

# Public Document Pack

## EPHING FOREST DISTRICT COUNCIL CABINET MINUTES

**Committee:** Cabinet **Date:** 10 April 2006

**Place:** Civic Offices, High Street, Epping **Time:** 7.00 - 10.00 pm

**Members Present:** J Knapman (Chairman), S Barnes (Vice-Chairman), R Glozier, D Jacobs, S Metcalfe, Mrs C Pond and C Whitbread

**Other Councillors:** Councillors Mrs D Collins, K Faulkner, P Gode, Mrs A Grigg, A Lee, F Maclaine, R Morgan, S Murray, Mrs M Sartin, B Scrutton, D Stallan and Mrs J H Whitehouse

**Apologies:** Councillors D Spinks

**Officers Present:** P Haywood (Joint Chief Executive), J Scott (Joint Chief Executive), J Gilbert (Head of Environmental Services), A Hall (Head of Housing Services), R Palmer (Head of Finance), J Preston (Head of Planning and Economic Development), I Willett (Head of Research and Democratic Services), J Akerman (Chief Internal Auditor), C Crudgington (Environmental Services), D Marsh (Principal Team Leader (Waste)), M Shorten (Principal Valuer/Surveyor), K Durrani (Environmental Services), J Boreham (Assistant Public Relations and Information Officer) and G J Woodhall (Democratic Services Officer)

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<b>PUBLICATION DATE:</b>	<b>12 May 2006</b>
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<b>DECISIONS TO TAKE EFFECT:</b>	<b>18 May 2006</b>
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### 175. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillor R Glozier declared a personal interest in item (8) of the agenda (Release of Restrictive Covenant – Epping Forest College, Borders Lane, Loughton), by virtue of having been a former part-time employee at Epping Forest College in the past. The Councillor had determined that his interest was not prejudicial and would remain in the meeting for the consideration of the item and voting thereon.

(b) Pursuant to the Council's Code of Member Conduct, Councillor C Whitbread declared a personal interest in item (15) of the agenda (Epping Drinking Fountain), by virtue of being a member of Epping Town Council. The Councillor had determined that his interest was not prejudicial and would remain in the meeting for the consideration of the item and voting thereon.

(c) Pursuant to the Council's Code of Member Conduct, Councillor D Stallan declared a personal interest in the following items of the agenda. The Councillor had determined that his interest was not prejudicial and would remain in the meeting for the consideration of the items and voting thereon:

(i) Item 4a (Refuse Survey – Satisfaction Survey);

- (ii) Item 19 (Petition – Alternate Weekly Refuse Collections); and
- (iii) Item 24 (Waste Management Cabinet Committee Report).

#### 176. MINUTES

##### RESOLVED:

That the minutes of the following meetings be taken as read and signed by the Chairman as a correct record:

- (a) 6 February 2006; and
- (b) 6 March 2006.

#### 177. ANY OTHER BUSINESS

##### (a) Refuse Service – Satisfaction Survey (C/145/2005-06)

In accordance with Section 100(4)(b) of the Local Government Act 1972, together with paragraphs (6) and (25) of the Council's Procedure Rules, the Chairman had permitted the consideration of this item, on the grounds of urgency, in order to meet the timescale for the publication of the next edition of the Chigwell Parish Council newsletter.

The Environmental Protection Portfolio Holder reminded the Cabinet that there was already a report to be considered in relation to the performance of the current waste management contractor in that part of the meeting when the press and public had been excluded, and suggested that this item should be considered in conjunction with that report.

##### RESOLVED:

That consideration of this item be deferred until the public and press had been excluded from the meeting.

#### 178. REPORTS OF PORTFOLIO HOLDERS

There were no oral reports from individual Portfolio Holders for the Cabinet to consider.

#### 179. OVERVIEW AND SCRUTINY

The Chairman of the Overview and Scrutiny Committee reported upon a number of matters of concern to the Cabinet arising from the Council's Overview and Scrutiny function. The Annual Overview and Scrutiny Report for 2005/06 would be produced shortly, along with the agreed Work Programme for 2006/07. The Cabinet were reminded that the Electoral Pilot had been abandoned and that the planned review would not now take place.

The Environmental and Planning Services Scrutiny Panel were currently considering the Waste Strategy for England, for which responses had to be formulated by 19 May 2006.

The Constitutional Affairs Scrutiny Panel, which would become the Constitutional and Member Services Scrutiny Panel in 2006/07, had considered:

- a review of the current structure of the Area Plans Sub-Committees, and how to involve all members on the revised Sub-Committees;
- further help and advice for Councillors who were the subject of complaints to the Standards Board for England and Wales; and
- the enhancement of Council meetings, including the possibility of an annual 'State of the District' meeting.

For the review of Area Plans Sub-Committees and the enhancement of Council meetings, the reports of the Constitutional Affairs Scrutiny Panel would be distributed to all members of the Council.

#### **180. RESIGNATION - M HEAVENS**

The Leader of the Council presented a report concerning the recent resignation from the Council by M Heavens, and in particular the temporary arrangements to cover his former duties as the Housing Portfolio Holder. With effect from 20 March 2006, M Heavens resigned from the Council and thereby created a vacancy on the Cabinet. The Leader of the Council had covered the duties of the Housing Portfolio since 20 March 2006 and would have to continue as such until the Council meeting on 14 April 2006, as any changes to Portfolios and membership of the Cabinet were a matter for the Council alone to decide. The Leader reminded the Cabinet that, under the Local Government Act 2000, only existing Cabinet members or a new Cabinet member appointed by the Council could exercise the executive responsibilities of a Portfolio. The Leader of the Council highlighted that if the current temporary arrangement was to continue until the end of the municipal year then the Council would have to waive the pro rata principle for the Cabinet.

#### **RESOLVED:**

- (1) That, with effect from 20 March 2006, the resignation of M Heavens as both a Councillor and member of the Cabinet be noted;
- (2) That the performance of the duties of the Housing Portfolio Holder by the Leader of the Council from 20 March 2006 until the next meeting of the Council on 24 April 2006 be noted; and
- (3) That, for the remainder of the Council year, the continuing performance of the duties of this Portfolio by the Leader of the Council be recommended to the Council for approval.

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

Responsibility for the functions of the Housing Portfolio had to be determined for the remainder of the Council year, and therefore it was necessary for the Cabinet to consider the options available and report accordingly to the meeting of the Council on 24 April 2006.

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

To appoint a new Housing Portfolio Holder for the remainder of the year. To transfer an existing Portfolio Holder to take over the Housing Portfolio, with a new member appointed to the vacant Portfolio.

#### **181. RELEASE OF RESTRICTIVE COVENANT - EPPING FOREST COLLEGE, BORDERS LANE, LOUGHTON**

The Finance and Performance Management Portfolio Holder presented a report concerning the release of a restrictive covenant on land forming part of the Epping Forest College. The Portfolio Holder reminded the Cabinet that in 1998, the Council released a covenant on 7.9 acres of land owned by the College, without charge, in order to facilitate residential development. The College had now requested that the Council, without charge, release the covenant from a further 2.4 acres of land, adjacent to the original plot. The College had applied for and obtained planning consent for residential development on the whole 10.3 acres, which had also included the provision of 30% of the units for affordable housing. Officers had advised the Portfolio Holder that the covenant was obsolete, of no value to the Council, and could be released for the benefit of the College.

**RESOLVED:**

That the restrictive covenant on land forming part of the Epping Forest College be released to enable the College to:

- (a) sell the site for residential development; and
- (b) invest the capital receipt into the redevelopment of the College campus.

**Reasons for Decision:**

Specialist advice had confirmed the view of the Head of Legal, Administration and Estates that, on the evidence available, the Lands Tribunal was likely to agree to release this obsolete covenant with a nominal level of compensation payable to the Council. The proposed sale of the residential development site would raise valuable funds for the redevelopment of the College Campus and highway improvement works.

**Other Options Considered and Rejected:**

To seek payment for the release of the covenant, however this could lead to the Council paying costs for any unsuccessful defence in the Lands Tribunal, and would delay the College's development plans.

**182. POSSIBLE DEVELOPMENT OF COUNCIL OWNED CAR PARKS - APPOINTMENT OF PLANNING AND DEVELOPMENT CONSULTANT**

The Finance and Performance Management Portfolio Holder presented a report regarding the possible development of the car parks owned by the Council, and in particular, the appointment of a planning and development consultant. Following a report from the Head of Environmental Services regarding the development potential of Council-owned car parks at four sites within the District, the Cabinet had resolved on 6 June 2005 (Minute 11 refers) that a further report should be submitted on the appointment of a suitable consultant and to make the appropriate budgetary provision. Consultation with member authorities of the Association of Chief Estates Surveyors and Property Managers in Local Government (ACES) had recommended Bidwells, CB Richard Ellis and Gerald Eve as having had current or recent appointments on comparable development projects. The Head of Environmental Services, in conjunction with the Valuation and Estate Management Service, had prepared a development brief and invited fee quotations in accordance with Contract Standing Orders.

The Council had received the following fee quotations:

- (i) C B Richard Ellis £30,000 plus VAT and disbursements;
- (ii) Gerald Eve £8,500 plus VAT and disbursements; and
- (iii) Bidwells £3,950 plus VAT and disbursements.

The Portfolio Holder further added that following the original report submitted to the Cabinet, the Queens Road car park in Buckhurst Hill had also been identified as having development potential, and it was recommended that the consultant should also evaluate this site. If the Cabinet were minded to appoint Bidwells then it had been proposed that a budget allocation of £5,000 be made available from the DDF to cover the consultant's fees. The Head of Finance had also proposed that funding for this project be allocated from the Local Authority Business Growth Incentives scheme that had been considered by the Cabinet on 19 December 2005 (Minute 128 refers).

The Portfolio Holder for Finance and Performance Management stated that the Church Hill car park had been closed up due to frequent anti-social behaviour during the night, and a poor revenue stream. The Portfolio Holder reminded the Cabinet that Bidwells, if selected, would only be conducting feasibility studies; there would be no actual development of the selected car parks at this time. The Chairman of Overview and Scrutiny informed the Cabinet that a new Task and Finish Scrutiny Panel would be set up in 2006/07 to examine the town centre partnerships and car parking, and it would be prudent if this Panel examined the consultant's development appraisal before the further report to the Cabinet.

#### **RESOLVED:**

- (1) That an additional public car park site at Queens Road, Buckhurst Hill be included in the Consultant's brief for appraisal;
- (2) That Bidwells be appointed to provide a report on the development potential of the following five Council-owned car park sites in accordance with the brief prepared by the Head of Environmental Services and the Valuation and Estate Management Service:
  - (a) Bakers Lane long and short stay car parks, Epping;
  - (b) Church Hill, Loughton;
  - (c) Cornmill, Waltham Abbey;
  - (d) Burton Road, The Broadway, Loughton; and
  - (e) Queens Road, Buckhurst Hill;
- (3) That, in order to cover the Consultant's fees, a supplementary DDF estimate in the sum of £5,000 be recommended to the Council for approval;
- (4) That, as this project relates to economic development, the funding be taken specifically from the Local Authority Business Growth Incentive scheme income; and
- (5) That a further report be presented to the Cabinet following consideration of the Consultant's development appraisal by the Town Centre Partnerships and Car Parking Task and Finish Scrutiny Panel.

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

The lowest quotation submitted by Bidwells, in the sum of £3,950 plus VAT and disbursements, had satisfactorily met the selection criteria and hence had been recommended for acceptance. As the proposed developments came under the auspices of economic development, they were eligible for funding from the Local Authority Business Growth Incentive Scheme. It was logical for the new Task and Finish Scrutiny Panel on Town Centre Partnerships and Car Parking to examine the consultant's development appraisal before a further report was made to Cabinet.

**Other Options Considered and Rejected:**

To not appoint a planning and development consultant and to continue to manage the car parks as at present, although The Broadway car park would be upgraded from free parking to 'pay and display' upon completion of the Broadway Regeneration Scheme.

**183. HOMELESSNESS PREVENTION**

The Leader of the Council, as acting Housing Portfolio Holder, presented a report about Homelessness Prevention. The Portfolio Holder reminded the Cabinet that homelessness prevention was currently focused on families with children and expectant mothers, however, it needed to be extended to other priority need groups, such as 16 and 17 year olds. The Government had been promoting homelessness prevention work and had set each local authority a target to reduce the number of homeless households in temporary accommodation by 31 March 2006. The Council's target was 90 households, but as of 31 December 2005 the Council had 208 households in temporary accommodation, although measures had been taken to enable the Government's target to be met.

The Portfolio Holder added that the Office of the Deputy Prime Minister had awarded the Council an additional £20,000 per annum over the next two years for homelessness prevention. The Council also had an annual amount of £10,000 CSB funding for homelessness prevention and an additional £9,000 for 2006/07 had been included in the DDF. Altogether, this funding would enable the Council to appoint a Senior Homelessness Prevention Officer on a temporary contract to lead the existing team. As well as extending the service to other priority groups, this appointment would also aid the exploration and implementation of new initiatives within the service.

**RESOLVED:**

That, funded by ODPM grant as well as DDF and CSB funding agreed as part of the Council's budget, the appointment of a full-time Senior Homelessness Prevention Officer from April 2006 on a two-year temporary contract be agreed.

**Reasons for Decision;**

Homelessness prevention work had been highly effective, and the Cabinet had previously agreed DDF funding to supplement surplus ODPM funding in order to appoint an additional officer. The Assistant Housing Needs Manager (Homelessness) supervised the existing team members, but there was a need for closer management, prioritisation of workloads and performance monitoring, as well as for new initiatives to be identified and implemented.

**Other Options Considered and Rejected:**

To not approve the appointment of a Senior Homelessness Prevention Officer, or to appoint for a different number of hours or period.

#### **184. AUTHORISATION OF OFFICERS**

The Portfolio Holder for Environmental Protection presented a report regarding the authorisation of officers in respect of a wide range of environmental legislation. The Portfolio Holder reminded the Cabinet that in order to provide an efficient and effective environmental health service, officers had to be authorised under a wide range of legislation. Currently, a report had to be submitted to the Cabinet, and then the Council, in order to obtain the necessary authorisation. By granting delegated authority to a small group of senior officers and the relevant Portfolio Holder, there would be less delay in authorising officers and valuable Cabinet and Council time would be saved.

The Head of Environmental Services reported the following changes for the Cabinet's consideration:

- that Section (54) should be added to the list for the Housing Act 1985;
- that the first recommendation should be the second recommendation, and vice versa; and
- that the first recommendation should read "...the Relevant Portfolio Holder..." rather than "...the Portfolio Holder for the Environment...".

#### **RESOLVED:**

(1) That the relevant Portfolio Holder be authorised to delegate the relevant powers to the Head of Environmental Services relating to the management and provision of the environmental health service as set out in the attached list of attached list of environmental health legislation;

(2) That the Head of Environmental Services and the Environmental Health Manager be delegated to authorise suitably qualified officers to exercise those functions relating to the management and provision of the environmental health service as set out in the attached list of environmental health legislation;

(3) That the relevant Portfolio Holder be authorised to approve updates to the list of environmental health legislation; and

(4) That the appropriate amendments be made to the Schedule of Delegation to Officers in the Council's Constitution.

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

The proposed course of action would streamline the authorisation process and save time for both members and officers.

#### **Other Option Considered and Rejected:**

To retain the present system whereby every change to the delegation scheme had to be approved by the Cabinet and then the Council.

#### **185. INCREASING THE AMOUNT OF AFFORDABLE HOUSING IN THE DISTRICT - RECOMMENDATIONS OF THE HOUSING SCRUTINY PANEL**

The Chairman of the Housing Scrutiny Panel presented the recommendations of the Housing Scrutiny Panel in relation to increasing the amount of affordable housing within the District. The Cabinet were informed that the Overview and Scrutiny Committee had requested the Housing Scrutiny Panel on 3 March 2006 to consider a detailed report from the Head of Housing Services on increasing the amount of affordable housing within the District, following concerns that demand was far greater than the provision.

The report from the Head of Housing Services had been detailed and had considered the following points:

- provision of affordable housing within the Green Belt;
- development on large urban spaces within existing housing estates;
- an absolute minimum amount of affordable housing on large development sites;
- provision of additional social housing grant by the Council;
- General Fund landholdings;
- Use of grant funding from the Housing Corporation's London region;
- Scheme of RSL partnering and joint commissioning; and
- "Right to Buy Hot Spot" status.

The Chairman of the Housing Scrutiny Panel stated that the provision of affordable housing within the District was a major issue and key priority for the Council. The last Housing Needs Survey, undertaken in 2003, had estimated that 665 new affordable homes were required per annum within the District to meet the rising need. In addition, it had been noted that families with an annual income of less than £40,000 could not access the local housing market within the District; 50% of families within the District had an annual income below £35,000. The recommendations before the Cabinet were those that the Housing Scrutiny Panel felt able to support, following consideration of the Head of Housing Services' report.

The Chairman of the Housing Scrutiny Panel stated that the most controversial recommendation would be the request to apply for "Right to Buy Hot Spot" status. 'Right to Buy' did reduce the number of social housing units available within the District and many of the Council's tenants within the District had exercised their right over the years. Obtainment of the status would reduce the maximum discount available to tenants under the 'Right to Buy' scheme from £34,000 to £16,000. The Cabinet were informed that many London boroughs had been granted "Hot Spot" status by the Office of the Deputy Prime Minister.

The Panel's most difficult decision had been not to further develop the urban open spaces within Loughton due to their amenity value, and the fact that fourteen sites had already been developed within Loughton. The Panel had felt that the importance of maintaining the urban open spaces had outweighed the benefits of providing further affordable housing. Furthermore, the Panel had agreed that the Council should not relax its current Green Belt Policy, as it would contradict the Council's stance on the draft East of England Plan. The Panel felt that it was important to protect the Green Belt, however the Panel recognised that the Area Plans Sub-Committees could decide otherwise in individual cases where special circumstances applied, especially in respect to Brownfield sites.

The Panel had also concluded that an absolute minimum amount of affordable housing should not be enforced for large developments as this would be too inhibiting for Area Plans Sub-Committees when considering planning applications, especially when other planning considerations such as Section 106 agreements were relevant. It could provide developers with an opportunity to argue for lower amounts of affordable housing than the current guideline of 30%.



The Leader of the Council felt that the measures proposed within the Housing Scrutiny Panel's report would not generate the required number of affordable housing units within the District; it had not balanced the need for affordable housing within the District with the amount of land that was actually available. The Leader of the Council agreed that many residents within the District could not afford to purchase an "average" property, and welcomed the Panel's view that the development of Brownfield sites should not be discouraged by Area Plans Sub-Committees. The Leader of the Council questioned whether the attainment of "Hot Spot Status" would achieve anything other than a small reduction in the sale of the Council's housing stock, but he thanked the Chairman for the Housing Scrutiny Panel's work and commended the report as a first step towards the implementation of an imaginative and coherent policy for the District. However, the Leader warned that 70 affordable homes per annum were not enough to meet demand, and that the Council would have to consider carefully the future of the Metropolitan Green Belt within the District.

The Head of Housing Services informed the Cabinet that much of the income that had been generated by the sale of the Council's housing stock through Right To Buy sales were transitional receipts, most of which would be used to maintain the Council's existing housing stock. The Head of Finance further added that the additional £1million agreed by the Cabinet in 2005 for the provision of affordable housing had also come from transitional receipts.

It was pointed out that there had been 15 recommendations in the original report considered by the Housing Scrutiny Panel but that many of them had not been agreed. It was also suggested by one member that consideration should be given to developing the urban open spaces in Loughton, if only to protect the Metropolitan Green Belt, however the Deputy Leader stated that there was strong local support for the urban open spaces in Loughton, and it was generally agreed by the Cabinet that their environmental amenity value was greater than the value of any social housing that could possibly be developed there.

The Cabinet decided that the attainment of Right to Buy "Hot Spot Status" would have minimal effect upon the sale of the Council's housing stock, possibly one or two houses per annum, whereas tenants would require approximately an extra £6,000 of income to purchase their homes due to the reduced discount, and the Right to Buy scheme would still be available to tenants. It was felt that the Council would have to provide more housing somewhere within the District; many young people had to leave the District as they could not afford the current property prices, and more progressive measures would be required in the future to meet the District's requirements.

**RESOLVED:**

- (1) That, in order to increase the amount of affordable housing within the District, an additional one-off budget provision of £1million be made within the Council's Capital Programme for 2006/07, funded as follows:
  - (a) £500,000 by reducing the budget(s) of one or more existing projects within the Capital Programme by an equivalent amount as determined by the Cabinet (either in 2006/07 or later years); and
  - (b) £500,000 as additional expenditure to the existing Capital Programme;
- (2) That, prior to the annual review of the Capital Programme, an annual formal review be undertaken by the Cabinet in respect of:

- (a) whether further budget provision should be included within the Capital Programme to fund social housing grants; and
- (b) if so, how much should be included and when;
- (3) That, as part of the proposed feasibility studies on the development potential of the Council's car parks, potential developers be required to maximise the amount of affordable housing provided on the sites within any proposals that come forward; and
- (4) That land associated with any General Fund assets which became surplus to requirements in the future and where residential housing would be acceptable in planning terms, could be provided to a registered social landlord free of charge to provide affordable housing rather than generate a capital receipt to the Council.

**Reasons for Decision:**

The Housing Scrutiny Panel had considered a number of potential options for increasing the amount of affordable housing within the District. Although the Panel felt that some of the options put forward by the Head of Housing Services could not be recommended for adoption at this time, the Panel had made a number of recommendations to the Cabinet that it felt would help to increase the amount of affordable housing within the District. The Cabinet felt that the pursuit of "Right to Buy Hot Spot" status from the ODPM would discriminate against the Council's remaining tenants.

**Other Options Considered and Rejected:**

To pursue "Right to Buy Hot Spot" status from the ODPM. To use grant funding from the Housing Corporation's London region. To further develop social housing on large urban spaces within existing housing estates. To permit the provision of social housing within the Metropolitan Green Belt.

**186. BOBBINGWORTH TIP LANDFILL REMEDIATION PROJECT**

The Environmental Protection Portfolio Holder presented a report in respect of the Landfill Remediation Project at Bobbingworth Tip. The Portfolio Holder informed the Cabinet that the current target cost had been estimated in the sum of £1,867,000, which had consisted of: £331,887 for the design work undertaken by Cleanaway Limited; £1,265,108 for the construction work to be undertaken by Cleanaway Limited; £225,560 for design and construction contingencies; plus £44,445 for non-Cleanaway Limited activities. The budget provision was also in the sum of £1,867,000 which consisted of: £947,000 from the original approval; £670,000 as a supplementary capital estimate for the works; and £250,000 as a supplementary capital estimate for contingencies. It was recognised that additional planning conditions could add to the cost of the project, but it was felt that this could be met by the current contingency provision. The Portfolio Holder stated that should the budget be exceeded then a further report would be submitted to the Cabinet for consideration.

The Portfolio Holder advised the Cabinet that the proposals from Cleanaway Limited for the site had been subject to three studies regarding the impact of the transportation required to perform the works, as well as the ecological and environmental impacts of the proposed works. The Transportation Impact Study had

anticipated a maximum of 200 vehicle movements per day during the construction phase, with the preferred route along Moreton Road from the B184. In order to minimise the impact of the heavy goods vehicles, it had been proposed to impose a temporary speed limit of 30mph along the full length of Moreton Road and parking restrictions for the northern section of Moreton Road. The Environmental Impact Study had identified traffic, noise and dust as the main environmental issues, all of which was associated with the construction phase that would take a maximum of two summer seasons to complete. The Ecological Impact Study had revealed the presence of badgers, grass snakes, breeding and nesting birds, an ancient hedgerow, mature trees and Japanese knotweed. Measures had been proposed to minimise the ecological impact of the construction work, however the Engineering Services Manager confirmed that the scrub had not been cleared from the site by March 2006 as stated in the report.

The Portfolio Holder accepted that the vehicle movements required to perform the construction phase would be an issue for local residents, especially in Moreton Road, and that the proposed temporary parking restrictions in Moreton Road would cause additional problems as well. However the current condition of Moreton Bridge was not considered suitable to handle the proposed volume of traffic and thus a northern access to the site had been discounted. A "one-way" system of vehicle movements had also been suggested, but this had been rejected by the Essex County Council (the Highway Authority) who felt that this would only cause congestion on busy roads in the area. The Senior Land Drainage Engineer advised that the maximum number of vehicle movements per day would actually be 180, with an expected average of 140 vehicles movements per day during the construction phase, and that most of the vehicle movements would be heavy goods vehicles.

The Engineering Services Manager reported that there had been a public meeting held on 20 March 2006 and that there was considerable local support for the scheme despite the large number of proposed vehicle movements. The solution proposed by Cleanaway Limited was considered to be the most environmentally friendly and would remove the leachate over time through a process of dilution. The current target cost was felt to be accurate and local County Councillors had raised the issue of the proposed route for the vehicle movements with Essex County Council Highways officers. The Head of Planning and Economic Development reminded the Cabinet that Area Plans Sub-Committee 'C' would consider the planning application for the site on Wednesday 12 April 2006.

The Cabinet were in favour of the scheme on environmental protection grounds, as the Council would risk prosecution by the Environment Agency if no action were taken in respect of the site. However, it was felt that the proposed transportation scheme should be reconsidered by the Highway Authority, and in particular the previously rejected "one way" scheme.

**RESOLVED:**

That the Bobbingworth Tip Landfill Remediation Project be approved to proceed, after consideration of:

- (a) the Target Cost for the Bobbingworth Remediation Project;
- (b) the Cleanaway Limited proposals in relation to the Transportation Impact Study, subject to reconsideration of a one-way traffic system by Essex County Council as the Highway Authority;

- (c) the Cleanaway Limited proposals in relation to the Environmental Impact Study;
- (d) the Cleanaway Limited proposals in relation to the Ecological Impact Study; and
- (e) the estimated cost implications in relation to the planning conditions imposed.

**Reasons for Decision:**

The Council had approved funding for the remediation of Bobbingworth Tip in order to manage the leachate and its effect upon the local environment, after having considered the options over an extended period. It was now essential to progress the project and enable a mechanism for the successful management of the tip itself and the inherent risks. The winter of 2005/06 had to date proved to be one of the driest on record and had provided near perfect conditions for the project implementation.

**Other Options Considered and Rejected:**

To do nothing and allow the site to further decay, however the Council would face penalties from the Environmental Agency.

**187. OVERVIEW AND SCRUTINY TASK AND FINISH PANEL REPORT - PARKING IN RESIDENTIAL AREAS**

The Chairman of the Register of Development Proposals Task and Finish Scrutiny Panel presented a report in relation to parking in residential areas. The Cabinet were informed that the Panel had attempted to regularise the Council's approach to parking issues throughout the District. The Panel had offered suggestions for the local customisation section of the Highways Local Service Agreement for the Civil Engineering and Maintenance Portfolio Holder, Head of Environmental Services and Essex County Council as the Highway Authority to consider. The Panel had also considered it important for the Council to monitor the operation of the Local Service Agreement, via the Overview and Scrutiny Committee, and that consideration should be given to the establishment of a Local Forum for the discussion of highways issues.

The Panel had considered parking to be a particularly important issue within the District and had proposed that the residents' parking schemes for Epping, Loughton and Buckhurst Hill, which the Cabinet had approved in 2003, should be implemented without delay and take priority over traffic calming measures. The Panel felt that the current crossover arrangements should be strengthened, and that their impact upon the existing street scene should also be considered. Finally, the Panel had proposed that the enforcement of parking schemes and crossovers, by both the Council and the Highways Agency, should be performed in a more pro-active manner.

The Head of Environmental Services reported that the Highways Local Service Agreement had not yet been finalised, as further discussions were necessary with regard to the customised sections. There was a further meeting scheduled in the near future with the Head of Highways and Transportation at Essex County Council. The Cabinet agreed that a letter should be written to the County Portfolio Holder for Highways and Transportation, signed by the Leader of the Council, requesting that the Local Service Agreement be dealt with as a matter of urgency. The Chairman of the Overview and Scrutiny Committee felt that the County Portfolio Holder for Highways and Transportation should be invited to attend a forthcoming Overview and

Scrutiny meeting; the Leader of Council agreed that the invitation should be incorporated in the letter to be written by the Head of Environmental Services.

The Head of Environmental Services reported that no local forum currently existed and reminded the Cabinet that the Council had representation on the West Essex Joint Member Panel that considered Highways issues. It was suggested that the local forum should be a member body to support the Council's representative on the West Essex Joint Member Panel, however the Cabinet only agreed to approve the establishment of a local forum with no recommendation on its composition.

The Head of Finance clarified for the Cabinet that the agreed budget for District funded traffic and parking schemes was in the sum of £200,000 per annum. However, funding had been brought forward into 2006/07 for parking reviews and associated traffic management measures, thus the current budget profile was:

- 2006/07 - £490,000;
- 2007/08 - £0;
- 2008/09 - £200,000; and
- 2009/10 - £200,000.

#### **RESOLVED:**

##### **Loss of Highways Agency:**

(1) That, although highways issues are now a matter for Essex County Council (ECC) Highways, an interest be retained by the Council in parking issues and securing subsequent improvements for residents;

(2) That the operation of the Highways Local Service Agreement (LSA) be routinely monitored by the Overview and Scrutiny Committee;

(3) That the establishment of a local forum to discuss highways issues and managing a database of priorities, particularly parking schemes, within the District be approved;

(4) That, in order to notify members of planned works in their area, the Highways schedules of works for the District be published in the Members' Bulletin;

##### **The terms of the LSA:**

(5) That the Portfolio Holder for Civil Engineering and Maintenance be authorised to discuss the non-specific nature of the LSA with the Head of Environmental Services and ECC Highways in order to decide whether the following points should be raised in the local customisation section:

(a) Paragraph 4.1 *County Routes* - The need for an additional sentence to read 'In particular the Highways Authority will consult with the District Council on major roads when up-grading or re-surfacing works are to be carried out so that the issue of on-street parking may be considered with a view to improving the flow of traffic, providing safe provision for pedestrians, and protecting the environment';

(b) Paragraph 4.2 *Local Roads* - The need for an additional sentence after '...respective Councils' to read 'This includes considering changes to the road lay-out to improve on-street parking provision if thought desirable by the District Council';

(c) Paragraph 4.3 the last bullet point referring to items not included in the LSA merely says 'On street parking', this needs clarification e.g. on-street parking management and enforcement regulations';

(d) The need to address Highways approach to enforcement in the LSA, e.g. where residents are crossing pavements illegally to park on their front drives.

#### **Residents Parking Schemes:**

(6) That the Residents Parking Schemes in Epping, Loughton and Buckhurst Hill, approved by the Cabinet in 2003, be progressed as a matter of urgency and take priority over traffic calming measures except when it may be more cost-effective as part of a traffic management scheme which includes parking considerations.

(7) That, in response to concerns expressed by residents and Councillors, wider parking reviews and residential parking schemes be funded and carried out systematically across the District, especially in roads close to areas where approved parking schemes had been implemented;

(8) That, in order to progress parking schemes on Housing land as soon as possible, Housing Services liaise with ECC Highways and up-date their database accordingly;

(9) That the sequence of decisions leading to highways improvements on Housing land be reviewed with ECC Highways by Housing Services, and in particular at what stage residents should be consulted;

(10) That the annual budget for District funded traffic and parking schemes (currently £200,000pa) be maintained until the funding division between ECC and EFDC for such improvements becomes clearer;

(11) That a database and recommendations be maintained by Environmental Services on non-housing land with priorities set along the lines of those for Housing land and that the priorities be decided by the Portfolio Holder for Civil Engineering and Maintenance in liaison with the Head of Environmental Services;

#### **Cross-overs:**

(12) That the maximum length of a cross over be maintained at 6 metres

(13) That the specification for cross-overs on Housing land include a requirement for surfacing to be porous and bound, but not shingle, so that surface water will not drain onto the road or the drains, and any remaining open area be landscaped to minimise the impact on the street scene;

(14) That Housing Services guidelines include a statement that when cross-overs are considered the overall impact on the street scene be considered;

(15) That ECC Highways be encouraged by negotiation through the Joint Member Panel to adopt the proposals outlined in resolutions (12) and (13) above;

**Enforcement:**

(16) That ECC Highways and the District Council be more pro-active in enforcing parking regimes and cross-overs to avoid damage to kerbs, pavements, statutory undertakings, verges and greenswards preferably through persuasion rather than legal proceedings or physical barriers, which should only be used as a last resort.

(17) That the relevant Portfolio Holders monitor the progress made with the recommendations and report on a regular basis to the Overview and Scrutiny Committee; and

**Correspondence:**

(18) That the Head of Environmental Services draft a letter to the ECC Portfolio Holder for Highways and Transportation, to be signed by the Leader of the Council, requesting:

(a) that the LSA be dealt with as a matter of urgency; and

(b) that the ECC Portfolio Holder for Highways and Transportation be invited to a meeting of the Overview and Scrutiny Committee.

**Reasons for Decision:**

The Task and Finish Panel felt that parking issues had not had their deserved attention and that this needed correcting if severe gridlock or congestion on some primary and local roads were to be avoided in the future. Parking was important to residents, both at their homes and workplaces, but many roads had already exceeded saturation level in terms of parking. The Panel felt that action had to be taken otherwise the Council risked an ever-deteriorating environment as well as serious public discontent.

**Other Options Considered and Rejected:**

To implement some or none of the Task and Finish Panel's recommendations.

**188. EPPING DRINKING FOUNTAIN**

The Portfolio Holder for Civil Engineering and Maintenance presented a report regarding the Epping Drinking Fountain. The Portfolio Holder reminded the Cabinet that the Council had funded the recovery and reinstatement of the Epping Drinking Fountain in 1989, which had included a recyclable water trough system, a drinking water tap and a bespoke designed electric lighting system to replicate the original gas lighting. The drinking water and recyclable water trough had to be ceased in 2002 due to high maintenance costs and vandalism, however the lighting system had remained operational and had provided an attractive contribution to the scene in Epping High Street at night.

The Portfolio Holder further added that although Epping Town Council had previously agreed to assume responsibility for maintaining the fabric of the fountain, the District Council remained responsible for the maintenance of the lighting component. Routine electrical and structural testing of the lighting component had revealed the need for a major overhaul and structural improvements, the cost of which had been estimated in the sum of £25,000. As Epping Town Council already had partial responsibility for the

Drinking Fountain, an informal approach had been made to transfer the ownership of the plinth, structure and lighting component to the Town Council. The Town Clerk had agreed to put the proposal to the Town Council provided that the District Council approved funding for the refurbishment of the Drinking Fountain.

The Engineering Services Manager informed the Cabinet that a combination of vandalism and pollution had ceased the operation of the drinking trough, whilst the drinking water element could not be restored for Health and Safety Reasons.

**RESOLVED:**

- (1) That, in order for the Epping Drinking Fountain to be licensed to be on the Highway, the Head of Environmental Services be authorised to enter into a retrospective Section 50 Agreement with Essex County Council;
- (2) That, in order to refurbish the Epping Drinking Fountain, a virement in the sum of £25,000 from the Capital Contingency Fund be recommended to the Council for approval; and
- (3) That, upon completion of the refurbishment works, ownership and responsibility for the Epping Drinking Fountain be transferred to Epping Town Council.

**Reasons for Decision:**

Under Section (50) of the New Roads and Street Works Act 1991, private apparatus could not be placed upon highway land without a licence. When the Epping Drinking Fountain was reinstated in 1989, no licence was sought therefore a retrospective application was required.

**Other Options Considered and Rejected:**

To remove the lighting component and associated electricity supply of the Epping Drinking Fountain. To do nothing, although further deterioration of the lighting component could result in structural failure.

**189. TRANSFER OF CRITICAL ORDINARY WATERCOURSES**

The Civil Engineering and Maintenance Portfolio Holder presented a report on the transfer of Critical Ordinary Watercourses (COWs). The Portfolio Holder reminded the Cabinet that it had previously been agreed to authorise the Head of Environmental Services to sign the Memorandum of Understanding provided that the contracting back arrangement was cost neutral to the Council and the Head of Legal, Administration and Estates agreed the wording of the Memorandum of Understanding.

The Cabinet were informed that the Head of Legal, Administration and Estates had concerns over the use of the phrase "contracting back arrangements" when this issue was previously considered (minute 106, 14 November 2005 refers), as this did not fully describe the provisions within the Memorandum of Understanding. The Memorandum was not a contract as this implied that the provisions were binding on both parties and could be enforced. In order to address the Council's concerns, the Environment Agency clarified that the ability of the Council to instruct or undertake works on behalf of the Environment Agency was conditional upon the prior consent of the Environment Agency having been obtained. Thus, the Council's exposure to risk was considered manageable and subject to rigid control, and given these assurances



the Head of Legal, Administration and Estates was now content with the arrangements. In addition, all costs for works undertaken by the Council under the terms of the Memorandum would be met by the Environment Agency, and thus the proposal would be cost neutral.

The Cabinet were reminded that an integral part of the arrangement was a dedicated engineering resource at a senior level within the Council. However, it had now been agreed that the Environment Agency would undertake all inspections of enclosed critical ordinary watercourses via their own consultancy framework. The Council would now be able to undertake all works required by the Environment Agency from existing resources, supported by agency or temporary resources where necessary, although this would be reviewed during the first year of the agreement.

**RESOLVED:**

(1) That, in respect of the Memorandum of Understanding, the outcome of discussions with the Environment Agency be noted; and

(2) That, given the arrangements under the Memorandum of Understanding are cost neutral to the Council, the Head of Environmental Services be authorised to sign the Memorandum of Understanding.

**Reasons for Decision:**

The Memorandum of Understanding must be signed in order to progress the transfer of Critical Ordinary Watercourses to the Environment Agency.

**Other Options Considered and Rejected:**

To transfer responsibility for flood risk management within the District to the Environment Agency and reject any contracting back of management. To oppose the proposed short term "streamlining option" of making the Environmental Agency responsible for critical ordinary watercourses.

**190. DISTRICT ABANDONED VEHICLES CONTRACT**

The Environmental Protection Portfolio Holder presented a report in relation to the District Abandoned Vehicles Contract. The Portfolio Holder stated that the current contract had been let to Redcorns Limited in May 2002 for a period of four years, with an option to extend for a further two years. Redcorns had generally performed very well, with performance meeting the contractual requirements, and had invested considerably to offer a service from collection to complete disposal, as per the End of Life Vehicles Directive. The provision of the service was an important function of the Council, and was one of the key best value performance indicators. Redcorns had offered to extend the contract for a further two years under the existing terms and conditions, with costs increases limited to the prevailing rate of inflation. Investigations had determined that the costs incurred by the Council were very competitive, and that any tender exercise would result in increased costs to provide the service.

**RESOLVED:**

That the current contract with Redcorns to investigate and remove abandoned vehicles be extended by a further two years until May 2008.

**Reasons for Decision:**

There were a number of reasons to extend the existing contract: a new contract was likely to result in higher charges; EOL vehicle legislation could be fully compiled with at no additional cost; the computerised issue of Certificates of Destruction as required by Essex County Council as the Waste Disposal Authority; over 90% of all vehicles had been removed by Redcorns within 24 hours of being legally able to remove them; Redcorns had the ability to remove any vehicle, including HGV's and those in difficult locations; and no fee was charged for vehicles that were not found for removal after having been stickered.

**Other Options Considered and Rejected:**

To tender for a new contract, or to appoint Essex County Council's contractor to undertake the work.

**191. INCREASE IN DISABLED ADAPTATION BUDGET**

The Leader of the Council, as acting Housing Portfolio Holder, presented a report concerning an increase in the Disabled Adaptations budget. The Portfolio Holder informed the Cabinet that the Disabled Adaptations budget had been maintained at £300,000 per annum since July 2004. However, the number of requests for adaptations received from Social Services had risen, such that a waiting list had now developed; currently 47 adaptations were being held over until 2006/07. On 16 February 2006, the Housing Appeals Panel had requested that a report be submitted by the Housing Portfolio Holder to the Cabinet seeking to increase the annual budget to take account of building cost increases in the intervening two years, which equated to £30,000 based upon a 5% increase per annum. This would be met from within existing resources within the Housing Capital Programme. To avoid a repeat of this situation, it was also suggested that the annual budget be increased annually in line with building cost indices.

**RESOLVED:**

- (1) That an increase in the annual budget for Disabled Adaptations from 2006/07 in the sum of £30,000, from £300,000 to £330,000 per annum, be recommended to the Council for approval; and
- (2) That the annual budget be increased year on year in line with Building Cost increases to keep up with inflation.

**Reasons for Decision:**

At its meeting on 16 February 2006, the Housing Appeals Panel had recommended that this report be presented to the Cabinet by the Housing Portfolio Holder.

**Other Options Considered and Rejected:**

To preserve the budget at £300,000 per annum, or to increase the budget in line with inflation as this is generally lower than the building cost indices.

**192. PETITION - ALTERNATE WEEKLY REFUSE COLLECTIONS**

The Leader of the Council suggested that as there were already two reports to be considered in relation to waste management in that part of the meeting when the press and public had been excluded, this item should also be considered in conjunction with those reports.

**RESOLVED:**

That this item be deferred until the public and press had been excluded from the meeting.

**193. LOUGHTON BROADWAY REGENERATION SCHEME**

The Planning and Economic Development Portfolio Holder presented a report concerning the Loughton Broadway Regeneration Scheme. The Portfolio Holder reported that recommendation (6) in the report had been amended such that it was now proposed to appoint a Project Manager for the scheme via a competitive tendering exercise. The Cabinet were reminded that it had given approval for the Loughton Broadway Regeneration Scheme to be procured through a 'Design and Build' contractual arrangement and had authorised the Head of Environmental Services to negotiate a target contract sum with Gabriel (Contractors) Limited. Following detailed negotiations with Gabriel (Contractors) Limited, the target cost for construction works had been determined at £2,611,349 with a design and build contingency of £170,000 to give a total target cost with Gabriel (Contractors) Limited of £2,781,349. In addition, it had been estimated that: project management costs would be £81,000; cost management would be £66,000; planning supervision would be £17,000; and capital salaries would be £20,000. In addition, the Council was liable for a commuted sum of £10,000 as certain materials and equipment were outside of the Essex County Council standard specification, and there were costs of £15,000 associated with the Section 278 agreement. The total cost of the project was now estimated to be £2,990,349 for which an additional capital provision of £100,349 would have to be made.

The Portfolio Holder further added that Gabriel had advised the Council of their intention to appoint Robert West Consulting, if awarded the contract, to develop the detailed design. However, Robert West Consulting had already been appointed as the Planning Supervisor under the CDM regulations, and thus it was felt that in order to avoid any conflict of interest RSK ENSR Shear Limited should be appointed as the Planning Supervisor instead. Due to the proposed form of contract, there was a requirement to appoint a cost manager, for which the Head of Environmental Services had recommended Henry Riley Consulting. The Portfolio Holder reminded the Cabinet that in order to appoint Henry Riley Consulting and RSK ENSR Shear Limited, Contract Standing Orders C6, C7 and C11 would need to be set aside.

The Cabinet were concerned with the rising cost of the scheme. The Portfolio Holder responded that the cost had increased as more detailed studies had been performed, however a further report would be submitted to the Cabinet for consideration if the cost rose any further. The Engineering Services Manager confirmed that activity was due to begin on site in June.

**RESOLVED:**

- (1) That, in terms of demonstrating value for money, the methodology employed in the determination of a target cost for the Loughton Broadway Regeneration Scheme be noted;
- (2) That the outcome of Target Cost negotiations with Gabriel (Contractors) be noted;
- (3) That, with a target cost of not more than £2,781, 349, the Head of Environmental Services be authorised to enter into a contract for the Design

and Build of the Loughton Broadway Regeneration Scheme with Gabriel (Contractors) Limited;

- (4) That Capital provision be increased from £2,890,000 to £2,990,349;
- (5) That the Head of Environmental Services be authorised to appoint Henry Riley Consulting as Cost Manager;
- (6) That, in order to appoint the Project Manager, a competitive tendering exercise be undertaken in accordance with Contract Standing Orders;
- (7) That the Head of Environmental Services be authorised to appoint RSK ENSR Shear Limited as Planning Supervisor; and
- (8) That, pursuant to resolutions (5) and (7), Contract Standing Orders C6, C7 and C11 be set aside.

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

The Steering Group and the locally based Focus Group had agreed the current proposals. The advantages of the Design and Build method of procurement negotiated with Gabriel were: continuity with a known Contractor; a high degree of autonomy for the selected contractor over scheme design and delivery, which would enable effective cost and time management; the avoidance of the time difficulties associated with a full tendering procedure and the procurement requirements of the European Union; and the demonstration of value for money through the success of earlier Town Centre Enhancement schemes using the proposed contractor/consultant combination.

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

To procure the scheme by competitive tendering on a Design and Build basis.

To procure the scheme by the conventional route of competitively tendering the design element before competitively tendering the works.

#### **194. PETITION - USE OF MARKET SQUARE, WALTHAM ABBEY FOR PARKING**

The Civil Engineering and Maintenance Portfolio Holder presented a report concerning a petition regarding the use of Market Square in Waltham Abbey for parking. A petition of approximately 500 signatures had been received requesting that Market Square in Waltham Abbey be opened on non-market days as a free short-stay car park. Market Square had been kept free of traffic on all but market days, except for deliveries to premises that had no rear access, as part of the pedestrianisation of Sun Street. The Town Council had requested that access to Market Square be further restricted due to the nuisance and danger caused by vehicles improperly using the area.

The Cabinet felt that as there appeared to be a conflict between the wishes of the petitioners and the Town Council, wider opinion should be gauged before a decision was taken, including the Town Centre Partnership and the Highways Authority. It was also agreed that this consultation should be undertaken as part of the previously agreed review of parking in Waltham Abbey, and consider whether any car parking in Market Square should be free or subject to pay and display.

#### **RESOLVED:**

- (1) That the receipt of the petition regarding parking in Market Square, Waltham Abbey be noted;
- (2) That given the historic nature of the town, and as part of the already agreed review of parking in Waltham Abbey, a consultation exercise be undertaken in order to determine the level of local support for a change of use of the Market Square, with a further report to be submitted to the Cabinet.
- (3) That the first named petitioner be informed accordingly.

**Reasons for Decision:**

Given the historic nature of the town, it was important that there was a consensus for the proposed change. The Council's Constitution required that the lead petitioner be informed of the outcome of the petitioners' request.

**Other Options Considered and Rejected:**

To agree to the change without consultation, or to reject the change without consultation. Alternatively, the nature of the consultation could be either extended or restricted.

**195. PLANNING ENFORCEMENT - BIRCHFIELD, EPPING LANE, STAPLEFORD TAWNEY**

The Planning and Economic Development Portfolio Holder presented a report in respect of the planning enforcement notice at Birchfield in Epping Lane, Stapleford Tawney. The Cabinet were reminded that at its previous meeting, the Head of Environmental Services had been authorised to invite quotations from specialist companies to achieve the requirements of the planning enforcement notice, and report back on the non-planning based powers available for dealing with the site. No decision had yet been taken on the Council's preferred tender, however it was felt that £50,000 should be sufficient to clear the site. The Cabinet were also informed that additional fly tipping had taken place on the site since its previous occupiers had vacated it.

The Portfolio Holder further added that the Council could take action under Section (79) of the Public Health Act 1936 to remove noxious matter from land, Section (34) of the Public Health Act 1961 to deal with material in the open air that was seriously detrimental to the amenities of the neighbourhood, and Sections (79) and (80) of the Environmental Protection Act 1990 to deal with any accumulation that was either a nuisance or prejudicial to health. Notices could be served upon the owner/occupier of the land but if appealed it would be up to the courts to decide whether the Council had used its powers appropriately, considering the nature of the material, its proximity to people or buildings, and the presence of other associated problems such as vermin. The law permitted the Council to recover its costs through various mechanisms, but it was considered unlikely that this would happen in the case of Birchfield.

**RESOLVED:**

That in accordance with the requirements of the planning enforcement notice for Birchfield in Epping Lane, Stapleford Tawney:

- (a) the Head of Environmental Services be authorised to enter into a contract for the clearance of rubbish, caravans and mobile homes from the site; and
- (b) a supplementary DDF estimate in the sum of £50,000 be recommended to the Council for approval.

**Reasons for Decision:**

To remedy the harm that had already been caused and to prevent further exacerbation of that harm, it was necessary to take steps to secure compliance with the enforcement notice and return the land to its original condition, which would create the conditions for the lawful use of the land to resume. There were constraints associated with the alternative non-planning based remedies.

**Other Options Considered and Rejected:**

To do nothing would leave the site in its current condition and the requirements of the enforcement notice would not be met.

To take direct action to partially secure compliance with the requirements of the enforcement notice would involve the employment of a phased approach to full compliance and create the conditions for the land to be returned to its lawful use, but would also expose the Council to unknown costs.

There was no legal mechanism for the Council to secure the site.

**196. EXCLUSION OF PUBLIC AND PRESS**

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:

<b><u>Agenda Item No.</u></b>	<b><u>Subject</u></b>	<b><u>Exempt Information Paragraph Number</u></b>
4a	Refuse Service – Satisfaction Survey	3
19	Petition – Alternate Weekly Refuse Collections	3
24	Waste Management Cabinet Committee Report	3

**197. REFUSE SERVICE - SATISFACTION SURVEY**

The Finance and Performance Management Portfolio Holder presented a report concerning a possible satisfaction survey on the refuse service provided by the Council, to be conducted in Chigwell following the implementation of wheeled bins in 2005. The Portfolio Holder had approached Chigwell Parish Council to consider undertaking a consultation exercise on behalf of the Council, as Chigwell had been one of the first areas to receive wheeled bins and had seen a subsequent substantial increase in recycling rates. Chigwell Parish Council had offered to conduct a survey for £500, which would also include the collation of the survey responses. It had been

proposed that the survey be undertaken by means of a questionnaire contained within the newsletter that was regularly distributed by the Parish Council.

The Environmental Protection Portfolio Holder enquired as to the point of the survey; whether it was concerned with the general refuse service provided by the Council or more specifically the performance of the current waste management contractor. The Portfolio Holder reminded the Cabinet that it would shortly be considering a possible contract novation to another waste management contractor, and the proposed questionnaire could jeopardise this. The Portfolio Holder further advised the Cabinet that care needed to be taken over the actual questions asked, and the Council would need to explain the relevance of the measures that had been taken with respect to agreements that had been entered into with Essex County Council regarding landfill tax and recycling credits. The Portfolio Holder also advised that the consequences of extra costs and problems, which would arise if the Council switched to a different system of waste collection, should also be explained to residents. Finally, the Portfolio Holder informed the Cabinet that the number of complaints received per week from Chigwell had reduced to 29, of which 12 were not attributable to the current waste management contractor, and that both Lambourne and Chigwell were now recycling 41% of their waste under the new arrangements.

The Finance and Performance Management Portfolio Holder replied that the survey would not be directly related to the performance of the current waste management contractor as the Portfolio Holder felt that this was a second separate issue, but would be more concerned with the implementation of wheeled bins. The Portfolio Holder agreed that it would be good for the Environmental Protection Portfolio Holder to provide a foreword for the questionnaire that would explain the wider waste management issues, and felt that it would be beneficial if the data compiled by the Council could be reinforced by feedback from local residents. The Portfolio Holder agreed to include Lambourne Parish within the survey as well, and felt that it would be the Environmental Protection Portfolio Holder, the relevant Overview and Scrutiny Panel, and eventually the Cabinet that would consider the responses from the survey.

**RESOLVED:**

That, at a cost of £700, Chigwell and Lambourne Parish Councils be requested to undertake a survey regarding the refuse service on behalf of the Council.

**Reasons for Decision:**

Whilst the data gathered would be limited, it would provide a useful snapshot of performance, and the results would be obtained quicker, and at less cost, than if the Council engaged a market research consultancy. The information obtained from the survey would also be useful in the ongoing negotiations with the waste contractor and might inform future policy decisions on the refuse service. The Parishes chosen represented both an urban and rural area of the District.

**Other Options Considered and Rejected:**

To not conduct a survey at this time, or to commission a different organisation to conduct a survey in the same or different areas.

**198. PETITION - ALTERNATE WEEKLY REFUSE COLLECTIONS**

The Environmental Protection Portfolio Holder presented a report concerning a petition that had been received in respect of alternate weekly refuse collections. The Cabinet were informed that a petition with approximately 175 signatures had been received from residents in Buckhurst Hill, which: had deplored the reduction of general household rubbish collections from weekly to fortnightly; had claimed that this had been done without any consultation of residents; and would create a serious health hazard. The Portfolio Holder reminded the Cabinet that the issues had been thoroughly debated at two Cabinet meetings before it was agreed to introduce the alternate weekly wheeled bin collection system, as this was the only system that had been able to attain the levels of recycling required to meet the statutory targets and avoid landfill penalties. The Portfolio Holder also stated that recycling levels had increased from 25% to 41% in Lambourne and Chigwell following the introduction of the system.

The Cabinet agreed the suggested response to the lead petitioner by the Environmental Protection Portfolio Holder, but felt that rather than no action be taken, the Cabinet should reconsider the matter after the previously agreed Waste Management Survey had been undertaken in Chigwell and Lambourne. It was also agreed to include the survey in the response to the lead petitioner.

**RESOLVED:**

- (1) That the receipt of a petition from approximately 175 residents in Buckhurst Hill regarding alternate weekly collections of household waste be noted;
- (2) That the Cabinet reconsider the matter pending the result of the waste management survey to be undertaken in Chigwell and Lambourne; and
- (3) That the following response be made to the lead petitioner:
  - (a) it was accepted that there had not been a formal consultation exercise; however, the 'Forester' had covered the issues ahead of the decision, and in any event, in this instance, the Cabinet had to base its decision on the targets that had been set and the evidence from other authorities who were achieving high levels of recycling; the Cabinet were satisfied that there was no viable alternative;
  - (b) alternate weekly collections were not financially driven; whilst costs was of necessity a consideration, the fundamental reason for alternate weekly collections was that it required residents to recycle as much as they can; if they did so then there was enough capacity in the wheeled bin to hold residual waste;
  - (c) there was no demonstrable health hazard associated with alternate weekly collections; it had been clearly demonstrated elsewhere, that with the adoption of common sense housekeeping methods, such as the wrapping of food waste etc, no difficulties should arise; any smells, which might arise in the warmer months, could be satisfactorily dealt with through the use of disinfectant powders and the like;
  - (d) there was as yet no evidence to suggest that fly tipping had increased due to the new system; all incidences of the fly tipping of domestic waste would be investigated and subject to suitable evidence being obtained, legal action would be taken;



(e) as stated above, this was not a financially driven exercise; the costs of the new arrangements were greater than the former system, due in the main to the capital costs associated with the wheeled bins and lifting equipment; the costs of refuse and recycling collection for 2005/06 was £0.80p per household per week and the budgeted cost for 2006/07 was just over £1 per household per week; less than half of this was met directly through the Council Tax, the remainder being met through government grant (via direct taxation); and

(f) that a survey in respect of the new waste management arrangements would be undertaken shortly in Chigwell and Lambourne.

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

The concerns that had been raised were commonplace in all areas where an alternate weekly system had been introduced. Over time, these concerns would dispel as residents became familiar with and properly used the recycling elements of the service. The concerns were fully understood, but if the Council was to achieve its statutory target, and the local target that it had set itself of 40% recycling by the end of 2006/07, then it had to continue with the implementation programme.

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

The Council's Constitution required that all petitions be responded to, thus there was no alternative in that regard. At the current stage in the implementation programme, it was felt that there were no alternatives for the suggested response to the lead petitioner.

### **199. WASTE MANAGEMENT CABINET COMMITTEE REPORT**

The Environmental Protection Portfolio Holder presented a report of the Waste Management Cabinet Committee. The Portfolio Holder informed the Cabinet that the two major issues considered by the Cabinet Committee had been the contract performance and the future viability of South Herts Waste Management (SHWM). The Committee noted that since steps to introduce wheeled bins had been undertaken there had been a marked deterioration in performance. It had been noted that the number complaints received in respect of the service was at a level that could result in either financial penalties or even termination under the terms of the contract. SHWM had accepted that the level of service had declined but had disputed the level of complaints received by the Council. SHWM had undertaken to improve the service through the addition of extra management and improved management of the collection crews.

With regards to the future viability of SHWM, the Portfolio Holder reported that SHWM maintained that they had been providing a service over and above the terms of the contract, for which the Council had not adequately compensated them. SHWM had also contended that the Council had unfairly deducted monies in respect of defaults and the costs of vehicles at the end of their lease. The Cabinet had already resolved at its meeting in February 2006 to make 'without prejudice' payments to SHWM in respect of the end of lease vehicles, along with additional monies for the garden waste collections. The Council's waste management consultants, Indecon, had concluded that, with the exception of the payments due for the end of lease vehicles, SHWM had received the correct payments for the service provided.

The Cabinet Committee had been informed that a new company called Regional Waste Recycling (RCR), formed in December 2005, were proposing to acquire the

waste management assets of SHWM, and that they would be seeking the assignment of the Council's current contract with SHWM. The Cabinet Committee's request for references in support of RCR's previous experience had not been met by the time of the meeting. The Cabinet Committee was of the opinion that an assignment of the contract to RCR would be unacceptable due to the lack of references, and that a number of its Directors were also associated with SHWM.

When the Cabinet Committee had considered the remaining options available to the Council, Legal Officers had advised that a negotiated settlement would be preferable as this avoided the possibility of protracted and expensive litigation. The procurement process would also have to be carefully managed as EU rules only provided limited options for avoiding the full tendering process. Should the contract end other than through a negotiated route then it would be more advantageous for the Council for the contractor to have brought this about. Environmental Services officers had informed the Cabinet Committee that two major waste management contractors had expressed interest in managing the period between the contract end and a future procurement process. Following discussions with both, it was felt that Cory Environmental were the better option as they were willing to assist the Council further, other than simply seeking a long term contractual arrangement. Officers were also investigating the possibility of assigning or novating the contract rather than engaging in a full procurement process.

The Head of Environmental Services advised the Cabinet that contingency arrangements had been put in place when doubts were raised over the future viability of SHWM, and discussions had taken place with two major waste management contractors. Both had insisted that the Council make an early decision over which company would be preferred in order to cost up their final plans. Cory Environmental had offered a greater degree of flexible assistance, regardless of the option chosen by the Council, and they also had other contracts within Essex. The intention would be to assign or novate the remaining three and a half years left on the contract from SHWM to Cory Environmental, although the contract itself and the method statements would need to be reviewed. The negotiations would have to be concluded with Cory Environmental by the beginning of May in order to implement the new arrangements. The Head of Environmental Services undertook to report back to the Cabinet when the negotiations were completed, and that weekly updates would appear in the Members' Bulletin.

The Environmental Portfolio Holder stated that Cory Environmental were an international company with an excellent reputation that were keen to assist the Council at the current time. The Portfolio Holder reassured the Cabinet that there were no plans to radically alter the current systems of collection, although some disruption was inevitable during the changeover period. The Portfolio Holder requested that the Cabinet endorse the decision to undertake sole negotiations with Cory Environmental, and presented a new recommendation that the Council's preferred option would be to assign or novate the contract to Cory Environmental as opposed to undertaking a full procurement process.

**RESOLVED:**

- (1) That the outcome of the three meetings of the Waste Management Contract Cabinet Committee be noted;
- (2) That the Waste Management Contract Cabinet Committee's preferred option of terminating the contract with South Herts Waste Management through a negotiated settlement be agreed;

- (3) That, in order to meet the costs of a negotiated settlement and the initial costs of service re-provision, a supplementary CSB estimate of £200,000 be recommended to the Council for approval;
- (4) That, in respect of service re-provision, the decision to undertake sole negotiations with Cory Environmental Limited be endorsed;
- (5) That the waste management contract be novated or assigned to Cory Environmental Limited; and
- (6) That, as any delay in making the above decisions could seriously prejudice the Council's or public interest, and in accordance with paragraph (21) of the Council's Overview and Scrutiny Rules, the call-in procedure for the above decisions be waived.

**Reasons for Decision:**

The proposed course of action would provide a controlled termination of the contract, the avoidance of expensive litigation and the least possible disruption to services. In accordance with paragraph (21) of the Overview and Scrutiny Procedure Rules, the Chairman of the Council had agreed that it was reasonable to consider this issue as urgent and that the normal Call-In procedure should be waived.

**Other Options Considered and Rejected:**

To not assign the contract to Regional Waste Recycling and act to bring the contract to an end. To not assign the contract to Regional Waste Recycling and simply await developments. To assign the contract to Regional Waste Recycling.

**CHAIRMAN**

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