



# Epping Forest District Council

## **CABINET**

**Monday, 19th February, 2007**

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

**Time:** 7.00 pm

**Committee Secretary:** Gary Woodhall (Research and Democratic Services)  
Email: gwoodhall@eppingforestdc.gov.uk Tel:01992 564470

Members:

Councillors Mrs D Collins (Leader and Leaders Portfolio Holder) (Chairman), C Whitbread (Vice-Chairman), A Green, Mrs A Grigg, J Knapman, S Metcalfe, Mrs M Sartin, D Stallan and Ms S Stavrou

**PLEASE NOTE THE START TIME OF THE MEETING  
THE COUNCIL HAS AGREED REVISED PROCEDURES FOR THE OPERATION OF  
CABINET MEETINGS. BUSINESS NOT CONCLUDED BY 10.00 P.M. WILL, AT THE  
DISCRETION OF THE CHAIRMAN, STAND REFERRED TO THE NEXT MEETING OR  
WILL BE VOTED UPON WITHOUT DEBATE**

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST**

(Head of Research and Democratic Services) To declare interests in any item on this agenda.

- 3. ANY OTHER BUSINESS**

Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs (6) and (24) of the Council Procedure Rules contained in the Constitution require that the permission of the Chairman be obtained, after prior notice to the Chief Executive, before urgent business not specified in the agenda (including a supplementary agenda of which the statutory period of notice has been given) may be transacted.

In accordance with Operational Standing Order 6 (non-executive bodies), any item raised by a non-member shall require the support of a member of the Committee concerned and the Chairman of that Committee. Two weeks' notice of non-urgent items is required.

**4. BEST VALUE PERFORMANCE PLAN 2007/08 - SUMMARY VERSION (Pages 5 - 12)**

(Finance, Performance Management and Corporate Support Services Portfolio Holder) To consider the attached report (C/113/2006-07).

**5. REVIEW OF THE SEVERANCE POLICY - REDUNDANCY AND EARLY RETIREMENT (Pages 13 - 20)**

(Finance, Performance Management and Corporate Support Services Portfolio Holder) To consider the attached report (C/114/2006-07).

**6. WASTE MANAGEMENT CONTRACT AND SPECIFICATION (Pages 21 - 30)**

(Customer Services, Media, Communications and ICT Portfolio Holder) To consider the attached report (C/115/2006-07).

**7. EAST OF ENGLAND PLAN - RESPONSE TO PROPOSED CHANGES (Pages 31 - 52)**

(Planning and Economic Development Portfolio Holder) To consider the attached report (C/116/2006-07).

**8. CONTRACT STANDING ORDERS AND OFFICER DELEGATIONS REVIEW (Pages 53 - 58)**

(The Leader of the Council) To consider the attached report (C/117/2006-07).

**9. EXCLUSION OF PUBLIC AND PRESS**

**Exclusion:** To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the following paragraph(s) of Part 1 of Schedule 12A of the Act (as amended) or are confidential under Section 100(A)(2):

<b>Agenda Item No</b>	<b>Subject</b>	<b>Exempt Information Paragraph Number</b>
Nil	Nil	Nil

The Local Government (Access to Information) (Variation) Order 2006, which came into effect on 1 March 2006, requires the Council to consider whether maintaining the exemption listed above outweighs the potential public interest in disclosing the information. Any member who considers that this test should be applied to any currently exempted matter on this agenda should contact the proper officer at least 24 hours prior to the meeting.

**Confidential Items Commencement:** Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

- (1) All business of the Council requiring to be transacted in the presence of the press and public to be completed by 10.00 p.m. at the latest.

- (2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.
- (3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.

**Background Papers:** Paragraph 8 of the Access to Information Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report and does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of any political advisor.

Inspection of background papers may be arranged by contacting the officer responsible for the item.

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### **Report to the Cabinet**

**Report reference: C/113/2006-07.**

**Date of Meeting: 19 February 2007.**

**Portfolio: Finance, Corporate Support Services and Performance Management.**

**Subject: Best Value Performance Plan 2006/07 – Summary Version.**

**Officer contact for further information: Steve Tautz (01992 - 564180).**

**Democratic Services Officer: Gary Woodhall (01992 - 564470).**

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#### **Recommendations/Decisions Required:**

**That, subject to the concurrence of the Finance and Performance Management Scrutiny Panel, the Council's Summary Best Value Performance Plan for 2007/08 be agreed.**

#### **Report:**

1. The Local Government Act 1999 and the Best Value regime require the Council to produce an annual performance plan. The Plan is required to:

(a) summarise the Council's successes in meeting its key priorities, objectives and targets;

(b) show where these key priorities, objectives and targets were not met;

(c) inform customers of the council's key priorities, objectives and targets for the next year; and

(d) compare the Council's performance with that for previous years.

2. The Council's Best Value Performance Plan (BVPP) is produced in two versions each year. A detailed version of the Plan is prepared for the Government, the Audit Commission and other bodies involved in the evaluation of the council's performance, which is also made available to those who desire a comprehensive explanation of its plans and activities. In addition and in accordance with a recommendation of the Audit Commission, a short summary of the BVPP is also distributed to all households in the district within the explanatory leaflet issued with the annual Council Tax demands.

3. The draft summary BVPP for 2007/08 is attached at Appendix 1 to this report. The draft summary BVPP was considered by the Finance and Performance Management Scrutiny Panel at its meeting on 12 February 2007, and the views of the Scrutiny Panel will be reported to the Cabinet meeting. In order to minimise costs and contain the summary within the Council Tax leaflet, the detail of the draft summary relates primarily to the council's main objectives for the current year and its targets for 2007/08. Fuller detail on specific performance including full year performance against national and local performance indicators will be set out in the full version of the BVPP to be published in June 2007, which will be reported to a future meeting of the Cabinet for consideration.

4. The Cabinet is requested to consider and agree the draft summary BVPP.

#### **Statement in Support of Recommended Action:**

5. To enable the publication of summary performance information within the Council Tax

demands to be issued in March 2007, in accordance with best practice identified by the Audit Commission.

**Other Options Considered and Rejected:**

6. None. In previous years the BVPP Summary had been hand-delivered, but for the last four years production costs have been reduced at the request of members to enable it to be contained within the Council Tax leaflet.

**Consultation undertaken:**

7. All Heads of Service have contributed to the content of the BVPP Summary. The Finance, Performance Management and Corporate Support Services Portfolio Holder, Management Board and the Finance and Performance Management Scrutiny Panel have agreed the draft BVPP Summary.

**Resource implications:**

**Budget provision:** The publication of the BVPP Summary will be met from within existing Performance Management Unit budget.

**Personnel:** The publication of the BVPP Summary will be met from within existing Performance Management Unit staff resources.

**Land:** Nil.

**Council Plan/BVPP reference:** Council Plan Section 8 – ‘How We Measure Our Achievements’.

**Relevant statutory powers:** Local Government Act 1999.

**Background Papers:** None.

**Environmental/Human Rights Act/Crime and Disorder Act Implications:** Nil.

**Key Decision Reference (if required):** None.

## Our Priorities and Performance

Each year we publish a Best Value Performance Plan to tell you what our priorities are and how we are performing. A summary of our priorities and performance is set out in this leaflet. We will produce our next performance plan in June 2007 and you will be able to obtain a copy by:

Writing to us at: Epping Forest District Council, Civic Offices, High Street, Epping, Essex, CM16 4BZ, telephoning us on: 01992 564471, faxing us on: 01992 578018, or E-mailing us at: [bestvalue@eppingforestdc.gov.uk](mailto:bestvalue@eppingforestdc.gov.uk)

## Our Customer Charter

We have developed our Customer Charter to let you know the overall standards that you can expect from the council and how we will work to provide the best services for the district that we can. We will:

- Consult with our customers, listen to what they say, and respond in the best way we can;
- Be open in all financial matters, and always remember we are spending public money;
- Constantly search for ways in which we can improve our services;
- Respond to changes which affect our customers;
- Be open and honest in all our dealings, and treat everyone equally and fairly;
- Strive towards excellence in all our services, and provide the best value available;
- Invest in our staff through training and development so we can provide the best service; and
- Do our best to care for the environment for today and for the future.

## Our Priorities

Our Medium Term Priorities are the foundation steps of our services and contribute to everything that we do. Our priorities are:

### Policy Theme One

#### Aims

A safe, healthy and attractive place

- To maintain the special character and advantage of the District, and address local environmental issues
- To address key housing need
- To create safer communities
- To encourage sustainable economic development
- To address leisure need

### Policy Theme Two

#### Aims

An organisation that listens and leads to resolve

- To ensure political leaders give clear direction
- To communicate with the public about service delivery
- To prioritise objectives and services
- To co-operate and plan with partners

### Policy Theme Three

#### Aims

Accessible, affordable and improving services

- To identify and target resources; realise capacity and manage performance
- To procure services in the most beneficial and cost effective way
- To develop services, staff and working environment

## Our Thematic Approach

In this summary of the Best Value Performance Plan we have linked the way in which we provide services to the following themes of the Community Strategy for 2004 to 2021. The Community Strategy sets out the major challenges facing the Epping Forest District over the long-term and how these will be addressed by statutory and voluntary agencies:

- Green and Unique
- A Safe Community
- Homes and Neighbourhoods
- Fit for Life
- Economic Prosperity

This leaflet shows what we have achieved so far during 2006/07 within each theme, and our aims for 2007/08. We hope that you find this useful.

### **Green and Unique**

One of the key objectives of the Community Strategy is that the district will maintain a unique, green and sustainable environment in which communities prosper. This vision is reflected in our medium-term priorities, which seek to maintain the special character and advantage of the district and address local environmental issues. Our Environmental Protection and Civil Engineering and Maintenance Portfolios, and the planning functions of the Planning and Economic Development Portfolio, are included within this theme.

### **Last year we**

- completed the introduction of a new wheeled bin waste collection and recycling service throughout the district;
- commenced the remediation of Bobbingworth Tip;
- implemented the Licensing Act 2003 in respect of all premises and persons involved in the sale of alcohol and/or the provision of public entertainment;
- implemented parking schemes for Buckhurst Hill and Epping;
- commenced a programme of enhancements to some of the Council's public car parks;
- commenced parking reviews in Loughton and Waltham Abbey and agreed proposals for local parking controls;
- implemented a restructure of our planning services to improve service delivery;
- continued to implement a new planning information technology system;
- improved and maintained local land charge and planning application turnaround times; and
- achieved and maintained top quartile performance for our development control function.

### **This year we aim to**

- develop a new waste management contract to further improve recycling and diversion from landfill, and meet residents wishes for the nature of the service;
- develop and adopt the Council's statutory policies on gambling to ensure the protection of the public and young people;
- complete the remediation of Bobbingworth Tip and undertake further assessments of potentially contaminated land within the district;
- protect the environment of the district through the use of statutory powers, education and the adoption of good environmental practice;
- develop further internal and external links with other local authorities, agencies and the Primary Care Trust through the Essex Local Area Agreement;
- review our parking policies and re-let a parking enforcement contract;
- provide free parking on Saturdays throughout the year;
- reduce the risks of localised flooding through the maintenance and enforcement of controls relating to watercourses;
- seek to ensure that the highway infrastructure in the district is adequately maintained and improved through formal liaison arrangements with Essex County Council;
- complete the implementation of the new planning information technology system to its full specification; and
- re-establish a professional team within Building Control.

### **A Safe Community**

A second key objective of the Community Strategy is for the Epping Forest District to be an area where people will be reassured that criminal and disorderly behaviour is unusual and, where it does occur, that the police, other agencies and members of the community will do their utmost to ensure that those responsible are brought to justice. This vision is reflected in our medium-term priorities, which seek to maintain the district as a safe, healthy and attractive place. The Community Wellbeing Portfolio is included in this theme.

### **Last year we**



- implemented a system for issuing bus passes by post, in order to reduce inconvenience to users;
- implemented the Civil Contingencies Act 2004 in partnership with other agencies with an emergency response role;
- implemented an enhanced scheme of free travel for users of bus passes; and
- developed an operational and strategic plan to respond to anti-social behaviour issues.

***This year we aim to***

- increase the number of Service Level Agreements for community groups in receipt of long-term funding;
- implement a '2 Smart 4 Drugs' scheme in schools, to provide education about drugs, alcohol and staying safe;
- implement a training programme for town and parish councils explaining the law in respect of anti-social behavior; and
- develop a strategy with Essex Police on the deployment of Police Community Support Officers.

**Homes and Neighbourhoods**

Another of the key objectives of the Community Strategy is that the district has safe, decent and attractive housing that meets the needs of those who want to live in the district. This vision is reflected in our medium-term priorities, which seek to address key housing need. The Housing Portfolio is included within this theme.

***Last year we***

- commenced the implementation of a choice based lettings scheme for council housing vacancies and housing association nominations;
- introduced an 'Empty Homes' Strategy and associated initiatives to reduce the number of empty private sector properties;
- commenced the use of introductory tenancies for all new tenants, in order to reduce anti-social behaviour; and
- transferred the Wickfields sheltered housing scheme at Chigwell to Home Housing, to enable an improvement scheme to be undertaken.

***This year we aim to***

- complete the implementation of the choice based lettings scheme;
- complete the first development of Council-owned housing sites, to provide around 35 affordable homes, subsidised by the sale of other properties on the sites;
- commence a major improvement scheme at Springfields, Waltham Abbey;
- implement a licensing regime for houses in multiple occupation to ensure that they provide safe accommodation;
- initiate a 'Finders Fee' scheme to bring at least five private sector empty properties back into use per annum;
- meet, the Government's Respect Standard for Housing Management, giving a public commitment to the Council's approach for dealing with anti-social behaviour; and
- seek re-accreditation of the Charter Mark Award for Excellence, for the whole of Housing Services.

**Fit for Life**

A fourth key objective of the Community Strategy is that the Epping Forest District will be an area where people of all ages and abilities can lead a healthy lifestyle by having access to effective high quality leisure and cultural services. This vision is reflected in our medium-term priorities, which seek to address leisure need. The Leisure and Young People Portfolio is included within this theme.

***Last year we***

- worked in partnership with our leisure management contractor to improve facilities at the Council's leisure centres and increase participation by people of all ages and abilities;
- carried out Community Arts Project to celebrate the rural character of the district, with financial assistance from East of England Arts;
- worked in conjunction with external funding agencies, the local parish council and the local community, to refurbish playing fields at Matching Tye into a valuable amenity area;
- increased opportunities for young people in the district to be involved in decisions which affect their lives by promoting citizenship and supporting the work of local youth councils and the Essex Young People's Assembly;
- expanded the range of accessible opportunities for people to lead a healthier lifestyle through the 'Active Life Programme'; and

- improved access and awareness of the collections held at our Museum and promoted a new community outreach programme.

#### ***This year we aim to***

- consider proposals for the future management of the Roding Valley Meadows Local Nature Reserve and the Dual Use Sports Centre at Waltham Abbey;
- seek to improve opportunities for local people of all ages and abilities to become more involved in arts and community events; and
- enter into a management agreement with an external leisure contractor to manage and improve facilities at Epping Sports Centre,

#### **Economic Prosperity**

The final key objective of the Community Strategy is that the district will have a thriving and sustainable local economy, which extends opportunity for local residents and promotes prosperity throughout the district. This vision is reflected in the Council's own medium-term priorities, which seek to encourage sustainable economic development. The Economic Development function of the Planning and Economic Development Portfolio is included within this theme.

#### ***Last year we***

- completed Phase 2 of the Loughton Town Centre enhancement scheme and commenced work on and enhancement scheme for The Broadway at Loughton.

#### ***This year we aim to***

- complete the town centre enhancement scheme for The Broadway at Loughton.

#### **Improving Our Performance**

This theme is not directly linked to the Community Strategy, but reflects key areas where the Council has recognised that it needs to improve current services on performance. The Leader's Portfolio, the Finance, Performance Management and Corporate Support Services Portfolio, and

the Customer Services, Media, Communications and Information Technology Portfolio are included within the theme. These important corporate services provide essential support to the work of the Council.

#### ***Last year we***

- kept the Council Tax increase below 3%;
- investigated the development potential of some Council-owned car parks, whilst retaining adequate public car parking;
- carried out a review of the Council's Recruitment and Retention Strategy;
- completed the sale of the Parade Ground site at North Weald Airfield;
- updated the strategic risk register and involved our councillors more actively in risk management;
- expanded the number of services for which payment can be made via our website;
- introduced the Essex Marketplace electronic ordering system;
- implemented a new performance management computer system, to provide accurate and timely information about our performance;
- carried out a range of customer satisfaction surveys in accordance with Government requirements;
- achieved the independently assessed Lexcel quality accreditation for our legal services, to improve the services that we provide.;
- achieved 'good' priority outcomes for E-Government as defined by the Government;
- developed an information technology training programme and implemented electronic services for our councillors;
- developed access to our services through the Directgov website of government information and services;
- introduced new joint arrangements for the provision of information services at Loughton Library;
- reviewed current arrangements for meetings of the full Council;
- improved electoral registration and voting arrangements;
- implemented a staged member Remuneration Scheme;
- introduced a pilot scheme for the web casting of council meetings;
- re-launched the councillor training programme; and
- reviewed arrangements for the funding of civic ceremonial matters.

#### ***This year we aim to***

- keep the Council Tax increase below the increase in the Retail Price Index;
- commence data conversion and system implementation work on a new Revenues and Benefits IT system;
- introduce mobile working in the Benefits Service;
- **implement a new procurement strategy, and join the Essex Procurement Hub to deliver cost and efficiency savings through collaboration with other District Councils in Essex;**
- develop core elements of our Customer Services Transformation Programme;
- consider opportunities for shared service delivery across Essex, as part of the 'Transformational Government' initiative;
- implement the planned elements of the Corporate ICT Strategy (2006 –2008);
- implement the second phase of the Electronic Records and Document Management System;
- fully computerise the Land Tierrier;
- implement an e-Bookings System;
- further develop public access to services through the Government Connect (Direct.Gov);
- review our contract standing orders, financial regulations and scheme of officer delegation;
- carry out a further review of Overview and Scrutiny and the Member Training Programme;
- implement the new statutory requirements for elections and electoral register; and
- respond to legislative charges affecting the Council's governance arrangements and constitution proposed by the Government.

Want to find out more?

If you would like to know more about our priorities and performance, you can write to us or contact our Performance Management Unit on the telephone and fax numbers or email address given earlier in this leaflet.

Copies of the Best Value Performance Plan will also be available at our information centres, or from our website ([www.eppingforestdc.gov.uk](http://www.eppingforestdc.gov.uk)). We will also be able to provide a copy in large print or on audiotape if required.

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## **Report to the Cabinet**

**Report reference: C/114/2007-08.**

**Date of meeting: 19 February 2007.**



**Epping Forest  
District Council**

**Portfolio: Finance, Performance Management and Corporate Services.**

**Subject: Review of the Severance Policy for Redundancy and Early Retirement.**

**Officer contact for further information: Bob Palmer (01992 – 564279).  
Tony Tidey (01992 – 564054).**

**Democratic Services Officer: Gary Woodhall (01992 – 564470).**

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### **Recommendations/Decisions Required:**

- (1) That the changes to the framework for early retirement and redundancy compensation contained in the Local Government (Early Termination of Employment)(Discretionary Compensation)(England and Wales) Regulations 2006 be noted;**
- (2) That in cases of redundancy Option 3 (paragraph 7) be adopted as the basis for redundancy payments to be made to employees whose employment is terminated by reason of redundancy (whether the individual is eligible to receive payment of early retirement benefits or not);**
- (3) That, under the 2006 Regulations, compensatory added years may not be paid in any cases of early retirement (ie neither on grounds of redundancy nor efficiency of the service) be noted;**
- (4) That, in the interests of the efficiency of the service, Option 7 (paragraph 7) be adopted in cases of retirement as the basis for early retirement benefits to be paid to individuals;**
- (5) That the above changes be implemented with effect from 1 March 2007, without a transitional period between the old policy and these proposals; and**
- (6) That the ongoing wider review of the Local Government Pension Scheme be noted, and will be the subject of a further report when the proposals are confirmed.**

### **Background:**

1. At its meeting on 10 July 2006 the Cabinet received a report concerning the Local Government Pension Scheme Amendment (Regulations 2006) and noted that a further report would be submitted when further regulations and guidance on these had been issued. This is still awaited. However, in the meantime the Department for Communities and Local Government (DCLG) has published other regulations, which provide for changes to the Severance and Early Retirement Scheme, effective from 1 October 2006. These changes are required following the introduction of age discrimination legislation from this date which in many cases precludes the making of payment based on age and length of service. The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (hereafter referred to as 'the Regulations') provide Local Government employers with revised powers to make compensation payments to employees whose employment is terminated early by reason of redundancy, in the interests of the efficiency of the service, or in the case of a joint appointment because the other holder

of the appointment has left it. The regulations came into force on 29 November 2006 and have retrospective effect from 1 October 2006.

2. The Regulations no longer provide local government employers with powers to award compensatory added years to an individual's accrued pension entitlements in cases of redundancy or early retirement, but provide employers with powers to consider making a one-off lump sum payment to an employee, which must not exceed 104 weeks pay.

3. The Regulations also contain transitional provisions to the end of the 2006/7 financial year whereby an employer may choose to use either the existing provisions or the new Regulations for a person whose employment with them commenced before 1 October 2006 and whose termination date is on or after 1 October 2006 and before 1 April 2007. This means that an employer may make an award of compensatory added years to an individual's accrued pension entitlements where an employee's employment is terminated before 1 April 2007. Given that there are probably no staff who are likely to be in this position before 1 April 2007, it is recommended that this transitional provision be not applied.

4. Cabinet will be aware that there has been a national debate on the future of Public Sector pension schemes. The changes set out in this report arise from the changes needed because of age discrimination and do not form part of the outcomes from that debate. As a separate measure the Department for Communities and Local Government is also carrying out a statutory consultation exercise to introduce a regulatory framework to provide a new look Local Government Pension Scheme (LGPS) with effect from 1 April 2008. The Government's objectives are to ensure that measures to reform the scheme are affordable, viable and fair and that the scheme itself should be as flexible and accessible as possible to provide a modern, equality-proofed range of defined benefits. These changes will be the subject of a further report to Cabinet once clarification has been received.

**The Council's Current Policy:**

5. The Council has a longstanding policy of making use of the previous discretions available to offer enhancement to the levels of payment made in cases of redundancy and early retirement. That said, there have been relatively few cases of redundancy and/or early retirement in recent years. The main elements of the existing policy are now set out:

*The current policy on the award of added years to staff over 50 leaving (ie retiring) on grounds of redundancy or efficiency.*

<b>Continuous Years of Local Government Reckonable Pension Services</b>	<b>Redundancy Cases Added Pension Years</b>	<b>Efficiency Cases Added Pension Years</b>
More than or equal to 30	Up to 6	Up to 4
More than or equal to 25 but less than 30	Up to 5	Up to 3
More than or equal to 20 but less than 25	Up to 4	Up to 2
More than or equal to 15 but less than 20	Up to 3	Up to 1
More than or equal to 10 but less than 15	Up to 2	Nil
More than or equal to 5 but less than 10	Up to 1	Nil
Less than 5	Nil	Nil

6. The above discretionary amounts could be supplemented, based on total years service with this Authority in accordance with the following table:

<b>Number of Total Years Service with EFDC</b>		
More than or equal to 20	Up to 2	Up to 2
More than or equal to 10 but less than 20	Up to 1	Up to 1

7. Where appropriate, for part time employees, the total added years granted will be reduced pro-rata to full time equivalent.

*Employees (under the age of 50) whose employment ends through redundancy or efficiency of service*

8. In these cases a lump sum compensation payment of up to 66 weeks may be paid subject to the scale maxima conditions set out below. Column A sets out the statutory payments the Council is required to make, whilst Column B sets out the Council's adopted scheme, which improves on the statutory position:

	<b>A</b>	<b>B</b>
	<b>Statutory Redundancy Payment</b>	<b>Maximum Discretionary Compensation – applied by EFDC</b>
<b>Age on Leaving</b>	<b>Numbers of weeks pay</b>	
18 to 19	½ weeks pay per year of service from age 18	½ weeks pay per year of service from age 18
20 to 22	½ weeks pay per year of service from age 18	½ weeks pay per year of service from age 18 to 19  and  1 weeks pay per year of service from age 20
23 to 40	½ weeks pay per year of service from age 18 to 21 and 1 weeks pay per year of service from age 22 to 40 and 1 ½ weeks pay per year of service from age 41	2 weeks pay per year of total service from age 18  plus  3 weeks pay per year of service from age 41 (maximum 66 weeks pay)

9. Notes to the above table:

(a) The amount of any statutory redundancy payment must be deducted from any compensation award.

(b) An overall limit of 66 weeks pay applies, inclusive of the statutory redundancy payment.

(c) The discretion to award lump sum compensation payments for over 50s has the following conditions:

(i) any such payments awarded on the basis that the “up to 66 weeks” scale is used for redundancy cases only, with an “up to 45 weeks” scale being used for “efficiency of the service” cases as set out above; and

(ii) any such payments may be awarded as an alternative to any award of added years and/or possible statutory redundancy payment.

(d) It is also Council policy to use the actual weekly pay in statutory redundancy payment calculations where this exceeds the limits prescribed by the Employment Rights Act 1996.

**Discretions now available to the Council under the new Regulations:**

10. The table below sets out the policy options available to the Council:

<b>(a) REDUNDANCY (Where the employee is aged over 50 (or 55 from 2010) payment of pension without actuarial reduction based on accrued benefits will also be made on termination of employment)</b>		
		<b>Comments</b>
Option 1	Up to <b>30</b> weeks pay at statutory limit – currently <b>£290 p.w</b>	*Major reduction in level of payments. *Major impact on all staff - variable depending on salary range – 64% reduction @ £27,000 p.a. and 88% @ £55,000 p.a. *Major impact on employee relations. *Major constraint on flexibility in managing change. *Major impact on reputation as employer of choice.
Option 2	UP to <b>30</b> weeks pay at actual salary	*As above – 34 % to 55% reduction in level of payments.
Option 3	Up to <b>45</b> weeks pay (1.5 X statutory entitlement)	* Marginal reduction in level of payments and costs in cases of redundancy and retirement. *Up to 34% reduction in level of payments and costs in cases of redundancy only. *Retains some flexibility in managing change.



<b>Examples of potential savings in worked examples for option 3:</b>		
<b>Example 1</b>		
Salary - £25,000 (on retirement)		
Service - 5 years		
Age - 59		
New redundancy payment - £5,387.93		
Old redundancy payment - £7,183.95		
Saving - £1,796.02 (25%)		
<b>Example 2</b>		
Salary - £40,000 (on retirement)		
Service - 40 years		
Age - 59		
New redundancy payment - £33,333.18		
Old redundancy payment - £50,574.71		
Saving - £17,241.53 (34%)		
Option 4	Up to <b>60</b> weeks pay (2 X statutory entitlement)	*31% increase in levels of payments for redundancy and retirement with 7% increase in costs. *22% reduction in levels of payment in cases of redundancy only.
Option 5	Up to <b>104</b> weeks pay (3.5 X statutory entitlement)	*untenable increases in levels of both payments and costs.

<b>(b) TERMINATION OF EMPLOYMENT IN THE INTERESTS OF THE EFFICIENCY OF THE SERVICE (only applies if employee is aged over 50, or over 55 from 2010. In such circumstances an employee may draw their pension without actuarial reduction, based on their accrued benefits.)</b>		
		<b>Comments</b>
Option 6	Release of pension benefits with no discretionary payment	Would still incur cost of financial strain on pension fund. Retains flexibility to use this facility in appropriate cases. Little impact on employee relations.
Option 7	Release of pension benefits with a discretionary payment from options 1 – 5	<b>It is recommended that this discretion be exercised in tandem with Option 2 above</b> ie the individual would receive release of pension benefits plus a lump sum payment of up to 30 weeks actual pay, based on length of service.

11. The Cabinet will note that there are five options for redundancy and early retirement and two options for retirement in the interests of the efficiency of the service. In evaluating the options it is important to consider the following:

- (a) in cases of early retirement (with or without redundancy) the largest proportion of the cost to the Council is the strain on the pension fund, whereby a charge is made to compensate the fund for the early release of pension benefits;
- (b) the withdrawal of the discretion to award compensatory added years will produce an immediate reduction in ongoing costs, with a continuing reduction over time as existing commitments are fulfilled;
- (c) Options 1 and 2 introduce a reduction in the levels of payment to staff in cases of redundancy just at the point at which it is possible that these may be required;
- (d) Options 3, 4 and 5 are based on using discretion to make payments over the statutory limits using multipliers of the statutory entitlement. It is understood that this approach in determining levels of compensatory awards will be compliant with the age discrimination legislation. It is recommended that option 3 be adopted, as it provides a balance between a fair level of compensation and the associated costs to the Council;
- (e) Options 6 and 7 relate only to retirement in the interests of the efficiency of the service. Whilst there are relatively few cases in this category it does offer a cost effective solution to some cases. It is recommended that Option 7 is adopted as the preferred option in these cases together with a termination payment calculated using Option 2; and
- (f) it is recommended that the changes be implemented from 1 March 2007 with no transitional arrangements.

#### **The Position Taken by Other Authorities in Essex:**

12. Essex County Council has decided to implement option 3 and option 6 from the above table. Option 3 is in line with the proposals contained in this report. However, it is considered that option 6 does not provide the flexibility required to make staff changes of a certain nature. On occasions it maybe in the Authority's best interests to allow a member of staff to retire early on efficiency grounds, particularly where no clear redundancy situation exists and a costly and time consuming restructuring exercise is to be avoided.

13. Without a suitable incentive of this nature it is unlikely that an early retirement could be achieved in some cases, reducing the flexibility of management to bring about change where it is needed. Although only likely to be used on rare occasions, Option 7 provides a greater and more appropriate incentive.

14. An informal survey of other Essex District Councils indicated that a similar approach was to be taken by others, but the final position is not yet clear.

#### **Statement in Support of Recommended Action:**

15. The Council has experienced difficulties with its pension fund for a number of years in terms of the level of additional payments required to support commitments. The removal of added years in cases of early retirement will in the long-term reduce the strain on the pension fund. By choosing Option 3 for cases of redundancy compensation the proposal seeks to maintain payments at a reasonably comparable level to existing arrangements. It is considered that this approach is fair and equitable to both employees, the Council and Council Tax payers.

#### **Other Options for Action:**

16. The Council could choose another Option, which is more, or less generous to that proposed in this report.

**Consultation Undertaken:**

17. The recognised trade unions, via the Joint Consultative Committee on 25 January 2007.

**Resource implications:**

**Budget provision:** No on-going budget provision exists – each case is considered individually.

**Personnel:** As set out in this report.

**Land:** Nil.

**Community Plan/BVPP reference:** N/A.

**Relevant statutory powers:** Discretionary compensation regulations.

**Background papers:** File papers in Human Resources and Finance Services.

**Environmental/Human Rights Act/Crime and Disorder Act Implications:** N/A.

**Key Decision reference (if required):** N/A.

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## **Report to the Cabinet**

**Report reference: C/115/2006-07.**

**Date of meeting: 19 February 2007.**



**Epping Forest  
District Council**

**Portfolio: Environmental Protection.  
Customer Services, Media, Communications & ICT.**

**Subject: Waste Management Contract & Specification.**

**Officer contact for further information: John Gilbert (01992 – 564062).**

**Democratic Services Officer: Gary Woodhall (01992 – 56 4470).**

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### **Recommendations/Decisions Required:**

- (1) That in accordance with previous Cabinet decisions the contract be tendered on the following basis:
  - (a) a price be sought for an alternate weekly residual collection but with a weekly collection for the period May to September;
  - (b) a price be sought for an all year round weekly residual collection; and
  - (c) both options to retain the existing alternate weekly collection of dry and wet recyclable materials;
- (2) That the Cabinet's present policy on the waste contractor being responsible for fleet management be reaffirmed, but in addition officers explore the possibilities for alternative methods of fleet procurement including the Council itself purchasing vehicles;
- (3) That the principle of partnering be accepted and that the new contract contain provisions for a Partnership Charter and Innovation Forum(s);
- (4) That the specification requires the contractors to collect the widest possible range of recyclable materials and that their collection methodology uses the fewest number of vehicles and passes as is practical;
- (5) That the specification requires the contractor to put forward proposals for the marketing of recyclable materials and where collection is on a source separated basis to discuss options of income sharing with the Council;
- (6) That the specification requires the contractor to come forward with proposals for managing the various bring schemes (recycling banks) including options of income sharing with the Council;
- (7) That the existing Bank Holiday collection arrangements be retained within the specification and that proposals for change be dealt with through the partnership arrangements;
- (8) That the existing arrangements for the provision of depot accommodation to the contractor by the Council be retained;
- (9) That, subject to an assessment by the Council's consultants Indecon of the potential increased costs of meeting this enhanced street cleansing standard, the specification for street cleansing etc include the following

**principles:**

- (a) all high intensity zones (currently zones 1 & 2) will have an input based specification which will require a high standard to be achieved throughout the day. The time allotted to return to Grade A will be reduced from half a day to 3 hours;**
- (b) the first 10 metres of any road adjoining a high intensity zone will be classified as high intensity and the same standard applied;**
- (c) areas which are subject to the 'evening economy' will be allocated a special EFDC zone with a more stringent standard (high intensity 'plus') reflecting difficulties with takeaway shops, pubs and clubs etc;**
- (d) all medium and low intensity roads (currently zones 3 and 4) will be dealt with on an output based basis, but the contractor will be advised what level of cleansing activity is anticipated in order for the relevant standards to be met. All complaints or reports of standards not being met in medium and low intensity zones will need to be responded to within 1 day;**
- (e) litter picking alone will not be accepted as street cleansing (i.e. where there is a clearly defined kerblines);**
- (f) standards of street cleansing shall never be allowed to fall below the government requirements for BV199(a) and nor shall the standard in one year be allowed to fall below the year which preceded it;**
- (g) that the contract enable the inclusion of graffiti and fly posting removal as part of the street cleansing service;**
- (h) the cleansing & maintenance of all litter bins will be the responsibility of the contractor (replacement and new bins will remain with the Council); and**
- (i) the contractor will provide street cleansing services those local councils who request additional services at the same unit costs as being charged through the contract.**

**Report:**

1. The procurement process for the new waste management contract is now well underway. Cabinet at its meeting on the 19<sup>th</sup> of January selected the contractors it considered suitable from those who submitted pre-qualification questionnaires. The next critical stage in the process is to put together the contract, specification and associated tender documents. Indecon Ltd and the Essex Procurement Hub are assisting the Council in this process.

2. It is essential that the procurement process proceeds as quickly as possible so as to minimise the financial effects of the current contractual arrangements. However, given that the new contract will operate for the next 7 years and will have an anticipated value in excess of £25 million over that time period, it is important that the Council considers carefully the nature of the contract to be let and the content of the specification.

3. The current time line proposes that the contract could be operational by the 1 October 2007. This is a very tight timeframe given the statutory components of the EU procurement process. It may also require, dependant upon circumstances, special meetings of Cabinet and/or Council in order to be achieved. The timeline assumes the issue of tender documents to contractors at the end of March. For this to be achieved, Cabinet is being requested to consider at this meeting, a number of key contractual components so that the detailed documents can be finalised and presented back to Cabinet at its scheduled meeting on 12

March 2007.

### **The Contract Documents:**

4. Given the time that has elapsed since the letting of the last contract and the difficulties that arose, officers have taken the opportunity to look at documents prepared by other authorities so as to make use of best practice where possible, alongside those elements of the existing contract that have worked well. Because it has already been agreed that this contract should be let under the auspices of a framework agreement, this means that the contract documents need to be modern in their outlook and allow for a high level of collaborative working between the contractor and the Council. However, a high level of collaboration must not prevent the Council from having the necessary contractual tools within the contract and specification to ensure and maintain the highest levels of service and provide the wherewithal to deal with poor performance should it arise.

5. Officers are also aware that Members, quite rightly, may have reservations about 'Partnering' or 'Partnership' given the travails of the last contract. However, it is important to recognise that a contract will work when the parties to it wish it to work, and in the ideal circumstance, having signed it, there should never be recourse to it again.

6. Most modern contracts have partnership at their core, but with an underpinning safety net of the contract terms and conditions. This provides the flexibility that will be required in the future to manage the on-going changes to waste management in Essex as the new waste disposal facilities come on line. It is therefore suggested that the overall contract documents should have the following component parts:

- (a) the main contract document for the entire waste management service;
- (b) the partnership charter;
- (c) a general specification;
- (d) residual waste specification;
- (e) recycling specification;
- (f) street cleansing specification;
- (g) weed spraying specification; and
- (h) associated appendices & supporting information.

7. Cabinet at previous meetings has reaffirmed earlier decisions on the basis upon which the contract will be tendered. Therefore the contract will be tendered on the following basis:

- (a) a price be sought for an alternate weekly residual collection but with a weekly collection for the period May to September;
- (b) a price be sought for an all year round weekly residual collection;
- (c) both options to retain the existing alternate weekly collection of dry and wet recyclable materials. **(Recommendation (1))**

### **The Contract:**

8. This is the main contractual document for the entire service and will deal with matters such as:

- service changes;
- changes to legislation;
- TUPE;
- health & safety;
- insurances;
- indemnities;
- land;
- premises;
- vehicles and plant;
- payment mechanisms;
- dispute resolution;
- force Majeure;
- open book accounting; and
- guarantees.

9. This will be the fundamental controlling document and will enable the Council to be able to exercise the necessary controls over the contractor to ensure proper contract performance.

10. With specific reference to vehicles it is necessary for particular consideration to be given to how the Council wishes vehicles to be procured and then managed. In the last contract the contractor was made wholly responsible for the fleet including those for which leases with the Council were still in place. The Cabinet reaffirmed this principle in September 2006. The current contractual arrangements have suggested that the Council may achieve greater value by procuring the fleet itself and then transferring management to the contractor. However, care will have to be taken to ensure that this does not create inflexibility within the contract at times when the contractor may wish to make service and vehicle changes. There are ways in which this might be achieved including agreeing a core fleet with the contractor which the Council could then procure, or agreeing the contractor's overall fleet requirements and then in partnership with the contractor agree the most cost effective way of procurement. Whilst accepting the agreed principle of overall responsibility for fleet management, members are requested to agree that alternative procurement options be explored as part of the overall contract procurement process so that best value can be achieved. **(Recommendation (2))**

#### **Partnership Charter:**

11. The Partnership Charter is an addendum to the main contract. The charter requires both parties to the main contract to work in partnership to discharge their respective responsibilities under the contract. An example of an arrangement that is recommended to Members establishes a Partnership Board, which meets quarterly, the membership of which includes director level membership of both the Council and the contractor, with senior supporting officers. Each year a member, for example the Portfolio Holder, attends the Board. Members may wish to consider whether the Portfolio Holder should attend more frequently or even each meeting. the functions of the Board include:

- (a) monitoring service performance;
- (b) encourage innovation;
- (c) encourage partnership;
- (d) to resolve differences and disputes; and
- (e) to review the effectiveness of the partnership itself.

12. Members may also wish to consider the establishment of an 'Innovation Forum' the remit of which is service development, response to changing circumstances (e.g. changing legislation) and obtaining external funding. Forums could be established for individual service areas or for the entire service. In order to assist real outcomes, an incoming



contractor would be required to fund the forum(s). The forums would be made up of equal numbers of Council & contractor personnel.

13. Members are requested to agree to the inclusion of the Partnership Charter and Innovation Forums. **(Recommendation (3))**

**Specification:**

14. There are a number of issues that have arisen either through the officer review of the service or through the recent public consultation exercise. The following are those where member consideration is required at this time to enable the document preparation to continue.

*(a) Recyclables*

15. The previous contract placed all responsibility for the marketing of recyclables with the contractor. This was subsequently endorsed in principle by Cabinet at its meeting in September 2006 although it was recognised that this decision should be reviewed as part of the procurement process. This system has worked well in that it protects the Council from the vagaries of the recyclables market. It has also enabled the collection of more and more materials since such an approach lends itself to the collection of co-mingled materials. However, co-mingled materials always have a sorting cost associated with them, known as a gate fee. Currently we are paying more than £30 per tonne for the sorting etc of co-mingled recyclables. Collection of co-mingled materials is however simpler, quicker and therefore cheaper operationally.

16. We do however get some income from bring scheme (e.g. bottle banks etc), because these materials are by definition source separated and can be sold direct to the end processors with no intermediate treatment.

17. As part of the County Council waste management strategy, they have, with the co-operation of the districts and boroughs, embarked on a process known as KAT modelling. KAT stands for kerbside analysis tool. What KAT does is to model various kerbside collection systems in order to determine what is the most cost effective way of dealing with both residual and recyclable materials. KAT modelling has been completed for the first two 'pilot' authorities (Harlow & Braintree) and seems to be suggesting that for recycling the most appropriate collection methodology is to collect source separated materials. The modelling for this Council will start in the Spring.

18. The outcome of the KAT modelling is very important, since the preferred collection methodologies will form the basis of the funding by the County of district recycling services. In the future recycling credits will be replaced by an alternative funding stream, whereby the County will assist the districts to reach stretched recycling and diversion targets since that will assist the County to meet its LATS targets. The support funding will however be predicated on districts using the KAT modelled systems, and whilst districts will not have to follow this model, funding will be adversely affected if alternative and less effective methods are used.

19. It is therefore important that options are kept open, but equally that the specification is not so open as to increase risk based costs or deter contractor bids through excessive complication in the bidding process. The current method does involve the use of a lot of vehicles with residents seeing different vehicles for residual waste, green waste, dry recyclables and then glass. It is suggested that the new specification should require contractors to collect the widest possible range of recyclable materials whilst keeping the number of vehicle passes to a minimum. **(Recommendation (4))**

20. At this stage it is not suggested that the specification should be prescriptive as to how this is achieved or that the Council should specify a source separated or co-mingled collection. It is however suggested that the specification invite contractors to put forward detailed proposals that should include, in the event that materials are collected source

separated, how the Council can share in any generated income stream. **(Recommendation (5))**

*(b) Bring schemes*

21. As indicated above the Council does receive income from some bring schemes. The current bring schemes are very muddled, in that some are owned and operated by the contractor, some by private companies, some by charitable institutions and some by the Council. This results in very mixed level of service as well and problems with maintenance of the banks. It is clear that the situation needs to be improved.

22. The options available are essentially to require the new contractor to take over all bring schemes, update them and manage them on the Council's behalf. An alternative would be for the bring schemes to be kept outside of the contract, and to be managed directly by the Council, through existing or new contracts.

23. In order for the Council to properly weigh up the benefits of these options it is suggested that the specification require contractors to come forward with proposals for managing and updating them and, as with kerbside recyclables, to include how the income stream can be shared. It is further suggested that the contractor be asked to consider whether it would be possible to include a co-mingled component of bring schemes to assist residents who, for example, miss a kerbside collection. **(Recommendation (6))**

*(c) Bank Holidays*

24. The specification will need to be clear about the management of Bank Holidays. At present, collection days are allowed to slip by 1 or 2 days dependant upon the holidays in question. Despite the issue of calendars to every household and the publication of revised collection dates, this always results in confusion and many hundreds of telephone calls and complaints. There are alternatives, which include allowing collections on certain Bank Holidays (excluding for example Christmas and Good Friday) and/or not slipping dates but missing collections on those dates and allowing the collection of side waste at a later collection. This latter approach is more difficult with alternate weekly collections.

25. At this stage it is suggested that the specification sets out the continuation of existing arrangements, but that through the partnership arrangements, alternatives could be discussed in the future. **(Recommendation (7))**

*(d) Depot Accommodation*

26. The current contract makes the depot available, at no cost, to the contractor. It also sets out that in the event that the Council disposes of the current site, it will make another depot available for the contractor's use. This issue is now particularly important given the recent developments in Langston Road and the forthcoming sale of the T11 site, which is immediately adjacent to the existing depot site. It is important that the contractor has certainty about depot provision, because otherwise this will be seen as a risk, the costs of which will be passed on through the contract. Furthermore, most contractors will require a relatively local depot location in order to ensure the adequate management of the service.

27. It is therefore suggested that the existing arrangements are retained in the new specification. **(Recommendation (8))**

*(e) Street Cleansing*

28. This is one of the key areas of concern arising from the review of the existing contract. Members have been particularly concerned about the existing contract's reliance upon an inspection based rather than a cleansing based regime. In considering how best to address these concerns, the street cleansing process needs to be understood. The standards for street cleansing are set out in the Litter Code of Practice (CoP), a document made under the

Environmental Protection Act 1990. The CoP sets standards of cleanliness that should be achieved. These are:

- Grade A: No litter, refuse or detritus.
- Grade B: Predominantly free of litter, refuse or detritus.
- Grade C: Widespread distribution of litter and/or refuse and detritus.
- Grade D: heavily affected by litter, refuse or detritus.

29. The CoP provides photographs as a guide to these grades, and then goes on to assign Zones to certain types of land:

- High intensity: lots of people and vehicles, high level of monitoring/cleansing.
- Medium intensity: regular use but outside centres of retail or commercial activity.
- Low intensity: low pedestrian and vehicle activity, often more rural areas.
- Special: areas where health & safety are predominant considerations.

30. These zones are defined in more detail in the CoP.

31. The final stage in the process is for the CoP to provide response times. Following any cleansing activity Grade A should be attained. If the area falls to below Grade B then it has to be restored to Grade A within:

- High intensity: half a day.
- Medium intensity: 1 day.
- Low intensity: 14 days.
- Special: 28 days or as soon as practicable.

32. The current contract requires that the CoP be met. This approach, known as output based, means that roads are only cleansed when they actually require it i.e. fall below Grade B on inspection. This is intended to reduce unnecessary cleansing and therefore reduces costs. This can, in theory, mean that an area may never be cleansed if it never falls below Grade B. The Council therefore does not have a cleansing schedule, but an inspection schedule, and all Members have been provided with a copy of this schedule. If an inspection, either by a client officer or a contractor supervisor reveals that cleansing is required, it should be undertaken within the time set down by the CoP.

33. However, it was always recognised that the main town centres required a different approach, because of their high usage. Therefore static crews were provided in each of the main towns, with two in some towns such as Loughton, Epping & Waltham Abbey, to ensure a more regular approach to cleansing. This mixed approach, plus the more effective work of the current contractor, has provided a much better street cleansing service. Our performance against BVPI 199, which is the government performance indicator for street cleansing standards, has steadily improved from 32% of areas failing the relevant standard to 12% in 2005/06. This improvement is continuing in 2006/07.

34. However, this is not the public perception, who complain, amongst other things, that they have never seen a street sweeper or have never seen their street/road swept. This is probably not true, but given the CoP output based approach, sweeping in some areas could be relatively infrequent. It is also worthy of note that the Council's consultant expert on street cleansing has formed the view that despite the public perception, the standard of cleansing throughout the district is quite high. This viewpoint mirrors current BVPI 199 performance.

35. The question for Members is the degree to which they wish to see a shift from this output based approach to a more prescriptive input based approach, where the contractor will be required to sweep certain areas irrespective of whether the CoP standard has been breached. Such a shift has the potential to add to costs but should also see an increase in standards and hopefully less complaint.

36. The following principles are therefore put forward for consideration:

- (a) all high intensity zones (currently zones 1 & 2) will have an output based specification which will require a high standard to be achieved throughout the day. The time allotted to return to Grade A will be reduced from half a day to 3 hours;
- (b) the first 10 metres of any road adjoining a high intensity zone will be classified as high intensity and the same standard applied;
- (c) areas which are subject to the 'evening economy' will be allocated a special EFDC zone with a more stringent standard reflecting difficulties with takeaway shops, pubs and clubs etc;
- (d) all medium and low intensity roads (currently zones 3 and 4) will be dealt with on an output based basis, but the contractor will be advised what level of cleansing activity is anticipated in order for the relevant standards to be met. All complaints or reports of standards not being met in medium and low intensity zones will need to be responded to within 1 day;
- (e) litter picking alone will not be accepted as street cleansing (i.e. where there is a defined kerblines);
- (f) standards of street cleansing shall never be allowed to fall below the government requirements for BV199(a) and nor shall the standard in one year be allowed to fall below the year which preceded it;
- (g) that the contract enable the inclusion of graffiti and fly posting removal as part of the street cleansing service; and
- (h) the cleansing & maintenance of all litter bins will be the responsibility of the contractor (replacement and new bins will remain with the Council).

37. It may be necessary, upon the advice of the Council's consultants, to amend some of these principles, particularly that relating to the low intensity zones, where, due to the significant mileages involved, the suggested response time in paragraph (36)(d) of 1 day may be too low and therefore potentially unaffordable.

38. Finally on street cleansing members are requested to consider requiring the contractor to respond to those town and parish councils who may wish to see their towns and villages receive a higher standard of cleansing than our specification would provide. The contractor will be required to provide unit costs for street cleansing activities which the local councils will then be able to buy and pay for. This is considered as much preferable to local councils seeking to take over street cleansing activities in their entirety in their respective areas. **(Recommendations 9(a) to (i))**

#### **Statement in Support of Recommended Action:**

39. The report sets out key issues that need to be considered before the contract and specification documents can be formalised. The options put forward are for consideration but reflect known difficulties with the current contract and specification and concerns raised by members over time and recently through the public consultation exercise.

#### **Other Options for Action:**

40. No other options are put forward in the report, although Members may have alternatives they wish to bring forward as part of discussions on the report.

**Consultation Undertaken:**

41. Outcome of the public consultation has been considered in the preparation of the report

**Resource implications:**

**Budget provision:** Within 2007/08 budget allocation for the waste management service.

**Personnel:** Nil.

**Land:** Nil.

**Community Plan/BVPP reference:** Procurement of the new waste management contract.

**Relevant statutory powers:** The Environmental Protection Act 1990.

**Background papers:** Previous Cabinet reports regarding the waste management contract.

**Environmental/Human Rights Act/Crime and Disorder Act Implications:** Enhanced service provision providing high levels of recycling, improved customer satisfaction and improved environment.

**Key Decision reference (if required):** Will advise when key decisions have ref nos.

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## **Report to the Cabinet**

**Report reference: C/116/2006-07**

**Date of meeting: 19 February 2007**



**Epping Forest  
District Council**

Portfolio: Planning and Economic Development.

Subject: East of England Plan: Secretary of State's Proposed Changes December 2006.

Officer contact for further information: Henry Stamp (01992 – 56 4325).

Democratic Services Officer: Gary Woodhall (01992 – 56 4470).

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### **Recommendations/Decisions Required:**

- (1) That the response to the Secretary of State for Communities and Local Government about her Proposed Changes to the East of England Plan be based on the following:
  - a) Welcome the complete omission of North Weald as a major development location; the acknowledgement of development constraints south of the Stort Valley; the recognition that Green Belt policy in an area such as Epping Forest District precludes a continuing long term housing supply; and the greater local discretion afforded to such policy matters as housing densities, affordable housing tenures, and vehicle parking standards;
  - b) Support the greater focus on carbon emissions and renewable energy for new development, but point out that vehicular emissions and the performance of existing development are not addressed with equal force;
  - c) Support in principle the reintroduction of a major urban extension to the north of Harlow, whilst recognising that there are issues to be fully addressed, through a revised SA, but underline the need for the RSS Review to be the correct way of testing the case for an extension beyond 10,000 dwellings; in terms of both sub-regional impacts and alternative long term strategies;
  - d) Arguments previously made against “smaller scale” urban extensions to the south and west of Harlow and against excessive growth to the east. Add that wastewater capacity and Harlow traffic constraints lend further support to these arguments and substitution of less constrained alternative sites elsewhere on the West Anglia Main Line;

- e) **Grave concern that the proposed greater scale and annualised minimum rate of housing development is in contrast with more uncertainty or lack of specificity about supportive infrastructure and funding commitments, especially in the west Essex/Harlow area;**
  - f) **Objection to the omission of any constructive reference to infrastructure at Harlow (especially transport and wastewater) despite studies already carried out and findings of the government commissioned Sustainability Appraisal;**
  - g) **Serious doubt about the achievability of the proposed rate of development at Harlow in the light of infrastructure constraints; at least some conditionality should be expressed in policy;**
  - h) **Potential inconsistency between assumed growth at Key Centres 2021-2031 for Green Belt boundary review purposes and the forthcoming RSS Review's examination of alternative development strategies;**
  - i) **Reservations about justification of the proposed job and dwelling provision in Epping Forest District (apart from Harlow extensions);**
  - j) **Need for the Sustainability Appraisal of the Proposed Changes to be revised in order to address deficiencies identified by EERA commissioned work, and for the Secretary of State to revisit her conclusions and Proposals for Epping Forest, Harlow and infrastructure conditionality accordingly;**
  - k) **Concern that the focus of the Proposed Changes on a "high level" Plan, with little or no specificity about infrastructure and question marks over housing numbers by location and over job growth, leaves many difficult issues to be resolved by Local Authorities at LDD stage, a burden and a recipe for delay;**
  - l) **Willingness to work jointly with other stakeholders to prepare options appraisals and Local Development Documents for Harlow, once the East of England Plan is finalised;**
- (2) **That the Head of Planning and Economic Development be authorised to prepare a detailed response, in conjunction with the Portfolio Holder;**
  - (3) **That the response be copied to local MPs, EERA, Local Councils and campaign groups, and affected adjoining authorities; and**
  - (4) **The Head of Planning and Economic Development is instructed to bring back a report at the earliest opportunity with an indication of likely resource needs for Forward Planning in the future, for Cabinet to consider.**



## **Report:**

### **Introduction**

- 1 The final formal consultation stage has been reached on the East of England Plan 2001-2021. This is the new regional planning guidance (or RSS – Regional Spatial Strategy) with which local planning authorities will have to comply. Following consultation, the Plan is due to be adopted by the Secretary of State in mid-2007. Consultation responses have to be made by 9<sup>th</sup> March.
- 2 A 267 page report of the Secretary of State's Proposed Changes and Statement of Reasons was received shortly before Christmas. It is accompanied by an independent Sustainability Appraisal (SA) and Habitats Directive Appropriate Assessment. Copies have been placed in the Members Room. Various technical background documents, including a wastewater capacity study, have been made available on the Government Office website. The East of England Regional Assembly (EERA) has subsequently commissioned a review of the Sustainability Appraisal (SA Review) by other consultants who appraised the original draft Plan; it is on the EERA website.
- 3 The Proposed Changes report takes the form of a response by the Secretary of State for Communities and Local Government to the June 2006 recommendations of the Panel which conducted the Examination in Public (EiP) in 2005/06. The Panel's recommendations were reported to Cabinet on 4<sup>th</sup> September 2006. The opportunity was taken then to make comments to the Secretary of State (by letter dated 7<sup>th</sup> September) making her aware of unsound aspects of the EiP Panel's recommendations. The comments were noted in an acknowledgement letter.

### **Summary of Proposed Changes**

- 4 A high level summary of key changes overall, prepared by the East of England Assembly, is at Appendix A.
- 5 The majority of the Panel recommendations have been broadly accepted, albeit subject to considerable editing and updating. Additional changes proposed by the Secretary of State herself include:
  - a) an assumption that "Key Centres for Development and Change" (e.g. Harlow) will continue to grow at 2001-2021 rates in the 2021-2031 period; with Green Belt boundaries to be reviewed accordingly;
  - b) a stronger emphasis on Harlow as a major growth location, with a long term major urban extension to the north; and the housing target to 2021 increased by 2,500 to 16,000;
  - c) housing targets for individual authorities to be regarded as minima, to be exceeded where possible via brownfield sites, higher densities or affordable housing on rural "exceptions sites";
  - d) carbon dioxide emissions and renewable energy – a greater focus on carbon

performance targets, and local authorities to define proportions of renewable or low carbon energy in substantial developments.

- 6 The two sets of proposed area-specific policies directly affecting the District are reproduced at Appendix B. These are LA1: London Arc (covering nine Districts close to London in Herts and Essex) and HA1: Harlow - Key Centre for Development and Change (one of nineteen such centres in the region).

## **Development and Infrastructure**

- 7 An over-riding and ongoing matter of concern to the East of England Assembly and to many stakeholders has been whether proposed development generally would be accompanied by adequate and timely infrastructure (and related measures). The Sustainability Appraisal points out that, in order to achieve sustainable development, successful implementation of policies about water resources, waste management, transport infrastructure (including public transport), energy and climate change, is required by all parties. The Appraisal leaves a question mark over implementation of the Plan because of doubts about funding regimes and the achievement of behavioural change. It also observes that increased housing numbers alone will not produce the target affordable housing provision. In contrast to the Proposed Changes, the Secretary of State herself has since said on 29<sup>th</sup> January that “it takes good infrastructure” to create the type of communities to which the government and the East of England Plan aspire.
- 8 Turning to the proposed growth at Harlow, it is therefore worrying that specific transport proposals are dropped, despite the transport studies already undertaken with Government Office endorsement. Yet the Appraisal notes that investment in non-car transport is vital to realise the potential to reduce travel and car dependency. Instead Harlow is part of a London to Stansted “Transport Priority Area for Further Study”.
- 9 Disappointingly, the Secretary of State says “it will be difficult to fund a scheme of the scale of a Harlow by-pass before the last years of the Plan period”. This exemplifies an unduly negative approach to what must be a vital piece of infrastructure to underpin: Harlow’s regeneration; a major urban extension to the north with a well-located strategic employment site; a sustainable town-wide transport strategy; and economic development through links with Stansted. Because of long lead-in timescales for such infrastructure, project planning, design and land acquisition negotiations – which cost relatively little – should start as soon as possible, in order to reduce the delay that the Government should be anxious to avoid.
- 10 Whatever the outcome of further study of wastewater infrastructure serving Harlow – upgrades, major expansion, new works, new sewers, flood management measures – significant investment will be required as a high priority.
- 11 The EiP Panel also pointed out the need for urgent progress with new water supply infrastructure (though not an issue confined to west Essex) as well as water efficiency measures. Of course major growth will require new healthcare, education, leisure and green infrastructure. Funding of healthcare provision in

Essex and Hertfordshire is already under particular stress, compared with the rest of the region.

- 12 Although EERA is preparing a Regional Investment Strategy, part of an Implementation Plan, this will be a non-statutory document. The outcome of the Government's Comprehensive Spending Review and Regional Funding Allocations remains to be seen, together with the approach taken by other key stakeholders, such as OFWAT. It goes without saying that a long-term commitment by successive governments to a realistic funding strategy is required. In the meantime at least some conditionality of development being dependent upon infrastructure should be stated in the regional plan.

### **Sustainability Appraisal (with Habitats Directive Assessment) of Proposed Changes**

- 13 It is a statutory requirement that such an appraisal of the economic, social and environmental implications of regional and other plans are made, incorporating a particular need under the Habitats Directive to protect natural habitat sites of European significance (e.g. part of Epping Forest designated as a Special Area of Conservation (SAC)) from significant adverse change. The purpose of a sustainability appraisal is not to impose decision taking in a particular way, but rather to ensure that balanced decision making is fully informed and explained. However, it is very difficult to avoid compliance with the particular requirements of the European Habitats Directive.
- 14 The Sustainability Appraisal (SA) concludes that the Proposed Changes are not likely to lead to any significant sustainability impacts at regional scale beyond those already identified for the Draft Plan. This is subject to successful implementation of mitigation policies (though not by Local Authorities acting alone) and a step change in resource efficiency and consumption. The Secretary of State says, "The Sustainability Appraisal concludes that the Proposed Changes are in accordance with the principles of sustainable development and that the additional growth and changes to distribution do not give rise to adverse environmental impacts."
- 15 The SA Review commissioned by EERA challenges this statement. It argues that the SA itself has been insufficiently thorough and critical; that it has not addressed the localised impacts of the Proposed Changes (e.g. Harlow extension to north; 53% increase in housing numbers in the 'rest' of Epping Forest District), especially in the already congested parts of the region close to London; that mitigation policies do not reflect recent evidence and have been unduly diluted (e.g. water, wastewater, transport, infrastructure conditionality); and that the long term new settlement(s) option has lost prominence. To this list could now be added meeting key planning objectives set out in the recent draft PPS1 Supplement: Planning and Climate Change.
- 16 All this is an unsatisfactory situation which erodes confidence and adds to uncertainty about future plan making. The Secretary of State should be asked to commission a revised SA which deals with the criticisms made, and to revisit her conclusions and Proposed Changes accordingly.

## Habitats Directive Assessment of the East of England Regional Spatial Strategy

- 17 The Habitats Directive Assessment of the Proposed Changes does not identify any likely significant effects on relevant sites. This was not subject of the review commissioned by EERA.
- 18 Section 3.2.8 (pages 19 to 29) of the Assessment outlines the work on Nitrous Oxide (NO<sub>x</sub>) pollution on the part of Epping Forest which is a Special Area of Conservation (SAC) carried out by Robert West Associates for the Council in 2004. Although there is a drafting error on p.28, the Assessment acknowledges, “only a small increase in traffic flows will result in significant increases in NO<sub>x</sub> levels at roadside levels within the SAC”. Increased daily flows of approximately 1,000 vehicles would be required to result in significant increases in NO<sub>x</sub> levels at distances of approximately 50m from the roadside. Oxides of nitrogen are gaseous pollutants that can have both direct and indirect adverse effects on vegetation growth and health. Deposition of nitrogen occurs when it becomes trapped and chemically incorporated at ground level. It remains in the soil until chemically removed or leached out by rainfall. It therefore tends to be cumulative but levels would drop rapidly if the sources of pollution were reduced. The Appendix to the Assessment describes the Features of Interest of the Forest as a SAC (un-numbered page 10 of the Appendix), and the Conservation Objectives (un-numbered page 38). It is disappointing and surprising that the document contains no details of any scientific assessment of the potential adverse effects of increased NO<sub>x</sub> levels on neither the Features of Interest nor the Conservation Objectives of the SAC. Therefore there is no rational explanation for the Assessment’s statement referred to in paragraph 19 below.
- 19 The next mention of the Forest in the Assessment is on page 74 under Section 3.3.1 (RSS Policy Review). This includes the sentence in relation to policy HA1 (Harlow Key Centre for Development and Change (KCDC): “Any development will avoid impacts to the site integrity of Lee Valley SPA/Ramsar and Epping Forest SAC.” No explanation for this statement is given, which seems strange given the acknowledgement of the Robert West findings in paragraph 18 above.
- 20 There appears to be further confusion on page 78 of the Assessment (Section 3.4 – Conclusions of Assessment of Likely Significant Effect). The paragraph headed “Provision of New Housing” identifies areas where Natura 2000 (i.e. Special Protection Areas (SPAs) and SACs) and ‘Ramsar’ (wetland birds) sites fall within a 5km radius of the proposed KCDCs, so that consideration can be given to “reducing the risk of recreational disturbance effects” to these sites – Epping Forest is mentioned in the Assessment’s list.
- 21 The section on “Transport” states “further evaluation at the local level will be required to ensure that land allocations and proposals do not affect Natura 2000 sites”. A list follows where it is acknowledged that further studies will be required, and this includes “London to Stansted including Harlow & access to Stansted Airport”. This appears to be a case of the strategic plan “passing the buck” by relying on the lower level Local Development Documents (LDDs) -with their Appropriate Assessments- to identify whether or not the development proposals will have an adverse effect on the SAC. This is wrong: this issue should be sorted out at the strategic level, and the Assessment is therefore considered to be

defective. It is also hard to see how the quote referred to in paragraph 19 above can be sustained in the Assessment, in the light of the statements in the sections on New Housing and Transport outlined above. The assessment is therefore faulty.

- 22 The Proposed Changes do not assess the traffic implications of development to the south and west of Harlow. Given likely commuter patterns, together with congestion already being experienced in Harlow at peak times, it would appear likely that much of the traffic generated by new development to the south/west will head due south through Epping Green, with much of this ending up on Goldings Hill and Church Hill leading into Loughton, on Epping New Road en-route to London, or via Woodridgen Hill to the M25. With daily journeys to and from work, it is also likely that even low housing numbers here could cause an increase in traffic breaching the limits identified by Robert West. This issue should have been assessed fully at the strategic level. It is not for LDDs and their Appropriate Assessments to come to a conclusion, because by then it will be too late in the process – i.e. the strategic decision on location will have been made, irrespective of inadequate assessment of the potential effect upon the SAC.
- 23 This issue might have less significance if there was more certainty about infrastructure provision and highway improvements. The Regional Transport Strategy, however, now gives very little specific guidance about any such schemes, so the issue of increased traffic through, and increased pollution within, the Forest remains a concern for this Council.
- 24 The Habitats Directive Assessment makes little direct reference to the implications for Rye Meads Sewage Works to the north east of Hoddesdon. Part of this is a Special Protection Area (SPA), i.e. of international importance for birdlife. Rye Meads will be expected to deal with both Harlow's growth and the proposed expansion of Stevenage. This must involve expansion of the works, potentially with adverse effects for the SPA, but the Assessment fails to address the issue. There has to be some concern that, if the housing proceeds as currently envisaged in the Proposed Changes without adequate provision of infrastructure, pressure could be brought to bear in the future arguing the case that the need for new and expanded infrastructure is of such over-riding public importance that the protection afforded to the European sites can be set aside. This is emphatically not how any area should be planned – the potential implications for the SPAs and SACs should have been identified and assessed fully at this stage of the development plan process, and with any over-riding public interest case identified as part of the Proposed Changes.

### **Key issues directly affecting the District**

- 25 The key issues are derived from the report to Cabinet in September 2006 and the subsequent letter to the Secretary of State. The issues are set out in turn below, with a commentary on each. Those concerning Harlow are based on the broad principles behind the Council's previous representations about proposed development in the Harlow area. These are to favour urban redevelopment and urban extensions with timely support infrastructure best able to contribute to sustainable travel within Harlow and to other job destinations (Stansted, London, Cambridge); to relieve congestion and assist economic investment and

regeneration; and to respect Harlow's landscape "bowl" setting. The pace of growth must be related to key infrastructure and jobs. There are limits to the longer term scale of growth, and alternatives elsewhere should be sought through RSS Review. The Council is ready to work with other stakeholders to implement the Plan, once finalised.

#### North Weald

- 26 Proposed Changes: All reference to development at North Weald omitted, whether within Plan period or later.

Comments:

- a) Welcomed; accords with EFDC arguments at Draft Plan and Panel Report stages.

#### Urban extensions around Harlow; and sustainable travel

- 27 Proposed Changes: Overall housing numbers for Harlow are increased by 2,500 to 16,000 minimum, including urban extensions to the north (East Herts. DC) and east (mainly Harlow DC, possibly partly in Epping Forest DC), and on a smaller scale to south and west (Epping Forest DC). Apportionment is to be determined by joint or co-ordinated Local Development Documents (LDDs). Development to north eventually to be at least 10,000 dwellings, possibly significantly more as a "model of sustainable development". There is no reference in Policy HA1 to specific transport measures in original draft Plan and considered by the EIP Panel e.g. a Harlow by-pass, West Anglia Main Line enhancements, and a high quality public transport system to improve Harlow's accessibility in the future. (N.B. About 10,000 extra jobs are proposed at Harlow to reflect regeneration needs and indirect Stansted-related potential; and 11,000 more at Stansted itself).

Comments:

- a) Support in principle the reintroduction of a major urban extension to the north of Harlow, consistent with long-standing representations by the Council as a more sustainable location than North Weald or south/west extensions; being closer to the railway/transport interchange (via public transport to Stansted/London jobs) and to the town centre, retail parks and employment areas; also able to integrate with a new urban public transport system and a potential strategic employment site. Also, the northward extension proposal should be explicitly covered in a revised SA before the Plan is finalised, to avoid unnecessary argument and delay at a later stage.
- b) Highlight the importance of the RSS Review testing the case for a northern extension beyond 10,000 dwellings – see comments on Green Belt Boundaries below. The Review should examine longer-term alternative strategies (e.g. new or expanded settlements on rail nodes further afield) and a wider range of considerations than a "model of sustainable development" (e.g. traffic and housing pressures in nearby areas subject to restraint policies,

regeneration needs, Policy E5 regarding the “major town centre” role, homes/jobs balance, and congestion/sustainable travel in Harlow itself).

- c) Object to the lack of specific reference – either in policy or text - to any supportive transport infrastructure (e.g. by-pass, high quality public transport system, West Anglia Main Line enhancement) despite the findings of a Go-East endorsed transport study and Sustainability Appraisal. Neither the sustainable transport aims in Policy HA1(6) – and in the recent draft PPS1 Supplement on Climate Change - nor the proposed scale and pace of development can be achieved without such infrastructure; for example, a northern by-pass is required to open up significant development to the north and east. Reliance on yet further study of planning and transport options (Policy HA1 (7)) does not provide direction or confidence, especially when the Secretary of State suggests that “interventions in the early and middle years of the Plan period would need to focus on management of existing infrastructure and more modest infrastructure investment “.
- d) Point out that, without major transport infrastructure, the proposed substantial urban extension eastwards up to the M11 will generate more traffic on rural roads through villages to the east in order to avoid continuing/worsening congestion in Harlow. Moreover, by prioritising housing numbers, the Proposed Changes will threaten the landscape setting of Harlow (Policy HA1 (3)) to the north-east by transgressing an important ridgeline.
- e) Object to continued inclusion of south/west extensions. All the arguments against development by EFDC, Harlow DC and Essex CC remain valid. It would contribute little or nothing to regeneration. The Sustainability Appraisal draws attention to sensitive landscapes in this location – beyond Harlow’s landscape “bowl”. Both the SA and the SA Review refer to the importance of achieving sustainable travel – for which the location is particularly unsuited, being more likely to generate southbound car commuting via rural roads and the M11 than to encourage travel to the station via congested urban roads (see paras. 17-21 above which consider the effects on the Epping Forest SAC of southbound car commuting). The Secretary of State concedes (para. 13.68) that landscape and environmental character constrain development capacity south of the Stort Valley. The capacity of this location is still considered to be much more limited than the Panel believed or the Secretary of State perhaps assumes, taking these and other considerations (i.e. limited Southern Way traffic capacity, screen planting needs, critical ordinary watercourse impacts) into account.
- f) Seriously question the achievability of the proposed rate of development (about 1,000 dwellings p.a. 2006-2021 plus strategic employment sites) in the light of transport and wastewater infrastructure constraints. The recent wastewater capacity study, which has informed the Proposed Changes, identifies serious capacity constraints at the Rye Meads Sewage Treatment Works, i.e. up to 11,000 dwelling capacity. The 2,000 per annum dwelling growth proposed within the catchment at Harlow and Stevenage alone would take up this capacity after 5 years or so – without taking into account other potential capacity constraints (i.e. Stansted impacts) and housing development elsewhere in the catchment area. There are considerable

uncertainties and technical complexities to be resolved before a solution can be adopted. Further study is required urgently, and major projects can take up to ten years to deliver. The EiP Panel observed about water treatment generally that “Unless arrangements can be made to overcome any potential bottlenecks/funding delays it remains to be seen whether development in certain areas can be completed to the timescales expected” and recommended that development may need to be phased to match infrastructure limits. This does not appear in the Proposed Changes, but should have been retained or addressed.

- g) It follows that, pending enhancement, the available wastewater treatment capacity could be taken up by development in the Harlow urban area and the eastern urban extension, leaving scope for less constrained and more sustainably located alternatives to the proposed south/west extensions (e.g. Hanley Grange - on West Anglia Main Line south of Cambridge, as discussed at the EiP) to be substituted. Such a strategy would better satisfy the Government’s aim of an uninterrupted housing supply and help to avoid housing running ahead of job growth at Harlow.

#### Green Belt boundaries around Harlow

- 28 Proposed Changes: a Strategic Green Belt boundary review around Harlow is proposed to accommodate proposed urban extensions, so as to maintain Gibberd Plan principles, the landscape setting of town, and the physical/visual separation from smaller settlements to west and north. Strategic reviews at Key Centres generally are proposed to identify sufficient land to meet development needs to 2031, and assume rates of development from 2021 to 2031 to be the same as from 2001 to 2021 (i.e. 800 p.a. at Harlow). However, the review to the north of Harlow is proposed to test capacity for the most sustainable scale of longer term extension i.e. to provide for an eventual development of 10,000 dwellings, possibly significantly more. The idea is that LDDs would test whether the scale of growth is achievable, and the RSS Review would test whether it is required.

#### Comments:

- a) The assumption about continuing growth at Key Centres generally beyond 2021 was not the subject of an EiP Panel recommendation; the Sustainability Appraisal conclusion is that this could have negative consequences on the most sustainable use of land, depending on local circumstances.
- b) Comments made in September 2006 still apply in principle, i.e. it is illogical to commit development land to 2031 before the forthcoming early RSS Review 2011 to 2031 (this Review is assumed to be completed by 2010) examines other strategic development options elsewhere. It is noted (para. 3.34) that the RSS Review is to set the rate of growth at Key Centres to 2031 and that this may not require all the land excluded from the Green Belt. However, there is no policy requirement to reintroduce Green Belt designation in such circumstances, and experience hitherto suggests that “safeguarded land” is inevitably developed in due course.



- c) In the case of Harlow, the Proposed Changes clearly anticipate any post-2021 development to the north, acknowledging constraints in Essex (para. 13.68) in the form of landscape and environmental character and the M11 as a boundary. From a District Council viewpoint this assessment is welcome and comforting, though some issues remain to be addressed by a revised SA of the northern extension.

Employment allocations for Epping Forest District (excluding Harlow extensions)

- 29 Proposed Changes: indicative job growth targets for Brentwood/Epping Forest Districts combined have been increased from 12,000 to 14,000; but may be reviewed as part of RSS Review and LDD preparation, because the Proposed Changes acknowledge that the evidence base is not robust.

Comments:

- a) The increase appears to be in order to tie up with regional job projections made in 2004 (5,700 in Epping Forest, 8,300 in Brentwood). But it produces a jobs:dwelling growth ratio far higher than either the regional average or the norm in Essex and Herts; this is even more incompatible with Policy LA1(1) planning restraint policies and with minimisation of car-based in-commuting (relevant to Policy T1 aim) than the figures in the EiP Panel recommendations.
- b) These concerns are tempered a little by the acknowledgement that the figures can be reconsidered at later stages with the benefit of better evidence. Nevertheless, they are due to be used not only for monitoring purposes, but also as guidance for decision making (so justifying a District by District breakdown, but this has not been provided in the Proposed Changes - although it has to be for housing numbers). There is particular danger of pressure for development at unsuitable locations if job growth opportunities at Harlow are slow to materialise. In the light of the clear incompatibility with strategic policy and the Panel's conclusion that such sub-regional figures are "rough and ready" in any event, the Epping Forest figure should be revised downwards (to a figure derived from the regional average and an allowance for net out-commuting) and/or at the very least the Proposed Changes Policy E1 should note that it appears too high and must be revisited at the RSS Review. It seems illogical and unsound to set a "rough and ready" high number which might later be revised downwards, when it is more sensible to set a better justified number (which could then be revised upwards as part of a proper and more thorough RSS Review). Alternatively, part of the District apportionment might be better and more sustainably associated with Harlow growth and so be allocated to Harlow (in the same way that housing numbers for outside Harlow DCs boundaries are allocated to Harlow).

Housing allocations for Epping Forest District (excluding Harlow extensions)

- 30 Proposed Changes: 3,500 dwelling provision for the rest of the District 2001-2021 - of which it is stated that 1,220 have already been built - compared to 2,400 capacity estimated by EFDC. Moreover, all housing figures are to be regarded as

minima, subject to environmental limits and infrastructure constraints, and annualised building rates are substituted for indicative figures for five-year periods in the Proposed Changes. But the Secretary of State does indicate that Green Belt constraints in Districts not subject to a Proposed Changes Green Belt boundary review are a sufficient reason to preclude a fifteen-year housing supply, as would otherwise be required by the new PPS3 Housing.

Comments:

- a) The recognition that Green Belt policy precludes a continuing long term housing supply is welcomed.
- b) Policy LA1 is supported, but it is still considered that the Panel figure of 3,500 (increased from 2,300) is an over-estimate and not soundly based, as it takes into account exceptionally high building rates 2001-2004 (including the development of a "one-off" large brownfield site at Waltham Park, and the redevelopment of many employment sites/premises which will make the high net employment numbers in the Proposed Changes harder to achieve). In combination with the application of annualised minimum targets it creates more pressure for development incompatible with the aim of retention of distinctive character and identity (Policy LA1 (3)) and/or for erosion of the Green Belt, notwithstanding the Policy H1 caveat about environmental limits. As with employment, there is a particular danger of pressure on unsuitable locations if housing growth opportunities at Harlow are slow to materialise. The proposed 53% increase to 3,500 is not explicitly addressed in the SA.
- c) It would be helpful to clarify the Policy LA1 (4) exhortation that "opportunities presented by...radial routes from London are exploited to the maximum effect to secure...sustainable development at nodal points..." This appears from para. 13.45 to relate to such Key Centres as Hemel Hempstead, Welwyn Garden City and Hatfield and not to smaller settlements contained by Green Belt. The final version of the East of England Plan should confirm this.

#### **Other issues arising from the Proposed Changes.**

- 31 The greater focus on Carbon Dioxide Emissions and Renewable Energy introduced by the Secretary of State reflects the latest government response to climate change (Consultation PPS1 Supplement: Planning and Climate Change, December 2006) and merits support in principle. The aim is to produce regional targets for the reduction of carbon dioxide emissions from new developments, to maximise opportunities in major growth locations (such as Harlow) for innovative and high standards of performance, and to encourage the supply of energy from renewable or low carbon sources. Local authorities in LDDs are to set proportions of energy supply from such sources; in the meantime, a minimum of 10% of energy in new development should come from these sources, and local authorities are expected to encourage energy saving initiatives. The lack of focus elsewhere in the Proposed Changes on specific sustainable transport proposals to help reduce vehicular emissions therefore makes a disappointing contrast. Furthermore, in order to give a complete picture in the new spatial planning system, reference to proposed measures to deal with emissions from existing

development should also be included.

- 32 At the more detailed level, greater local discretion that is given to implementation of some policies (e.g. housing densities, affordable housing tenures, vehicle parking standards) can also be welcomed.

## **Conclusions**

- 33 At the strategic as well as more local level, there are serious concerns about the seemingly even wider mismatch between development and infrastructure, and about the quality of the Sustainability Appraisal and Habitats Directive Assessment.
- 34 A range of significant matters are being deferred for further study or LDD preparation, as a result of the paucity of clear policy proposals about key infrastructure, a high level approach to housing numbers by location (and therefore lack of specificity or guidance), and poor evidence to justify proposed employment growth. This creates uncertainty and additional work, and is therefore a recipe for delay and places further burdens on already over-stretched Local Planning Authorities. At the same time, joint working with other authorities will be vital to secure influence over growth at Harlow and such matters as affordable housing.
- 35 On the positive side the deletion of all reference to North Weald and the reintroduction of a major urban extension to the north of Harlow are consistent with the Council's long-standing representations, and can be supported. The related acknowledgement of development constraints south of the Stort Valley and that Green Belt policy precludes a continuing long term housing supply are welcome. The proposed focus on carbon emissions and greater local discretion about matters such as housing densities also merit support.
- 36 Serious concerns remain too. So far as Harlow is concerned, these are: retention of urban extensions to the south and west (albeit smaller than those to the east and north); omission of any specific supportive transport proposals; impacts of the eastward extension north of Churchgate Street; doubt that the proposed overall rate and scale of new housing is achievable given transport and wastewater infrastructure constraints; and the consequent dangers of unsustainable journeying and greater use of rural roads, as well as early speculative pressure for development at unsuitable locations.
- 37 Looking to Harlow's longer term, Epping Forest District would not be directly affected by the proposed review of Green belt boundaries to take more development beyond 2021, because of the focus on Harlow North. However, the case for expansion to the north beyond 10,000 homes should be fully examined in the context of the forthcoming RSS Review and compared to options for large new settlements. The RSS Review would do well to look a long way into the future to ensure that 10-year delays in infrastructure provision (as is the case now with Harlow's bypass and wastewater treatment) do not occur again next time around.
- 38 So far as the rest of Epping Forest District is concerned, the proposed employment and housing figures are still not convincing, and seemingly even more inconsistent

with the strategy of Green Belt restraint.

### **Implications for future work**

- 39 The East of England Plan (if approved by the Secretary of State along the lines of the Proposed Changes) will have resource implications for future Forward Planning work. These will combine with the more onerous requirements of the new Local Development Framework (LDF) system, and include the following (which is not an exhaustive list):

#### Sub-regional planning

- a) as a matter of urgency (Government's Proposed Changes) work by 3 districts and 2 counties on the appraisal of planning, transport and other infrastructure options to inform the preparation of (joint or coordinated) LDDs;
- b) joint or coordinated LDD preparation for Harlow and surrounding areas (with economies or dis-economies of scale);
- c) Green Belt reviews around Harlow (also for the rest of the District);
- d) Green Arc/Green Infrastructure study work;
- e) potential participation in an Area Regeneration Partnership approach to the delivery of Harlow's regeneration (with the possibility of Harlow Renaissance becoming an Urban Development Corporation if delivery is not fast enough);

#### Regional planning

- f) input to the Gypsy and Traveller (G & T) Single Issue RSS Review (also local LDD G&T policy or possible preparation of a G & T LDD under Direction from GO-East);
- g) participation in RSS (East for England Plan) Review "as soon as the ink is dry" on the current draft regional plan (instead of an RSS review every 5 years) and looking at large new settlement options and infrastructure requirements;

#### Local planning

- h) learning the new LDF system which was introduced back in 2004;
- i) additional work required by the new Spatial approach replacing traditional land-use planning, integration of other policies and programmes (e.g. health, transport, youth) and closer integration with the LSP and new Sustainable Community Strategies and Local Area Agreements;
- j) changing from a single Local Plan to a number of LDDs and SPDs, each with its own consultation stages (and trying to keep them short);
- k) Sustainability Appraisal/Strategic Environmental Assessment and possible

Habitats Directive Appropriate Assessment at various stages of LDDs;

- l) meeting new tests of “soundness” of LDDs and the risks of LDDs being found to be unsound (as some other authorities have suffered);
  - m) a comprehensive Evidence Base with adequate monitoring systems with studies (which can be shared with the LSP) of e.g.:
    - i) Employment Land Review,
    - ii) Retail Capacity Study,
    - iii) Housing Market Assessment including Housing Needs Survey and Housing Capacity Study,
    - iv) Flood Risk Assessments,
    - v) Open Space Survey,
    - vi) Habitat Study,
    - vii) Landscape Character Assessment,
  - n) increasing requirements to improve sustainability following the Stern report (October 2006); Intergovernmental Panel on Climate Change report (IPCC, 2 February 2007) and draft PPS on Planning and Climate Change (Supplement to PPS1, December 2006) which identifies (page 63) the additional costs to Local Planning Authorities of an average of £10,000 p.a. (although it points out that some of this may already be incurred and costs need to be related to overall costs of the planning system, and compared to the benefits resulting);
  - o) policy input to Village Design Statements as resources permit (Epping Forest District and Local Councils Charter).
- 40 This is a very demanding agenda, albeit some shared with other authorities/agencies (which will still require liaison work). The resource implications have not yet been assessed or costed in any detail, but they will be inescapable and significant. Resources are likely to be required from July 2007, initially up to 2012 and probably beyond. The recommendations refer to a report being presented at a future meeting.

**Statement in support of recommended action:**

- 41 The opportunity should be taken to influence the final decision taking of the Secretary of State by making representations about matters of great long term importance to the District.

**Options for action:**

42 (1) To make no representations or comments.

(2) To take the opportunity offered by this consultation stage to make representations.

**Consultation undertaken:**

43 A initial briefing of Scrutiny Panel took place on 16 January, and a further briefing of District and Local Councillors was held on 17 February. Presentations by PORA and Stop Harlow North were also made to the latter. Officer liaison has taken place with other Essex authorities and with EERA.

**Resource implications:**

**Budget provision:** within existing resources at the present time, but costs will increase inescapably over future financial years.

**Personnel:** within existing resources, supplemented by consultant support, at the present time; but likely to increase further over the next few years as the new LDF system is introduced and gets established.

**Land:** not certain at this stage.

**Community Plan/BVPP reference:** GU1(a).

**Relevant statutory powers:** Powers to make regional plans in the Planning and Compulsory Purchase Act 2004.

**Background papers:** Communication about critical ordinary watercourse south/west of Harlow; and information from Harlow DC about traffic congestion constraints along Southern Way, Harlow.

**Environmental/Human Rights Act/Crime and Disorder Act Implications:**

Environmental impacts of Proposed Changes on countryside, traffic generation and emissions – both local and global – as indicated in the report.

**Key Decision reference (if required):** n/a.

## APPENDIX A

### East of England Regional Assembly

#### EAST OF ENGLAND PLAN - SECRETARY OF STATE'S PROPOSED CHANGES: A HIGH LEVEL EERA BRIEFING (January 2007 update)<sup>1</sup>

<b>KEY PROPOSED CHANGES</b>
<p><b>Overall approach:</b> endorses the Panel recommendations on being a more strategic document, with less locational detail and fewer sub-regions.</p>
<p><b>Sustainable development:</b> endorses the Panel recommendations on the Plan making a stronger contribution to sustainable development. Includes an overall policy on achieving sustainable development, including the criteria that determine a “sustainable community”.</p> <p>Reflecting the recently announced PPS on climate change the Plan contains proposals for carbon performance trajectories for new development and local authorities will be asked to encourage a proportion of energy supply for new homes to come from renewable or low carbon sources.<sup>2</sup></p>
<p><b>Employment/housing alignment:</b> Housing/jobs ratio maintained at the regional level. Sub-regions yet to be checked for alignment, although both Harlow and Stevenage are identified as locations where Local Development Documents might “exceptionally” identify a need for further job growth.</p>
<p><b>Employment:</b> Proposed job growth is 452,000 (up from the Panel recommendation of 440,000 and the draft Plan's 421,000). Some increases (Bedfordshire and Norfolk) are consistent with EERA's line at EiP, others reflect increased housing numbers (Cambridge sub-region). Changed approach from Panel in central and north Essex and Hertfordshire, where growth at Harlow and Stevenage is seen as additional to the ‘enhanced growth’ in the rest of those areas, rather than replacing some of the growth. Central and North Essex also has 11,000 additional jobs related to 2<sup>nd</sup> runway at Stansted.<sup>3</sup></p>
<p><b>Overall housing:</b> Proposed increase to 508,000 from the Panel's 505,500 (itself an increase of 27,500 homes on the Draft Plan's 478,000). This further increase is additional growth in the Harlow area. Has accepted all other increases in District allocations proposed by the Panel. All housing figures are to be treated as floors and not ceilings and local planning authorities should seek to exceed their targets if more can be delivered through brownfield capacity and, where appropriate, increased densities. There are also strong hints that further increases will be needed in the early review of the RSS, rolling forward to 2031.</p>
<p><b>Affordable housing:</b> Endorses the Panel recommendations on an aspirational 35% regional target, with all detail of tenure / type of provision left to LDDs and no specific district targets. Applies to new provision.</p>

**Longer term strategy:** Plan review to commence in 2007 and finish by 2010. Drivers for that review are listed in supporting text and include PPS3 and 'post Barker' policy approach; latest national household projections; "more outward looking appreciation" of region's relationship with London and other regions; water issues; spending review 2007 outcomes; carbon emission trajectories; SA/SEA and hazardous waste.

**Spatial strategy:** Endorses EERA's general approach of concentrating development on urban areas. Endorses the Panel's recommendations to include Hemel Hempstead and Welwyn/Hatfield as growth locations, with Green Belt reviews (taking into account adjoining District of St Albans). A stronger emphasis on Harlow as a major growth location with a Green Belt review to its north, east and, on a smaller scale, to the south east; and the housing target increased by 2,500 reflecting an anticipated start late in the Plan period for Harlow North. So the Government has disagreed with the EiP Panel's conclusions about growth in the Harlow area. However, does accept Panel recommendation to reject development at North Weald.

<sup>1</sup>

This briefing has been updated to correct two errors pointed out by the Government Office as outlined below. Other minor amendments have been made to the briefing for reasons of clarity.

<sup>2</sup> Correction - this requirement takes immediate effect, not from 2016 as previously stated.

<sup>3</sup> Correction – the previous reference to 'Harlow' has been amended to 'Central and North Essex' as indicated on p69 of the Proposed Changes

continued...



<p><b>Sub-regions:</b> Endorse the Panel recommendation to retain only four sub-regions: Thames Gateway, Haven Gateway, Cambridge, and the London Arc (referred to as a sub-area). Cambridge sub-region to also include market towns of Royston, Saffron Walden, Haverhill and Newmarket (as per draft Plan). Other urban areas covered by Key Centre for Development and Change category, to which Watford is added (as per the draft Plan). Removes majority of transport-related content, including that proposed by the Panel, on the grounds that it will be covered by the Transport policies.</p>
<p><b>Previously developed land:</b> maintains the proposed 60% target (nb. Deliverability against a higher regional housing allocation needs checking).</p>
<p><b>Green Belt:</b> Endorses need for strategic reviews (around Hemel Hempstead, Welwyn/Hatfield, Harlow, Stevenage, minor review at Broxbourne, possible review at Chelmsford if arising from LDD review). No further review at Cambridge. Compensating additions to Green Belt in North Hertfordshire (arising from Stevenage) and East Hertfordshire (arising from Harlow). Supporting text identifies that in undertaking reviews, LDDs should test the release of sufficient land to 2031 at average rate 2001-2021, although whether or not that is then developed post 2021 is a matter for the Review of RSS (this is the same approach as the approved Milton Keynes South Midlands Sub-Regional Strategy).</p>
<p><b>Regional Transport Strategy:</b> On the Regional Transport Strategy the thrust of Panel's recommendations are accepted but aim of absolute reduction in traffic in Plan period is rejected as unrealistic. Priority areas are identified for further work to determine the measures needed to tackle congestion and support growth, these cover large parts of the region including several corridors with London at one end but no East-West corridors. Demand management policies are included, following any future agreed national policy, panel's conclusions regarding road pricing producing more funds for transport investment are rejected. Overall there is very little specificity regarding the measures that may be promoted over and above those already approved through other processes.</p>
<p><b>Airports:</b> "The RSS does not have a role in determining the rate of air traffic growth or runway provision" - proposes that the policy on airports only covers managing access to them and other associated impacts.</p>
<p><b>Implementation:</b> Endorses the Panel recommendations on the need for a region-wide implementation plan and high-level regional coordinating arrangements. Refers to existing arrangements, e.g. Regional Partnership Group. Does not reintroduce the Assembly's proposals (Revised IMP2) to regulate the flow of development according to level of investment in key infrastructure. The boundaries of the growth areas (and hence access to Growth Areas Fund) may be changed in future to reflect the broader approach to housing growth envisaged in the final Plan with a greater role for areas close to London. Some additional guidance in sub-regional policies on where joint LDDs and co-ordinated working is required.</p>
<p><b>Sustainability Appraisal/SEA:</b> Have undertaken SA/SEA (not yet reviewed).</p>
<p><b>Waste:</b> Panel recommendations are largely accepted. Policies now include waste apportionment the figures for which are largely drawn from EERA's September 2006 waste submission. Policy commitment to end practice of landfilling untreated municipal and commercial and industrial waste by 2021, as suggested by EERA, is also included.</p>
<p><b>Out of town retail:</b> Proposed modifications state that expansion of existing out-of-centre regional or sub-regional shopping centres will be unlikely to meet the requirements of Government policy on town centres. However, views are invited on whether or not there should be additional retail floorspace at Lakeside</p>
<p><b>Water:</b> introduces a commitment to match development with water efficiencies. EERA need to set a per capita per day consumption target to monitor which is intended to deliver the Panel's recommendation for a 25% water efficiency requirement. Policy added on water resource development.</p>

## APPENDIX B (1)

Proposed Changes:

Policy LA1: London Arc

- (1) Within the London Arc Sub-Region the emphasis will be on:
  - retention of long-standing Green Belt restraint, supported by more positive 'green infrastructure' use of neglected areas in accordance with Green Belt purposes; and
  - urban regeneration, including the promotion of greater sustainability within the built-up areas, particularly measures to increase the use of non-car modes of transport.
- (2) Exceptions to the approach in (1) are made at Hemel Hempstead, Welwyn Garden City and Hatfield where strategic Green Belt reviews will be undertaken to permit these new towns to develop further as expanded Key Centres for Development and Change (as further provided for in the specific policies for these towns).
- (3) Other towns in the London Arc will retain and develop their existing individual roles within its polycentric settlement pattern, recognising and making as much provision for new development within the built up-area as is compatible with retention, and wherever possible enhancement of their distinctive characters and identities.
- (4) Across the London Arc the local authorities should work with those in Greater London, especially Outer London, and to the north, and those responsible for delivering the strategic transport networks, to ensure that:
  - opportunities presented by the existing and developing public transport radial routes from London are exploited to the maximum effect to secure mutually-supporting poles of sustainable development at nodal points along these routes while ensuring that the strategic function of radial routes is not overwhelmed by local movements; and
  - a network-wide approach, being particularly critical in the London Arc, is adopted towards increasing opportunities for inter-urban journeys by public transport, in line with the Regional Transport Strategy.

continued...

## APPENDIX B (2)

Proposed Changes:

Policy HA1: Harlow Key Centre for Development and Change

The strategy for Harlow is:

(5) To promote the renaissance of the new town through developing its role as a major regional housing growth point, major town centre and strategic employment location to 2021 and beyond. Regeneration and redevelopment of the existing town and urban extensions will be combined with transport measures and enhancement and conservation of green infrastructure to fulfil this strategy.

(6) LDDs should provide for a total of 16,000 additional dwellings between 2001 and 2021, including urban extensions in Epping Forest and East Hertfordshire districts. Additional housing should be provided:

- within the existing area of the town through selective renewal and redevelopment, including mixed use development in the town centre; and
- through urban extensions to the north, east, and on a smaller scale to the south and west.

Joint or coordinated LDDs informed by the options appraisal work referred to below should determine the appropriate distribution between the urban extensions. The objective is to put in place a development strategy which promotes Harlow's regeneration, is as sustainable as possible and can be implemented at the required pace.

(7) The Green Belt will be reviewed to accommodate the urban extensions. New Green Belt boundaries should be drawn so as to maintain its purposes, specifically to maintain the integrity of the principles of the Gibberd Plan and landscape setting of Harlow and the physical and visual separation of the town from smaller settlements to the west and north. The review to the north should provide for an eventual development of at least 10,000 dwellings and possibly significantly more – of a large enough scale to be a model of sustainable development. The review here should test the capacity to achieve the most sustainable size of urban extension in the longer term without the need for a further Green Belt review.

(8) LDDs should provide for the creation and maintenance of a network of multi-function greenspaces within and around the town, taking forward the principles of Green Infrastructure Plan for Harlow. This network should:

- maintain the principle of “green wedges” penetrating the urban fabric of the town and urban extensions;
- provide for enhanced recreational facilities;
- protect and maintain designated wildlife sites and provide for biodiversity; and
- contribute to a visually enhanced character and setting to the town.

Opportunities should be taken to retain and make use of attractive existing

environmental features within green infrastructure provided within the urban extensions. The Stort Valley represents a major such opportunity between the town centre and development to the north of Harlow.

(9) The town centre and employment areas should be developed to:

- enhance Harlow's retail offer and strengthen its position within the regional hierarchy of town centres;
- enhance the role of Harlow as a Key Centre for further and higher education and research based institutions;
- provide for growth of Harlow's established sectors and clusters;
- attract employment related to the growth of Stansted Airport, which does not need to be located there; and
- assist the growth of small and medium sized enterprises and the attraction of new economic development and innovation.

(10) The transport priorities for Harlow are:

- achieving a major increase in the use of public transport, walking and cycling;
- enhancing access between Harlow and London, Stansted and Cambridge;
- addressing traffic congestion for movements within and across the town without encouraging an increase in car use; and
- measures to support the town's regeneration and growth and improve access to the strategic highway network from key employment sites.

(11) The strategy for Harlow should be delivered through a strong partnership approach. As a matter of urgency Harlow, East Hertfordshire and Epping Forest District Councils working with the county transport authorities, the Regional Assembly, the Government Office and Harlow Renaissance should undertake an appraisal of planning and transport options to inform the preparation of joint or coordinated LDDs. This work should establish the planning framework for Harlow and its urban extensions in accordance with this RSS and develop transport proposals and an implementation strategy to support its regeneration and growth.

## **Report to the Cabinet**

**Report reference: C/117/2006-07.**

**Date of meeting: 19 February 2007.**



**Epping Forest  
District Council**

**Portfolio: The Leader of the Council.**

**Subject: Contract Standing Orders and Officer Delegation.**

**Officer contact for further information: Ian Willett (01992 – 564243).**

**Democratic Services Officer: Gary Woodhall (01992 – 564470).**

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### **Recommendations/Decisions Required:**

- (1) To note that the Overview and Scrutiny Panel on Constitutional Affairs is submitting the following recommendations to the Council on 20 February 2007:**
  - (a) that the revised Contract Standing Orders set out in Appendix 1 to the Panel's report to the Council meeting be approved and incorporated in the Council's Constitution;**
  - (b) that the schedule of changes to officer delegation set out in Appendix 2 to the Panel's report to the Council meeting be adopted and incorporated in the Council's Constitution;**
  - (c) that, in future, an annual review be carried out in respect of Contract Standing Orders, financial regulations and officer delegations in accordance with recommended best practice of the Audit Commission;**
- (2) To note that the changes to the responsibilities of Portfolio Holders arise in C1 (4), C21 (paragraph 11 below) and C31 (paragraph 13 below); and**
- (3) To agree any comments and authorise the Leader of the Council to submit them to the Council.**

**PLEASE REFER TO THE AGENDA FOR THE COUNCIL MEETING ON 20.2.07  
FOR APPENDICES 1 AND 2.  
THESE ARE OMITTED HERE TO ECONOMISE ON PRINTING**

### **Report:**

1. The Audit Commission recommends, as best practice, that local authorities should review their Contract Standing Orders, Financial Regulations and Delegations to Officers on an annual basis. This Council has not reviewed financial regulations since 2000 but Contract Standing Orders have been reviewed at various times over the lifetime of the Council. In relation to officer delegation, from time to time Committees and the Cabinet make changes to officer delegation arrangements and these are routinely incorporated in the Constitution and ratified at the Annual Council meeting each year.

2. A Working Party of officers has been established comprising representatives of Internal Audit, Legal Services, Finance Services and Housing Services to review each of these three documents so as to comply with Audit Commission advice. Results of the review of Contract Standing Orders and Officer Delegation are set out in the report, which is being

recommended to the Council on 20 February 2007 by the Constitutional Affairs Scrutiny Panel. The latter is consulting the Cabinet on its views before adoption by the Council.

### **Contract Standing Orders:**

3. Appendix 1 shows, by means of track changes the alterations to Contract Standing Orders which are being recommended. Many of these changes relate to points of detail regarding post titles of relevant officers, typographical corrections and general updating for the current legal requirements. It is recommended that the Scrutiny Panel does not need to pay a great deal of attention to those items but there are some significant changes in the proposals which are outlined below.

### **Contract Standing Order C1(4)(Exceptions from Contract Standing Orders):**

4. The current Contract Standing Order allows only the Council or the Cabinet to authorise a departure from any of the contract and tendering procedures prescribed by Contract Standing Orders. The amendment reflects a change to allow Portfolio Holders to waive Contract Standing Orders under certain conditions. These are:

(a) where waiving of Contract Standing Orders is recommended by the relevant Chief Officer, after consultation with the Monitoring Officer and the Chief Financial Officer.

(b) subject to the financial consequences not exceeding £250,000 or constituting a variation in Council policy.

### **Reason:**

5. There is a later proposal to increase the limit for tenders which Portfolio Holders can accept. Thus it is desirable that they should also have the authority to waive Contract Standing Orders up to the level of their new delegated authority (i.e. £250,000).

### **C1(12) - Compliance with Contract Standing Orders:**

6. This is a new sub-paragraph of Contract Standing Order C1 which relates specifically to the Essex Procurement Hub. The new provision requires that the rules set out in Contract Standing Orders relate only to procurement outside the hub it also contains a new provision whereby Chief Officers have to demonstrate that procurement through the Essex Procurement Hub is not possible before they resort to other methods. Use of the hub is thought likely to achieve better value for money for the Council and if this method is encouraged there are contractual rules and framework agreements within the hub that ensure probity.

### **Reason:**

7. EFDC has signed up to the Essex Procurement Hub and should use the hub for all procurement except where Chief Officers can clearly demonstrate that the Hub is inappropriate and other methods have to be adopted.

### **C5(1)(g) (New) - Contracts Exceeding £20,000 but not exceeding £50,000:**

8. This new provision relates to the procurement of services, supplies or works through a competitive process. It provides for an initial contract to be extended if a Chief Officer can demonstrate that such a continuation provides best value for the Council. In accordance with Contract Standing Order C12(2) such a process of renewing an existing contract must take place for no more than 4 years.

**Reason:**

9. The change gives a discretion to Chief Officers if they are satisfied that best value continues to be achieved by extending routine and on-going contracts on a more flexible basis without the cost of re-advertising contracts each year.

**C10 (Negotiated Tendering - Contracts in excess of £50,000):**

10. Sub-paragraph 1(a) adds a requirement that where contracts have to be entered into as a matter of urgency that they must in all respects comply with the requirements of financial regulations.

**Reason:**

11. This is not currently stated.

**C12(3) (New) (Serial Contracts):**

12. This Contract Standing Order relates to contracts that are let on the basis of a serial programme and are based on a schedule of rates and prices contained in an initial contract. The new sub-paragraph (3) reflects a situation that arose with one Housing Contract where the schedule of rates did not give a clear indication of the total value of the contract when Cabinet approval was sought. The new provision introduces a requirement for Heads of Service to estimate quantities for each of the rates contained in the tender and for these to be recorded at the tender opening. This will then used to quantify the actual cost of the contract, which would be reported to the Cabinet.

**Reason:**

13. The change enables better reporting of contract sums to the Cabinet for such contracts.

**C16(3) (Receipt and Custody of Quotations and Tenders):**

14. As part of the last review of Contract Standing Orders provision was made for the electronic submission of tenders and quotations to the Council but only as part of the Essex Marketplace Procurement System to which the Council was affiliated. However, experience has shown that the Marketplace is technically not yet able to facilitate these. Thus traditional tendering (in paper copy) must continue. Any electronic tender or quotation is therefore disqualified for consideration.

15. The Council will need to review this at the next annual review of Contract Standing Orders. The technical aspects of the Marketplace system may by then embrace electronic submission on a secure basis.

**Reason:**

16. The current provisions of Contract Standing Order C16(3) are not achievable at present and therefore the Council should revert to its previous practice of excluding electronic tenders and quotations.

**C20 (2) (New) (Acceptance of Quotations and Tenders - Contracts Exceeding £20,000 but not exceeding £50,000):**

17. This Standing Order refers to the acceptance of the lowest quotations by Chief Officers in respect of contracts in the range of £20,000 to £50,000. It also stipulates that a quotation other than the lowest shall not be accepted until a Portfolio Holder has considered a report.

18. The new provision provides for tenders on the basis of quality considerations, not only on price. The new C20 (2) requires that the tender documentation must specify at the outset whether an assessment of quality will be part of the process of accepting the tender. Heads of Service must document this quality assessment when tenders are opened and record these as an adjunct to the contract.

**Reason:**

19. Contract Standing Orders limit acceptance tenders on the basis of price only. It is more realistic to provide a procedure whereby they can take into account quality considerations provided they are clearly set out in the invitation of quotations and the assessment of quality is recorded.

**C21 (Acceptance of Tenders - Contracts Exceeding £50,000):**

20. The current delegation to Portfolio Holders for acceptance of tenders and the provisions of C21 do not agree. C21 prescribes a limit of £250,000 in relation to key decisions. A Cabinet decision on the changes to C21 is designed to clarify the position:

(a) **Sub-Paragraph (1)** now proposes that the Council or the Cabinet must approve any tender valued in excess of £1,000,000;

(b) **Sub-Paragraph (2)** specifies that tenders between £50,000 and £1,000,000 may be accepted by the Portfolio Holder provided the tender sum is within budget and the requirements of Contract Standing Orders have been met. If these conditions are not met the Cabinet must make the decision;

(c) **Sub-Paragraph (3)** stipulates that a tender other than the lowest must be accepted only after approval by the Council or the Cabinet following a recommendation by a Chief Officer to the Portfolio Holder;

(d) **Sub-Paragraph (4)** as revised allows a Portfolio Holder to accept a tender within the range specified on quality grounds as already discussed; and

(e) **Sub-Paragraph (5)** clarifies how the value of acquisition or disposal of interest in land or property are to be determined in relation to the threshold set out for Portfolio Holder decisions.

**Reason:**

21. Current delegated authority to Portfolio Holders for tender acceptance does not match the requirements of Contract Standing Orders. These changes reconcile the two decisions and permit Portfolio Holders to take more tender decisions (subject to conditions), removing the need for reports to the Cabinet.

**C22 (Acceptance of Tenders - Certificates of Bona Fide Tendering)**

22. This new Contract Standing Order is not new. It is given its own number rather than being part of C21.

**Reason:**

23. Clarification.

**C31 (Contract Monitoring):**

24. This Contract Standing Order relates to monitoring of contracts in excess of £2,000,000 in value or amount. The changes propose that such contracts should be subject to a 3 monthly monitoring report to the relevant Portfolio Holder. Any other contract could be



subject to the same procedure, if the Portfolio Holder so requests.

**Reason:**

25. Will give a higher profile to the need for contract monitoring particularly for large contracts.

**C33 (Acquisition and Disposal of Land):**

26. The addition to C33(2) emphasises the importance of involving the Head of Legal, Administration and Estates and legal staff in negotiations for the disposal or acquisition of interests in land or property. No legal agreement can be concluded without that involvement.

**Reason:**

27. Clarification.

**Review of Officer Delegation:**

28. Appendix 2 to this report sets out the changes that have been identified as part of the recent officer review. Many of these changes are administrative and clerical who reflect changes in circumstances since the delegation has been reviewed. If the Panel is happy with these changes these should be recommended to the Council.

**Financial Regulations:**

29. The Officer Working Party is continuing to review financial regulations and this aspect of the review will be submitted to the April meeting of this Panel.

**Statement in Support of Recommended Action:**

30. Contract Standing Orders are in need of review and the Audit Commission recommends it should now be carried out on an annual basis.

**Other Options for Action:**

31. There are no other options for consideration, as Contract Standing Orders and the Schedule of Officer Delegation must be updated.

**Consultation Undertaken:**

32. The Officer Working Parties consulted widely with Heads of Service and the Joint Chief Executives. It is recommended that Cabinet Members should receive an advance copy of this report in that it affects the powers and duties of Portfolio Holders.

**Resource implications:**

**Budget provision:** None.

**Personnel:** None.

**Land:** None.

**Community Plan/BVPP reference:** None.

**Relevant statutory powers:** The Local Government Act 1972.

**Background papers:** None.

**Environmental/Human Rights Act/Crime and Disorder Act Implications:** N/A.

**Key Decision Reference (if required):** Will advise when key decisions have ref nos.

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