

EPPING FOREST DISTRICT COUNCIL CABINET MINUTES

Committee: Cabinet **Date:** 3 September 2007

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 7.00 - 8.25 pm

Members Present: Mrs D Collins (Chairman), C Whitbread (Vice-Chairman), M Cohen, A Green, Mrs A Grigg, Mrs M Sartin and D Stallan

Other Councillors: D Jacobs, J Knapman, B Rolfe, Mrs P Smith, Mrs J H Whitehouse, J M Whitehouse and J Wyatt

Apologies: Ms S Stavrou

Officers Present: R Palmer (Director of Finance and ICT), D Macnab (Deputy Chief Executive), J Gilbert (Director of Environment and Street Scene), C O'Boyle (Director of Corporate Support Services), J Preston (Director of Planning and Economic Development), I Willett (Assistant to the Chief Executive), J Chandler (Community and Cultural Services Manager), G J Woodhall (Democratic Services Officer), S G Hill (Senior Democratic Services Officer) and S Dobson (Information Assistant (Public Relations))

48. WEBCASTING INTRODUCTION

The Leader of the Council made a short address to remind all present that the meeting would be broadcast on the Internet, and that the Council had adopted a protocol for the webcasting of its meetings. The Cabinet noted the Council's Protocol for Webcasting of Council and Other Meetings.

49. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillors D Stallan and Mrs A Grigg declared a personal interest in item (8) of the agenda (North Weald Airfield Strategy Cabinet Committee), by virtue of being ward members for the Airfield site. The Councillors had determined that their interest was not prejudicial and would remain in the meeting for the consideration of the item and voting thereon.

(b) Pursuant to the Council's Code of Member Conduct, Councillor Mrs M Sartin declared a personal interest in item (19) of the agenda (Ombudsman Decision – Waste Transfer Station) by virtue of an acquaintance with one of the complainants. The Councillor had determined that her interest was not prejudicial and would remain in the meeting for the consideration of the item and voting thereon.

50. MINUTES

RESOLVED:

That the minutes of the meeting held on 16 July 2007 be taken as read and signed by the Leader of the Council as a correct record.

51. ANY OTHER BUSINESS

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

52. REPORTS OF PORTFOLIO HOLDERS**(a) Housing**

The Housing Portfolio Holder brought the following four items to the attention of the Cabinet:

(i) Choice Based Lettings – Locata Housing Services had been appointed to run and manage the scheme on behalf of the consortium. Discussions had been taking place over the design of: the fortnightly Freesheet, which would list all vacant properties; the Scheme's User Guide, which would explain how the scheme worked; and a Welcome Pack, to be sent to all applicants on the Housing Register. Progress had also been made on setting up the required ICT systems, and the target implementation date remained late 2007. It was planned to issue a special edition of Housing News to explain the scheme prior to its implementation, and an information evening for Councillors would also be arranged in due course.

(ii) Springfields Improvement Scheme – A formal letter of intent had been sent to Apollo London Limited and initial pre-contract discussions had taken place, with a detailed 50-week contract period programme prepared. Formal contract documents would be finalised once the Head of Housing Services was satisfied that a 50-week programme could be achieved.

(iii) Epping Forest College – The developer of the site, Redrow Homes Limited, was now working with two of the Council's Preferred Registered Social Landlord Partners, Home Group and Moat Housing, in order to prepare a joint funding bid to the Housing Corporation for the development of the affordable housing element at the site. Meetings had taken place with the Housing Corporation in respect of obtaining grant funding for the site, and a range of models were being prepared to enable the shared ownership element of the development to be available to applicants.

(iv) Charter Mark Re-Accreditation – Housing Services had retained the prestigious Charter Mark award for Customer Excellence in the Public Sector, which had been first awarded three years ago. Arrangements were being made for the certificate to be presented to Housing Services by the Chairman of the Council at the next meeting of the Council scheduled for 30 October 2007.

53. OVERVIEW AND SCRUTINY

The Democratic Services Officer reported on behalf of the Chairman of the Overview and Scrutiny Committee that, as the meeting scheduled for 30 August 2007 had been cancelled, the only item to report was the submission of a report regarding the webcasting pilot for the consideration of the Cabinet at its next scheduled meeting on 8 October 2007.

54. NORTH WEALD AIRFIELD STRATEGY CABINET COMMITTEE - 31 JULY 2007

The Planning and Economic Development Portfolio Holder presented the minutes from the meeting of the North Weald Airfield Strategy Cabinet Committee held on 31

July 2007. The items that had been considered included: the extension of the Retail Market Licence; and the future use of Hangar One.

Decisions:

(a) Extension of Retail Market Agreement – North Weald Airfield

(1) That the current Retail Market Licence be surrendered and a new Retail Market Licence with amended terms be granted;

(2) That the length of the new Retail Market Licence be from 2007 to 2017, subject to an annual, landlord only, break clause from 2010;

(3) That the new Retail Market Licence be uplifted by £1,000 per market with effect from 2010, with annual index linking for inflation; and

(4) That, in addition to the existing annual Airfield Improvement Contribution and as a single additional contribution to the Airfield Improvement annual charge, a lump sum payment of £150,000 be contributed by Rondeau General Merchants Limited, trading as Hughmark International, towards the resurfacing of the Meadow Area at the commencement of the new agreement; and

(b) Future Use of Hangar One

(5) That a minimum ten-year lease with Becro Engineering Limited for the purposes of fabricating structural steelwork be agreed in principle as the best future option for the use of Hangar One, at an annual rent of £85,000 per annum on a full repairing basis subject to review after five years;

(6) That the final terms of the lease, to include further information about the proposed refurbishment and maintenance works, be negotiated with Becro Engineering Limited and reported to the Cabinet for final approval by the Finance, Performance Management and Corporate Support Services Portfolio Holder; and

(7) That, as the proposed future manufacturing use is a deviation from the current approved general storage or distribution uses, the potential environmental impact of the proposal be fully considered as part of the planning application process.

Reasons for Decision:

The Cabinet were satisfied that the North Weald Airfield Strategy Cabinet Committee had fully addressed all the relevant issues in relation to the recommendations and that these should be endorsed.

Other Options Considered and Rejected:

The Cabinet were satisfied that the North Weald Airfield Strategy Cabinet Committee had considered all the relevant options in formulating their recommendations. The Cabinet did not consider that there were any other options.

55. PRUDENTIAL INDICATORS OUTTURN AND TREASURY MANAGEMENT STEWARDSHIP REPORT - 2006-07

The Finance, Performance Management and Corporate Support Services Portfolio Holder presented a report concerning the Prudential Indicators Outturn and Treasury Management Stewardship Report for 2006-07. The Portfolio Holder reminded the Cabinet that the Council had adopted the CIPFA Code of Practice for Treasury Management in the Public Sector in 2002, and that its Treasury Management Service was operated in compliance with this Code. The prime objectives of the Council's Treasury Management activities were the effective management of risk and that any borrowing activities should be undertaken on a prudent, affordable and sustainable basis.

The Portfolio Holder stated that during 2006-07, the Council opened a Special Interest Bearing Account with Nat West Bank plc, which could be managed through the Council's Treasury software, thus saving the cost of an external CHAPS charge. Initially this account had been opened in order to earn immediate interest upon the capital receipt from the sale of the Parade Ground at North Weald Airfield. Subsequently, this account had also been used as a complement to the Bank of Scotland account, as both accounts earned interest at the Bank of England base rate.

The Portfolio Holder reported that the Treasury position as of 31 March 2007 was that £53million was invested generating an average return of 5.35%. Throughout the year, the Council had maintained an average investment of £53.4million that had generated an average return of 4.93% in comparison to an average net return of 4.29% for money market funds. The benchmark for local authority Treasury performance was the average seven-day LIBID rate, which was 4.82% in 2006-07, and in exceeding this benchmark the Council had earned an additional £53,000 in interest. The Council had also met all its Prudential Indicators for 2006-07. The Net Borrowing position was negative as the Council was debt-free and an investor, and as no external loans had been drawn down to finance the Council's capital programme, its debt-free status had been maintained. In addition, neither the Council Tax nor housing rents had been affected by the Council's capital expenditure decisions, nor had any revenue resources been utilised for General Fund capital expenditure.

The Portfolio Holder informed the Cabinet that there had been three minor breaches of the counterparty limits during the year. In each case, the mistake had been reported to the Head of Finance and due to the low level of risk involved it had been decided not to recall any of the investments concerned prematurely. In addition there had been two instances when the restrictions on maximum terms on Building Society investments had been breached. The Head of Finance had reminded the Treasury dealing team of the need to check the counterparty list restrictions prior to committing the Council to a deal. In all other instances, the Council had complied with its internal and external procedural requirements.

The Portfolio Holder stated that the Council had complied with all the relevant statutory and regulatory requirements, which had limited the levels of risk associated with its Treasury Management. With the support of the Council's professional Treasury advisers Butlers, the Council had proactively managed its investments during the year. Information supplied by the CIPFA Benchmarking Club had also shown that the Council had achieved a higher return on its investments for a lower cost than other similar local authorities. Some changes to the investment criteria had also been proposed, in order to ensure that Building Societies with a credit rating were treated in the same fashion as Banks and to simplify the investment rules for Building Societies without a credit rating. The proposed changes would enable the Council to maintain a flexible position regarding the investment of its funds.

Decisions:

- (1) That the Prudential Indicators Outturn for 2006-07 be approved;
- (2) That the Treasury Management Stewardship Report for 2006-07 be noted, including the minor breaches of the internal dealing limits; and
- (3) That, for Building Societies, the counterparty criteria be modified as follows:
 - (a) only Building Societies based in either the United Kingdom or the Republic of Ireland be included in the counterparty listing;
 - (b) all deals made with Irish Building Societies be in pounds sterling and not converted out of sterling at any stage;
 - (c) rated Building Societies be treated upon the basis of their credit rating;
 - (d) unrated Building Societies with assets in excess of £1billion pounds be subject to a cumulative investment limit of £3million and a maximum term of 9 months;
 - (e) unrated Building Societies with assets in excess of £500million be subject to a cumulative investment limit of £2million and a maximum term of 6 months; and
 - (f) unrated Building Societies with assets less than £500million be excluded from the counterparty listing.

Reasons for Decision:

The outturn figure for each Prudential Indicator had been compared with its estimate and any significant differences had been analysed. There had been no breaches of limiting indicators during the year.

The approval of restrictions for investments with Building Societies based upon asset base and credit rating rather than business stream allowed greater investment flexibility.

Other Options Considered and Rejected:

To continue to limit investments with Building Societies based upon their ranking within the top 30, subject to a minimum capital asset base of £500million, however this had created an inconsistency between investments with credit rated Building Societies and Banks.

56. EPPING FOREST DISTRICT PLAY STRATEGY 2007-17

The Leisure and Young People Portfolio Holder presented a report regarding the Epping Forest District Play Strategy for 2007-17. The Portfolio Holder informed the Cabinet that the Council had been allocated £243,871 in principle from the Big Lottery Fund to improve and develop play facilities within the District. This funding would be accessed via an application process that required three key undertakings: establishment of a District Play Partnership involving play service providers from statutory, voluntary and charitable agencies; development of a Play Policy; and the identification of priority play projects for the area. The priority play projects had to

require a minimum investment of £50,000, and the facilities provided had to be free of charge to participants.

The Portfolio Holder reminded the Cabinet that the Council had already invested in a number of facilities during the last three years via the Youth Initiatives Scheme, however a further three areas had been identified for priority funding in the Strategy at Limes Farm, Nazeing and Lambourne. As part of the development of the Strategy, a thorough audit of the existing facilities within the District had been undertaken along with an extensive consultation exercise that had included parents, young people, Town and Parish Councils, and other interested partner agencies. An Epping Forest District Play Partnership had been established in December 2006 and had met regularly over the last few months to agree the District Play Policy. Ratification of the Play Strategy would enable the Council to proceed with the application for its allocated funding and complete phase I of the project.

Decisions:

- (1) That the Epping Forest District Play Strategy 2007 – 2017 be ratified; and
- (2) That, as a result of the Audit and Consultation process undertaken during the development of the Strategy, the three areas of Limes Farm, Nazeing and Lambourne be prioritised for investment on the basis of the success of the funding application to the Big Lottery Fund.

Reasons for Decisions:

The Council had already invested significantly to improve the play and youth provision within the District via the Youth Initiatives Scheme, however it was felt that more resources were needed. Therefore, the Epping Forest Play Strategy identified a coordinated and collaborative approach to future investment in play provision, and how it would be delivered in an equitable manner to the benefit of all children and young people across the District.

Other Options Considered and Rejected:

To not ratify the Epping Forest District Play Strategy, however this would lead to the loss of a potentially significant investment in improved play provision within the District.

57. BED AND BREAKFAST ACCOMMODATION CONTRACT PROCEDURE

The Housing Portfolio Holder presented a report concerning the procedure to be employed for determining the Bed and Breakfast Accommodation Contract tenders. The Cabinet were reminded that, ordinarily, the decision to accept a tender or tenders in respect of this contract would have been referred to the Housing Portfolio Holder. However, the Portfolio Holder had declared a prejudicial interest in this matter due to a close association with one of the tenderers, who was a serving District Councillor. Under normal procedure, the matter would then stand referred to the Cabinet, but an additional six members of the Cabinet had indicated a prejudicial interest. Four of these members who had declared a prejudicial interest, plus the Housing Portfolio Holder, applied to the Standards Committee for a dispensation. The decision of the Standards Committee was to only grant dispensations to two of the members concerned, hence leaving the Cabinet inquorate.

The Portfolio Holder stated that guidance had been sought from the Head of Research and Democratic Services on how the Cabinet could proceed with this matter. A number of options were presented for consideration, of which the Cabinet felt that the best choice would be to delegate the decision to the Leisure and Young People Portfolio Holder, who did not have a prejudicial interest to declare in the matter. The Cabinet had also been advised that as this report only dealt with the procedure for determining the contract, the prejudicial interest previously declared by members of the Cabinet would not apply in this case.

Decision:

That, as the current Housing Portfolio Holder has a prejudicial interest to declare on the matter, authority to accept a tender or tenders for the Bed and Breakfast Contract be delegated to the Portfolio Holder for Leisure and Young People.

Reasons for Decision:

The delegation of the decision to the Leisure and Young People Portfolio Holder would allow members of the Cabinet with a prejudicial interest to comply with the Council's Code of Conduct and meet the legal requirement for Cabinet decisions to only be made by members of the executive.

Other Options Considered and Rejected:

To delegate the decision to an ad-hoc Cabinet Committee comprising no less than three Cabinet members without a prejudicial interest or in receipt of a dispensation from the Standards Committee.

To delegate the decision to the Head of Housing Services.

58. LOUGHTON ALDERTON BYE-ELECTION - 30 AUGUST 2007

The Leader of the Council presented a report about the Loughton Alderton Bye-Election held on 30 August 2007. The Leader reminded the Cabinet that a bye-election had been held on 30 August 2007 in the Loughton Alderton ward, following the resignation of one of the Ward Members. There had been no provision available within the budget for this bye-election, and consequently a supplementary estimate had been recommended for approval by the Council. The Returning Officer informed the Cabinet that the costings were currently being collated, and the final figure would be reported to the Leader of the Council prior to the next Council meeting on 30 October 2007.

Decision:

That, in respect of costs incurred on the District Council bye-election for the Loughton Alderton Ward held on 30 August 2007, a revenue DDF supplementary estimate be recommended to the Council for approval, in a sum to be reported to the Leader of the Council by the Returning Officer prior to the Council meeting on 30 October 2007.

Reasons for Decision:

It was a statutory requirement that the bye-election be held once the request from two electors had been made, and the Returning Officer had had no alternative but to incur the necessary expenditure.

Other Options Considered and Rejected:

There were no other options considered and rejected in respect of this matter.

59. MEMORANDUM OF UNDERSTANDING WITH THE ENVIRONMENT AGENCY

The Civil Engineering and Maintenance Portfolio Holder presented a report concerning the Memorandum of Understanding with the Environment Agency. The Portfolio Holder reminded the Cabinet that the current Memorandum of Understanding was a legal contract with the Environment Agency whereby the Council was responsible for the management of those watercourses and flood defence assets that had been re-designated as main rivers by the Department for Environment, Food and Rural Affairs on 1 April 2006; it was due to expire on 31 March 2008. The Environment Agency had been satisfied with the Council's performance and had requested that the Council submit a tender to renew the Memorandum of Understanding for a further two-year term. The Annual Maintenance Contract for watercourses had been awarded to Hugh Pearl (Land Drainage) Limited and was due to expire in June 2008. However, in order to bid for a new Memorandum of Understanding with the Environment Agency, the costs of the new Annual Maintenance Contract had to be taken into account. Consequently, it was proposed to terminate the current Annual Maintenance Contract with effect from 1 April 2008 and undertake the procurement process for a new contract in sufficient time to inform the new Memorandum of Understanding tender and include any increased costs in the 2008-09 budget.

Decision:

- (1) That the submission of a cost neutral tender bid to the Environment Agency for a two-year Memorandum of Understanding operating from 1 April 2008 to 31 March 2010 be approved;
- (2) That the Head of Environmental Services be authorised to invite tender bids for the award of the Annual Watercourse Maintenance Contract, for a five-year rolling partnering type of contract subject to annual performance-based renewal; and
- (3) That, if required, the termination of the existing contract at an appropriate time by the Head of Environmental Services be noted.

Reasons for Decision:

The Memorandum of Understanding was cost neutral for the Council as all costs incurred were met by the Environment Agency. If the Council were not to bid then watercourse management costs could rise and there would be a risk of losing key skills within the Land Drainage team.

Through the Memorandum of Understanding, the Council had created 9 hectares of prime wetland habitat at the flood storage reservoirs of major biodiversity value, in collaboration with the Countrycare team. There was no guarantee that the Environment Agency would maintain these habitats if a new Memorandum of Understanding was not bid for.

As a riparian owner, the Council had to maintain a significant length of watercourses, which could only be undertaken satisfactorily by specialist land drainage management contractors.

Other Options Considered and Rejected:

To not bid for the new Memorandum of Understanding, however this could have financial implications for the Council and impair the ability of the Land Drainage section to deliver its key services.

To broaden the current authority of the Head of Environmental Services to further extend the current Annual Maintenance Contract.

60. BOBBINGWORTH TIP REMEDIATION PROJECT

The Environmental Protection Portfolio Holder presented a report about the Bobbingworth Tip Remediation Project. The Portfolio Holder reported that the project did not begin until 19 March 2007, nine months later than originally envisaged, due to delays in completing the Section 278 Agreement with Essex County Council. The heavy rainfall experienced during the course of the summer had also contributed to delays in activity on the site. These delays had resulted in estimates for certain works expiring and subsequent tender exercises had led to higher costs than the original estimates. These additional costs, along with increased costs for complying with the Section 278 agreement, had resulted in the need to draw down on the original contingency sum. Thus, it was felt prudent to seek an additional capital allocation in order to meet the further scheme costs arising from the delays and increased works costs, and to restore the contingency sum to a level that accorded with standard engineering practice.

The Portfolio Holder expressed the hope that the requested additional funds would be sufficient to complete the project and that further funding would not be required. The Cabinet felt that further draw downs from the contingency sum should only be made with the authorisation of the Environmental Protection Portfolio Holder, and that a further report upon the progress of the scheme and projected budget outturn should be submitted to a future meeting of the Cabinet.

Decisions:

- (1) That, with associated cost implications, the delayed start and continued inclement weather interruptions on the Bobbingworth Tip Remediation Project be noted;
- (2) That additional capital provision be agreed in the sum of:
 - (a) £170,000 to meet the costs of direct works; and
 - (b) £100,000 to re-instate the contingency budget to its recommended level;
- (3) That authority be delegated to the Environmental Protection Portfolio Holder before permitting any of the contingency budget to be drawn down;
- (4) That, in order to cover the additional capital provision, a supplementary capital estimate in the sum of £270,000 be recommended to the Council for approval; and
- (5) That a further report on the progress of the scheme and projected budget outturn be received in due course.

Reasons for Decision:

The additional costs were unavoidable, given the delay in commencement and the recent wet weather, and the scheme was now so advanced that cessation was no longer practicable.

The industry standard was to maintain a contingency of 10% of the anticipated project cost, in order to manage any unforeseen circumstances.

Other Options Considered and Rejected:

To abandon the project, however this could leave the Council open to legal action by the Environment Agency and Thames Water if the scheme was not completed as designed and approved.

61. FORESTER MAGAZINE - PROCUREMENT

The Leader of the Council presented a report concerning the current procurement arrangements for the Forester Magazine. The Leader reminded the Cabinet that the Council's Forester Magazine was delivered to households and businesses within the District in June, September November and February each year, and was considered one of the most important methods of local communication. A range of suppliers assisted in the production and distribution of the Forester, and good working relationships had been established with them over the last five years. As none of the contracts currently exceeded £20,000, the acceptance of tenders was within the delegated authority of the Head of Research and Democratic Services. However, Contract Standing Order C12 also stated that serial contracts could not be renewed for more than four years. As the original contracts were let in 2002, new competitive tenders were required to be obtained for the new financial year and it was proposed to utilise the Essex Procurement Hub for this purpose if possible.

Decision:

- (1) That the current position concerning contracts for production of The Forester Magazine be noted; and
- (2) That the Procurement Hub be utilised if possible in pursuing competitive quotations to test the design, sale of advertising, print and distribution aspects for production of the Forester Magazine, or else a competitive tender exercise be pursued by the Council.

Reasons for Decision:

Whilst the current arrangements for the production and distribution of the Forester had worked well, good financial practice recommended periodic testing of the market to ensure that best value was obtained.

Other Options Considered and Rejected:

To waive Contract Standing Order C12 to permit continuation of the current arrangements.

62. DEVELOPMENT LAND SALE - LANGSTON ROAD INDUSTRIAL ESTATE, LOUGHTON

The Leader of the Council presented a report about the development land sale at Langston Road Industrial Estate in Loughton. The Leader reminded the Cabinet that it had been agreed at the previous meeting to permit the contract to be assigned to Rock Investment Holdings Limited for the same purchase price, as it was believed that this company was funding the purchase for Exton Estates Limited. However, the wording submitted by the purchaser's solicitor allowed Exton Estates Limited to assign the contract to a third party other than Rock Investment Holdings Limited, and this subtle difference had not been appreciated by either the relevant Council officers or the Council's property consultants, Lambert Smith Hampton. Consequently, contracts were exchanged on 27 July 2007, Exton Estates Limited paid a 10% deposit and then proceeded to assign the contract to Polofind Limited of Sterling House, Langston Road, Loughton.

The Leader informed the Cabinet that completion of the sale had been scheduled for 13 August 2007, but as there had been highways issues concerning the Section 106 agreement with Essex County Council, an extension was granted. The completion of the sale took place on 28 August 2007. When the oversight had become apparent, it was considered not possible to rectify the situation. The relevant officers had been reminded to ensure that their actions reflected the authority granted by the Cabinet minutes, and that any consultants involved were also advised accordingly. The Cabinet were reassured that the Council had not suffered financially over the situation, but an Internal Audit investigation into the incident was underway.

Decision:

- (1) That the exchange of contracts on 27 July 2007 for the sale of the T11 Industrial Development Site, Langston Road, Loughton be noted;
- (2) That the agreed purchaser, Exton Estates Limited assigned the agreement to Polofind Limited for the same purchase price be noted; and
- (3) That completion of the sale took place on 28 August 2007 be noted.

Reasons for Decision:

The intention of the Cabinet in this transaction had not been reflected in the final documentation and, as such, the matter had been brought to the Cabinet's attention as a matter of record.

Other Options Considered and Rejected:

There were no other options considered and rejected.

63. LOUGHTON BROADWAY - DEVELOPMENT OPTIONS

The Leader of the Council presented a report concerning the possible future development options at Loughton Broadway. The Leader stated that the Loughton Broadway area had received the attention of the Council for a number of years. This had included the Town Centre Enhancement Scheme, which had encountered unforeseen problems due to the location and depth of a gas main, but the Council continued to hold significant freehold land in the area. The Broadway was considered to have three entrances: where Rectory Lane became Chigwell Lane; Willingale Road; and on foot from the Debden Underground Station. In order to improve these entrances to the Broadway, it had been proposed to progress linked Development Briefs for the Rectory Lane/Chigwell Lane gateway and the gateway linking the Broadway with the Debden Underground Station. It was felt that consultants should

be engaged to produce the linked Development Briefs, and, in order to progress the scheme expediently, authority should be delegated to the Leader of the Council, and the Housing, Civil Engineering and Maintenance, and Planning and Economic Development Portfolio Holders to agree the scoping brief for the consultancy work as well as the list of consultants to be invited to undertake the linked Development Briefs.

The Leader of the Council added that the consultation exercise would encompass the same partners that had been involved in the Broadway Town Centre Enhancement scheme, and that there was funding available from Section 106 agreements to improve the traffic flow through the Broadway. The Leader reassured the Cabinet that the scheme would be progressed as quickly as possible but that the proper procedures had to be followed.

Decision:

- (1) That, in order to improve the gateways at The Broadway, the bringing forward of linked Development Briefs be agreed in principle;
- (2) That, partly because of urgency, partly because of internal capacity and partly to bring specialist knowledge, Consultants be appointed to produce the linked Development Briefs; and
- (3) That delegated authority be given to the following Portfolio Holders to agree the scoping report and list of consultants:
 - (a) Leader of the Council;
 - (b) Planning and Economic Development;
 - (c) Housing; and
 - (d) Civil Engineering and Maintenance.

Reasons for Decision:

The progress of linked Development Briefs could improve the economic vibrancy of the area, secure public transport improvements and assist in the completion of the current Town Centre Enhancement Scheme. The engagement of consultants for the linked Development Briefs would ensure a greater specialist expertise and resource available, and allow the Council to manage the project effectively. A scoping exercise would be required prior to the appointment of any consultants, and that this should be agreed by the listed Portfolio Holders, along with the final list of consultants to approach, of which several had been successfully used by the Council in the past.

Other Options Considered and Rejected:

To do nothing, however this would not produce the desired benefits for the Broadway and surrounding area.

To use the Council's own resources to draw up the linked Development Briefs, however it was felt that there was insufficient specialist expertise within the Council and that progress would be slower.

64. EXCLUSION OF PUBLIC AND PRESS

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

<u>Agenda Item No</u>	<u>Subject</u>	<u>Exempt Information Paragraph Number</u>
19	Ombudsman's Decision – Waste Transfer Station	1 and 2

65. OMBUDSMAN'S DECISION - WASTE TRANSFER STATION COMPLAINT

The Planning and Economic Development Portfolio Holder presented a report regarding the Ombudsman's decision in respect of the Waste Transfer Station. The Portfolio Holder informed the Cabinet of the decision made by the Local Government Ombudsman on 28 November 2006 in relation to a complaint regarding the Waste Transfer Station within the District. The complaint had been made by two local residents, situated 30 metres and 100 metres respectively from the site. The case had involved both the District Council and Essex County Council, and the Ombudsman had found maladministration by both councils, concluding that both complainants had suffered unnecessary noise and nuisance for many years. The Ombudsman had stipulated a number of recommendations that had already been met by both Councils, including an initial payment of £1,000 to each complainant. However, the Ombudsman had further stipulated that both Councils should investigate if the Waste Transfer Station could be relocated to an alternative site within a reasonable period, but if not then the complainants should be reimbursed for any fall in value of their properties.

The Portfolio Holder advised the Cabinet that both Councils had investigated the possibility of relocating the Waste Transfer Station, but had concluded that this could not be achieved with a reasonable time frame, as it would take a minimum of two years. The Council had appointed Montagu Evans and been advised of the potential fall in value of the two properties. In negotiations with the County Council, it had been agreed that the District Council would be liable for £46,000 of the total amount to reflect the financial ability of each council to resolve the complaint. It was proposed that an offer based upon the valuation provided by Montagu Evans be made to the complainants by both Councils, in order to resolve the situation. If either or both complainants rejected this offer then permission was sought to appoint the District Valuer to provide a further valuation, and that delegated authority be given to officers to offer this amount to the complainants provided that it did not exceed the original Montagu Evans valuation by more than 10%.

The Portfolio Holder stated that a request had been received from one of the complainants to be reimbursed for their legal and surveyor's fees. This issue had not been raised with the Ombudsman and thus no recommendation had been made in respect of this matter. It was felt that this request should be declined, but that the complainant should be advised to refer this claim to the Ombudsman in order for the two Councils to be further advised as to whether this claim was justified. It was further felt that the Ombudsman's judgement would not set a precedent for possible action at other sites within the District.

Decision:

- (1) That the decision of the Ombudsman, and the actions taken to date by Epping Forest District Council and Essex County Council on the Ombudsman's preliminary recommendations be noted;
- (2) That, in order to expedite the earliest possible resolution of the complaint and based on the valuations provided by Montagu Evans, a voluntary offer of financial compensation be made by the Council to each complainant for the devaluation of their properties;
- (3) That should either or both complainants reject the voluntary offer then:
 - (a) the District Valuer be appointed to provide valuation figures; and
 - (b) authority be delegated to officers to offer these amounts to the complainants, provided they did not exceed the amounts advised by Montagu Evans by more than 10%;
- (4) That the request by one complainant to be reimbursed with his legal and surveyors' expenses be declined; and
- (5) That, in order to cover the Council's portion of the remaining costs of this case, a revenue DDF supplementary estimate in the sum of £46,000 be recommended to the Council for approval.

Reasons for Decision:

To comply with the recommendations for action made by the Local Government Ombudsman in respect of the complaint regarding the Waste Transfer Station within the District.

Other Options Considered and Rejected:

To relocate the Waste Transfer Station, however it was felt that this could not be achieved within a suitable timeframe to comply with the Ombudsman's recommendation.

CHAIRMAN