

**Executive** – 27 August 2003

Present: Councillor Williams (Chairman)  
Councillors Bishop, Mrs Bradley, Mrs Bryant, N Cavill, Hall and  
Mrs Lewin-Harris.

Officers: Mr S Fletcher (Chief Executive), Ms S Adam (Head of Finance),  
Mrs P James (Director of Community Services), Mr A Hartridge  
(Director of Development), Miss J Dickinson (Head of Commercial  
Services), Mrs N Heal (Public Relations Officer) and Mr A Melhuish  
(Review Support Officer).

Also Present: Councillors Mrs Allgrove, Croad, Gill, Henley, Hindley, Lisgo, Paul,  
Trollope, Weston and Mrs Wilson.

(The meeting commenced at 6.00pm).

34. Minutes

The minutes of the meeting of the Executive held on 23 July 2003 were taken  
as read and were signed.

35. Apologies

Councillor Edwards and Garner.

36. Public Question Time

Councillor Croad as a member of the public, Dr Vaughan-Smith and  
Mr J Horsley all asked questions relating to the circumstances leading to the  
closure of a footpath/cycleway at Craig Lea, Taunton and its possible re-  
opening following the recent decision of the Planning Committee to  
recommend that a Compulsory Purchase Order (CPO) should be made to  
acquire the land concerned.

Councillor Bishop responded that there was currently unease that the costs of  
pursuing CPO action were likely to be far higher than originally reported. In  
addition, a further letter from the Police had been received raising concerns  
over the re-opening of the route. He therefore felt it appropriate for the matter  
to be referred back to the Planning Committee to reconsider the issue in light  
of these developments.

Councillor Bishop undertook to provide detailed written replies to the  
questions asked.

In response to a particular point made by Dr Vaughan-Smith, Councillor  
Williams felt that it was important for those who wanted the path re-opened to

meet with the local Ward Councillors and he promised to draw this to their attention.

Following a second recent incident, Councillor Croad referred to the problems which could follow the leaking of confidential information and asked what the Executive was doing to secure and maintain the Council's reputation for the highest levels of integrity?

Councillor Williams assured Councillor Croad that his concerns regarding the leaking of information were shared by the Executive and was disappointed to learn of them. The Chief Executive had been requested to write to Councillors to remind them of their responsibilities particularly when dealing with confidential matters.

Mr M Bowes on behalf of Mr S Robins asked a number of questions in relation to a property under Mr Robin's ownership.

Councillor Williams replied that these issues had been covered in his letters of 18 and 20 March 2003, but that he would send a further letter to confirm that position.

37. Leisure Trust

Submitted report previously circulated which sought approval to extend the timescale for the Leisure Trust live date by three months. The report also reconsidered the most appropriate form of leisure trust in the light of recent Government proposals.

The original target date for the commencement of the new leisure trust which was to be called Tone Leisure, was October 2003. This allowed a nine-month implementation period which could result in maximising savings during the set up year. As the project had progressed a number of issues had caused some delays and these were as follows:-

- the transfer of leases on Blackbrook, Wellsprings and Castle;
- complications surrounding the most appropriate form of trust following the Governments' latest proposals; and
- some general slippage due to the volume of work/impact of other corporate projects.

As a result, the project team and external leisure and legal advisors had recommended that the start date should now be 1 January 2004. The financial impact of this change was £60,000 although this could be funded from within the existing approved budget.

The Council had previously approved the establishment of a Non-Profit Distributing Organisation (NPDO) to operate the Council's Leisure Centres,

Golf Course and Sports and Health Development Services in the form of an Industrial and Provident Society (IPS).

However, since that decision, circumstances had changed and it was now felt that the trust should become a Company Limited by Guarantee (CLG).

The main change had been the enactment of the Co-operative and Community Benefit Societies Act 2003 which meant that IPSs would be brought more into line with company and charity law.

The implication for Taunton Deane's leisure trust was that the balance of factors previously in favour of an IPS relative to a CLG had been altered. For example, it was likely that the exemption in relation to charitable registration would be removed. If this happened the responsibility for regulation of the leisure trust would move from the Financial Services Authority to the Charity Commission thus placing the organisation in the same position as a CLG in relation to participation of employees in the Board of Management, taxation issues and the rigidity of the regulatory framework.

Noted that when the current advantages of the IPS were stripped away, some of the advantages of the CLG assumed greater significance such as mandatory as opposed to discretionary relief from NNDR and the familiarity with the business model.

The issue of the ownership and involvement of employees was an important consideration for the Council. Under a CLG scenario this would only become an issue when the organisation applied for charitable registration as Directors of a charity were precluded from receiving remuneration. This would prevent staff from having ownership or a seat on the Board.

The employees had been fully consulted up to now on the proposed transfer to a leisure trust on the basis that they would have an opportunity of being members of the organisation and having two places (plus the Managing Director) on the Board. It was not therefore considered proper or sensible to remove these rights and the expertise of the staff would add considerable value to the Board at a critical and formative stage in the Trust's development.

Reported however, that when the organisation sought charitable status, employees would not be able to retain their places on the Board and might not be able to retain their role as members of the organisation. Although this could be provided for in the constitutional documents of the trust, it would be important to ensure that mechanisms were identified and introduced to enable staff to continue to play an active role in the management and development of the Trust.

Having considered the issues, the Officer Steering Group and the Council's external advisers felt it appropriate to re-visit the approved form of trust for Tone Leisure. At this stage in the implementation process this change could

be accommodated with no real impact on the cost of establishing the trust, the timescale or the future business plan. Given the changes taking place nationally and the advice being given to local authorities, it is considered prudent to recommend that Taunton Deane Borough Council forms a CLG rather than an IPS.

RESOLVED that:-

- (1) Council be recommended to approve a virement of £60,000 from the Partial Exemption VAT Reserve to the Leisure Trust set up budget, subject to the successful completion of the scheduled VAT inspection in September 2003;
- (2) Tone Leisure Limited be established as an incorporated Company Limited by Guarantee;
- (3) a decision regarding whether to apply for charitable status at this stage be deferred; and
- (4) the initial constitution of the Company Limited by Guarantee be drafted to allow employee involvement which would be reviewed in line with future consideration of charitable status.

38. Rockwell Green Pavilion – Request for Supplementary Estimate

Considered report previously circulated, concerning a request from the Health and Leisure Review Panel for a supplementary estimate of £21,160 to allow the pavilion at Rockwell Green to be constructed to the original specification.

A brief had been drawn up in 1999/2000 and included a requirement for two team changing rooms each with showers and a toilet, an officials changing room, a disabled toilet, a kitchen and storage facilities.

The design for the pavilion had been costed by the Council's Quantity Surveyor at almost £200,000, which was significantly over budget. Although a re-design had reduced the cost of construction it was still £30,000 above available funds.

As there was increasing pressure from the local community to build the pavilion, it had been decided that the scheme should be tendered but a list of potential further savings should be drawn up. If the tenders exceeded the budget, negotiations on savings could be entered into with the successful contractor.

Reported that when the tenders were received they were over budget and negotiations had been commenced to reduce the costs according to normal

practice to bring the tender sum within the budget figure, bearing in mind future maintenance costs and vandalism issues.

Following lengthy discussions regarding the recommended supplementary estimate, members agreed that they would not support the request to reinstate the works omitted following negotiation of the tender sum. Councillor Williams did give an assurance that contractors had been appointed and that works on the reduced scheme would be commenced shortly.

RESOLVED that the request for a supplementary estimate be not approved.

39. Chief Executive – Mr S Fletcher

Councillor Williams drew attention to the fact that this was Stephen Fletcher's last meeting of the Executive before he left the Council to take up a new appointment with the IDeA.

He thanked Stephen for his help and support whilst employed at Taunton Deane and wished him well for the future.

(The meeting finished at 8.00pm.)