into this and provide a written response.
13. Cllr Nicholas asked if all councillors could be provided with a written detailed breakdown of costs to date that have been incurred from officers currently suspended and any associated costs. Councillor P Bates, Portfolio Holder for Finance and Communities undertook to provide a written response.
14. Councillor B Roberts referred to the statement made by the Chairman of the Staffing Committee on 26 October concerning an incident and asked the Leader if she could clarify when she became aware of the incident. He also asked if she could clarify what the Chairman of the Staffing Committee did about the incident in light of this statement. Councillor Rachel Bailey, Leader of the Council responded.
15. Cllr S Corcoran referred to the last Cabinet meeting and the question asked about the banning of snares on council land and the motion passed by West Sussex County Council. He asked what progress had been made on this; as if it was possible for West Sussex to ban them it should be possible for Cheshire East. Councillor J Clowes, Portfolio Holder for Adult Social Care and Integration undertook to look into this and provide a response.
16. Councillor Rhoda Bailey referred to the resignation of the Monitoring Officer and asked what payments they received whilst off. Councillor JP Findlow, Portfolio Holder for Corporate Policy and Legal Services responded.
17. Councillor I Faseyi referred to an unannounced inspection of a nursing home, which was found to be inadequate and asked what

had been put in place for the residents. Councillor J Clowes, Portfolio Holder for Adult Social Care and Integration responded.

18. Cllr M Mannion referred to the Macclesfield Movement Strategy, published in May 2014, and asked if the Council should be relying on this as it was out of date. Councillor Rachel Bailey, Leader of the Council undertook to provide a written response.

The meeting commenced at 11.00 am and concluded at 4.20 pm

Councillor A Moran (Chairman)  
CHAIRMAN

## Appendix

### Clarified table

38 Approval limits for virements are as follows:

Revenue Virements	
Virement Amount	Approval Level
Up to and including £100,000	Head of Service
In excess of £100,000 up to and including £500,000	Corporate Leadership Team (Relevant Executive Director)
In excess of £500,000 up to and including £1,000,000	Corporate Leadership Team (Relevant Executive Director) in consultation with Finance and Communications Portfolio Holder and relevant Portfolio Holder
Over £1,000,000 (where virement is within budget and policy framework)	Cabinet
Over £1,000,000 (where virement is outside budget and policy framework)	Council

Capital Virements	
Virement Amount	Approval Level
Up to and including £100,000	Head of Service
In excess of £100,000 up to and including £500,000	Corporate Leadership Team (Relevant Executive Director)
In excess of £500,000 up to and including £1,000,000	Corporate Leadership Team (Relevant Executive Director) in consultation with Finance and Communications Portfolio Holder and relevant Portfolio Holder
In excess of £1,000,000 up to and including £5,000,000	Cabinet
Over £5,000,000	Council with recommendation from Cabinet

