

Dawlish Town Council
Minutes of the
Extraordinary Meeting of the Town Council
held at The Manor House, Dawlish on
Tuesday, 28 May 2019

Present:

Councillors Foden (Mayor), Mawhood (Deputy Mayor), Dawson, Goodman-Bradbury, Heath, James, M. Lowther, T. Lowther, Mawhood, J. Petherick, L. Petherick, Prowse, Tamlyn and Taylor, Woods and Wrigley

In attendance:

Andrew McKenzie (Town Clerk) and approximately 31 Members of the public, two of whom wished to speak to agenda item 6.

Public Participation

Two members of the public spoke in favour of the Council lodging an application for judicial review on the basis that the planning approval for the scheme would be detrimental to the local amenity.

The following minutes will be considered for approval at the next meeting of the Town Council and may be subject to change until that time.

17 APOLOGIES FOR ABSENCE

There were none.

18 AGREEMENT OF THE AGENDA BETWEEN PARTS I AND II

The Mayor advised that a confidential briefing paper that contained legally privileged information had been previously circulated by the Clerk and submitted that if Members wishes to discuss the contents of the paper, they would need to move the meeting into Part II and exclude the press and public on the grounds that exempt information be disclosed.

It was proposed that, at the appropriate time, the Council move into Part II session to consider the contents of the paper. This was duly seconded.

An amendment was moved that the Clerk provide a summary of the information in the report which could be made public. This was duly seconded.

A vote was taken on the amendment and the result was as follows:

For – 5
Against – 8
Abstentions – 3

The amendment having been lost, Members then voted on the original proposal and the result was as follows:

For – 9
Against – 5
Abstentions – 1
Not voting – 1

The proposal was carried, and Members would move into Part II session when it was deemed appropriate by Members at the meeting.

18 DECLARATIONS OF INTEREST

There were no declarations of interest.

19 MINUTES

Members considered the minutes of the Annual Town Council meeting held on 15 May 2019.

Resolved that the minutes of the Annual Town Council meeting held on 15 May 2019 be signed as a correct and accurate record of the meeting.

20 FORMAL ADVICE FROM COUNSEL

Members considered whether to obtain counsel opinion on the likelihood of success in lodging an application for Judicial Review at the High Court, in relation to the decision of Teignbridge District Council (the Planning Authority) in passing planning application 19/00237/NPA – Marine Parade, Dawlish on the basis that it made an unsound decision regards local amenity.

During discussion, the following points were made:

- Dawlish Town Council’s Planning Committee had on 21 February agreed in principle to the application submitted by Network Rail;
- Teignbridge District Council’s Planning Committee had voted unanimously in favour of approving the application;
- Network Rail were due to start works on 3 June;
- Applications for judicial review had to be submitted to the Courts by 7 June;

- The costs of submitting and going forward with a Judicial Review needed to be borne in mind;
- The decision before the Council was simply to provide advice on the likelihood of success in the Courts and the Council would therefore have a further decision to make on that basis;
- The proposal before Members was simply to obtain the legal advice on the likelihood of success and in no way committed the Council to taking legal action, regardless of the legal response; and
- The decision-making body in relation to Planning applications was Teignbridge District Council and therefore they should be approached to challenge the decision.

The Clerk advised that many barristers required instructions to act to be received from a firm of solicitors therefore, if Members were minded approving obtaining counsel's advice, it would need to decide which law firm to approach in the first instance. Alternatively, it could seek a public access barrister who would take instructions direct from a client. Two such quotes for public access barristers who believed it possible to lodge an application for judicial review in the timescales ranged from £2000 to £2500 plus VAT.

It was proposed and seconded that the council approves the agenda item as set out.

A counter proposal was made and seconded that Dawlish Town Council formally request Teignbridge District Council to obtain counsel's opinion without delay and should the response received be positive, that the District Council proceed with lodging an application for judicial review.

The original proposal was withdrawn, and it was

Resolved unanimously that Dawlish Town Council formally request Teignbridge District Council to obtain counsel's opinion without delay, and should the response received be positive, that the District Council proceed with lodging an application for judicially reviewing the decision. relating to planning application 19/00237/NPA – Marine Parade, Dawlish

The meeting was closed by the Mayor at 8.06 p.m.

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 Cllr Alison Foden
 MAYOR OF DAWLISH