

EPPING FOREST DISTRICT COUNCIL CABINET MINUTES

Committee: Cabinet **Date:** 15 December 2008

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 7.00 - 8.15 pm

Members Present: Mrs D Collins (Chairman), C Whitbread (Vice-Chairman), R Bassett, Mrs A Grigg, Mrs H Harding, Mrs M Sartin and D Stallan

Other Councillors: Mrs R Brookes, Mrs P Brooks, S Murray, Mrs P Smith and J M Whitehouse

Apologies: M Cohen and Ms S Stavrou

Officers Present: D Macnab (Deputy Chief Executive), I Willett (Assistant to the Chief Executive), J Gilbert (Director of Environment and Street Scene), C O'Boyle (Director of Corporate Support Services), R Palmer (Director of Finance and ICT), J Preston (Director of Planning and Economic Development), P Pledger (Assistant Head of Housing Services (Property and Resources)), M Tipping (Assistant Director of CSS - Facilities Management and Emergency Planning), R Wilson (Assistant Director Operations (Housing)), T Carne (Public Relations and Marketing Officer), G J Woodhall (Democratic Services Officer) and S G Hill (Senior Democratic Services Officer)

106. WEBCASTING INTRODUCTION

The Chairman 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.

107. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Staff Code of Conduct, the Deputy Chief Executive declared a personal interest in agenda items 22 (Waltham Abbey and Epping Sports Centres) and 23 (Leisure Management Contract – Income Share Calculation) by virtue of his son being an employee of Sports Leisure Management Limited at Epping Sports Centre. The Deputy Chief Executive had determined that his interest was prejudicial and would leave the meeting for the consideration of the items.

(b) Pursuant to the Council's Code of Member Conduct, Councillor J M Whitehouse declared a personal interest in agenda item 23 (Leisure Management Contract – Income Share Calculation) by virtue of being a member of Epping Sports Centre. The Councillor had determined that his interest was not prejudicial and would remain in the meeting for the consideration of the item.

108. MINUTES

RESOLVED:

That the minutes of the meeting held on 10 November 2008 be taken as read and signed by the Chairman as a correct record.

109. REPORTS OF PORTFOLIO HOLDERS

There were no oral reports received from the Portfolio Holders present.

110. PUBLIC QUESTIONS

There had been no questions received from members of the public for the Cabinet to consider.

111. OVERVIEW AND SCRUTINY

The Deputy Chief Executive reported that the Overview and Scrutiny Committee had received a presentation from the Youth Council on its achievements and plans for the future at its last meeting on 11 December 2008. Following the presentation, the Committee had resolved to support the Youth Council in its bid for an additional £12,000 of funding from the Continuing Services Budget in 2009/10.

112. ANY OTHER BUSINESS

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

113. FINANCE & PERFORMANCE MANAGEMENT CABINET COMMITTEE - 17 NOVEMBER 2008

The Finance and Performance Management Portfolio Holder presented the minutes from the meeting of the Finance and Performance Management Cabinet Committee held on 17 November 2008. The items that had been considered included: the Audit Commission Inspection of the Waste Management Service; Fees and Charges; Risk Management – Additional Risks; and the Draft General Fund Continuing Services Budget and District Development Fund lists for 2009/10. Other items that had been considered by the Cabinet Committee included: Quarterly Financial Monitoring; Insurance Performance Monitoring; and the Direction of Travel Self Assessment 2008.

The Portfolio Holder also announced that, as part of the budget setting process, an additional £60,000 of revenue savings from the Continuing Services Budget had been identified. These additional savings would be used to keep the charges within the car park tariff at their current levels for 2009/10, which would be of benefit to local businesses during the current economic downturn.

Decision:**Audit Commission Inspection of the Waste Management Service**

(1) That the Action Plan be agreed and the progress made to date be noted;

Fees and Charges

(2) That, following consideration of the comments of the Finance & Performance Management Scrutiny Panel, a general increase of 5% for fees and charges in 2009/10 be approved;

(3) That the option of one free roll per household with subsequent rolls charged at full cost be considered as the charging regime for Garden Waste sacks with effect from April 2009; and

- (4) That, following the announcement of an additional £60,000 of savings, no increases in the car park tariffs for 2009/10 be made;

Risk Management – Additional Risks

- (5) That a new risk relating to Management Capacity in the Planning & Economic Development Directorate, risk 25, be added to the Corporate Risk Register and scored as C2 (significant likelihood, critical impact); and
- (6) That a new risk relating to the Council's Investments, risk 26, be added to the Corporate Risk Register and scored as C2 (significant likelihood, critical impact); and

Draft General Fund CSB & DDF Lists 2009/10

- (7) That the draft Continuing Services Budget and District Development Fund schedules be noted.

Reasons for Decision:

The Cabinet were satisfied that the 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 Cabinet Committee had considered all the relevant options in formulating their recommendations. The Cabinet did not consider that there were any further options.

114. FINANCE & PERFORMANCE MANAGEMENT CABINET COMMITTEE - 8 DECEMBER 2008

The Finance and Performance Management Portfolio Holder presented the minutes from the meeting of the Finance and Performance Management Cabinet Committee held on 8 December 2008. The Cabinet Committee had considered the Draft General Fund Budget Summary for 2009/10. The Portfolio Holder highlighted and welcomed the Cabinet Committee's recommendation that the District Council Tax should not be increased by more than 2.5%.

Decision:

Draft General Fund Budget Summary

- (1) That the budget guidelines previously set down be amended as follows:
- (a) the guideline for Continuing Services Budget net expenditure for 2009/10 be increased from £17.6million to £17.9million;
- (b) the guideline for District Development Fund net expenditure for 2009/10 be increased from £270,000 to £700,000;
- (c) that balances continue to be aligned to the Council's net budget requirement and that balances be allowed to fall no lower than 25% of the net budget requirement; and

- (d) that the District Council Tax be increased by no more than 2.5%;
- (2) That the items listed in Appendix 2 and Appendix 3 of the report to the Cabinet Committee be included in the revenue budgets for 2009/10, subject to any additional late growth bids or additional savings being necessary; and
- (3) That the level of the Insurance Reserve be reduced to £500,000.

Reasons for Decision:

The Cabinet were satisfied that the 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 Cabinet Committee had considered all the relevant options in formulating their recommendations. The Cabinet did not consider that there were any further options.

115. REVIEW OF THE HOUSING ALLOCATIONS SCHEME

The Housing Portfolio Holder presented a report regarding the annual review of the Housing Allocations Scheme. The Council was legally required to have a Scheme, setting out the procedures for allocating its housing accommodation and making nominations to Registered Social Landlords (RSLs). Each year, the Cabinet considered the Council's Allocations Scheme and agreed any changes to be made, following detailed consideration by the Housing Scrutiny Panel.

The Portfolio Holder advised the Cabinet that the Housing Scrutiny Panel had considered the proposed changes to the Allocations Scheme for 2009/10 in detail at its meeting on 9 October 2008, and its comments had been incorporated into the proposed amendments. The Cabinet was requested to approve the changes to the Allocations Scheme, with effect from 1 April 2009, that had been set out in Appendix 1 of the report. In addition, it was proposed to delegate authority to the Portfolio Holder to approve the final scheme following consideration of any possible late responses to the consultation.

Decision:

- (1) That, following detailed consideration by the Housing Scrutiny Panel, and consultation with the Tenants and Leaseholders Federation, Citizen Advice Bureaux, Parish and Town Councils and Registered Social Landlord Partners, the proposed changes to the Housing Allocations Scheme for 2009/10 as set out in Appendix 1 of the report be agreed; and
- (2) That delegated authority be granted to the Housing Portfolio Holder to consider any late responses to the consultation, and approve the final Housing Allocations Scheme.

Reasons for Decision:

The changes proposed to the Allocations Scheme would generally update the scheme and ensure fairness to all applicants.

Other Options Considered and Rejected:

To not agree the changes to the Council's Allocations Scheme from 1 April 2009.

To agree different changes to those recommended.

116. RENTAL LOAN SCHEME - ADDITIONAL FUNDING

The Housing Portfolio Holder presented a report concerning additional funding for the Rental Loan Scheme. Due to the current financial climate, concerns had been expressed about a potential increase in the number of home re-possession, which in turn could result in an increasing number of homeless applications being made to the Council.

The Portfolio Holder reported that in order to assist homeless applicants who had been affected by the recent financial downturn, two changes in policy had already been made. Firstly, the maximum amount underwritten by the Council had been increased from £20,000 to £40,000 for the Epping Forest Housing Aid Scheme (EFHAS), which would enable around 20 additional homeless applicants to be assisted with rent deposit guarantees to secure accommodation in the private sector. Secondly, under the Council's Rental Loan Scheme, the payback period had been extended from 12 to 24 months for homeless applicants awarded an interest free rental loan to meet the cost of the required one month's advance rent when taking up a property in the private sector. Since the changes to the scheme, which took effect on 1 September 2008, three homeless applicants had each been granted rental loans of £900.

The Portfolio Holder stated that the number benefitting from the scheme was likely to increase due to the current financial climate, and the Cabinet was requested to approve a District Development Fund bid of £20,000 for the Rental Loan Scheme in 2009/10. It was estimated that this additional funding would enable the Council to assist many more homeless applicants to seek accommodation in the private sector. The Cabinet felt this was an excellent scheme worthy of support as it illustrated the Council's willingness to help residents in the current economic downturn.

Decision:

That, in order to increase the amount of funding available for the Council's Rental Loan Scheme, a District Development Fund bid in the sum of £20,000 for 2009/10 be made to assist homeless applicants in securing accommodation in the private sector.

Reasons for Decision:

Due to the current financial climate, the Council might receive increased numbers of homeless applications. Providing additional funding of £20,000 for the Rental Loan Scheme would enable the Council to assist more homeless applicants to secure accommodation in the private sector rather than in the Council's own stock.

Other Options Considered and Rejected:

To not support a bid for additional DDF funding of £20,000 for 2009/10 for the Rental Loan Scheme.

117. SPRINGFIELDS IMPROVEMENT SCHEME - PROGRESS REPORT

The Housing Portfolio Holder presented a progress report regarding the Springfields Improvement Scheme. Due to problems associated with the thresholds to the doors and windows on the upper private balconies, foundations, drainage, the specification of the garage doors, increased concrete repairs to the structure, and irregularities within the existing building fabric, the project had now absorbed all contingency funding and was overspent. It was anticipated that this would lead to a final project overspend of £113,042 against a total budget of £4.124m, however further potential savings based upon design amendments were being investigated. In addition, the main contractor had applied for a 12-week extension to the contract, due to delays from a statutory authority; these claims were being investigated by the Project Manager.

Decision:

That, including an anticipated overspend of £113,042 against the agreed budget and with other savings to be identified, the current progress of the Springfields Improvement Scheme in Waltham Abbey be noted.

Reasons for Decision:

Contract Standing Order C31 required presentation of progress reports to the Cabinet for on going major projects that had a value in excess of £1 million.

Other Options Considered and Rejected:

Although, the scheme was slightly overspent and there was also a possibility of a 12-week extension, there were no other options for action other than to note the current position.

118. SAVING THE LOCAL PLAN ALTERATIONS POLICIES

The Portfolio Holder for Planning & Economic Development presented a report about saving the Local Plan Alterations Policies. The Cabinet was informed that there was a three-year time limit on the Local Plan Alterations policies from the date of their adoption (July 2006). This could be extended by a Direction from the Secretary of State, but such a Direction had to be applied for with reasons given for saving individual policies. The application should be with the Government Office for the East of England (GO-East) six months before the expiry date – i.e. by January 2009. It was unlikely that new policies under the Local Development Framework could be fully adopted before 2012 at the earliest, so it was essential that successful Alterations to policies be saved after July 2009 until they could be replaced. This would enable the development control process to continue to operate effectively. Concern was raised that there had been no external consultation with residents. The Director of Planning & Economic Development was seeking authorisation to make any text amendments to the final form of the Council's application.

Decision:

(1) That the schedules of alterations to Local Plan policies and the reasons for either extending the "saved" period for these policies beyond July 2009 or for deleting the policies, as set out in Appendix 1 of the report, be recommended to the Council for approval; and

(2) That any changes or additions to the schedules be incorporated in the final

version of the application, and the Director of Planning & Economic Development be authorised to make any consequential text amendments.

Reasons for Decision:

Saving of the requisite policies would enable the development control process to continue to operate smoothly. As this was a matter concerning adopted Council policy, Council approval was required. The deadline for submitting an application to GO-East was January 2009.

Other Options Considered and Rejected:

There were no other reasonable options.

119. GAZETTEER CONSOLIDATION

On behalf of the Portfolio Holder for Corporate Support & ICT Services, the Director of Finance & ICT presented a report about the consolidation of the Corporate Gazetteer to produce a single database of all addresses within the District. The Cabinet was informed that a Corporate Gazetteer had been a long-term objective for the Council, but the high level of resources required to implement and maintain it had limited progress so far. Recently, a number of Government initiatives and Council specific issues had given this project a higher priority. This would be a substantial project for the Council to undertake but it could be implemented in stages. It was anticipated that the next stage would be achievable using existing staff levels and capital resources.

However, the Director stated that the Council did not have the in-house skills to fully support a complex data matching exercise and this would require external consultancy support, to be tendered for in accordance with Contract Standing Order 9. In addition, the Cabinet was requested to confirm the use of the Local Land and Property Gazetteer held by the Directorate of Planning & Economic Development as the Council's master address list, with the National Land and Property Gazetteer acknowledged as the main source of all addressing data. Any financial savings arising from the consolidation project would not be realised until the next financial year.

Decision:

- (1) That the Corporate Gazetteer Consolidation solution be progressed, utilising the Northgate M3 Environmental and Public Protection systems;
- (2) That the Director of Finance & ICT be authorised to negotiate a contract for consultancy support, in accordance with Contract Standing Order 9, funded out of the existing Capital budget;
- (3) That the Local Land and Property Gazetteer (LLPG) held by the Directorate of Planning & Economic Development be recognised as the Council's master address list; and
- (4) That the National Land and Property Gazetteer be recognised as the main source of all addressing data.

Reasons for Decision:

As more computer systems utilised maps, it was vital that a common database was

created for all property based systems within the Council. A Corporate Gazetteer would also be the primary link for any potential Customer Service Centre & Customer Relationship Management system, as well as facilitating public access to information via the internet, as demonstrated by recent developments within the Planning system.

Other Options Considered and Rejected:

To do nothing but this would not prepare the Council for the future and there were adequate staff and capital resources to support the next stage of the development.

To purchase and implement a completely new system, but this option would be far more expensive and time consuming.

120. REVIEW OF EXECUTIVE CONSTITUTION

The Leader of the Council presented a report concerning the changes to the Executive Constitution required by the Local Government and Public Involvement in Health Act 2007. A review of those changes had been carried out by the Constitution & Member Services Scrutiny Panel, which intended to report to the Overview & Scrutiny Committee at the meeting scheduled for 29 January 2009 with recommendations for approval by the Council on 17 February 2009. The Cabinet was requested to consider the Scrutiny Panel's report so that their views could also be forwarded to the Overview & Scrutiny Committee.

The Cabinet was informed that the main changes in the Constitution had reflected the increased powers for the Leader of the Council to decide how certain executive functions were to be carried out. This included the appointment of Cabinet members, the definition of Portfolios, the establishment of Cabinet Committees, the determination of the Council's representatives on some outside bodies and the approval for delegation of Cabinet responsibilities to Officers. Some Council functions would continue to be dealt with by the Council rather than the Leader. The changes were planned to take effect from May 2009.

The Cabinet felt that the following appointments to outside bodies should remain the preserve of the Council:

- (a) Local Councils Liaison Committee;
- (b) Victoria County History Association; and
- (c) West Essex Area Forum.

Decision:

(1) That the report of the Constitution and Member Services Scrutiny Panel regarding changes to the Executive Constitution as required by the Local Government & Public Involvement in Health Act 2007 be noted; and

(2) That the following observations on the proposals concerning changes to the Executive Constitution be made to the Overview & Scrutiny Committee on 29 January 2009 prior to submission to the Council:

- (a) appointments to the Local Councils Liaison Committee be determined by Council;

- (b) appointment to the Victoria County History Association be determined by the Council; and
- (c) appointment to the West Essex Area Forum be determined by the Council.

Reasons for Decision:

To allow the Cabinet to comment on the proposals due to be considered in January 2009 by the Overview and Scrutiny Committee and to ensure that the Council had amended its Constitution in time for the launching of the new Executive arrangements at the Annual Council meeting in May 2009.

Other Options Considered and Rejected:

There were no alternative courses of action for the Council other than to defer further consideration of this item, however this might mean that the new arrangements would not be brought into effect from May 2009.

121. CIVIC OFFICES, OTHER OPERATIONAL BUILDINGS AND COMMERCIAL PROPERTY - PLANNED MAINTENANCE PROGRAMMES 2009/10 TO 2012/13

On behalf of the Portfolio Holder for Corporate Support & ICT Services, the Assistant Director (Facilities Management & Emergency Planning) presented a report regarding the planned maintenance programmes for the Civic Offices, other operational buildings and commercial property for the period 2009/10 to 2012/13.

The Assistant Director reminded the Cabinet that, at the last meeting, it had requested the Priority P1 items to be further categorised into P1A, P1B and P1C before deciding on the funding to be made available. Items categorised as P1A had health and safety implications, would cause significant disruption upon failure, urgently required major repair or the Council had a legal obligation to maintain. Items categorised as P1B had similar implications as P1A items but their age or deterioration were not as advanced, whilst items categorised as P1C did not have such severe implications if they failed. It was highlighted that if any item originally prioritised as P1 was not included on the maintenance programme and subsequently broke down then this would result in a request for contingency finance and would delay repairs while approval was sought.

The Assistant Director was complimented on the inclusion of pressure washing and general maintenance of paved areas and walkways for Council owned shopping parades as a P1A item. The Deputy Leader proposed that all items categorised as P1A be included in the maintenance programme for 2009/10, with the acceptance of the risk for the potential failure and subsequent need for supplementary finance for any item prioritised as P1B or P1C. These items would be considered for inclusion on the maintenance programme in future years. As a result, bids for Capital funding of £143,000 and District Development Funding of £50,800 for 2009/10 were proposed.

Decision:

- (1) That only those items categorised as priority P1A be included in the Planned Maintenance Programme 2009/10 for the Civic Offices and other Operational Buildings and Commercial Properties;
- (2) That a bid for Capital funding in the sum of £143,000 for 2009/10 be made;

- (3) That a bid for District Development Funding in the sum of £50,800 for 2009/10 be made;
- (4) That the possible risk of failure for the items categorised as P1B and P1C with the subsequent need for contingency finance be accepted; and
- (5) That the items categorised as Priority P1B and P1C be considered for implementation in future years.

Reasons for Decision:

A proactive approach to facilities management for all operational buildings and commercial property would ensure that:

- the buildings and their infrastructure were maintained to an appropriate level meeting health and safety, statutory regulations and contractual obligations;
- the risk of unreliability and failure of critical systems, services and the building fabric was reduced;
- good financial management through forecasting was maintained; and
- performance standards/indicators were maintained or improved upon.

Other Options Considered and Rejected:

To do nothing, however this would lead to the deterioration of building fabric and systems which could result in a risk to the health and safety of staff and public, as well as a risk that the demands made of the buildings and infrastructures might not meet the future needs of the Council.

122. REMOVAL OF UNTAXED ROAD VEHICLES

The Environment Portfolio Holder presented a report about the adoption of devolved powers from the Driver & Vehicle Licensing Agency (DVLA) for the removal from the highway of untaxed road vehicles, and the appointment of a suitable contractor. The Cabinet were informed that the Council currently only removed vehicles on the highway that had been deemed to have been abandoned. Powers were available for adoption, which would enable the Council, working closely with the DVLA and the Police through the use of Automatic Number Plate Recognition equipment throughout the District, to remove vehicles that were untaxed but not necessarily in such a condition that they could be considered to be abandoned. The activity, if the powers were adopted, would be provided by the Council's existing abandoned vehicle contractor, Redcorn Limited, who had been recognised by the DVLA as a contractor able to undertake this role.

The Environment and Street Scene Director added that action would only be taken if the tax disc was more than 28 days out of date, and the vehicle concerned was on highways land not private land. The scheme would be administered through a Memorandum of Understanding between the DVLA, Council, and Redcorn. The current intention was for the Environment Portfolio Holder to sign the Memorandum on behalf of the Council, however the Cabinet felt that the Memorandum should be approved by the Cabinet on behalf of the Council prior to its signature by the Portfolio Holder.

Decision:

- (1) That devolved powers under the Vehicle & Excise Duty (Immobilisation, Removal & Disposal of Vehicles) Regulations 1997 be adopted by the Council;

- (2) That, in partnership with the Driver & Vehicle Licensing Agency and Police, untaxed vehicles within the District be removed by the Council in line with the relevant legislation;
- (3) That the scheme be operated with the Council's current abandoned vehicles contractor, Redcorn Ltd; and
- (4) That the Memorandum of Understanding between the Council, Redcorn Limited and the Driver & Vehicle Licensing Agency be approved by the Cabinet on behalf of the Council.

Reasons for Decision:

Untaxed vehicles, along with those which had been abandoned, were often associated with anti-social and criminal behaviour. In many cases such vehicles were also not roadworthy and uninsured, with 80% of impounded vehicles nationally being found to be without an MOT certificate or valid insurance. The DVLA were encouraging local authorities to adopt the necessary powers and assist them in the management of a growing problem.

Other Options Considered and Rejected:

To not adopt the legislation, however untaxed vehicles would only be dealt with reactively following a complaint rather than proactively.

To adopt the legislation but seek competitive tenders for the provision of the service, however this could result with two contractors operating throughout the district undertaking similar work that would not be cost effective.

To adopt the legislation and provide the service directly, however this would be both costly and risky to the Council as there would not be the economies of scale available to the existing contractor.

123. COUNCIL PLAN 2006-10 AND CABINET PRIORITIES 2008/09 - PROGRESS REPORT

The Portfolio Holder for Finance & Performance Management presented a progress report in relation to the Council Plan 2006-10 and the Cabinet Priority Objectives for 2008/09. The Council Plan for 2006 to 2010 was the authority's key strategic planning document, which set out service delivery priorities over a four year period, with strategic themes matching those set out in the Community Strategy for the District. At its meeting on 9 June 2008, the Cabinet adopted a range of specific priority objectives for 2008/09, for inclusion in the Best Value Performance Plan for 2008/09. Current progress against the Council's key objectives was likely to be an inspection theme in the Direction of Travel assessment for 2008, and the future methodology for the Comprehensive Area Assessment process. It was noted that three Key Performance Indicators achieving their performance target for 2007/08 equated to 23.5%, not 53.5% as printed in the report.

When asked if the Council had sufficient capacity to achieve its aims and objectives, the Leader of the Council responded that although the restructure had taken longer than anticipated it was now almost complete and would focus the Council on its targets. The Leader had been pleased with the general performance of the Cabinet so far during 2008/09, and work had already begun upon the priorities for 2009/10 where the emphasis would be upon outcomes. The performance of both the Council and the Cabinet was noted.

Decision:

- (1) That, for the year to 31 March 2008, the performance of the Council against the objectives, targets and actions contained in the Council Plan for 2006 to 2010 be noted; and
- (2) That, in relation to the key priority objectives adopted for the year, the performance of the Cabinet for the first eight months of 2008/09 be noted.

Reasons for Decision:

It was important that relevant performance management processes were in place to review and monitor performance against the Council's key objectives, targets and actions. This would ensure the continued achievability and relevance of priorities, and enable the identification of proposals for appropriate corrective action in areas of under performance if required.

Other Options Considered and Rejected:

No other options were available in this respect. Failure to monitor and review performance against key objectives, targets and actions and to take corrective action where necessary, could have negative implications for judgements made about the authority in the Direction of Travel and similar corporate assessment processes such as Comprehensive Area Assessment, and might mean that opportunities for improvement are lost.

124. INTER-AUTHORITY AGREEMENTS - WASTE SERVICE DEVELOPMENT PLAN

The Environment Portfolio Holder presented a report regarding the production of a Waste Service Development Plan (SDP) as a key stage in the development of the Inter Authority Agreements (IAA) between the Waste Collection Authorities (WCAs - district and borough councils) and Essex County Council (the Waste Disposal Authority - WDA). The SDP would set out the base position and the desired position looking forward, and was intended to outline for the next 25 to 30 years what the WCAs intended to collect, how they intended to collect it and where they intended to take it for treatment and/or disposal.

The Portfolio Holder added that, on the basis of the agreed SDP, the County Council would require the WCAs to enter into binding Inter Authority Agreements so that the County was able to procure, through its Private Finance Initiative process, the infrastructure required to deliver the targets and aspirations of the Essex Joint Municipal Waste Management Strategy. The Agreement would also potentially provide for the County Council to financially support the collection arrangements of the WCAs through capital and revenue financial support. A decision on the Agreement would be considered at a future meeting of the Cabinet, probably in February 2009. The final content of the SDP was not yet clear, with the WCAs legal advisors currently in discussions with the County Council. However, at this stage, an agreement in principle was required to enable the timetable for the Agreement to be met.

Decision:

That, as attached at Appendix 1 of the report, the first stage of the Waste Service Development Plan be agreed in principle.

Reasons for Decision:

Agreement of the Service Development Plan would enable the next stage of the Inter Authority Agreements to proceed early in 2009. This would also provide the Council with access to Essex County Council funding in support of any changes it needed to make to its collection arrangements.

Other Options Considered and Rejected:

The only alternative at this stage was not to produce and agree the SDP and therefore to effectively preclude the Council from entering into the IAA. This in turn would most likely result in County Council funding not being made available to support the development of the Council's collection arrangements, as the SDP was part of the Council's service planning process.

125. CROSS UNDERTAKING WITH THE OWNER OF 8/8A SUN STREET, WALTHAM ABBEY

The Housing Portfolio Holder presented a report concerning a Cross Undertaking with the owner of 8/8a Sun Street in Waltham Abbey. The Cabinet were reminded that it had approved the compulsory purchase of 8/8a Sun Street, Waltham Abbey in July 2006. Following the making of the Compulsory Purchase Order (CPO), the statutory requirements were undertaken by the Council and the Secretary of State for Communities and Local Government had approved the CPO. The CPO had been subsequently challenged in the High Court by the owner of the property. The Council had managed through negotiations to have the appeal withdrawn and, although formal confirmation was awaited from the High Court, the required order was being processed. The date of that order, when issued, would be the date that the CPO became effective and the date from which the 3 years to enforce it would commence. Accordingly, the Council was now in a position to enforce the CPO.

However, the Portfolio Holder stated that the owners of the property had obtained planning permission for its redevelopment and had initiated some preparatory works involving significant expenditure. They had stated that they were committed to the redevelopment and had requested that the CPO was not enforced. A procedure available to the Council was that of a Cross Undertaking, whereby the Council would enter into a contractual agreement with the owners such that the CPO would not be enforced provided the property was renovated within specific time constraints. If the owners reneged on the agreement then the Council would enforce the CPO forthwith. The Cabinet were informed that both Waltham Abbey Town Council and local ward members were in favour of the proposed action and renovation of the property.

Decision:

- (1) That a Cross Undertaking with the owners of 8/8a Sun Street, Waltham Abbey be entered into by the Council, to secure the re-development of the property without the need to enforce the Compulsory Purchase Order (as made under section 226 of The Town and Country Planning Act 1990);
- (2) That authority be delegated to Officers of the Council to set the terms and conditions of the Cross Undertaking;
- (3) That the contract be signed by the Director of Corporate Support Services on behalf of the Council; and

(4) That, in the event the owners fail to meet the terms and conditions of the Cross Undertaking, authority be delegated to the Director of Housing to undertake a marketing and tendering exercise to find a suitable developer to enable the Compulsory Purchase Order to be enforced and possession obtained of the property and land to facilitate the immediate disposal to the successful developer.

Reasons for Decision:

To ensure that the Cabinet's original desire for the property to be renovated was carried out.

Other Options Considered and Rejected:

The Council could enforce the CPO without consideration of a Cross Undertaking, however given the stated intentions of the owners to renovate the property, this might leave the Council vulnerable to a successful challenge by way of Judicial Review.

126. EXCLUSION OF PUBLIC AND PRESS

Decision:

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</u> | <u>Subject</u> | <u>Exempt Information Paragraph Number</u> |
|--------------------|---|--|
| 22 | Waltham Abbey & Epping Sports Centres | 4 |
| 23 | SLM Limited – Income Share Arrangements | 3 |

127. WALTHAM ABBEY AND EPPING SPORTS CENTRES

The Portfolio Holder for Leisure & Young People presented a report regarding the future management arrangements for both the Epping and Waltham Abbey Sports Centres.

The Portfolio Holder reminded the Cabinet that Sports Leisure Management Limited (SLM) had been contracted to manage four of the Council's Sports Centres/Pools. Waltham Abbey Sports Centre did not fall within these arrangements and had been managed in-house by the Council's Leisure Service, as part of the Environment & Street Scene Directorate. At the time of letting the original contract in 2006, there had been doubts about the future of the Epping Sports Centre and therefore the contract period with SLM was limited to January 2009 rather than the 2013 end date for Loughton and Ongar Leisure Centres and Waltham Abbey Swimming Pool. It was now considered highly unlikely that the Epping Sports Centre would be relocated within the life of the current contract and therefore SLM had been requested to bring forward proposals for a contract extension so that it would be co-terminus with the other contracted centres. The Cabinet considered the contract proposals put forward by SLM and the associated financial consequences of those proposals. The Cabinet were reminded that there still remained issues associated with car parking and disabled access at Epping Sports Centre.

The Portfolio Holder stated that Waltham Abbey Sports Centre was owned by King Harold School and limited public use had been maintained through the auspices of a joint use agreement between the Council and the School. The dual use agreement had been recently extended by two years, expiring at the end of March 2010, but the Council was currently considering the feasibility of providing a more modern sports hall facility as part of the existing Waltham Abbey Swimming Pool. Serving notice on the School to end the dual use agreement would help to offset the increase in the management fee for Epping Sports Centre, although the full benefits of withdrawal would not take effect until 2010/11. Termination of the dual use agreement by the Council would not guarantee the closure of Waltham Abbey Sports Centre, although it was acknowledged that the onus would be on the School to manage any future lettings of the Hall.

Decision:

- (1) That the required 12 months notice period be served on the management of the King Harold School, Waltham Abbey, of the Council's intention to bring to an end the current joint use agreement for the Waltham Abbey Sports Centre, with the cessation to take effect at midnight on 9 January 2010;
- (2) That options (i) and (iii) proposed in the report be approved leading to a reduction of £80,000 in the proposed increase of £220,000 in the management fee for Epping Sports Centre; and
- (3) That, as set out in the report, the financial consequences for the Continuing Services Budget and District Development Fund in 2009/10 be noted.

Reasons for Decision:

If Epping Sports Centre was to remain under the management of SLM then a decision had to be made on the financial arrangements for a contract extension to 2013. Acceptance of the proposed options would reduce the management fee by £80,000.

The Sports Hall at Waltham Abbey Sports Centre could still be made available to the local community by the School, whilst a feasibility study would be undertaken on the practicality of providing a new Sports Hall at Waltham Abbey Swimming Pool.

Other Options Considered and Rejected:

To accept the full £220,000 contract uplift but this would have an adverse effect upon the Continuing Services Budget.

To close Epping Sports Centre with effect from midnight on the 3rd January 2009, thereby saving £214,000, but this would leave Epping and the surrounding area without a local leisure facility or any likelihood of re-provision to an alternative location.

To investigate the possibility of taking Epping Sports Centre back under in-house management until 2013 with the intention of including it within any future leisure management contract.

To seek to tender Epping Sports Centre alone, or Waltham Abbey and Epping Sports Centres together as a three year stand alone contract to ascertain whether this would provide a cheaper management solution.

128. LEISURE MANAGEMENT CONTRACT - INCOME SHARE CALCULATION

The Portfolio Holder for Leisure & Young People presented a report upon the income share calculation within the Leisure Management Contract. The Cabinet were reminded that Sports Leisure Management Limited (SLM) had been contracted to manage four of the Council's sports centres/pools. Waltham Abbey Sports Centre had not fallen within these arrangements and was managed in-house by the Council's Leisure Service as part of the Environment & Street Scene Directorate. The contract with SLM contained clauses relating to the sharing of income over and above defined levels. It had been intended that income share should be calculated on a centre-by-centre basis, however legal advice had been that the wording of the contract was not sufficiently robust. If the Council had elected to pursue arbitration to settle the disagreement then it could lose the case and possibly meet all the associated costs of the legal process.

The Portfolio Holder reported the financial consequences for the Council of not pursuing arbitration and proposed that any future income arising from the contract should be allocated to the District Development Fund rather than the Continuing Services Budget as at present.

Decision:

- (1) That the current disagreement between the Council and Sports Leisure Management Limited (SLM) regarding the interpretation of the income share elements of the leisure management contract be noted;
- (2) That the legal advice to not proceed to arbitration be agreed;
- (3) That, as set out in the report, the financial consequences of not seeking arbitration be noted; and
- (4) That any future income share arising from the contract with SLM be allocated to the District Development Fund rather than the Continuing Services Budget.

Reasons for Decision:

The income sharing arrangements needed to be formally settled, since they would otherwise form a bar to contract extension negotiations and the Council would be unable to have budget certainty in respect of the future costs of the contract.

Other Options Considered and Rejected:

To attempt to settle the disagreement through arbitration, however given the strength of the Council's legal advice, this could not be recommended.

CHAIRMAN