

EPHING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Cabinet **Date:** 20 April 2009

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 7.00 - 8.50 pm

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

Other Councillors: Mrs R Brookes, R Frankel, D Jacobs, J Knapman, R Morgan, B Rolfe, Mrs P Smith and J M Whitehouse

Apologies: -

Officers Present: P Haywood (Chief Executive), I Willett (Assistant to the Chief Executive), J Gilbert (Director of Environment and Street Scene), R Palmer (Director of Finance and ICT), J Preston (Director of Planning and Economic Development), P Maddock (Assistant Director Accountancy), P Pledger (Assistant Head of Housing Services (Property and Resources)), S G Hill (Senior Democratic Services Officer), I White (Forward Planning Manager), T Carne (Public Relations and Marketing Officer), C Overend (Policy & Research Officer) and G J Woodhall (Democratic Services Officer)

175. 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.

176. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillor Mrs A Grigg declared a personal interest in agenda item 16, Analysis of Gypsy & Traveller Options Consultation. The Councillor had responded to the Consultation and was a member of North Weald Parish Council who had also responded. The Councillor had determined that her interest was not prejudicial and would remain in the meeting for the consideration of the issue.

(b) Pursuant to the Council's Code of Member Conduct, Councillor D Stallan declared a personal interest in agenda item 16, Analysis of Gypsy & Traveller Options Consultation. The Councillor had responded to the Consultation as a resident of North Weald and was a member of North Weald Parish Council who had also responded. The Councillor had determined that his interest was not prejudicial and would remain in the meeting for the consideration of the issue.

(c) Pursuant to the Council's Code of Member Conduct, Councillor C Whitbread declared a personal interest in agenda item 16, Analysis of Gypsy & Traveller Options Consultation. The Councillor had responded to the Consultation as a

resident of Epping. The Councillor had determined that his interest was not prejudicial and would remain in the meeting for the consideration of the issue.

(d) Pursuant to the Council's Code of Member Conduct, Councillor Ms S Stavrou declared a personal interest in agenda item 16, Analysis of Gypsy & Traveller Options Consultation. The Councillor was a member of Waltham Abbey Town Council who had responded to the Consultation. The Councillor had determined that her interest was not prejudicial and would remain in the meeting for the consideration of the issue.

(e) Pursuant to the Council's Code of Member Conduct, Councillor Mrs M Sartin declared a personal interest in agenda item 16, Analysis of Gypsy & Traveller Options Consultation. The Councillor's husband had responded to the Consultation as a resident of Roydon. The Councillor had determined that her interest was not prejudicial and would remain in the meeting for the consideration of the issue.

(f) Pursuant to the Council's Code of Member Conduct, Councillor J Knapman declared a personal interest in agenda item 16, Analysis of Gypsy & Traveller Options Consultation. The Councillor was a member of Chigwell Parish Council who had responded to the Consultation. The Councillor had determined that his interest was not prejudicial and would remain in the meeting for the consideration of the issue.

(g) Pursuant to the Council's Code of Member Conduct, Councillor Mrs D Collins declared a personal interest in agenda item 16, Analysis of Gypsy & Traveller Options Consultation. The Councillor had responded to the Consultation as a resident of Theydon Garnon and was a member of Theydon Garnon Parish Council who had also responded. The Councillor had determined that her interest was not prejudicial and would remain in the meeting for the consideration of the issue.

(h) Pursuant to the Council's Code of Member Conduct, Councillor B Rolfe declared a personal interest in agenda item 16, Analysis of Gypsy & Traveller Options Consultation. The Councillor had responded to the Consultation as a resident of Epping. The Councillor had determined that his interest was not prejudicial and would remain in the meeting for the consideration of the issue.

(i) Pursuant to the Council's Code of Member Conduct, Councillor Mrs P Smith declared a personal interest in agenda item 16, Analysis of Gypsy & Traveller Options Consultation. The Councillor had responded to the Consultation as a resident of Epping Green and was a member of Epping Upland Parish Council who had also responded. The Councillor had determined that her interest was not prejudicial and would remain in the meeting for the consideration of the issue.

177. MINUTES

RESOLVED:

That the minutes of the meeting held on 9 March 2009 be taken as read and signed by the Chairman as a correct record.

178. REPORTS OF PORTFOLIO HOLDERS

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

179. PUBLIC QUESTIONS

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

180. OVERVIEW AND SCRUTINY

The Overview & Scrutiny Chairman reported that the Committee had received a presentation from Essex Police, who had reported that crime within the District had reduced by 11% over the last year with the detection rate rising to 29.2%. The Executive Forward Plan had been reviewed for the year ahead, whilst the Overview & Scrutiny Annual report for 2008/09 was also agreed. Updates were received on the Town Centre Partnerships and the results of the Publicity Code consultation. The Committee resolved that the provision of a free travel scheme on London Underground should not be pursued due to its estimated cost in excess of £7million; a report would be forthcoming to the Cabinet in due course.

181. ANY OTHER BUSINESS

In accordance with Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs (6) and (24) of the Council Procedure Rules, the Leader of the Council had permitted the following items of urgent business to be considered following the publication of the agenda:

- (i) Draft Housing Revenue Account Subsidy Determination 2009/10; and
- (ii) Local Development Framework Cabinet Committee – 15 April 2009.

182. DRAFT HOUSING REVENUE ACCOUNT SUBSIDY DETERMINATION 2009/10

The Housing Portfolio Holder presented a report on the Draft HRA Subsidy Determination 2009/10 Amending Determination 2009, which recommended a response to the consultation paper.

The Portfolio Holder reminded the Cabinet that, given the current economic climate, the Council had set its average increase in rents at 4% for 2009/10 rather than the 6.2% guideline rent that had been recommended by the Government. This was possible as the Housing Revenue Account was in a good financial position. However, the Government announced on 6 March 2009 that it intended to reduce the guideline rent from 6.2% to 3.1%, with the amount of negative subsidy payable by each Council amended accordingly to reduce any possible impact on the Housing Revenue Account. The Council would pay approximately £765,000 less in Housing Subsidy but this would be offset by the lost rental income of £220,000 from reducing the guideline rents by 0.9%, as the Council had already set a guideline rent below the Government's suggested 6.2%. In addition, there would be an additional benefit administration cost to the Council from amending some 3,700 claims.

The Portfolio Holder reported that the determination had been issued as a consultation paper, with comments requested by 24 April 2009. The suggested response was that Housing Revenue Accounts should be compensated by the Government when a Council had already set their rent increases below the 6.2% previously recommended in the original determination, and that Councils should be compensated by the Government for any additional costs of benefit administration. It was felt that the Council's response should be sent to the Local Government Association in order to make other councils aware. If the Government ignored the Council's request then the Cabinet agreed to adjust the Council's rent increase for

2009/10 to achieve a 3.1% increase on guideline rents in the least disruptive manner possible.

Decision:

- (1) That Officers be authorised to respond to the consultation paper requesting:
 - (a) that authorities' Housing Revenue Accounts be compensated by the Government where rent increases had already been set below the 6.2% increase in the original 2009/10 Determination; and
 - (b) that authorities' General Funds be compensated by the Government for any additional costs of benefit administration;
- (2) That if the Government ignores the above request then the Council's rent increase for 2009/10 be adjusted to achieve a 3.1% increase on guideline rents in the least disruptive manner possible; and
- (3) That, in order to make other Councils aware, this Council's response be sent to the Local Government Association.

Reasons for Decision:

To agree the response to the paper and the consequent actions.

Other Options Considered and Rejected:

To not make any response to the consultation.

If the Government decided not to compensate authorities that used their discretion to raise rents at a lower level than the guideline, to leave the rent increase as originally set and forego the reduction in negative subsidy.

183. LOCAL DEVELOPMENT FRAMEWORK CABINET COMMITTEE - 15 APRIL 2009

The Portfolio Holder for Planning & Economic Development presented the minutes from the meeting of the Local Development Framework Cabinet Committee held on 15 April 2009. Recommendations had been made regarding: the proposed response for the Regional Spatial Strategy Single Issue Review on Gypsy & Traveller Accommodation; and the Cabinet Committee's Calendar of Meetings for 2009/10. Other issues that had been considered included: the Consultation on Gypsy & Traveller options; the analysis of the Gypsy & Traveller Options Consultation; the Strategic Environmental Assessment produced by Essex County Council; and an oral update on other Local Development Framework matters.

Following the meeting, the Portfolio Holder reported that the form for use during the next stage of consultation on Gypsy & Traveller options had been received, and seminars would be organised accordingly. Only a draft version of the Strategic Environmental Assessment had been received by the Council, and it would be considered in more detail at the next meeting of the Cabinet Committee.

Decision:

Regional Spatial Strategy Single Issue Review on Gypsy & Traveller Accommodation – Proposed Response

(1) That, following the findings of the Examination in Public panel earlier this year, the response of the Council to the Secretary of State's consultation on her response to the draft East of England Plan Single Issue Review on Gypsy & Traveller Accommodation be agreed with the following amendment:

"Epping Forest District Council welcomes the reduction in pitches within the District to 34, from the original 49, but still considers this to be too high and will press for further reductions; a provision of no more than 20 pitches within the District would be considered by the Council to be more reasonable on the grounds of deliverability and local need."

Calendar of Meetings for 2009/10

(2) That the following dates for meetings of the Cabinet Committee in 2009/10 be confirmed:

- (a) Thursday 2 July 2009;
- (b) Thursday 10 September 2009;
- (c) Thursday 5 November 2009;
- (d) Thursday 7 January 2010; and
- (e) Thursday 11 March 2010.

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.

184. FINANCE & PERFORMANCE MANAGEMENT CABINET COMMITTEE - 16 MARCH 2009

The Portfolio Holder for Finance and Performance Management presented the minutes from the meeting of the Finance and Performance Management Cabinet Committee held on 16 March 2009. Recommendations had been made regarding the Updated Corporate Risk Register. Other issues that had been considered included: the Internal Audit Business Plan for 2009/10; Adoption of National & Local Performance Indicators for 2009/10; Review of the Value for Money Strategy; and the reports from the External Auditors on Use of Resources & Data Quality.

Decision:

Risk Management – Updated Corporate Risk Register

(1) That a new risk relating to the Shortfall in Key Income Streams, risk 27, be added to the Corporate Risk Register and scored as A2 (very high likelihood, critical impact);

(2) That a new risk relating to Workforce Development Planning, risk 28, be added to the Corporate Risk Register and scored as C2 (significant likelihood, critical impact);

(3) That the current tolerance line on the risk matrix be considered satisfactory and not be amended; and

(4) That, incorporating the above agreed changes, the amended Corporate Risk Register be approved.

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.

185. ANNUAL REPORT OF THE EXECUTIVE 2008/09

The Portfolio Holder for Finance & Performance Management presented a report on the Annual Report of the Executive for 2008/09.

The draft Annual Report of the Executive for 2008/09 provided a summary of the issues discussed and decisions taken by the Cabinet during the Council Year. It formed one of several reports to be included in the Council's E-Annual Report and would form the basis of the final report to be submitted to the Annual Council on 21 May 2009.

The Director of Finance reported that the Administrators of Heritable Bank expected creditors to receive back 70-80% of their investments, principal plus interest accrued up to 7 October 2008. The Leader of the Council clarified the paragraphs within the Depot Facilities and Fleet Operations section regarding the future sale of the Langston Road Depot when the property market improved.

Decision:

(1) That the draft Annual Report of the Executive for 2008/09 be endorsed and form the basis for the final report to be submitted for approval to the Annual Meeting of Council on 21 May 2009; and

(2) That the Chief Executive be authorised to approve any amendments required to the Annual Report following consideration of the items at this meeting of the Cabinet.

Reasons for Decision:

It was a Constitutional requirement for the Executive to provide an annual report on its activities for each municipal year.

Other Options Considered and Rejected:

To not provide an Annual Report of the Executive for 2008/09.

186. GRANT AID POLICY ISSUES

The Portfolio Holder for Community Wellbeing presented a report regarding proposed revisions to the policies and procedures relating to the Grant Aid Scheme for voluntary and community organisations.

The Portfolio Holder advised that to ensure the monies contained within the Grant Aid Scheme for Voluntary and Community Groups were allocated on an equitable basis, a review of the policy was undertaken on a periodic basis. The review had focused on the policies implemented by other local authorities, which might be used by the Council. Consequently, a number of revisions had been proposed:

- (i) the establishment of a scorecard system on a trial basis, with a provision for groups that had not been previously in receipt of a grant to be awarded additional points;
- (ii) the current three-year ruling, prohibiting applications from an organisation who had received a grant in the preceding three years, be abolished;
- (iii) groups based outside the District could apply for grant aid with membership from and level of activity within the District added to the scorecard;
- (iv) the need for Groups to be formally constituted and to submit their most recent set of accounts;
- (v) all Grant applications to demonstrate their relevance to the achievement of the Council's objectives and priorities; and
- (vi) only in exceptional circumstances would the opportunity for Groups to make a formal presentation in support of their case to the Portfolio Holder be offered.

Decision:

That approval be given to the revisions detailed in the report to the policy and procedures for aspects of the Grant Aid Scheme for voluntary and community organisations.

Reasons for Decision:

The proposals would strengthen a much appreciated and effective Grant Aid Scheme and the District Council's partnership arrangements with the voluntary sector in general.

Other Options Considered and Rejected:

Other options would be to approve only some of the recommendations put forward or reject them entirely. This would mean a lost opportunity in terms of further potential enhancements to the scheme.

187. BOBBINGWORTH TIP - PROGRESS REPORT II

The Environment Portfolio Holder presented a progress report upon the regeneration

project at Bobbingworth Tip. This was a former landfill site, in the ownership of the Council, that had accepted domestic waste from 1961 to 1972. The mixing of ground and rainwater with the waste within the site had resulted in the creation of 'leachate'. The spread of this leachate liquid from the site into the surrounding environment was exposing the Council to possible prosecution by the Environment Agency. Additionally, the volumes of leachate generated were greater than the consent under the licence between the Council and Thames Water Limited. Thus, the risks to the Council were considered unacceptable and the Cabinet had resolved to address the issue.

The Portfolio Holder reminded the Cabinet that, following a rigorous procurement process, Veolia Environmental Services (formerly Cleanaway) had been selected as a partnering contractor for the remediation of the site with a Target Price type of contract. Site investigation and design had been completed in 2006 and construction works had commenced in April 2007. The design solution consisted of the installation of underground drains to pump leachate to a treatment plant, interceptor drains for preventing groundwater from mixing with the waste, an underground grout wall to act as a barrier for the movement of water and leachate, and the importation of soil to make the surface safe and the site available to the public as an amenity site. All major infrastructure construction works had been completed by the end of summer 2007. Although there had been an initial delay, all soil importation had been completed in 2008.

Following the approval of additional funding for the installation of an enhanced CCTV system and improved site security, the market was being tested to seek the best price, after which planning permission would be sought for the CCTV masts. The final phase of the project which consisted of restoration of the site to allow tree planting and make the surface safe for use by members of the public had been delayed; this delay would mean that the site would not be available for public use until 2010. The additional costs due to the delay were currently containable within the project contingency. Due to the delays in completion of the project, it was proposed to delay the further report on the formation of the working group to oversee the management of the site until all works had been completed.

Decision:

- (1) That the progress on the restoration and remediation of Bobbingworth former landfill site at Moreton be noted;
- (2) That the anticipated cost of delay in completion of £30,000 being contained within the existing project contingency be noted; and
- (3) That the submission of a report, as required by an earlier Cabinet resolution, on the membership and scope of a working group for the on-going management of the site be delayed until all works have been completed and the site fully restored.

Reasons for Decision:

It was a requirement of Contract Standing Order C31 to provide regular project update reports to Cabinet on projects greater in value than £1 million.

The Cabinet had earlier resolved to form a key stakeholder working group to ensure achievement of environmental benefits of the scheme by advising technical officers responsible for the ongoing maintenance of the new infrastructure. However, the group would be of more value once the works were completed.

Other Options Considered and Rejected:

It was possible to fence off the site and abandon further work but this would contradict earlier Cabinet resolutions to create a safe public open space at the site.

The working group could be established now, but officer time would be better spent ensuring the timely completion of the project.

188. FLOOD ALLEVIATION MAINTENANCE SCHEMES

The Portfolio Holder for Civil Engineering & Maintenance presented a report concerning the final account for the Flood Alleviation Maintenance Schemes.

The Portfolio Holder advised the Cabinet that the Council had constructed a number of small flood alleviation schemes for the benefit of its residents. In 2005, some lower priority flood assets had been neglected from lack of maintenance and their condition was deteriorating. These assets had been built by the Council or were in its ownership, and any flooding due to lack of maintenance could make it liable. Investigatory work had commenced in 2005 and, to reduce costs and avoid the need for additional staff resources the project was phased over three years. In the first year CCTV inspection was carried out to ascertain asset condition and prepare details of repair and construction.

The Portfolio Holder reported that, in many cases, the condition of the assets had not been as bad as had been anticipated and budgeted for, thus an underspend had arisen. It was therefore proposed to return revenue and capital monies, whilst retaining sufficient resources to allow for repair and maintenance of those main river flood alleviation schemes for which the Environment Agency was the enforcement authority but the Council was the land owner and hence could be liable for any flooding caused. In order to avoid the assets upgraded and improved under this scheme getting into a state of disrepair, it was essential that they were inspected and maintained. It was proposed that these assets be inspected by Officers of the Environment and Street Scene Directorate from within existing staffing resources and a programme of maintenance instigated.

Decision:

(1) That the Final Account in respect of the Contract for the repair, improvement and rehabilitation of those flood alleviation schemes for which the Council was responsible be noted;

(2) That, in relation to Flood Alleviation Schemes, the projected underspends of £149,000 on the District Development Fund and £38,000 on the Capital Programme be noted;

(3) That, as a result of the projected underspends, the following re-allocations be agreed:

(a) the return of £100,000 from the District Development Fund allocation to the general fund;

(b) the retention of £49,000 from the District Development Fund allocation towards the repair and upgrade of those main river flood defence assets which were in the Council's ownership and for which the Environment Agency was the enforcement authority; and

(c) the retention of the Capital allocation of £38,000 for any future improvement and enhancement works to the Council's flood defence assets as might be identified; and

(4) That, in order to ensure the Council's flood defence assets were kept in a good state of repair, a programme of inspection be developed.

Reasons for Decision:

It was a requirement of Contract Standing Order C29 to present a Final Account in respect of projects valued over £50,000.

As a riparian owner or having constructed schemes on private land, the Council could be liable for any injury, damage or increased risk of flooding to members of the public, due to lack of repair and maintenance of the flood relief structures and associated assets.

A regime of routine inspection and maintenance was essential to avoid these assets getting into a state of disrepair. This could be carried out from within existing retained resources.

Other Options Considered and Rejected:

To return the entire £149,000 of District Development Funding and £38,000 Capital allocation and not allocate any money to the repair and improvement of the main river flood alleviation schemes and assets. However, the Environment Agency was of the view that the Council would be responsible for any flooding arising from these sites.

To not inspect the recently enhanced and improved assets on a regular basis, however these could easily fall into disrepair in future and present a potential flooding risk to residents.

189. COLLECTION OF WASTE FROM SCHOOLS, RELIGIOUS ESTABLISHMENTS, CHARITABLE INSTITUTIONS AND BUSINESSES

The Environment Portfolio Holder presented a report regarding the collection of waste from schools, religious establishments, charitable institutions and businesses.

The Portfolio Holder stated that the Council had a statutory duty to collect certain types of waste, these being household waste of all types (including from certain non-residential premises) and commercial waste if requested. Over recent years this duty had been subject to various interpretations by local authorities, who had provided different levels of service dependant upon their particular interpretation. In late 2007, the Department for the Environment, Food & Rural Affairs (Defra) had issued guidance to collection and disposal authorities and the County Council had subsequently decided what waste would be accepted for free at the point of disposal. The Audit Commission in its Waste Management Inspection Report last year had been critical of the Council's approach to the collection of commercial waste.

The Portfolio Holder reported that the Council could now bring forward policy proposals for the collection and charging for (where relevant), of household waste. It was intended to make available upon request and at a charge the collection of household waste from schools, religious establishments and charitable institutions. Where the Council discharged this responsibility, at least two recyclable materials would also be collected. The Council would meet its responsibility to collect trade

waste upon request through its current Waste Management contractor, Sita UK, or other local service providers if necessary. Further reports would be submitted to the Cabinet regarding the fees to be levied for such collections.

The Director of Environment & Street Scene confirmed that the Council could charge for the collection of certain items from schools, charities and religious establishments. School waste was considered household waste, hence the Council could earn credits for collecting recyclable items as well. The Council would not earn recycling credits from trade waste outlets, but it would attempt to recycle trade waste wherever possible. Trade waste was collected throughout the District but not currently by the Council; any trade waste collected by the Council would count against its total tonnage collected.

Decision:

- (1) That, in accordance with Government guidance, the collection of household waste from schools, religious establishments and charitable institutions be made available on request and at a charge;
- (2) That, in accordance with the Household Waste Recycling Act 2003 and where the Council collects household waste as set out above, at least two recyclable materials be collected also;
- (3) That a further report be submitted to the Cabinet on the charges to be levied for the collection of household waste from schools, religious establishments (commercial activities only) and charitable institutions;
- (4) That the Council's responsibility for the collection of commercial waste upon request be discharged through its current service provider, Sita UK, or other local service providers where necessary; and
- (5) That a further report be submitted to the Cabinet on the charges to be levied for the collection of commercial waste.

Reasons for Decision:

To ensure that the Council complied with the law relating to the collection of household and commercial waste and the associated Defra guidance. The policy proposals relating to the application of charges to the collection of certain types of household waste would ensure that the Council maintained control over the total waste stream.

The proposals for commercial waste would not alter the Council's existing arrangements, but ensured compliance with the guidance.

Other Options Considered and Rejected:

To not comply with the law and associated guidance.

To bring forward different arrangements for the collection of household waste from non domestic properties.

To not implement a charging regime for the collection of non-domestic household waste.

190. CLIMATE CHANGE STRATEGY

The Environment Portfolio Holder presented a report on the adoption of the Council's proposed Climate Change strategy.

The Portfolio Holder advised the Cabinet that Climate Change was considered one of the most dangerous threats the world faced today. The fourth report from the Intergovernmental Panel on Climate Change (IPCC) unequivocally stated that human activity was now the primary driver of the observed changes in climate. The Council had signed the Nottingham Declaration on Climate Change in December 2007, which committed it to produce a Climate Change strategy. The Green Corporate Working Party (GCWP) had been set up to consider environmental issues of concern to both the Council and the District. The production of the Climate Change Strategy had been the GCWP's first task.

The Portfolio Holder reported that the main aim of the strategy was to reduce the green house gas emissions (principally CO₂) from the Council's own operations and from the District as a whole, as well as to prepare and adapt to predicted climate change impacts. The Strategy would also assist the Council to improve its performance in five National Performance Indicators concerned with reducing the Council's emissions of CO₂ and other green house gases. The implementation of the Strategy was welcomed and the importance of annual reviews was highlighted.

Decision:

- (1) That the Council's Climate Change Strategy be adopted; and
- (2) That the implementation of the Strategy be monitored by the Safer, Cleaner, Greener Scrutiny Panel.

Reasons for Decision:

To meet the Council's obligations under the Nottingham Declaration and contribute to the Council's targets under the National Performance Indicators (NI185-188 and NI194).

Other Options Considered and Rejected:

To not adopt the Strategy, but this would contravene the Council's commitment under the Nottingham Declaration.

191. ANALYSIS OF GYPSY & TRAVELLER OPTIONS CONSULTATION

The Portfolio Holder for Planning & Economic Development introduced a report regarding analysis of the Gypsy & Traveller Options consultation.

The Portfolio Holder explained how a "filtering" process was being used to narrow down the final selection of potentially suitable sites for pitches for Gypsies and Travellers. The process would place sites in one of three categories 'A', 'B' or 'C'. Those in 'A' had had significant problems identified which could not be mitigated, and therefore no further analysis of these sites would take place. The sites in 'B' also had problems but more research would be undertaken to assess the importance of these issues, and the final decision would place these sites in either 'A' or 'C'. Those in 'C' had no significant problems identified by the consultation, but this only meant that they would not be eliminated at this stage. A comprehensive flowchart and a simplified version for the website had been prepared.

The Portfolio Holder added that any potential category 'C' sites had not been decided upon at the current stage and all sites would be subject to analysis of both the technical and non-technical responses. The Forward Planning Manager added that the technical information was still being received from the various statutory consultees and would be published when it became available. The Sustainability Appraisal was a document prepared by the County Council, which the District Council would have to consult with residents upon. The Portfolio Holder stated that the consultation could not begin until the final draft of the Sustainability Appraisal had been received, and that the alternative sites identified during the first consultation exercise would also be considered and analysed.

The Leader of the Council stated that there was no scheduled date yet for submitting the report to Council seeking final agreement on the actual sites, as the Council was conducting this process in a manner that was felt to be correct, i.e. slowly, carefully and thoroughly.

Decision:

- (1) That, as attached at Appendix 1 of the report, the methodology to be used for analysing the responses to the options consultation on sites potentially suitable for Gypsies and Travellers be agreed;
- (2) That, as attached at Appendix 2 of the report, the addition of the simplified flow diagram to the website which outlines the process of analysis be agreed; and
- (3) That, when available, the publication of the Sustainability Appraisal prepared by the County Council for a public consultation period of six weeks be noted.

Reasons for Decision:

A clear, transparent and robust methodology was needed to analyse the consultation responses and to focus quickly on the sites that remained potentially suitable for the travelling community. With about 1,600 responses representing about 9,700 local residents, it was important to develop a filtering mechanism to enable early deletion of sites where significant problems had been identified and which could not be mitigated.

Other Options Considered and Rejected:

No other reasonable options had been identified. A process was needed to prevent unnecessary work on unsuitable sites and to meet the deadline requiring submission of the draft Development Plan Document to the Secretary of State by the end of September 2009.

192. LOCAL DEVELOPMENT FRAMEWORK - PROGRESS & RESOURCES UPDATE

The Portfolio Holder for Planning & Economic Development presented a progress and resources update report regarding the establishment of the Local Development Framework (LDF).

The Portfolio Holder stated that the first round of public consultation on the Gypsy & Traveller Development Plan Document (DPD) had recently closed, and work was now underway on analysing the responses. Significant work on the Core Strategy had been delayed, both by the demands of the preparation of the Gypsy & Traveller DPD, and the requirement of the East of England Plan that an "Options Appraisal" be

completed in and around Harlow. A meeting with the Government Office for the East of England (GO-East) on 19 March 2009 had agreed a joint work programme for developing the Core Strategies for East Herts, Harlow and Epping Forest District Councils. It was reported that expenditure (up to 10 March 2009) in 2008/09 had totalled £226,042 from the LDF overall budget, with expenditure of a further £236,838 attributed to projects which would come forward during 2009/10. Further projects were likely to arise to supplement the evidence base during the course of the year.

The Cabinet was also asked to consider the future staffing requirements that would be needed to supplement the Forward Planning team. The contract for the consultant currently working on the Gypsy & Traveller DPD had expired at the end of April 2009, and there were a number of options for the future. The Portfolio Holder's favoured option was to terminate the employment of the Consultant and create a temporary Senior Planning Officer post on a two-year contract, funded by the Housing and Planning Delivery Grant, and filled through a secondment from within the Planning & Economic Development Directorate if possible to utilise spare capacity within the Directorate.

Decision:

- (1) That the progress of the preparation of the Gypsy & Traveller Development Plan Document be noted;
- (2) That the outcome of the meeting with the Government Office for the East of England (GO East) on 19 March 2009 to agree a joint work programme for delivering the Core Strategies for East Herts, Epping Forest and Harlow District Councils be noted;
- (3) That the update on Local Development Framework (LDF) expenditure be noted, and the need to amend the budget timetable following the meeting with GO-East be agreed; and
- (4) That, in order to progress the preparation of the Gypsy & Traveller Development Plan Document and the Core Strategy, the employment of the Council's External Consultant be terminated and a Senior Planning Officer be recruited on a fixed term contract of two years funded from the Housing & Planning Delivery Grant, via a secondment from within the Planning & Economic Development Directorate if possible.

Reasons for Decision:

To update the Cabinet on progress with the Local Development Framework, including the Gypsy and Traveller Development Plan Document and the Core Strategy; and Local Development Framework expenditure.

The recruitment of a Senior Planning Officer on a fixed term contract would assist the Council in the development of the Gypsy & Traveller Development Plan Document, and utilise spare capacity elsewhere in the Directorate if the post was recruited via a secondment.

Other Options Considered and Rejected:

To continue the use of a Consultant on a full-time basis to deal with the Gypsy & Traveller Development Plan Document, however this would have significant cost implications for the Council.

To continue the employment of a Consultant on a part-time or retained basis for Gypsy & Traveller matters, however the Consultant could not guarantee his availability to appear for the Council at further Examinations in Public.

193. DISABLED ADAPTATIONS TO COUNCIL PROPERTIES - ADDITIONAL FUNDING

The Housing Portfolio Holder presented a report regarding additional funding for disabled adaptations to Council properties.

The Portfolio Holder stated that the Council had received recommendations from Social Care for disabled adaptations to Council properties to enable elderly and disabled tenants to remain in their home. The annual budget within the Housing Capital Programme, whilst increased on an annual basis in line with inflation, was insufficient to meet the demand. The Cabinet was requested to allocate an additional one-off lump sum of £200,000 to help clear the backlog of adaptations in 2009/10, funded from the Major Repairs Reserve, and using the existing framework agreements to undertake this specialist work.

The Portfolio Holder added that a six-month review would be more appropriate than a twelve-month review, and although the two companies contracted by the Council to perform the adaptations were not locally based, both had tendered the best price. The Assistant Director (Operations) added that stairlifts were removed if the occupant moved and it was not required by the purchaser, but that any disabled adaptations to bathrooms would remain in place.

Decision:

- (1) That, for disabled adaptations to Council properties, an additional one-off sum of £200,000 be allocated in 2009/10 and funded from the Major Repairs Reserve;
- (2) That a supplementary capital estimate in the sum of £200,000 from the Major Repairs Reserve in 2009/10 be recommended to the Council for approval; and
- (3) That a further report be submitted to the Cabinet after six months to review the progress made against the backlog of disabled adaptations.

Reasons for Decision:

Whilst the number of recommendations for disabled adaptations received from Social Care had been fairly consistent over the last two years, the Council had been unable to fund the backlog of adaptations from the budget provision in the Housing Capital Programme. A one-off lump sum of £200,000 would help to clear the backlog of adaptations currently held on the waiting list.

Other Options Considered and Rejected:

To not introduce a one-off lump sum, and continue to operate a waiting list for adaptation recommendations using priorities provided by Social Care.

To introduce a greater or lesser lump sum.

To tender the work separately, using only local contractors based within the Epping Forest District.

194. REVISED WASTE MANAGEMENT SERVICE - PURCHASE OF VEHICLES & CONTAINERS

The Environment Portfolio Holder presented a report concerning the purchase of vehicles and containers for the revised Waste Management service.

The Portfolio Holder reminded the Cabinet that implementation of the revised Waste Management service had been agreed on 19 January 2009. The funding for the changes would be met jointly by this Council and Essex County Council, in the latter case subject to the District Council signing the Inter Authority Agreement (IAA) with the County Council. Signing of the IAA was agreed in principle by Cabinet on 9 March 2009.

The Portfolio Holder reported that in view of the likely lead times involved, proposals for the purchasing arrangements for the additional vehicles and containers had been recommended. It was intended to run separate procurement exercises for the wheeled bins, food waste containers and new refuse collection vehicles. Quotes involving the cost and supply arrangements would be obtained from both the Essex Procurement Hub and Sita – who had their own arrangements for purchasing equipment - for comparison, with the final decision made by the Portfolio Holder in consultation with the Directors for Finance & ICT and Environment & Street Scene. Whilst early purchasing was important if the new service was to be introduced in September 2009, this had to be balanced against the need to ensure that the Council also purchased the right quality equipment and was able to demonstrate that it had achieved value for money.

The Portfolio Holder added that only one size of wheeled bin, 180 litre capacity, would be ordered initially for the collection of garden waste, which would probably be collected on a weekly basis. However, residents would also be encouraged to compost at home. The Director of Environment & Street Scene stated the initial order of kerbside caddies would be for 5,000 units. The Portfolio Holder reassured the Cabinet that the tenders were expected to have been received by the end of the month (April 2009) and that the availability of the units would form part of the tender analysis. There had also been considerable discussion at the Innovation Forum about further improvements to the Waste Management service.

Decision:

- (1) That the revised Waste Management service be commenced on 7 September 2009 and that the service be implemented across the whole District at the same time;
- (2) That three procurement exercises be pursued for:
 - (a) wheeled bins;
 - (b) food waste containers; and
 - (c) refuse collection vehicles;
- (3) That the procurement exercises be conducted by the Essex Procurement Hub using framework agreements to obtain quotes covering the cost and supply arrangements for this equipment;
- (4) That Sita also be asked to provide the Council with the best quotes they can obtain for the equipment required, without the addition of any pecuniary interest (profit element) to benefit Sita;

(5) That, upon completion of the procurement exercises above and evaluation of the quotes obtained, the most economically advantageous solution for the Council be determined by the Environment Portfolio Holder in consultation with the Director of Environment & Street Scene and the Director of Finance & ICT; and

(6) That, dependant on the outcome of the evaluation exercise and if appropriate, exclusive rights be awarded to Sita to procure the specified goods on behalf of the Council (in accordance with section 7 of the European Commission Directive 93/36EEC) and that Sita be required to observe the principle of non-discrimination on grounds of nationality when awarding any contract.

Reasons for Decision:

To agree the most effective process for purchasing vehicles and containers for the revised Waste Management service so as to ensure that the service commenced in September 2009.

Other Options Considered and Rejected:

As one of the Cabinet's key priority objectives for 2009/10, there were no other options considered which would enable the Council to commence the revised service in September 2009.

195. REPLACEMENT OF GROUNDS MAINTENANCE VEHICLES

The Portfolio Holder for Civil Engineering & Maintenance presented a report concerning the purchase of new vehicles to replace the six Ford Tipper Trucks used by the Grounds Maintenance section when their current lease ended in July 2009.

The Portfolio Holder reported that, in accordance with Contract Standing Orders, the new vehicles had been subjected to a tendering process via the Essex Procurement Hub, with vehicles from Allen Ford the most cost effective purchase. The cost had then been subjected to a capital/lease comparison by Accountancy and this had shown that a capital purchase would be more cost effective than leasing. On the previous two occasions, the Operating Lease option had been the most cost effective and a capital commitment had not been put within the 2009/10 Capital Programme. Therefore, a capital supplementary estimate in the sum of £154,000 to fund the purchase was being recommended to the Council for approval. The Continuing Services Budget currently included annual leasing costs of £17,500 for these vehicles, which would no longer be required.

Decision:

(1) That six Ford Transit LWB Double Chassis Cabs 2.4 TDCI be purchased by the Council's Grounds Maintenance Section;

(2) That, to fund this purchase, a supplementary capital estimate in the sum of £154,000 be recommended to the Council for approval; and

(3) That the revenue estimate in the Continuing Services Budget be subsequently amended for the £17,500 of leasing costs currently included but no longer required.

Reasons for Decision:

The capital purchase option was currently the most cost effective option.

Other Options Considered and Rejected:

To not renew the vehicles and extend the present lease. However, general wear and tear was starting to take its toll with repairs becoming more frequent and scheduled service costs on the increase; in the long-term this would adversely affect both budget provision and service needs.

To obtain the vehicles via an Operating Lease agreement. However, this would increase the revenue cost by £7,000 per year.

To await the Capital Programme update report to request funding. However, this would mean a delay of some months and would cost the Council more to purchase the vehicles.

196. EXCLUSION OF PUBLIC AND PRESS**RESOLVED:**

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

<u>Agenda Item No</u>	<u>Subject</u>	<u>Exempt Information Paragraph Number</u>
22	Compensation Claim – TPO/EPF/30/90 at 6 Bracken Drive, Chigwell	5

197. COMPENSATION CLAIM - TPO/EPF/30/90 AT 6 BRACKEN DRIVE, CHIGWELL

The Portfolio Holder for Planning & Economic Development presented a report concerning a compensation claim made against the Council in respect of a tree preservation order at 6 Bracken Drive in Chigwell.

The Portfolio Holder reported that the Council had received a compensation claim for underpinning in the sum of £24,268.92 (excluding VAT) plus costs in respect of a refusal to agree to the felling of a preserved tree. An offer to settle at £12,134.46 (plus costs of £3432.57) had been received; if the Council failed to settle then the claimants had notified the Council's solicitor that they would seek full settlement at a Lands Tribunal. An Engineer's report had advised the Council that it had no responsibility for compensation and that any claim against the Council could be resisted. The potential risks to the Council from various different options was explained to the Cabinet, and a decision was sought on the best course of action.

The Director of Planning & Economic Development advised the Cabinet that as the tree was a mature oak, it had probably been in location prior to the house. The current trend was for insurance companies to blame nearby trees for damage to properties, however, as the Engineer's report had highlighted, there were issues other than the tree in this particular case. Whilst it was accepted that the Council had a robust and defensible position, it was felt that, to avoid unnecessary legal expense

for both parties, an offer in the sum of £2,000 plus their costs of £3,432.57 (£5,432.57 in total) be made to the residents of 6 Bracken Drive under part 36 of the Civil Procedure rules. If accepted then this compensation would be paid from the Planning Appeals Contingency Fund as part of the District Development Fund.

Decision:

(1) That, in order to avoid unnecessary legal expense for both parties, an offer in the sum of £2,000 plus costs of £3,432.57 be made by the Council to the residents of 6 Bracken Drive under part 36 of the Civil Procedure Rules; and

(2) That any compensation agreed or counter claim if accepted be met from the Planning Appeals Contingency fund, which forms part of the District Development Fund.

Reasons for Decision:

To minimise the financial risks to the Council, whilst not undermining the Council's policies on preserved trees.

Other Options Considered and Rejected:

To offer no compensation. However, there was a risk of a successful claim against the Council.

To accept the "without prejudice" offer. However, this might undermine the Council's Tree Preservation Order policy and encourage similar claims in the future.

CHAIRMAN