

Supplementary Committee Agenda



**Epping Forest
District Council**

Cabinet Monday, 13th July, 2009

Place: Council Chamber, Civic Offices, High Street, Epping

Time: 7.00 pm

Democratic Services: Gary Woodhall (The Office of the Chief Executive)
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9. FINANCE & PERFORMANCE MANAGEMENT CABINET COMMITTEE - 15 JUNE 2009 (Pages 3 - 8)

(Finance & Economic Development Portfolio Holder) To consider the minutes from the meeting of the Finance & Performance Management Cabinet Committee held on 15 June 2009 and any recommendations therein (C-011-2009/10).

18. 1 CARTERSFIELD ROAD, WALTHAM ABBEY (Pages 9 - 12)

(The Leader of Council) To consider the attached report (C-016-2009/10).

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EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Finance and Performance Management Cabinet Committee **Date:** 15 June 2009

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 7.00 - 8.10 pm

Members

Present: C Whitbread (Chairman), R Bassett, Mrs M Sartin and D Stallan.

Other

Councillors: J M Whitehouse.

Apologies: Mrs D Collins and Ms S Stavrou.

Officers Present: R Palmer (Director of Finance and ICT), Mrs J Twinn (Assistant Director of Finance and ICT), D Jolley (Senior Finance Officer - Procurement & Administration) and G J Woodhall (Democratic Services Officer).

1. DECLARATIONS OF INTEREST

There were no declarations of interest pursuant to the Council's Code of Member Conduct.

2. MINUTES

RESOLVED:

That the minutes of the meeting held on 16 March 2009 be taken as read and signed by the Chairman as a correct record.

3. ANY OTHER BUSINESS

It was noted that there was no other urgent business for consideration by the Cabinet Committee.

4. UPDATE ON PERFORMANCE OF BENEFIT CLAIM PROCESSING

The Assistant Director (Benefits) presented a report updating the Cabinet Committee on the current performance of Benefit Claim processing. It was reported that the performance of the Benefits Division for the processing of new benefit claims and change of circumstances had declined during 2007/08 due to staffing issues and again in 2008/09 when a new ICT system had been implemented. The Audit Commission had noted the situation and an improvement plan had been developed. Performance had improved steadily since January 2009 following implementation of the Academy ICT system, with new claims now processed in an average time of 30.58 days and change of circumstances processed in 11.53 days on average. It was pointed out that the number of claims being made had increased, due to the current economic downturn, and that the service was processing significantly more documents; from discussions with other Benefits Officers, it was clear that this trend

had been repeated across Essex. A report concerning the resourcing and structure of the service would be submitted to the Cabinet at its meeting in July.

The Assistant Director stated that there had been four resignations within the Service during June 2009 to bring the total number of vacant posts within the Service to six, which with a compliment of 33.5 FTE staff meant that approximately 18% of the posts were currently vacant. The Cabinet Committee was reminded that it was felt to be prudent to change the ICT system to Academy as Epping Forest had been the only English authority using the previous Orbis system; none of the recent resignations were in connection with the change of system. Some business process re-engineering had been undertaken during the implementation of the new system and more would be undertaken in the future, whilst improvements to the system would be requested once familiarity improved.

The Cabinet Committee acknowledged that the performance of the Benefits Division had been affected by the increase in applications received during the current economic downturn, not all of which had necessarily led to payment. It was felt that recruitment was generally not adversely affected by the Council's pay scales, except possibly for the Customer Service Officers but this issue would be addressed during the forthcoming restructure. The Cabinet Committee noted the current improving performance of the Council's Benefits Service.

RESOLVED:

That the current performance of Benefit Claim processing be noted.

Reasons for Decision:

To update the Cabinet Committee on the current workload issues and performance levels within the Benefits Division.

Other Options Considered and Rejected:

As this was a progress report, there were no other options for consideration.

5. RISK MANAGEMENT - UPDATED CORPORATE RISK REGISTER

The Director of Finance & ICT presented a report concerning the updating of the Corporate Risk Register. The Corporate Risk Register had been updated with the inclusion of the new Executive Priorities for 2009/10, and following Officer reviews at Management Board, the Risk Management Group and Corporate Governance Group no new risks had been identified for inclusion nor any need to amend the scoring of the existing risks. Risk 8, Business Continuity Management, was currently scored C2 (Significant likelihood, Critical impact) but it had been accepted that this score might change in the future if the scale of the Flu pandemic worsened. The Cabinet Committee was reminded that the Audit & Governance Committee had been satisfied with the effectiveness of the arrangements for Risk Management at its previous meeting on 30 March 2009.

The Portfolio Holder for Performance Management was reasonably content with the scores, although it was felt that some of the likelihoods were not scored right, e.g. risk 12, Gershon Rule Changes, was considered to be scored too low. However, the Corporate Risk Register would be examined in more detail in the future. Following concerns that the Flu Pandemic would get worse, the Director of Finance & ICT reassured the Cabinet Committee that the situation was being closely monitored by the Emergency Planning Team. The Portfolio Holder for Performance Management

suggested that an additional risk regarding the provision of pitches within the District for Gypsies and Travellers should be considered by Officers, and it was agreed that this new risk should be scored for inclusion on the Risk Register at the next meeting of the Cabinet Committee.

RECOMMENDED:

- (1) That the updating of the Corporate Risk Register for the new Executive Priorities be noted;
- (2) That an extra risk in respect of the provision of pitches for Gypsies and Travellers within the District be examined and scored for consideration at the next meeting of the Cabinet Committee;
- (3) That the tolerance line on the risk matrix be considered satisfactory and not be amended; and
- (4) That the Corporate Risk Register be approved.

Reasons for Decision:

To ensure that the Corporate Risk Register is kept up to date with regular reviews.

Other Options Considered and Rejected:

To amend the scoring of the current risks, or not to consider the addition of any new risks.

6. PROCUREMENT STRATEGY 2009-12

The Senior Finance Officer for Procurement & Administration presented a report upon the updated Procurement Strategy for the period 2009-12. Since the current strategy was adopted in December 2006, a number of significant developments had occurred in the Council's procurement activities and the Procurement Strategy had been updated accordingly. Following the Corporate Restructure, a post with specific responsibility for corporate procurement had been created which had provided better coordination and control to improve value for money. A spend analysis would be undertaken to ensure that Council-wide contracts would be put in place for commonly purchased items, rather than individual Directorates having separate contracts with separate suppliers. The review had also illustrated that the current Strategy was too complex and overly bureaucratic for a Council of the size of Epping Forest. The revised strategy was more straightforward and practical whilst still seeking to encompass best practice. A report on the internal work on procurement and the work of the Essex Procurement Hub would be considered at the next meeting of the Cabinet Committee.

In response to questions from the Cabinet Committee, the Senior Finance Officer stated that external consultants should be viewed as a service and be governed by the same rules, but this was not happening across the Council. Staff were encouraged to use existing frameworks for large contracts as there were certain advantages such as bigger discounts and better value for money, but there was no stipulation to put together a framework agreement within the procurement rules. Above a certain threshold, the Council was obligated to advertise procurement opportunities within the Official Journal of the European Union, with all tenders subsequently received evaluated against pre-determined criteria. Whilst location itself could not be listed as a possible criterion, factors such as response time could be.

The Director of Finance & ICT added that Contract Standing Orders had been amended to seek at least one quote from a local business where possible.

RECOMMENDED:

That the updated Procurement Strategy for 2009-12 be recommended to the Cabinet for approval.

Reasons for Decision:

To review and update the current Strategy before its expiry, and recommend a new Strategy for approval by the Cabinet.

Other Options Considered and Rejected:

To not adopt a revised Strategy for the period 2009-12.

7. PROVISIONAL REVENUE OUTTURN 2008/09

The Director for Finance & ICT presented a report regarding the provisional revenue outturn for the General Fund and Housing Revenue Account in 2008/09. It was reported that net expenditure for the General Fund had totalled £16.319million, which was £509,000 (3.1%) below the original estimate and £187,000 (1.1%) below the revised estimate. The major items within the Continuing Services Budget were: salary savings of £336,000, of which £161,000 was within the Planning & Economic Development Directorate partially due to the continuing unfilled vacancy for an Assistant Director (Forward Planning); an additional £30,000 of income from Fleet Operations; an additional £22,000 of expenditure for the Epping Sports Centre Contract; and a £43,000 reduction in income for Weed Spraying and Tipping Away.

The Director of Finance & ICT advised the Cabinet Committee that expenditure within the District Development Fund had been £449,000 below the revised estimate, due to slippage and carry forward of budgetary provision for a number of different schemes. The Finance & Performance Management portfolio had a variation of £156,000 due mainly to the deferral in collecting some of the Council tax court costs to 2009/10, a reduction of the transfer from the Insurance Reserve by £117,000. Corporate Support Services had an underspend of £199,000, mostly due to delays in accommodation changes following the Top Management restructure. In addition, income from investment interest had been £70,000 higher than anticipated, whilst the Local Authority Business Growth Incentive Scheme had provided additional income of £164,000. It was proposed that approval be given for the £280,000 of District Development Fund expenditure listed in Appendix D of the report to be carried forward to 2009/10.

Finally, The Director of Finance & ICT stated that the deficit on the Housing Revenue Account had been £98,000 higher than forecast, due mainly to the increased costs for gas and electricity contracts, and a final adjustment to the 2007/08 subsidy claim that was not agreed until 2008/09. However, the balance of the Housing Revenue Account would remain in excess of £6million.

The Cabinet Committee felt that the financial position of the Council was reasonably strong, and was gratified to note that there had been no cuts in services or staff during the period. However the Finance & Economic Development Portfolio Holder warned that the coming year would be difficult with further savings to be made. It was confirmed that the Housing and Planning Delivery Grant would be allocated to the District Development Fund for allocation.

RECOMMENDED:

- (1) That the 2008/09 Revenue Outturn for the General Fund and Housing Revenue Account be noted; and
- (2) That, as detailed in Appendix D of the report, the carry-forward of £280,000 District Development Fund expenditure be approved.

Reasons for Decision:

To note the provisional revenue outturn as part of the Cabinet Committee's Terms of Reference.

Other Options Considered and Rejected:

To not approve the carry forward of District Development Fund expenditure, however this would have a negative impact upon a number of schemes previously agreed for implementation.

8. PROVISIONAL CAPITAL OUTTURN 2008/09

The Director of Finance & ICT presented a report on the provisional capital outturn for 2008/09. The Cabinet Committee was informed that capital expenditure had totalled £10.474million in 2008/09, which represented an underspend of £2,426million (19%) against the revised budget. Of this, General Fund capital expenditure was £3.801million which was £892,000 less than anticipated and the Housing Revenue Account capital expenditure amounted to £6.673million which was £1.534million less than expected.

The Director of Finance & ICT reported that the three projects that had incurred the greatest slippage within the General Fund were the remediation works at Bobbingworth Tip, Civic Offices works and the Children's Play Programme. Progress on three schemes had also been better than anticipated with some expenditure from 2009/10 brought forward; these were the Loughton Broadway Town Centre Enhancement Scheme, Decent Homes Grants and Home Ownership Grants. The General Capital contingency had also not been fully utilised and it was suggested that £177,000 be carried forward to 2009/10 to allow for unforeseen additional capital expenditure.

The Director of Finance & ICT also reported that the vast majority of the slippage within the Housing Revenue Account Capital Programme had been in relation to the major improvement works at Springfields in Waltham Abbey, which had been the subject of regular progress reports to the Cabinet. Two other schemes where slippage had been relatively high were Communal TV Upgrades and Structural Schemes, both due to late starts on the contracts.

With respect to the funding of the Capital Programme, the Director of Finance & ICT stated that an extra £303,000 of grants had been received and applied to the Capital Programme, due mainly to the higher than expected expenditure on Grants for Decent Homes from the Department of Community & Local Government and a contribution of £100,000 from the County Council to the Town Centre Enhancement Scheme at Loughton Broadway. As at 31 March 2009, the balance of unused Capital Receipts was £24.318million whilst the major Repairs Reserve had a balance of £6.919million.

The Cabinet Committee were requested to recommend the approval to the Cabinet of the net carry forwards of £911,000 for the General Fund and £1.534million for the Housing Revenue Account Capital Programmes in 2009/10, as well as the retrospective approval for the funding of the Capital Programme, using Government Grants and private funding in the first instance.

RECOMMENDED:

- (1) That the provisional capital outturn report for 2008/09 be noted;
- (2) That the under and over spends for certain capital schemes in 2008/09, as identified in the report, be recommended to the Cabinet for retrospective approval;
- (3) That the net carry forward of unspent capital estimates relating to schemes on which slippage had occurred in the sum of £911,000 for the General Fund and in the sum of £1.534million for the Housing Revenue Account from 2008/09 to 2009/10 be recommended to the Cabinet for approval; and
- (4) That the funding of the Capital Programme for 2008/09 be recommended to the Cabinet for retrospective approval.

Reasons for Decision:

To make the best use of the Council's capital resources.

Other Options Considered and Rejected:

To have partly financed the Housing Revenue Account capital expenditure from the use of capital receipts, however this would have reduced the capital resources for the General Fund and the Revenue Contributions to Capital Outlay (RCCO) proposal was currently affordable.

CHAIRMAN

Report to the Cabinet

Report reference: C-016-2009/10

Date of meeting: 13 July 2009



**Epping Forest
District Council**

Portfolio: The Leader's Portfolio

Subject: 1 Cartersfield Road, Waltham Abbey

Responsible Officer: Chris Pasterfield (01992 564124).

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) To decide whether to grant Landlord's consent for change of use from light industrial to retail to enable the development of a Lidl supermarket at 1 Cartersfield Road in exchange for an increase in annual rent from £14,000 to £31,500 per annum and in addition the lessees making a premium payment to the Council as recommended by the Council's agents Bidwells.
- (2) To decide whether to waive the normal call in arrangements in view of time constraints relating to the contract between the lessee and Lidl.
- (3) That authority be delegated to the Director of Corporate Support Services to agree any potential revised wording of the lease following negotiations with the interested parties.

Executive Summary:

This report sets out the background history in relation to this site and the terms negotiated and recommended by Bidwells, the Council's agents, for the granting of Landlord's consent for a change of use.

Reasons for Proposed Decision:

To enable the site to undergo redevelopment to modern standards which will enhance the value of the Council's asset and achieve a substantial increase in the annual ground rent as well as a one off capital payment to the Council.

Other Options for Action:

To not grant Landlord's consent. This may result in the site not being redeveloped to modern standards and a local employment opportunity missed.

To seek to negotiate some other premium. This risks negotiations failing and would involve rejecting a proposal our external experts recommend as a good deal.

Report:

1. The original lease is for 125 years from 29 September 1987 with a review to 10% of

the rack rent for the site which includes land and buildings. The original lease was sold for £750,000 to the current lessees on 31 January 1995.

2. On 2 December 2008 the leaseholder obtained planning approval to redevelop the site with a Lidl supermarket being located at the front of the site with 5 industrial units to the rear. It is a condition of planning approval that the 5 industrial units be constructed and it is recognised that these will have a negative development value as costs will exceed the capital value of the developed site and this has been reflected in the terms negotiated.

3. It is the Council's position that the leaseholder requires the Council's permission for change of use to retail for the Lidl store and as such a premium can be charged.

4. Negotiations have been conducted by the Council's appointed agents, Bidwells, who are recommending the following proposal to the Council:

- (i) an increase, from approximately £16,800 to £31,500 per annum in the ground rent received for the site. (The current rent is £14,000 per annum. The figure of £16,800 is the estimated rent after the outstanding rent review has been concluded).
- (ii) the Council's freehold interest will increase in value from approximately £251,500 to £595,500 (an increase of £344,000). This is based upon the ground rent of 10% of the rack rental value of the Lidl store and 5 industrial units.
- (iii) a premium of £175,000 be charged for the grant of Landlord's consent to the change of use;
- (iv) the quality of the Council's freehold interest will have been significantly enhanced as the majority of the income will be based upon the Lidl store which is a much stronger covenant than the existing leaseholder.

5. Negotiations have taken some months because of the complication of differing opinions on a legal issue associated with the granting of consent. That issue had to be contested by the Council. The leaseholder initially offered a small premium, later reduced to a nil premium until the Council sought Counsel's opinion on the legal argument. It is believed that the strength of that opinion has been a factor in bringing the leaseholder back to the negotiating table.

6. In negotiations on values the agent for the lessees indicated that his client would not be prepared to pay a premium figure of more than £125,000 for the grant of Landlord's consent. Despite this and having explored the differences in the two sides starting points on values the Council's agent came to a professional view that a premium figure of £200,000 would be reasonable to put to the respective clients. The lessees' agent did not necessarily agree with this figure but agreed to put it to his clients.

7. Whilst officers were prepared to recommend acceptance of the recommendation of the Council's agents, the lessees were adamant they would not agree to any figure above £125,000. In an effort to break the stalemate an agreement has been brokered between the lessees and Lidl to contribute £25,000 each towards the difference of £75,000, if the Council is prepared to accept a premium of £175,000. In agreeing to this proposal Lidl have indicated that they want a firm decision by 17 July 2009, whereas previously their timescale was a decision being reached by 9 August the date on which a provisional agreement between Lidl and the lessees is due to expire.

8. This has been a complicated valuation involving several factors and large values and this means that the figures are very sensitive to minor alterations in the way values are

calculated which can have a noticeable effect on the end result.

9. The total benefit to the Council from the uplift in value of the freehold interest, and the premium of £175,000 is a net value of £519,000.

10. Following these further rounds of negotiations Bidwells believe that despite their earlier view this is now the best deal that the Council are likely to receive and that if it is not accepted there is a real risk of the whole deal falling through.

11. An agreement will also allow the Council to update the legal documentation to clarify the future position and to enable this to happen without undue delay it is suggested that delegated authority be given to the Director of Corporate Support Services to agree the necessary changes.

12. Because of the time constraints involved, Cabinet is asked to consider waiving the normal call in arrangements for decisions that it makes.

Resource Implications:

Finance

An increase in the annual ground rent from £16,800 to £31,500.

An enhanced asset value from approximately £251,500 to £595,500 (an increase of £344,000).

A capital payment of £175,000 to the Council in 2009/10.

Land

Redevelopment of a Council owned site to a modern standard.

Legal and Governance Implications:

Use and management of Assets in accordance with the Councils strategy as set out in the Asset Management Plan 2007-2012.

Safer, Cleaner and Greener Implications:

Redevelopment of an old building with new buildings to modern standards meeting current regulations.

Consultation Undertaken:

External agents acting on behalf of the Council.

Background Papers:

File papers held in Estates and Valuation section.

Impact Assessments:

Potential loss of income if agreement not reached.
There are no equalities issues.

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