

## **EPHING FOREST DISTRICT COUNCIL CABINET MINUTES**

**Committee:** Cabinet **Date:** 5 November 2015

**Place:** Council Chamber, Civic Offices, High Street, Epping **Time:** 7.05 - 8.15 pm

**Members Present:** C Whitbread (Chairman), S Stavrou (Vice-Chairman), R Bassett, W Breare-Hall, A Grigg, D Stallan, G Waller, H Kane, A Lion and J Philip

**Other Councillors:** N Bedford, J Lea, A Mitchell, C P Pond, C Roberts, M Sartin and G Shiel

**Apologies:**

**Officers Present:** G Chipp (Chief Executive), D Macnab (Deputy Chief Executive and Director of Neighbourhoods), C O'Boyle (Director of Governance), R Palmer (Director of Resources), K Durrani (Assistant Director (Technical Services)), S G Hill (Assistant Director (Governance & Performance Management)), P Pledger (Assistant Director (Housing Property)), J Twinn (Assistant Director Benefits), T Carne (Public Relations and Marketing Officer), G J Woodhall (Senior Democratic Services Officer) and J Leither (Webcasting Officer)

**Also in attendance** C Pasterfield (Consultant)

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### **76. WEBCASTING INTRODUCTION**

The Leader made a short address to remind all present that the meeting would be broadcast on the Internet, and that the Council had adopted a protocol for the webcasting of its meetings.

### **77. DECLARATIONS OF INTEREST**

(a) Pursuant to the Council's Member Code of Conduct, Councillor W Breare-Hall declared a personal interest in agenda item 14, Release of Restrictive Covenants – Epping Forest College, by virtue of being a former Chairman of the Board of Governors for the College. The Councillor had determined that his interest was non-pecuniary but would leave the meeting for the consideration of the issue and voting thereon.

### **78. MINUTES**

#### **Resolved:**

(1) That the minutes of the meeting held on 8 October 2015 be taken as read and signed by the Chairman as a correct record.

### **79. REPORTS OF PORTFOLIO HOLDERS**

#### Asset Management & Economic Development

The Portfolio Holder informed the Cabinet of recent discussions at the Asset Management & Economic Development Cabinet Committee, and that the

appointment of an Operational Partner for the Council at North Weald Airfield would be considered at the next meeting of the Cabinet.

## 80. PUBLIC QUESTIONS

Mr T Blanks asked the following question:

*“When were the breaches of Contract Standing Orders first identified and by whom?”*

The Leader of Council provided the following answer:

*“As explained in paragraph 1 of the report, initially, the Council’s Procurement Manager produced a list of all orders placed with contractors/suppliers through the Council’s electronic ordering system (called Marketplace) over the past 4 years. The list was extracted from the Marketplace system as an audit exercise and was provided to all Directors on 22 May 2015.*

*At the next meeting of the Council’s Corporate Governance Group (CGG), held on 24 June 2015 – which comprised the Chief Executive, all four Directors, the Chief Internal Auditor and Deputy Monitoring Officer - the best way of dealing with this in a corporate manner was considered. Accordingly, as explained at Paragraph 4 of the report, it was agreed that all Assistant Directors would be asked to produce a schedule, listing each case where Contract Standing Orders may have been breached, the reason for the breach, and any proposed action.*

*The work involved with this exercise was significant, and took all the Assistant Directors some time to complete. The outcome of the completed exercise was considered at the CGG meeting on 16 September 2015, at which the CGG determined that, in accordance with Contract Standing Orders, a report should be submitted to the Cabinet setting out the details of all breaches for individual contracts with values totalling over £50,000 over the 4-year period, as well as the findings for breaches in respect of contracts below £50,000 over the 4-year period.”*

Mr Blanks thanked the Leader for the answer and asked the following supplementary question:

*“Was there any interest from the Auditors in these breaches before May 2015?”*

The Leader of Council undertook to provide Mr Blanks with a detailed answer in writing to his supplementary question, but stated that Officers had noticed the initial breaches of Contract Standing Orders as part of the Audit process.

## 81. OVERVIEW AND SCRUTINY

The Chairman of the Overview & Scrutiny Committee reported that the following items of business had been considered at its meeting held on 20 October 2015:

- (a) a presentation from Epping Forest College concerning the work of the college and its current financial situation;
- (b) an endorsement of the revisions to the Overview & Scrutiny sections of the Constitution;
- (c) a presentation from the Youth Engagement Review Task & Finish panel on their final report and recommendations, to be considered by the Cabinet at its next meeting in December;

(d) a review of the progress with the Key Action Plan in the second quarter of 2015/16; and

(e) a review of a PICK form on the principle of moving to a 20mph speed limit throughout the District.

The Key Decision List was reviewed but there were no specific issues identified on any of the items listed.

## **82. REPAIRS AND MAINTENANCE HUB - BLENHEIM WAY, NORTH WEALD**

The Leader of Council reported that this item had been deferred until the next scheduled meeting of the Cabinet, pending further discussions concerning the options available to the Council.

### **Resolved:**

(1) That this item be deferred until the next meeting.

## **83. ACCEPTANCE OF TENDERS - ANNUAL GAS SERVICING AND MAINTENANCE CONTRACT**

The Housing Portfolio Holder presented a report on the acceptance of tenders for the Annual Gas Servicing and Maintenance Contract.

The Portfolio Holder stated that tenders were sought for the programmed servicing and provision of breakdown and emergency repairs service to Council owned gas appliances. The tenders were devised in such a way that the Council could appoint either a single Contractor to operate across the whole of the District or two contractors, one for each of the North and South of the District. The EU compliant tender exercise was undertaken on the Council's behalf by Procurement Consultants, Cameron Consulting, and was based on an assessment of both quality and price with a 60% weighting on quality and a 40% weighting on price (Most Economically Advantageous Tender or MEAT). The most economically advantageous tender received was submitted by Gracelands CMS Limited for both the North and South areas.

The Cabinet had a slight concern that the quotes from Gracelands CMS Limited seemed to be so much cheaper than the other quotes. However, the Assistant Director of Housing (Housing Property) reassured the Cabinet that Gracelands CMS Limited already had one of the contracts that had been tendered, and when the quoted rates was compared with the current contract, it became evident that Gracelands had worked to these rates over a period of ten years, and the quality of their work was also very good.

### **Decision:**

(1) That Gracelands CMS Ltd be awarded the contract for the programmed servicing of Council owned gas appliances and the provision of breakdown and emergency repairs service to Council owned gas appliances to properties in both the north and south of the District, based on a five-year contract with the option to extend by a further five years, as the Most Economically Advantageous Tender (MEAT) based on an assessment of price and quality with a score of 74.98% for Lot 1 North and a score of 76.20% for Lot 2 South;

(2) That the benefit to the Council from a saving of around 4.9% be noted from the projected annual expenditure for gas servicing and breakdowns, based on a comparison between the expenditure incurred during the financial year 2014/15 and the tendered rates submitted by Gracelands CMS Ltd for both Lot 1 North and Lot 2 South;

(3) That the overall value of the works be limited to the sum included in the Capital Programme on an annual basis; and

(4) That this contract be designated as a serial contract under Contract Standing Order C11 to facilitate the annual increase in the schedule of rate items in accordance with The Department of Business, Innovation & Skills Building Cost Indices.

#### **Reasons for Decision:**

The existing contracts for the programmed servicing and the provision of breakdown and emergency repairs service to Council owned gas appliances expired in July 2015; therefore, it was necessary to re-tender the contract to satisfy the Council's legal requirement to maintain an annual Landlord's Gas Safety Record for all Council owned gas appliances.

#### **Other Options Considered and Rejected:**

To not appoint Gracelands CMS Ltd as the most economically advantageous tender for one or both of the contracts and appoint any of the other tenderers. However, this would create an opportunity for a legal challenge from any of the other Contractors, as the Notice in the OJEU and the instructions set out in the Invitation to Tender (ITT) clearly stated the Council's intention to assess and appoint based on the most economically advantageous tender.

To not appoint any of the contractors. However, it would mean the Council would not be able to meet its legal obligation of completing Annual Landlord Gas Safety Records (LGSR) for all of its gas appliances.

#### **84. CONTRACT STANDING ORDERS C2(9) AND C2(10) - BREACHES DUE TO CUMULATIVE SPEND**

The Leader of Council presented a report on the breaches to Contract Standing Orders C2(9) and C2(10) due to cumulative spend.

The Leader stated that current Contract Standing Orders required a report to the Cabinet where, within a single service Directorate, the aggregate sums payable to one supplier was likely to exceed the limits of authority referred to in the Contract Standing Orders. Furthermore, where Contract Standing Orders were breached and the value exceeded £50,000 (in this case over a period of four years), a report had also to be made to the Cabinet on the matter. This report was in accordance with the latter case and detailed the results of a recent audit of supplier payments, actions already taken by the Management Board and proposed actions in individual cases where the cumulative spend was greater than £50,000. The Leader reassured the Cabinet that all of the expenditure was within budget.

The Chief Executive added that the Assistant Directors were requested to put processes in place to verify the cumulative spend for each contract that they were responsible for; and the Contract Standing Orders were also to be reviewed to

ascertain if the limits were still relevant. The Cabinet was reassured that these were technical breaches and nothing else untoward had happened.

The Cabinet was somewhat comforted that these breaches had come to light as part of the Council's audit process, as the Leader had indicated in his earlier answer to the public questioner, and felt that it would be prudent to request the Audit & Governance Committee to review this issue again in twelve months time. It was also suggested that a list could be made of those companies with whom the Council's business accounted for 30% or more of that company's annual turnover.

**Decision:**

(1) That, in accordance with Contract Standing Order C2(11), the 55 breaches of Contract Standing Orders listed in the Appendix to this report involving cumulative spends with individual contractors in excess of £50,000 over a 4-year period and the reasons they have occurred be noted;

(2) That a further 205 breaches of Contract Standing Orders involving cumulative spends with individual contractors of less than £50,000 over a 4-year period be noted;

(3) That Assistant Directors have been asked to take the required action that they have identified within the Appendix to the report (and for the other breaches with values of less than £50,000) in respect of individual contractors, to seek to ensure that no future breaches of Contract Standing Orders occur regarding contracts with those contractors be noted; and

(4) That the Audit & Governance Committee be requested to review the issue again in approximately twelve months time.

**Reasons for Decision:**

Contract Standing Orders required a report to be made to the Cabinet concerning the breaches identified.

**Other Options Considered and Rejected:**

None, as it was a requirement of Contract Standing Orders to report to the Cabinet those breaches in excess of £50,000.

**85. COUNCIL TAX AND HOUSING BENEFIT CIVIL PENALTY POLICY**

The Finance Portfolio Holder presented a report on the Council Tax and Housing Benefit Civil Penalty Policy.

The Portfolio Holder reported that the Local Government Finance Act 1992 and Social Security Administration Act 1992 enabled the Authority to impose a civil penalty for instances where a person had either falsely given information, or failed to report a change in their circumstances, which had resulted in either a Council Tax discount or exemption being granted, or Housing Benefit being paid, when there was no entitlement. The Council could impose a civil penalty of £70 for Council Tax discounts and exemptions, and a £50 civil penalty for Housing Benefit. The Authority had not previously imposed such penalties but there were benefits to be gained from introducing them. It was highlighted that the Policy included both a right of appeal and a number of exceptions.

When questioned about the loss to the Council from incorrect information being provided for Council Tax and Housing Benefit claims, the Director of Resources stated that the Council did not have precise figures but previous data matching exercises undertaken had generated tens of thousands of pounds of additional income for the Council from incorrectly claimed Single Persons Discounts. It was highlighted that fraud was a problem across the whole country, and Epping Forest was not immune to this.

The Cabinet welcomed the fact that one of the exceptions listed in the Policy was if the Applicant realised that they had made a mistake with their application and informed the Council, as this would send a positive message to residents. However, there was concern about the potential cost of appeals to the Council from applying these Civil Penalties. The Assistant Director of Resources (Benefits) informed the Cabinet that Council Tax appeals were dealt with by the Valuation Tribunal Service, whilst Housing Benefit appeals were handled by the Tribunals Service. In both cases, appeals would not generate much additional work for Officers, and there was no risk of costs being awarded against the Council if an appeal was lost.

In respect of “...*falsely given information*...”, the Assistant Director agreed that these could be from an instance of fraud, but for the majority of Council Tax cases the cost of prosecution was greater than the benefit from winning the court case. These were civil penalties which could be levied by the Council without the involvement of the courts, although more serious cases of fraud would still be prosecuted in the courts. The Council would still collect the overpayment; the civil penalty was simply a fine on top of that.

**Decision:**

(1) That the Policy for the introduction of Council Tax and Housing Benefit Civil Penalties be approved.

**Reasons for Decision:**

The introduction of Civil Penalties would act as a deterrent to people who might be incorrectly claiming a Council Tax discount or exemption, or an increased payment of Housing Benefit. It would also help to ensure that the Tax Base was accurate as well as provide an additional income stream to the Authority.

**Other Options Considered and Rejected:**

To not impose Council Tax and Housing Benefit civil penalties. However, this would provide no disincentive for residents not to notify a change in circumstances or provide false information.

**86. AWARD OF CONTRACT FOR ADVERTISING ON AND MAINTENANCE OF BUS SHELTERS ACROSS THE DISTRICT**

The Portfolio Holder for Safer, Greener and Transport presented a report on the award of the contract for advertising on and the maintenance of bus shelters across the District.

The Portfolio Holder reminded the Cabinet that the Council had entered into a 15 year contract with Adshell (predecessor of Clear Channel Limited) in 2000. Under the terms of the contract Clear Channel installed 60 new bus shelters across the District. The Council did not pay the contractor and all costs associated with the maintenance and upkeep of these shelters, estimated at £45,000 per year, were incurred by Clear

Channel. The shelters had been kept in good condition. The contract was due to expire on 31 December 2015; under the terms of the contract and subject to mutual agreement, the contract could be extended for a further period of 4 years. Market research had indicated a lack of sufficient interest and conducting a procurement exercise could increase the financial exposure of the Council. Therefore, it was proposed to extend the current contract for a further four years from 1 January 2016 to 31 December 2019, which would require a waiver of Contract Standing Orders.

The Assistant Director of Neighbourhoods (Technical Services) highlighted that there were a number of bus shelters in rural areas not covered by this contract; a list of such shelters could be provided to Members if they wished.

**Decision:**

- (1) That the successful operation of the 15 year contract for advertisement on and maintenance of 60 bus shelters in the District and its expiry on 31 December 2015 be noted;
- (2) That a contract be awarded to Clear Channel for a further four-year period from 1 January 2016 to 31 December 2019; and
- (3) That Contract Standing Orders C5 (contracts exceeding £50,000), C6 (Restricted Tendering for Contracts Exceeding £50,000 in value) and the requirement to carry out a procurement exercise be waived.

**Reasons for Decision:**

To ensure the maintenance and repair of the 60 bus shelters across the District.

**Other Options Considered and Rejected:**

To not renew the contract and allow Clear Channel to remove the 60 bus shelters from the District, as stipulated in the contract. However, this would result in significant inconvenience to the users of the bus services across the District.

To undertake a full procurement exercise for a new contract. However, only one other supplier J Decaux had been identified which could provide a similar service and they had declined to tender at the present time.

To rent advertising space on the bus shelters directly and use the income generated to cover the cost of installation and maintenance of all the bus shelters. However it is uncertain if the Council could generate enough income to cover all the costs.

**87. REVIEW OF EPPING CASH OFFICE**

The Finance Portfolio Holder presented a report on the review of the Epping Cash Office.

The Portfolio Holder reported that the focus of the Cashiers service had increasingly changed away from front-line cash-receipting to developing and supporting the varied payment channels now available for residents, businesses and services to use. The success of the payment kiosk at Waltham Abbey Library had led Officers to believe that a similar provision could be applied to the Epping Cash Desk at the Civic Offices. This would generate revenue savings of £20,000 per annum, principally through the deletion of one full-time equivalent post from the establishment, who would be treated in accordance with the Council's Redundancy & Redeployment Procedure.

Therefore, it was proposed that Contract Standing Order C4(2) be waived and the Invest to Save fund be used for the purchase of two payment kiosks for £20,000. A further £10,000 would be necessary to fund some alterations to the building to accommodate the kiosks.

The Director of Resources added that there was a cost involved with payment kiosks, and a certain level of usage would need to be ensured if they were to be installed at any other locations around the District. The aim was to encourage as many electronic transactions as possible, especially Direct Debits. The Cash Office also doubled as the reception area for Council Tax and Housing Benefits, and following installation of the cash kiosk, there would be Officers present in this area to assist residents in their use of the kiosks. It would also be relatively easy to move the kiosks at a later date into the main reception area following the Customer Contact Review.

**Decision:**

- (1) That the manned front-line cash office at the Civic Offices in Epping be closed from 1 July 2016 and an alternative solution using payment kiosks be implemented;
- (2) That the 'Invest to Save' Fund be utilised for the purchase of two payment kiosks in the sum of £20,000 and for an additional allocation in the sum of £10,000 to cover any necessary building works;
- (3) That Contract Standing Order C4(2) be waived for the purchase of the payment kiosks due to the successful operation of the same kiosk at Waltham Abbey Library, which itself was subject to a tender process;
- (4) That one FTE Grade 4 Cashier post be deleted from the establishment;
- (5) That the post holders be treated within the provisions of the Council's Redundancy and Redeployment Procedure; and
- (6) That revenue savings in the sum of £15,170 for 2016/17 (equivalent full-year savings £20,230) through the implementation of the payment kiosks be noted.

**Reasons for Decision:**

The work of the Epping Cash Desk had changed drastically over recent years with an increasing focus away from face-to-face transactions and towards new emerging payment channels offering flexibility for users and services alike. The front-facing income collection could be delivered using payment kiosks, as seen at Waltham Abbey library, and achieve revenue savings of £20,000 per annum without affecting service delivery.

**Other Options Considered and Rejected:**

To retain the current cash desk provision at the Epping Civic Centre.

To undertake a full tendering exercise for the two new payment kiosks.

To not utilise the Invest to Save fund for the purchase of the kiosks.

**88. RELEASE OF RESTRICTIVE COVENANTS - EPPING FOREST COLLEGE**

The Portfolio Holder for Governance & Development Management presented a report on the release of restrictive Covenants at Epping Forest College.



The Portfolio Holder stated that the Council had received a submission from the Solicitors to Epping Forest College, seeking the release and/or modification of two restrictive Covenants and a right of pre-emption in favour of the Council, which currently bind the College's Estate. In summary, the release of the Covenants was requested to enable the College to fulfil the aspirations of their accommodation strategy; namely, to invest in new educational and public/community well-being facilities. The College had suggested that, by allowing surplus land to be sold for residential development (which would include affordable housing), this would generate capital to be utilised in the provision of further enhanced educational facilities and a new sports centre, for use by both college students and the local community. This would serve to compensate for the loss of the Debden Community Association Sports Centre and meet a deficiency in indoor dry sports provision identified in the Council's adopted Leisure and Cultural Strategy.

The Portfolio Holder reminded the Cabinet that the Council had previously released restrictive Covenants at the Epping Forest College site, to facilitate residential development, a residential care home, and the provision of student accommodation. On those occasions, it was to generate funds to facilitate further educational provision and stabilise the College's financial position.

It was highlighted to the Cabinet that the requirement for Primary School places in the area had increased since the last Covenants had been released, and that it was short-sighted of Essex County Council to not show any interest in the site at all. The Portfolio Holder reassured the Cabinet that lengthy discussions had been held with Essex County Council - hence the delay in submitting the report - who had now confirmed that they did not require the site.

**Decision:**

(1) That a Deed of Release of the 1952 and 1955 Covenants be issued by the Council, consistent with the previous Deeds of Release on the land at Epping Forest College, on the following basis:

(a) *A Deed of Release of the 1952 and 1955 Covenants consistent with the previous deeds of release is executed by the Council and is held in escrow pending written confirmation from the College's Solicitors to the Council that:*

(i) *the College's application for [outline] planning permission for the development of its new Sports, Health and Well-Being facility for the benefit of the College's students and the wider community has been submitted to the Council; and*

(ii) *Contracts for the College's sale of the Middle Site and part of the Playing Fields for residential development, conditional upon execution of such Deed of Release of the 1952 and 1955 Covenants, have been signed and are held in escrow pending execution and delivery of the said Deed of Release; and*

(2) That the pre-emption rights of the Council not be exercised on the land.

**Reasons for Decision:**

To generate capital to be utilised in the provision of further enhanced educational facilities and a new sports centre, for use by both the College's students and the

local community.

**Other Options Considered and Rejected:**

To not consider the release of the Covenants and allow the matter to be referred by the College to the Land Tribunal. However, it would be likely that the tribunal would agree to the release.

To exercise the Council's pre-emption rights on any piece of land and seek to develop the site(s) for its own Council Housebuilding programme. However, any residential scheme, promoted by the College, would in all likelihood involve an element of affordable housing in accordance with current Council Policy.

**89. ANY OTHER BUSINESS**

**Decision:**

(1) That, as agreed by the Leader of the Council and in accordance with Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs (6) and (24) of the Council Procedure Rules, the following items of urgent business be considered following publication of the agenda:

- (a) Epping Forest Shopping Park – Progress Report; and
- (b) North Weald Airfield – Licence for Outdoor Events.

**90. EPPING FOREST SHOPPING PARK - PROGRESS REPORT**

The Portfolio Holder for Asset Management & Economic Development presented a report on progress with the development of the new Epping Forest Shopping Park at Langston Road in Loughton.

The Portfolio Holder reminded the Cabinet that, having acquired the interest of Polofind Limited in the site, the Council was now the sole owner, developer and future operator of the site. The project represented a major capital investment by the Council, which included a significant element of risk. Consequently, it had been decided that detailed monitoring reports on the project would be presented to each meeting of the Asset Management & Economic Development Cabinet Committee, with the Cabinet receiving high level ongoing reports at each meeting.

The Portfolio Holder reported that the closing date for the tenders in respect of the Section 278 Highways Works had been 28 October 2015, and the received bids were now being analysed by the Council's consultants. The closing date for the receipt of tenders for the Main Build Contract was midnight on 23 November 2015, and the bids would then be analysed by consultants from the project team in accordance with the previously agreed criteria. The Council was still hopeful that the Shopping Park would open in October 2016.

**Decision:**

(1) That the progress made with the Epping Forest Shopping Park project be noted.

**Reasons for Decision:**

To appraise the Cabinet on the general progress with the Epping Forest Shopping

Park project, as requested.

**Other Options Considered and Rejected:**

None, as this was a progress report with no decisions required.

**91. EXCLUSION OF PUBLIC AND PRESS**

**Decision:**

(1) That, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the items of business set out below as it would involve the likely disclosure of exempt information as defined in the paragraph of Part 1 of Schedule 12(A) of the Act indicated and the exemption was considered to outweigh the potential public interest in disclosing the information:

<u>Agenda Item</u>	<u>Subject</u>	<u>Paragraph Number</u>
17	North Weald Airfield – Licence for Outdoor Events	3

**92. NORTH WEALD AIRFIELD - LICENCE FOR OUTDOOR EVENTS**

The Portfolio Holder for Asset Management & Economic Development presented a report on the award of the Licence to run outdoor events at North Weald Airfield.

The Portfolio Holder reminded the Cabinet that, following a series of reductions in income from the current operator, it was decided to terminate the current agreement and conduct a tendering exercise for a new licence to run from 1 January 2016. The tendering exercise was conducted by the Essex Procurement Hub on behalf of the Council, and four bids had been received by the deadline for the submission of tenders - 27 October 2015. The highest credible bid was received from Saunders Markets Limited and it was recommended that this bid was accepted, subject to the receipt of satisfactory references.

The Director of Resources highlighted certain aspects of the financial analysis performed on the accounts provided by Saunders Markets Limited for the benefit of the Cabinet, and the Cabinet supported the award of a contract to Saunders Markets Limited for an initial period of 3 years, with an option to extend for a further two years.

**Decision:**

(1) That, subject to the receipt of satisfactory references, the tender from Saunders Markets Limited to operate the market at North Weald Airfield for three years be accepted, with an option to extend for a further two years subject to satisfactory performance.

**Reasons for Decision:**

Cabinet approval was required to accept any bid in excess of £1million under Contract Standing Orders.

**Other Options Considered and Rejected:**

To select one of the other three bids submitted, or not select any of the bids. However, these options would not be likely to produce the best financial outcome for the Council.

**CHAIRMAN**