

EPPING FOREST DISTRICT COUNCIL CABINET MINUTES

Committee: Cabinet **Date:** 11 July 2005

Place: Civic Offices, High Street, Epping **Time:** 7.05 - 8.00 pm

Members Present: J Knapman (Chairman), R Glozier, M Heavens, D Jacobs, S Metcalfe, Mrs C Pond, D Spinks and C Whitbread

Other Councillors: Councillors K Angold-Stephens, Mrs A Grigg, J Hart, A Lee and Mrs J H Whitehouse

Apologies: Councillors S Barnes

Officers Present: S Dobson (Information Assisitant (PR)), J Gilbert (Head of Environmental Services), A Hall (Head of Housing Services), P Haywood (Joint Chief Executive), D Macnab (Head of Leisure Services), P Maddock (Assistant Head of Finance), R Palmer (Head of Finance), J Preston (Head of Planning and Economic Development), A Scott (Head of Information, Communications and Technology), Mrs J Twinn (Assistant Head of Finance), I Willett (Head of Research and Democratic Services) and G J Woodhall (Democratic Services Assistant)

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DECISIONS TO TAKE EFFECT:	8 August 2005
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21. DECLARATIONS OF INTEREST

No declarations of interest were made to the meeting pursuant to the Council's Code of Members' Conduct.

22. MINUTES

RESOLVED:

(1) That the minutes of the meeting of the Cabinet held on 6 June 2005 be taken as read and signed by the Chairman as a correct record, subject to the following amendment:

(a) that Councillor R Glozier did not declare a personal interest in the item regarding the Provision of Youth Outdoor Facilities in Partnership with Local Councils, as Theydon Bois Parish Council, of which the Councillor was a member, had not yet applied for a grant under the scheme; and

(2) That the minutes of the meeting of the Cabinet held on 25 April 2005 be taken as read and signed by the Chairman as a correct record.

23. ANY OTHER BUSINESS

It was noted that there was no urgent business as defined in the Council's Procedure Rules for consideration at this meeting.

24. REPORTS OF PORTFOLIO HOLDERS

(a) Environmental Protection

The Portfolio Holder informed the Cabinet of some forthcoming visits to investigate the implementation of wheeled bins by other Local Authorities. The Portfolio Holder and Officers had planned to visit Bury St Edmunds on 13 July 2005; whilst the Head of Environmental Services had planned a visit to Braintree District Council on 21 July 2005, which would be open to all members of the Cabinet and possibly other interested Councillors.

25. OVERVIEW AND SCRUTINY

The Chairman of the Overview and Scrutiny Committee reported that there were no matters of concern for the Cabinet arising from the Council's Overview and Scrutiny function.

26. BENEFITS DIVISION - RESTRUCTURING

The Portfolio Holder for Finance and Performance Management presented a report regarding the proposed restructure of the Benefits Division. The Cabinet were informed that the existing structure had been in place for several years without any major changes. The Benefits Legislation had continued to change and it had become necessary to increase flexibility to cope with the changes. The Housing Benefit (HB)/Council Tax Benefit (CTB) Performance Standards had also been rewritten by the Department for Work and Pensions (DWP), which measured performance in Benefit services and was a major factor in the Council's Comprehensive Performance Assessment (CPA). In addition, extensive performance data was provided to the DWP on a quarterly basis, compared to other local authorities and the results published. This had become more significant as decisions on funding for projects to improve performance through the Performance Standards Fund had been made on the basis of this data. There were also ten Best Value Performance Indicators (BVPIs) that related to the Benefits Division.

As greater emphasis had been put on these performance statistics and other Councils had achieved better performance, it had become necessary for the Council to examine methods of improving its performance statistics. The implementation of the new Electronic Document Management System would also necessitate changes to the current working practices.

The Portfolio Holder reported that working practices had already been changed as a large proportion of the new structure had been implemented within existing resources. However, there were certain issues that had required the approval of the Cabinet, as they involved either the creation of new posts or substantial changes to existing posts, and the restriction of recruitment for one particular post to existing staff within that section. The Cabinet were also assured that all possible measures would be taken to generate additional income and savings in order to alleviate the need for the full amount of the requested supplementary estimate.

RESOLVED:

- (1) That the restructure of the Benefits Division be approved;

- (2) That a new grade 8 post of Senior Investigation/Prosecution Officer (FBE/32) be created:
 - (a) that recruitment to the post be ring fenced to the existing Investigation Officers; and
 - (b) that the subsequent vacancy be deleted from the establishment;
- (3) That a new grade 7 post of Senior Appeals and Overpayments Officer (FBE/33) be created;
- (4) That the grade 2 Customer Service Assistant posts (FBE/19 and FBE/26) be promoted to grade 3 Benefits Assistant posts;
- (5) That, as detailed in the report, all other necessary changes to job descriptions and titles be approved;
- (6) That, in order to finance the above restructure, a CSB supplementary estimate of £22,020 for 2005/06 be recommended to the Council for approval; and
- (7) That, in order to avoid the need for the supplementary estimate above in full, every effort be made to generate additional income and savings.

Reasons for Decision:

The structure needed to be revised in order to improve the performance statistics for the DWP and BVPIs. A high score would also need to be achieved when an assessment was carried out of the Benefits Section in accordance with the HB/CTB Performance Standards, as this would contribute to the overall CPA score. Without an overhaul of the structure, the performance would not improve and, as other Councils improved their performance, Epping Forest's performance would slide down the league tables. The proposed restructure would be carried out within existing resources, apart from a few necessary changes.

Other Options Considered and Rejected:

Keeping the existing structure without any changes. A more radical restructure could be considered but would result in a greater increase in resources.

27. PLANNING DELIVERY GRANT 2005/06 - DEVELOPMENT CONTROL PERFORMANCE

The Portfolio Holder for Planning and Economic Development presented a report in respect of the proposed spending of the Planning Delivery Grant received for 2005/06, and further measures to improve the performance of the Development Control section. The Cabinet were informed that the performance of the Development Control section was in the Lower Quartile of District Councils, which was not considered satisfactory, and the proposals before the Cabinet outlined an interconnected approach towards improving the service. The Cabinet were further informed that there was a possibility that the Council might receive an additional £61,000 of grant; confirmation would be forthcoming over the next week. This amount had not been included in the proposals before the Cabinet.

The Portfolio Holder stated that the proposal to clear the backlog of planning applications, at a cost of £100,000, was a one-off measure, and believed that the

public would appreciate the Council's efforts in this regard. The Portfolio Holder commended the spending proposals for the Planning Delivery Grant as the most effective way to improve services over the longer-term. Although, the Portfolio Holder commented that the Forward Planning section probably required more than £20,000 due to their forthcoming workload, and that £10,000 was a modest allocation for Training.

In response to questions from the Cabinet, the Head of Planning and Economic Development clarified that authority to vary the proposed amounts by upto 10% had been sought for historical reasons. The current rules permitted a maximum virement of £2,000 for Heads of Service and £5,000 for Portfolio Holders; this proposal gave greater flexibility and avoided the need to continually request Cabinet approval for relatively minor variations.

The Portfolio Holder concluded by stating that long-term improvements within Planning Services would come about through the measures proposed for the allocation of the Planning Delivery Grant. The aim would be for the Development Control section to achieve top quartile status in respect of processing planning applications, and that the planned accommodation changes would facilitate closer working between the different sections within Planning Services. Furthermore, the Portfolio Holder assured the Cabinet that the extra £100,000 would clear the backlog of planning applications that had built up, and that there was an ample supply of consultants willing to undertake this task.

RESOLVED:

- (1) That, in order to allow the introduction of a squad to tackle the backlog of planning applications, a DDF supplementary estimate of up to £100,000 be recommended for approval by the Council;
- (2) That the Planning Delivery Grant 2005/06 be used in the following manner:
 - (a) Development Control - £66,000;
 - (b) Forward Planning - £20,000;
 - (c) ICT Investment - £20,000; and
 - (d) Training for Councillors and staff - £10,000;
- (3) That the Head of Planning and Economic Development be required to keep an itemised account of where these funds were actually used; and
- (4) That, notwithstanding the normal rules for virements of budgets, variations of plus or minus 10 per cent of any of the items in 2(a) to 2(d) can be authorised by the Head of Planning and Economic Development.

Reasons for Decision:

Each of the proposals would have a real impact upon Planning Services, which would be noticeable to customers and staff alike.

Other Options Considered and Rejected:

Different amounts could be allocated to the four proposed measures, which could be expected to aid in the gain of further grant when the Planning Delivery Grant for next year was calculated. Alternatively, some of the funds could be used for other purposes, but this would risk a lower amount being allocated to the Council for next year's Planning Delivery Grant.

28. MEMBER REMUNERATION SCHEME - REVIEW

The Leader of the Council presented a report concerning a proposed review of the Member Remuneration scheme by the Independent Remuneration Panel. The Cabinet were informed that the Group Leaders had informally discussed the Member Remuneration Scheme following the establishment of the Licensing Committee, the new structure for Overview and Scrutiny, and the reduction of the Cabinet to nine members.

In order to implement the requirements of the Licensing Act 2003, the Council had established a Licensing Committee to replace the previously constituted Licensing Panel. The Independent Remuneration Panel had previously, briefly examined this particular issue, but insufficient detail had been available at the time to make a proper judgement.

The Council's Overview and Scrutiny function had been reviewed and new arrangements had been agreed for the 2005/06 municipal year. The Independent Remuneration Panel had not been formally advised of the changes, and it was felt to be judicious to review remuneration for members under the new structure.

The Cabinet had been reduced to nine members at the start of the 2004/05 municipal year, and there had also been a number of changes in the responsibilities of individual Portfolios. Thus, it was felt appropriate for the Independent Remuneration Panel to conduct a review at this time. It was also felt to be prudent for the Independent Remuneration Panel to report back to the Council in time for the recommendations to be included in the 2006/07 budget.

RESOLVED:

- (1) That the Independent Remuneration Panel be commissioned to examine the Council's current Member Remuneration scheme in relation to:
 - (a) The Licensing Committee;
 - (b) The new Structure for Overview and Scrutiny; and
 - (c) Cabinet; and
- (2) That the Independent Remuneration Panel be asked to report back to the Council in time for their recommendations to be taken into account for the 2006/07 budget.

Reasons for Decision:

This report had been presented following concerns raised by the Group Leaders in respect of the need to review the Remuneration Scheme during informal discussions.

Other Options Considered and Rejected:

To take no action or to restrict the review to priority matters only.

29. CONSTITUTION - VIREMENT RULES

The Leader of the Council presented a report concerning proposed amendments to the Council's Virement Rules. The Leader reminded the Cabinet that in 2000, a Scheme of Virement was included as an adjunct to the Council's financial regulations. A virement was a technical term that denoted the transfer of funding from one budget head to another, whereby authorisation rested with Heads of Service, Portfolio Holders, the Cabinet or Council depending upon the amount of funds transferred. It was proposed to increase the limits for Heads of Service from £2,000 to £5,000, and increase the limits for Portfolio Holder approval from £5,000 to £10,000. The restriction on any virement between Portfolios or service budgets would remain in place so that irrespective of the amount, these would have to be referred to the Cabinet. The proposals, if agreed, would require adoption by the Council prior to publication within the Constitution. The Leader stated that the proposals represented a sensible revision of the scheme, as the limits had initially been set too low.

RESOLVED:

(1) That, with consequential amendments to reflect these changes elsewhere in the Constitution, the following amendments to the Scheme of Virement set out in the Council's Constitution be approved:

(a) that the virement approval limit for Heads of Service be increased from £2,000 to £5,000 or 2%;

(b) that the virement approval limit for Portfolio Holders be increased from £5,000 to £10,000; and

(c) that the lower virement approval limit for the Cabinet be increased from £5,000 to £10,000; and

(2) That the revised Scheme of Virement be recommended to the Council for adoption and publication in the Council's Constitution.

Reasons for Decision:

The proposals would facilitate quicker decision-making at both Head of Service and Portfolio Holder level, as well as remove items of unnecessary detail from Cabinet meetings. The amendments would also more accurately reflect the original situation, taking into account inflation since 2000. The proposals would not affect the right of the Cabinet and Council to deal with major virements or those that related to cross service or cross Portfolio transfers and manpower issues, which could have policy implications.

Other Options Considered and Rejected:

To take no action. To devise different virement limits. To ask Overview and Scrutiny to carry out a more detailed review.

30. STATUTORY STATEMENT OF ACCOUNTS

The Portfolio Holder for Finance and Performance Management presented a report in respect of the consideration of the Statutory Statement of Accounts. The Cabinet were reminded that under the terms of the Constitution, only the Council could formally adopt the Statutory Statement of Accounts, which this year would have to be

completed before the end of July. Last year, it was agreed that the Finance and Performance Management Cabinet Committee would consider the accounts before their submission to the Council. It was proposed that similar arrangements be approved for this and future years, and that the Finance and Performance Management Cabinet Committee be authorised to report directly to the Council on the Statutory Statement of Accounts.

RESOLVED:

- (1) That the Finance and Performance Management Cabinet Committee be authorised to consider the Statutory Statement of Accounts; and
- (2) That the Committee be authorised to report on the Statutory Statement of Accounts direct to the Council.

Reasons for Decision:

The detailed consideration of the Statutory Statement of Accounts, which would involve the questioning of officers, would be better suited to the setting of the Finance and Performance Management Cabinet Committee.

Other Options Considered and Rejected:

The Statutory Statement of Accounts could be considered at an extraordinary meeting of the Cabinet rather than the Finance and Performance Management Cabinet Committee.

31. CASH-IN-TRANSIT COLLECTION CONTRACT - RE-TENDER PROCEDURE

The Portfolio Holder for Finance and Performance Management presented a report in relation to the proposed re-tender procedure for the Cash-in-Transit Collection Contract. The Cabinet were reminded that due to an unsuccessful tender exercise in 2004, the current contract had been extended by six months to 30 September 2005. The Council's current supplier was Securitas UK Ltd and the current contract value was approximately £30,000 per annum. The new contract would run for three years.

As a member of the Procurement Agency for Essex, the Council could let the contract via the Framework Agreement for Cash-in-Transit collection services that had been recently concluded. However, the Council's current supplier was not one of the three successful companies as Securitas UK Ltd had declined to submit a bid. As a consequence, officers had concluded that the best approach would be to waive Contract Standing Order C6 and invite tenders from those companies within the Framework Agreement and other companies that had expressed an interest during the previous tender exercise, including the Council's current supplier.

RESOLVED:

- (1) That, in order to avoid the additional delay and expenditure of another open tendering exercise, Contract Standing Order C6 be waived for the re-tender of the Cash-in-Transit Collection contract; and
- (2) That the list of tenderers be approved as:
 - (a) Securitas UK Ltd;
 - (b) Securicor Ltd;

- (c) BDI Ltd;
- (d) Contract Security Services Ltd; and
- (e) Central Shield Ltd.

Reasons for Decision:

The proposals for the re-tender of the Cash-in-Transit Collection contract would ensure that the Council obtained best value and that no advantage would be gained by any of the tenderers through inviting competitive tenders by advertisement.

Other Options Considered and Rejected:

The Council could undertake a full open tendering exercise, or undertake a tendering exercise under Contract Standing Order C14 which would include only those companies within the Procurement Agency for Essex framework agreement.

32. VIREMENT FOR DRAINAGE WORKS - 11 ALFRED ROAD, BUCKHURST HILL

The Portfolio Holder for Finance and Performance Management presented a report concerning a proposed virement for Drainage Works at 11 Alfred Road, Buckhurst Hill. The Cabinet were informed that the Council had created a rear access to properties in Lower Queens Road and Alfred Road in Buckhurst Hill, and installed an underground pump to extract the water back up the hill to the main drainage system. However, for many years now, the owners of 11 Alfred Road had suffered flooding to the rear of their property whenever there was an occurrence of heavy rainfall. This had been caused by the works undertaken on behalf of the Council and more specifically the failure of the pumping system. In August 2004, the owners submitted a formal complaint to the Council.

The Cabinet were further informed that various attempts to propose solutions had been made, culminating in external consultants John Pryke and Partners being appointed to investigate options for remedial works. Their conclusion was that the pumping stations were not working and were not the solution in any event. Their recommendation was to channel the rainwater under the rear garden of 11 Alfred Road and into the main drainage system. Thames Water consent had now been granted, and the cost of the works was likely to be in the region of £15,000, financed from the General Capital Contingency budget.

RESOLVED:

- (1) That, in order to finance a scheme to alleviate flooding to the garden of 11 Alfred Road, Buckhurst Hill, a virement of £15,000 from the General Capital Contingency Budget be authorised; and
- (2) That the Head of Legal, Administration and Estates be authorised to enter into the necessary easement with the owners of 11 Alfred Road, Buckhurst Hill.

Reasons for Decision:

The damage and inconvenience that had been caused to the owners of 11 Alfred Road was likely to form the basis of a claim to both the Ombudsman and the Civil

Courts. The proposals would provide a solution, avoid costly litigation, and a potentially adverse report from the Ombudsman.

Other Options Considered and Rejected:

The Council could take no action, but this would almost certainly result in a formal complaint to the Ombudsman, which the Complaints Officer was of the opinion would be successful. This could cost up to £4,000 without providing a solution, and there would also be the likelihood of civil litigation as well.

The Council could repair and rely upon the pumping stations that were currently on site, but this was thought to be an inappropriate solution, which could not be guaranteed to work. It might involve the Council in expenditure without any likelihood of a solution to the flooding problem.

33. CAPITAL PROGRAMME - CAPITAL OUTTURN 2004/05 AND REVISED FOUR-YEAR FORECAST

The Portfolio Holder for Finance and Performance Management presented a report in respect of the Capital Outturn for 2004/05, which detailed both expenditure and financing, and the revised four-year forecast for the Capital Programme from 2005/06 to 2008/09. The report also updated the Cabinet on the current position with regard to the sources of capital funding available, the revised HRA Capital Programme and the use of transitional capital receipts for specified areas of housing expenditure.

The Portfolio Holder informed the Cabinet that there had been a net underspend of £1,691,000 for capital expenditure during 2004/05. Although some savings had been achieved, the majority of this amount represented slippage and expenditure had therefore been carried forward into 2005/06. This had, in the main, affected expenditure on ICT, Loughton Leisure Centre, traffic schemes and Housing projects. For the Housing Revenue Account (HRA), the total capital spend during 2004/05 had been £9,194,000, which represented an overspend of £27,000. It was explained by the Portfolio Holder that for the HRA there had been an overspend of £376,000, slippage leading to a total underspend of £460,000, and work carried forward from 2003/04 leading to a further overspend of £111,000.

The Portfolio Holder also reported to the Cabinet that the anticipated level of capital receipts had been reduced. Receipts from the sale of Council Houses were lower than anticipated, as there had been only 61 sales rather than the expected 80. Consequently, the forecast for receipts had been reduced to 50 sales in 2005/06, and 45 from 2007/08 onwards. The Portfolio Holder stated that the Capital Programme was still within budget despite the reported under/overspends, and that the Capital balances had been maintained at a secure level.

RESOLVED:

- (1) That the Capital Outturn for 2004/05 be noted;
- (2) That the latest four-year forecast of Capital Receipts be noted;
- (3) That the carry forwards from 2004/05 to 2005/06 be approved;
- (4) That the revised HRA Capital Programme be approved;
- (5) That the following areas of expenditure be funded from the transitional capital receipts generated in 2005/06:

- (a) contributions to affordable housing;
 - (b) disabled facilities grants;
 - (c) double glazing;
 - (d) kitchen renewals;
 - (e) heating replacement;
 - (f) disabled adaptations;
 - (g) bathroom renewals;
 - (h) roofing;
 - (i) structural schemes;
 - (j) water replacements; and
 - (k) door entry systems;
- (6) That expenditure of £6,872,000 on affordable housing in 2005/06 be approved; and
- (7) That increases in HRA Revenue Contributions to Capital Outlay of £900,000 in 2004/05 and £600,000 in both 2005/06 and 2006/07 be approved.

Reasons For Decision:

The proposals would make the best use of capital resources currently available, and generate a forecast for capital schemes up to 2008/09.

Other Options Considered and Rejected:

The same level of HRA capital expenditure, as agreed in November 2004, could be retained; or a lower amount than that suggested, which would reduce the amount of proposed Revenue Contributions to Capital Outlay (RCCO) to be used to finance the increase. However, one of the largest increases related to the cost of transferring Wickfields, which had already been approved, and the other increases were required in order to meet the Decent Homes standard and the backlog of disabled adaptations.

Another source of funding that could be used to finance the enhanced HRA capital programme was to utilise usable capital receipts. This option was rejected because the proposed RCCO level was affordable within the HRA, according to current predictions, and any allocation of usable capital receipts for HRA purposes would have had the effect of reducing the scarce capital resources available for the General Fund.

The Cabinet could decide that the areas of expenditure identified for financing from the transitional relief were not suitable. However, alternative areas of housing expenditure would have to be identified and committed to as soon as possible, in order to avoid surplus funds being repaid to the Government.

34. SMALL COUNCIL HOUSING SITES - DEVELOPMENT OPTIONS

The Housing Portfolio Holder presented a report in respect of the development of small Council housing sites. The Cabinet were reminded that in November 2004, it was decided to re-instate £1million within the Capital Programme for the provision of Social Housing Grant to provide affordable housing within the District. The small development sites project was highlighted as a possible scheme to benefit from this funding. The Council's selected developer, Estuary Housing Association, re-appraised each of the eight development sites and concluded that the number of properties developed could be significantly increased to 57 from the original assessment of 30. Although planning officers had indicated that each amended proposal would need to be the subject of a new planning application, which would trigger the necessary public consultation and full consideration of the planning merits.

However, the amount of Social Housing Grant that would be required to provide all the properties as affordable housing would be higher than the £1million allocated within the Capital Programme. Therefore, Estuary had proposed that some of the properties be sold on the open market in order to fund the affordable housing, and had calculated that 17 properties would need to be sold to avoid the need for further Social Housing Grant. The Portfolio Holder drew the attention of the Cabinet to the fact that if this approach was adopted then the number of properties provided on some of the sites might have to change during the planning process. Thus, it had been proposed that the Head of Housing Services should be given delegated authority to vary the mixture of properties provided at each site as necessary.

The Portfolio Holder reassured the Cabinet that it had been agreed with Estuary that, through the relevant legal agreements, they would assume the associated risk of the proposed approach. The Head of Finance had reviewed the proposals provided by Estuary and was satisfied that their assumptions were reasonable. However, the Head of Finance had requested that a guarantee be obtained from Estuary in respect of the distribution of any surplus generated by the scheme. Estuary had agreed that any surplus would be reinvested in the provision of additional affordable housing within the District. The Leader of the Council had also raised a concern that the Council might not obtain best value for money through the proposed approach. In response, Estuary had proposed that in order to independently evaluate the building costs of their proposals, a Quantity Surveyor should be appointed by the Council, the costs of which would be met by Estuary.

The Leader of the Council commended the Head of Housing Services for his efforts in resolving this issue, and inquired as to whether the Council would have ownership rights if the Government introduced right-to-buy for Housing Association properties. The Portfolio Holder replied that this was really a political question although the Government's current policy was for social housing to be provided by Housing Associations rather than local authorities. The Head of Housing Services added that Housing Association tenants already had the right-to-acquire rather than the right-to-buy. The Cabinet were reassured that clauses would be included in the leases and associated agreements with Estuary to ensure that the Council would receive some recompense if the properties were sold and a surplus generated.

RESOLVED:

- (1) That, in order to assess whether Estuary Housing Association's build costs for the development of the Council's small housing sites were reasonable, a quantity surveyor be appointed with their fees met by Estuary Housing Association;

(2) That, subject to the quantity surveyor advising that the build costs were reasonable, the receipt of detailed planning permission and Estuary Housing Association bearing the commercial risks associated with the proposed market sales:

(a) That, in order to maximise the amount of affordable housing that could be provided on the eight Council sites that had outline planning permission and had previously been agreed by the Council for development, the £1million Social Housing Grant included within the Housing Capital Programme be allocated to Estuary Housing Association;

(b) That the numbers of properties developed across the eight development sites be increased from that previously agreed;

(c) The currently proposed mix of properties be noted;

(d) That, in order to maximise the total amount of affordable housing provided across the sites, some of the developed properties be sold on the open market, with the financial surpluses used to cross-subsidise the affordable housing provision;

(e) That should there be any resultant surplus arising from the project, through higher sale proceeds or lower build costs, they be utilised by Estuary Housing Association to provide additional affordable home(s) for rent within the District, including the possible tenure conversion of property intended for sale within the project to affordable homes for rent; and

(f) That, in order to maximise the total numbers of properties that could be provided as affordable housing for rent through the detailed planning process, the Head of Housing Services be given delegated authority to agree the final numbers, property mix and tenure of properties on each of the sites; and

(3) That, if the quantity surveyor advises that Estuary Housing Association's contractors' build costs were unreasonable, the Housing Portfolio Holder be requested to report back to the Cabinet with a recommendation for an alternative proposal.

Reasons for Decisions:

The proposed approach would maximise the amount of affordable housing that could be provided on the Council's small development sites, without the need for any additional Social Housing Grant. The scheme would only proceed if the Council's Quantity Surveyor confirmed that value for money was being provided.

Other Options Considered and Rejected:

To undertake a competition amongst Housing Associations for the right to develop the sites. That competitive tenders be sought from contractors for the works by Estuary Housing Association. That the Council developed the sites itself. That the Council sold the vacant development sites for a developer to build market housing. That the Council transferred the sites for free to a developer with a requirement that the developer provided all or a proportion of the site as affordable housing.

35. WALTHAM ABBEY SPORTS CENTRE - NEW ROOF AND HEATING WORKS

The Leisure Portfolio Holder presented a report regarding the new roof and heating works proposed for Waltham Abbey Sports Centre. The Portfolio Holder reminded the Cabinet that Waltham Abbey Sports Centre was a Dual Use Sports Centre, located next to King Harold School, and had been managed since 1977 under a Joint Use Agreement with the School and Essex County Council that was due to expire in 2007. In March 2005, the School advised the Sports Centre that they had received confirmation from the County Council of a Capital Grant to replace the Sports Hall Roof and undertake refurbishment of the heating. The School had provided no further details about the extent of the works, other than it would most likely take place over the School Summer Holiday period.

The Portfolio Holder stated that despite a number of requests for further information, limited feedback had been received from the School and County Council, other than confirmation that the work would proceed and would be tendered in late May. The Head of Leisure Services wrote directly to the Headteacher, and the response indicated that not only would the Sports Hall be out of use all Summer, but also that the County Council had an expectation that the District Council would contribute 50% of the costs of the works.

The Council's Legal Officers had advised the Portfolio Holder that under the terms of the Joint Use Agreement, the District Council was liable for 50% of the cost of maintenance and repairs to the Sports Centre. However, the Agreement also placed a duty upon the County Council to produce annual estimates for building maintenance works, to be agreed in advance with the District Council. The County Council had not sought prior consent for these works to enable provision to be made within the District Council's Capital Programme for 2005/06. The County Council had advised the Head of Leisure Services that this was an omission on their part, hence the late request for a contribution.

Consequently, the Portfolio Holder had recommended to the Cabinet that the new roof be considered an improvement, for which the District Council was not liable, but that it be accepted that the heating was beyond economic repair and the District Council should be willing to contribute 50% of the anticipated cost. This would necessitate the request for a Supplementary Capital Estimate, which could not be agreed by the Council until 28 July 2005.

RESOLVED:

- (1) That, in accordance with the Dual Use Agreement with Essex County Council, a Supplementary Capital Estimate be recommended to the Council for approval in order to meet 50% of the cost of heating refurbishment work at Waltham Abbey Sports Centre; and
- (2) That, although estimated to be in the region of £15,000, the final figure be determined upon receipt and evaluation of Tenders.

Reasons for Decision:

The County Council had committed itself to proceed with the work irrespective of the level of funding the District Council might decide to commit, although they were still seeking a 50% contribution for the whole scheme. However, it was recommended that the proposed course of action would meet the District Council's repair obligations, under the Dual Use Agreement.

Other Options Considered and Rejected:

Advise the School and County Council that due to a lack of consultation that the District Council did not agree to the works taking place and that the project would not proceed this summer. This would enable the Centre to stay operational, but if this course of action was taken then the school might lose the funding. This could possibly affect the working relationship within this Dual Use site.

Advise the School and County Council that due to a lack of consultation, the Council had not had the opportunity to consider the matter and make any provision in its Capital Programme. In addition, advise that the Council would consider the work to be improvement not repair and were thus not obliged to contribute to the costs. On this basis, agreement could be reached on the work taking place, but on the condition that the School or County Council wholly funded it.

The Cabinet might conclude that the District Council had a moral obligation to contribute up to 50% of the costs. The Head of Leisure Services could be instructed to negotiate a contribution up to a ceiling of £75,000, including a reduction to reflect the imminent expiry date of the Joint Use Agreement. This would require a request for a Supplementary Capital Estimate, which could not be sought from the Council before 28 July 2005, and therefore the County Council would have to proceed at risk.

36. PROVISIONAL REVENUE OUTTURN 2004/05

The Portfolio Holder for Finance and Performance Management presented a report in relation to the Provisional Revenue Outturn 2004/05. The Portfolio Holder stated that the net expenditure for 2004/05 had totalled £12,779,000, which was £1,079,000 below the original estimate and £527,000 below the revised estimate.

The Cabinet was informed that CSB expenditure was £1,475,000 lower than the original estimate and £983,000 lower than the revised estimate. This had been due to significant salary savings that had occurred in all service areas, which had been partly identified when the revised estimate was drawn up, and reduced income from Leisure Centres, Development Control fees and Local Land Charges. The Portfolio Holder believed that there was a need for the Council to refocus its efforts on Recruitment and Retention to compensate for the staff shortages.

The Cabinet were further informed that net DDF expenditure was £105,000 below the original estimate and £491,000 lower than the revised estimate. The Portfolio Holder reported that there was regular slippage and carry forward of budgetary provision for these items, and the content of the programme could change significantly between the original and revised estimates.

The Cabinet noted that the HRA was £200,000 below its original estimate, due to a £632,000 overspend of expenditure and a £832,000 increase in income. The related Housing Repairs Fund showed an underspend of £582,000 against the original estimate, and an underspend of £525,000 against the revised estimate. This was related to routine maintenance, which was lower than both the original and revised estimates, due in part to the increased investment in planned capital improvements.

The Portfolio Holder stated that it was now appropriate to prepare a new four-year forecast of both the General Fund and Housing Revenue Account. It had been recommended that the Finance and Performance Management Cabinet Committee be authorised to prepare the forecasts and present them to the Cabinet in the future.

RESOLVED:

- (1) That the overall 2004/05 Revenue Outturn for the General Fund and Housing Revenue Accounts be noted;
- (2) That the carry forward of £479,000 for District Development Fund expenditure be approved; and
- (3) That, for both the General Fund and the Housing Revenue Account, the Finance and Performance Management Cabinet Committee be authorised to prepare a new four-year forecast for 2005/06 to 2008/09.

Reasons for Decision:

There had already been some expenditure on the projects for which the carry forward of £479,000 in respect of the District Development Fund had been requested.

It would be good practice and prudent financial management to prepare a new four-year forecast for 2005/06 to 2008/09 in respect of both the General Fund and the Housing Revenue Account. The Finance and Performance Management Cabinet Committee would be the most appropriate body to prepare the new forecast, prior to approval by the Cabinet.

Other Options Considered and Rejected:

To not authorise the carry forward of £479,000 for District Development Fund expenditure, or to only authorise a smaller amount.

That a new four-year forecast not be prepared for both the General Fund and the Housing Revenue Account by the Finance and Performance Management Cabinet Committee for 2005/06 to 2008/09.

37. ALTERNATIVE MANAGEMENT OF THE COUNCIL'S LEISURE FACILITIES - AWARD OF CONTRACT

The Leisure Portfolio Holder presented a report in relation to the award of a contract for the alternative management of the Council's Leisure Facilities. The Cabinet were informed that, following the Council's decision to authorise negotiations with Sports and Leisure Management Ltd (SLM), the Head of Leisure Services accompanied by officers from Legal and Finance Services met with the senior management of SLM on 17 May 2005. This meeting enabled a number of issues to be clarified and identified the main points that required further negotiation: the award of relief from National Non Domestic Rates; the risk of external challenge to Rate Relief; and the Management Fee Annual Uplift index.

Further negotiations took place on 22 June 2005, and agreement was reached on the following points:

- (a) SLM accepted that the Council would grant Mandatory Relief but would not change its policy with regard to Discretionary Relief. Therefore, it was agreed that SLM would contribute 50% towards the cost of the remaining NNDR for the duration of the contract;
- (b) That to alleviate concern regarding the possible loss of Rate Relief as a result of external challenge, the parties would enter into a tapered risk share arrangement. If the contract were extended for a further three years then the risk would be shared equally between the two parties;

(c) That SLM would bear all the future costs of utility cost increases, but the Council would meet the additional cost of salaries/wages in the event of the NJC Pay Award settlement being in excess of inflation (RPI), as well as the cost of any increase in the Rate of Employer's Contribution to the Local Government Superannuation Scheme in excess of inflation;

(d) SLM would cover the costs of a part-time Leisure Attendant post, omitted from their tender in error; and

(e) The Council would increase the management fee at the start of the contract by £10,000, which would form part of the annual uplift thereafter.

The Portfolio Holder stated that, in his opinion, the outcome of the negotiations would ensure that stability would be brought to the cost of providing Leisure services by the Council, and that the Council's four key objectives had been met for the Alternative Management Review. The Head of Leisure Services further advised the Cabinet that Legal Services had been consulted over the terms of the leases and had not raised any concerns, and that the Licence to Occupy issue would be concluded by 28 July 2005 when the Council would meet to consider the Cabinet's recommendations. The Leader of the Council stated that the objective of the arrangement would be to reduce the service support costs; the Portfolio Holder agreed and undertook to report back to the Cabinet.

RESOLVED:

(1) That, with respect to the future management of the Council's Leisure Facilities, it be accepted that the negotiated position meets the Council's Key Objectives; and

(2) That an award of a seven-year contract (three years for Epping Sports Centre) to Sports Leisure Management Ltd (SLM) be recommended to the Council for approval on that basis, subject to:

(a) agreement on the detailed arrangements for calculation of the Council's contribution to Salaries/Wages and Pension Costs above the rate of inflation;

(b) satisfactory receipt of outstanding information with respect to the Memorandum of Association and Licences to Occupy; and

(c) satisfactory conclusion of the Method Statements.

Reasons for Decision:

The tender received from SLM achieved the Council's Key Objectives with respect to the transfer of the majority of financial risk, capital investment and lower annual revenue costs. SLM had maintained a consistently high level of interest in the opportunity to manage and develop the Council's Leisure facilities. They had expended considerable resources over a protracted tender period, demonstrated good faith during the negotiations and also voiced a strong desire to establish an effective partnership. Any further renegotiation or reconsideration outside of the broad principles would incur considerable delay and further uncertainty for both users and staff.

Other Options Considered and Rejected:

To seek further concessions from the prospective contractor or to recommend an alternative course of action for the future management of the service.

38. EXCLUSION OF PUBLIC AND PRESS

RESOLVED:

That the public and press be excluded from the meeting for the items of business set out below on the grounds that they would involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12A of the Local Government Act 1972:

<u>Agenda Item No.</u>	<u>Subject</u>	<u>Exempt Information Paragraph Number</u>
20	Loughton Leisure Centre- Final Account Progress and Dispute Resolution Strategy	7, 8 and 9

39. LOUGHTON LEISURE CENTRE - FINAL ACCOUNT PROGRESS AND DISPUTE RESOLUTION STRATEGY

The Leisure Portfolio Holder presented a report concerning the final account progress and dispute resolution strategy in relation to the construction of Loughton Leisure Centre. The Portfolio Holder informed the Cabinet that more detailed work was required on the figures contained within the background papers to the report and that this issue was too important to resolve without proper consideration of the correct information. Consequently, the Portfolio Holder requested that the Cabinet agree to defer consideration of this issue until the extraordinary Cabinet meeting that had already been arranged for 25 July 2005.

RESOLVED:

That consideration of the final account progress and dispute resolution strategy in relation to the construction of Loughton Leisure Centre be deferred until the extraordinary Cabinet meeting on 25 July 2005.

CHAIRMAN