

EPPING FOREST DISTRICT COUNCIL CABINET MINUTES

Committee: Cabinet **Date:** 7 March 2011

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 7.00 - 8.20 pm

Members Present: Mrs D Collins (Chairman), C Whitbread (Vice-Chairman), R Bassett, B Rolfe, Mrs M Sartin, Mrs P Smith, D Stallan, Ms S Stavrou and Mrs L Wagland

Other Councillors: K Angold-Stephens, R Barrett, A Boyce, Mrs A Grigg, D C Johnson, Mrs S Jones, A Lion, J Philip and Mrs C Pond

Apologies: None.

Officers Present: D Macnab (Acting Chief Executive), I Willett (Assistant to the Chief Executive), J Gilbert (Director of Environment and Street Scene), A Hall (Director of Housing), C O'Boyle (Director of Corporate Support Services), R Palmer (Director of Finance and ICT), J Chandler (Assistant Director (Community Services and Customer Relations)), K Durrani (Assistant Director (Technical)), J Nolan (Assistant Director (Environment & Neighbourhoods)), T Carne (Public Relations and Marketing Officer), S G Hill (Senior Democratic Services Officer), P Sewell (Democratic Services Assistant) and G J Woodhall (Democratic Services Officer)

122. 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.

123. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillor D Stallan declared a personal interest in agenda item 13, Planning for Real Exercise – Leader Lodge, North Weald, by virtue of being a member of North Weald Bassett Parish Council who would participate in the proposed exercise. The Councillor had determined that his interest was not prejudicial and would remain in the meeting for the consideration of the issue.

124. MINUTES

Resolved:

(1) That the minutes of the meeting held on 31 January 2011 be taken as read and signed by the Chairman as a correct record.

125. REPORTS OF PORTFOLIO HOLDERS

There were no verbal reports by the Portfolio Holders present.

126. PUBLIC QUESTIONS

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

127. OVERVIEW AND SCRUTINY

The Vice-Chairman of the Overview and Scrutiny Committee reported that the following items of business were considered at its meeting held on 28 February 2011:

- (i) a presentation upon the forthcoming national Census;
- (ii) following the receipt of a call-in, the Cabinet decision to discontinue the Town Centre Officer post was upheld;
- (iii) a progress report on the potential variation of the restrictive covenant at 35 Denny Avenue in Waltham Abbey by the Housing Portfolio Holder;
- (iv) three proposals from the Constitution & Members Services Scrutiny Panel regarding the introduction of an Appointments Panel, Protocols for Statutory Officers and their relationship with the Council, and Member Accountability Statements, which would be considered by the Council on 29 March 2011; and
- (v) a short report upon the availability of wireless broadband within the District.

The Cabinet's agenda was reviewed and the Committee wished to emphasise the importance of the Pest Control service to residents.

128. PLANNING FOR REAL EXERCISE - LEADER LODGE, NORTH WEALD

The Housing Portfolio Holder presented a report concerning a possible Planning for Real exercise for Leader Lodge in North Weald.

The Housing Portfolio Holder reported that various attempts to convert and/or redevelop the Council-owned building and associated land at Leader Lodge in North Weald had been unsuccessful. The building was in a very poor state of repair and an agreed way forward for the future use of the site needed to be established. Hastoe Housing Association had offered to undertake a "Planning for Real" Exercise with the local community, at its own cost, in order to consider options for the future use of the site, and to help determine an appropriate approach for the future. The outcome of the Planning for Real exercise would be reported to a future meeting of the Cabinet to decide upon the future use of the land. The Director of Housing added that the exercise was probably expected to last for approximately six months, although there was the possibility that it might take longer.

Decision:

- (1) That a "Planning for Real" exercise be undertaken by Hastoe Housing Association in relation to the Council-owned building and associated land at Leader Lodge in North Weald, in order to consider a range of options for the future use of the site and to help determine an appropriate and viable approach for the future;
- (2) That residents in the vicinity of Leader Lodge, Ward Members and representatives of North Weald Bassett Parish Council be invited to take part in the Planning for Real Exercise;

(3) That the outcome of the Planning for Real exercise be reported to a future meeting of the Cabinet to determine the future use of the land including, if appropriate, the detailed arrangements for any development, including the mix, tenure, rent levels, land transfer arrangements (e.g. terms of any freehold/leasehold transfers), residual land value of the scheme (on an "open book" basis) and the use of any resultant capital receipt; and

(4) That a commitment be given to Hastoe Housing Association, in advance of the Planning for Real exercise, that if the outcome of the exercise resulted in a proposal for the development of the site for affordable housing then the land would be transferred to Hastoe HA - at a sum to be agreed by the Cabinet - to undertake the proposed development, at its own risk.

Reasons for Decision:

The building was in a poor state of repair and the future use of the site needed to be established.

Other Options Considered and Rejected:

- To not undertake a Planning for Real Exercise.
- To not develop the site, or to develop the site for an alternative use.
- To work with another housing association to develop the site or to sell the land on the open market.

129. AFFORDABLE HOUSING DEVELOPMENT - FORMER RED CROSS HALL SITE, WALTHAM ABBEY

The Housing Portfolio Holder presented a report concerning a potential affordable housing development on land to the rear and side of the Roundhills shops in Waltham Abbey.

The Portfolio Holder reported that the British Red Cross had surrendered its lease with the Council for land at Roundhills, Waltham Abbey and demolished the hall which it had previously constructed on the land. This had opened up the possibility of the site and adjacent land comprising a garage area and some vacant land being developed for affordable housing, and it was proposed that tenders be invited from the Council's Preferred Housing Association Partners for the provision of four three-bedroomed houses and three one-bedroomed flats at affordable rents. Following the development of the site, the selected Housing Association would be granted a 125-year lease for the land, with the Council receiving nomination rights in accordance with the District-wide Nominations Agreement. Any capital receipt arising from the transfer would be retained as a usable capital receipt in the future and not ring-fenced for the provision of affordable housing on another site.

The Portfolio Holder added that if the selected tender resulted in a negative valuation then the Housing Association would be required to seek grant funding from the Homes & Communities Agency in the first instance. If no funding was forthcoming from the Agency then a further report would be submitted to the Cabinet.

Decision:

(1) That the land to the rear and side of Roundhills Shops in Waltham Abbey (shown delineated in black on the Appendix attached to the report) - comprising the land previously leased to the Red Cross for the provision of a hall, seven Council-owned garages and associated vacant land - be developed by the Council for the

provision of affordable rented housing, in partnership with one of the Council's Preferred Housing Association Partners;

(2) That the Housing Portfolio Holder be authorised to select one of the Council's Preferred Housing Association Partners to undertake the development following a tender process, based on the indicative provision of 4 X 3-bedroomed houses and 3 x 1-bedroomed flats at affordable rents and:

(a) the proposed amounts to be paid to the Council by the housing associations; and

(b) any other material considerations considered appropriate by the Housing Portfolio Holder;

(3) That the selected Preferred Housing Association Partner be required to:

(a) evaluate the indicative proposal and assess whether or not more affordable properties could be provided on the site, subject to the capital receipt received by the Council being no lower than the selected Housing Association's tendered sum; and

(b) submit a detailed planning application for the proposed scheme at its own cost and risk;

(4) That, subject to the receipt of planning permission and the selected Housing Association undertaking the approved development, the selected Housing Association be granted a 125 year lease for the land for the agreed sum, with the Council receiving nomination rights in accordance with the District-wide Nominations Agreement;

(5) That any capital receipt arising from the transfer be retained as a usable capital receipt for use in the future, and not be ring-fenced to facilitate the provision of affordable housing on another site; and

(6) That if the selected tender results in a negative valuation, with grant required to make the proposed development viable:

(a) the selected housing association be required to seek grant funding from the Homes and Communities Agency (HCA); and

(b) if the HCA does not provide grant funding, a further report be submitted to a future meeting of the Cabinet to agree the way forward, including the possible provision of grant by the Council.

Reasons for Decision:

There was a discernible shortage of affordable rented housing in the District and the proposal would result in the provision of additional affordable housing.

Other Options Considered and Rejected:

- To not to develop the land, to develop the land for another Council use, or to sell the land on the open market.
- To select a preferred Housing Association partner without going through a competitive process.
- To seek a different mix of properties on the site, or a different tenure mix.
- To lease the land for a different period, or to sell the freehold.

- To utilise any capital receipt for the provision of affordable housing on another site or to provide additional funding for the Open Market Shared Ownership Scheme.

130. LOCAL DEVELOPMENT FRAMEWORK CABINET COMMITTEE - 7 FEBRUARY 2011

The Portfolio Holder for Performance Management presented the minutes from the meeting of the Local Development Framework Cabinet Committee held on 7 February 2011. The Cabinet Committee had made a recommendation to adopt the proposed West Essex Local Investment Plan. Other issues considered by the Cabinet Committee had included: the Scoping Report for the Epping Forest Core Planning Strategy Sustainability Appraisal; the Annual Monitoring Report for 2009/10; the results from the Community Visioning exercise; and consideration of the impact of the proposed changes to the planning system on the Core Planning Strategy.

The Portfolio Holder highlighted that the Annual Monitoring Report had indicated the good progress made by the Council, and that normal planning processes had provided a further 34 pitches for Gypsies and Travellers within the District; there were no further Government directives planned for Gypsy and Traveller pitch provision by the Government. The Cabinet noted that the adoption of the West Essex Local Investment Plan would be the subject of a separate report and would update Members on any progress since the Cabinet Committee's meeting.

Decision:

- (1) That the minutes of the Local Development Framework Cabinet Committee, held on 7 February 2011, be noted.

Reasons for Decision:

The Cabinet was 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 was 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.

131. ADOPTION OF THE WEST ESSEX LOCAL INVESTMENT PLAN

The Leader of the Council presented a report upon the adoption of the proposed Local Investment Plan for West Essex, which had been considered by the Local Development Framework Cabinet Committee at its meeting on 7 February 2011.

The Leader stated that all local authorities were required by the Homes & Communities Agency (HCA) to produce a Local Investment Plan (LIP) to qualify for further funding in respect of affordable housing and infrastructure within their area. At the suggestion of the Agency, and in view of the relationship that was developing between this Council, Harlow and Uttlesford District Councils, a Joint Local Investment Plan for West Essex had been formulated. This now had to be adopted by the three local authorities involved by 31 March 2011.

The Leader drew the Cabinet's attention to the proposed draft letter, tabled at the meeting, which it was proposed would be signed by all three Chief Executives by 12 April 2011. This letter would provide a commitment from all three Councils not to seek any boundary changes in areas where new housing had been developed other than through mutual agreement, and that if a boundary review was instigated by a third party then the affected Councils would work together to ensure that any changes would not be to the detriment of either Council, particularly regarding the New Homes Bonus and nomination rights to affordable housing. The Cabinet Committee, based on advice from the Acting Chief Executive and Director of Housing, had judged that such an exchange of letters would have more weight than a short paragraph within a lengthy Joint Investment Plan, especially since any commitments (whether within the Plan or an exchange of letters) would have no legal standing.

The Portfolio Holder for Performance Management, who had chaired the meeting of the Local Development Framework Cabinet Committee, also highlighted the three issues which the Cabinet Committee felt should be included within the Plan, if it would not delay its adoption.

(i) Transport issues and in particular the Central Underground Line within this District. It was highlighted that the Central Line operated at full capacity during peak periods, and that there was insufficient parking provided at London Underground stations within the District. This could be a significant constraint on any future potential development within the District and it was agreed that this issue should be added to section 3.2 – Transport & Infrastructure – of the Plan.

(ii) Section 4.1.2, which dealt with the regeneration of the St John's Road area in Epping, did not make any mention of the proposals for community use that were being considered as part of the Development Brief. It was agreed that this was an oversight and should be included in the relevant section.

(iii) It was felt that reference should be made to the West Essex Alliance and its objectives, as the Alliance was comprised of the same three Councils.

The Director of Housing confirmed that the three issues highlighted by the Cabinet Committee would be included in the final version of the Plan.

Decision:

(1) That a recommendation be made to Council that the West Essex Local Investment Plan (LIP) be adopted, subject to an exchange of letters taking place between the Chief Executives of all three local authorities, following formal resolutions by the relevant executive bodies of each local authority, confirming that:

(a) each District Council would give a commitment that it would not seek to instigate a boundary change in respect of any areas where new housing was developed close to its boundary, other than through mutual agreement together with the reasons; and

(b) if a boundary change was instigated by a third party, the affected councils would work together to ensure that any proposed changes were not to the detriment of either council, particularly in relation to the New Homes Bonus and nomination rights to affordable housing;

(2) That a further recommendation be made to Council that to make a formal resolution itself to give the commitment referred to in Decision (1), at the same time as it agreed to adopt the LIP; and

(3) That the Acting Chief Executive be authorised to agree the final version of the LIP, in consultation with the Leader of the Council.

Reasons for Decision:

The Council was required to submit a Local Investment Plan to the Homes and Communities Agency, if it was to receive any future funding.

The exchange of letters between the three Councils would be seen as a statement of intent and carry more weight than including the issue within the Plan.

Other Options Considered and Rejected:

- To not adopt the Joint Local Investment Plan or to not request an exchange of letters regarding potential future boundary changes.
- To request further changes to the draft LIP prior to its adoption by the full Council or to not authorise the Acting Chief Executive to agree the final version of the LIP.

132. ON-STREET DECRIMINALISED PARKING ENFORCEMENT

The Portfolio Holder for Operational Planning & Transport presented a report concerning the future of on-street decriminalised parking enforcement within the District.

The Portfolio Holder outlined the proposals for the formation of a North Essex Parking Partnership to take over the responsibility for on-street parking enforcement when the present Agency Agreement with Essex County Council ceased on 31 March 2011. Colchester Borough Council would be the Lead Authority and would, in due course, be the employing authority for all parking officers for the North Essex Area, which would encompass the districts of Epping Forest, Harlow, Uttlesford, Braintree, Colchester and Tendring. Since Epping Forest District Council was the only authority in Essex which had an outsourced enforcement operation, it had been agreed that the contract with Vinci Park, which was due to expire in September 2012, would remain in place and continue to be managed by this Council; to do otherwise would present significant risk to the Council due to contractual issues with Vinci Park. Discussions had taken place regarding outsourcing the new, wider on street enforcement operation but it had been agreed that this would be considered after the partnership had been successfully established.

The Portfolio Holder highlighted the advantages and disadvantages of joining the proposed partnership. Some of the Council's initial concerns about the new arrangements had been allayed, and a revised approach was being suggested whereby: a breakeven position could be achieved through more efficient operations and enforcement of existing restrictions; tariffs would only rise by the prevailing rate of inflation; residents' permits would only increase by approximately £10 over a four-year period; and higher tariffs or changes from the current arrangements would only be considered if the partnership wished to generate a surplus. The Council would also retain a vote at Partnership meetings during the period of its contract with Vinci Park. It was emphasised that any surplus generated through on street enforcement would pass to the new partnership, and that the County Council was only prepared to

underwrite reasonable losses incurred by the Partnership for an initial two-year period.

The Leader of the Council thanked the Portfolio Holder and the Officers concerned for their role in the negotiations with the other members of the Partnership. The Cabinet was reminded that the Council ran a good service which generated a surplus, whereas most of the Councils within Essex made a loss from their operations. The Director of Environment & Street Scene added that the most likely reporting arrangements from the Partnership would be either the Safer Cleaner Greener Scrutiny Panel or the Local Highways Panel. The Portfolio Holder for Operational Planning & Transport would be the Council's member on the Partnership Board; the Council's Deputy member was a Leader appointment and would be made at a later date. The Portfolio Holder felt that the Council should enter the Partnership with a positive attitude as it would enable the Council to influence the future direction of the Partnership.

The off-street parking element of the contract had worked well and had provided a cost effective service. The contract allowed for a two year extension with the agreement of both parties, and the Portfolio Holder was proposing to commence contract negotiations with Vinci Park to continue the off-street element after September 2012.

Decision:

- (1) That the following be recommended to the Council for approval:
 - (a) That the Northern Essex Parking Partnership be joined by the Council with effect from 1 April 2011;
 - (b) That the Cabinet Member with responsibility for parking matters be nominated as the Partnership Board Member for the District and that the appointment of a deputy be made by the Leader at a later date;
 - (c) That the off-street parking operation be retained outside of the proposed Partnership and delivered through the existing contract with Vinci Park;
 - (d) That negotiations be commenced with Vinci Park to enable the permitted two year extension of the contract from September 2012 to August 2014 with respect to off- street operations only; and
 - (e) That all surpluses generated through on-street enforcement activity within the District from 1 April 2011 would pass to the new Parking Partnership be noted.

Reasons for Decision:

To enable the Council to play a full part in the operation of the Partnership when the current agency agreement with the County Council expired on 31 March 2011.

The contract with Vinci Park for the off street enforcement had worked well and provided a cost effective service.

Other Options Considered and Rejected:

- To decline to enter the Partnership with the subsequent contractual and financial consequences.
- To not extend the off street component of the contract with Vinci Park, and

commence a full EU procurement exercise for a replacement contract in September 2012.

133. INTRODUCTION OF CREDIT CARD PAYMENTS

The Portfolio Holder for Finance & Economic Development presented a report upon the proposed introduction of credit card payments.

The Portfolio Holder reminded the Cabinet that credit card payments were currently not accepted at the Council for the payment of bills such as Council Tax or Housing Rents. The current position had been agreed in 2002 due to the relatively high transaction costs for processing Credit Card payments, and concern over whether, legally, these costs could be passed onto customers for payments of statutory bills. In addition, payments made by Credit Cards could encourage people to borrow money and incur high interest charges. The legal position was ambiguous as there had not been a test case, and the Council's Legal Services had confirmed that this was an uncertain area of the law at the current time. The Cabinet was requested to consider whether credit card payments should now be accepted and whether a surcharge of 1.6% should be applied to the credit card payment by the customer to cover the transaction cost incurred by the Council. There would also be a cost of £11,010 to implement the necessary module to process any surcharges across all of the Council's systems of payments.

The Portfolio Holder reminded the Cabinet that this report had been originally considered by the Finance & Performance Management Cabinet Committee, who was concerned about the consequence for the Council if the proposals for credit card payments were implemented, but the application of surcharges was subsequently ruled unlawful. It was felt that the proposals should be deferred to the Cabinet pending advice from the Council's Solicitor to clarify the legal position. The advice that had been received was that the Council could charge a surcharge for credit card payments, provided that it was only levied to cover the transaction cost and the Council did not make a profit from it. Members requested that the surcharge be made very transparent to customers and that the Council offered as many other methods of payment as possible.

Decision:

- (1) That credit cards be introduced as a payment method for all payments to the Council;
- (2) That a surcharge of 1.6% be applied to payments by credit card to cover the cost of the transaction; and
- (3) That the cost of implementing a credit card surcharge module across all card payment channels in the sum of £11,010 be approved.

Reasons for Decision:

To offer residents as many different payment options as possible and reduce the amount of sundry debt outstanding to the Council.

Other Options Considered and Rejected:

To not introduce credit cards as a payment method or to absorb the transaction cost of paying by credit card.

134. LIMES FARM HALL REDEVELOPMENT - AWARD OF TENDER

The Portfolio Holder for Leisure & Wellbeing presented a report regarding the award of the building contract for the Limes Farm Hall redevelopment.

The Portfolio Holder reported that five contractors had been invited to tender for the building contract for the Limes Farm Hall Development; four of whom were located within the Epping Forest District. All five tenders were opened by the Leisure and Wellbeing Portfolio Holder on 7 February 2011, under the Council's formal tender procedures. A thorough initial written assessment of the bids had been undertaken by Norfolk Property Services (NPS Group), who were the consultants appointed to project manage the development on behalf of the Council.

The Portfolio Holder added that an evaluation panel undertook an assessment of the received tenders on 18 February 2011. An omission was identified within the lowest tender submitted, on behalf of Beardwell Construction Ltd, for access road renewal works. NPS Group had contacted Beardwell and were confident that this had been a genuine oversight. The company was then asked to provide a quotation for this work after the tender opening date, which was in the sum of an extra £8,655. However, even with this additional cost added to the tender, the lowest tender price submitted remained Beardwell Construction Ltd, by over £60,000. The panel therefore reached a consensus agreement that, based on the lowest price and compliance with specified quality criteria, the tender should be awarded to Beardwell, in the sum of £897,065.

Consequently, the Cabinet was requested to waive Contract Standing Orders in respect of the variation of £8,655 to Beardwell's tender, subsequent to the tender opening, and to award the Limes Farm Building Contract to Beardwell Construction Ltd for the total sum of £897,065. The project plan currently envisaged that the completion date would be 24 weeks from the placing of the order, with an anticipated start date of 21 March 2011 and an expected completion date of 26 August 2011.

Decision:

(1) That Contract Standing Order C18a be waived in respect to a variation of £8,656 to the original tender submission price on behalf of Beardwell Construction Ltd; and

(2) That the award of the building contract for the Limes Farm Community Facility redevelopment and extension to Beardwell Construction Ltd in the sum of £897,065 be approved, on the basis of this tender providing best value for money.

Reasons for Decision:

The tender submitted by Beardwell Construction Ltd represented the best value for money and the specified level of quality required as per the tender specification.

Other Options Considered and Rejected:

To not proceed although all abortive costs would need to be charged to the General Fund.

135. PEST CONTROL CONTRACT

The Environment Portfolio Holder presented a report regarding the Council's Pest Control Contract.

The Portfolio Holder stated that the current Pest Control Contract would expire at the end of June 2011, and a number of options for future pest control provision had been offered for consideration by the Cabinet. It was suggested that the Council should charge in future for offering cockroach treatments; these were currently free but there were not too many call-outs per annum. It was also not feasible to offer the rat service for free in the future either, especially as a number of visits were required to fully deal with the problem. An initial decision was being sought at this time, and was agreed by the Cabinet, regarding the future provision of the service and tendering processes, with a further report in due course setting out the outcome of the procurement exercise, options for service delivery and approach to concessions. An in-house 'ghost' bid would be prepared for comparison during the procurement exercise.

Following the publication of the agenda, the Portfolio Holder reported that the current contractor had been placed in administration and the business had been acquired by Rentokil plc. It was intended to novate the current contract to Rentokil plc in the short term and then procure a new long term contract, as set out in the original report. A number of Contract Standing Orders would have to be waived to enable this to occur, and permission was duly granted by the Cabinet. The Director of Environment & Street Scene added that Rentokil plc would continue the contract on the same terms and conditions as before until the existing contract expired on 30 June 2011, however further discussions were due to take place with Rentokil as to whether the fees should be adjusted to cover any possible additional costs.

Decision:

- (1) That a pest control treatment service be provided through either a normal service contract or an alternative approach such as "a preferred contractor" service sharing with another Council or the re-provision of an in-house service when the existing contract ended on 30 June 2011;
- (2) That a charge be imposed for all treatments in the future, including treatments for rats and cockroaches currently provided free of charge;
- (3) That, following Santia being placed in administration, the acquisition of the business by Rentokil plc be noted;
- (4) That the existing contract be novated to Rentokil plc for the remaining contract period;
- (5) That Contract Standing Orders be waived in order to enable a short term contract with Santia/Rentokil (or another provider if necessary) beyond June 2011, and if necessary with differing terms to the existing contract, to facilitate the completion of a EU procurement exercise;
- (6) That Contract Standing Orders C3(4) and C4 be waived until 30 June 2011 in order to allow, subject to continued satisfactory performance, orders to be placed for pest control services on a monthly basis with Rentokil plc on the same terms as the current contract; and
- (7) That a further report be submitted to a future meeting of the Cabinet on the outcome of the procurement exercise along with options for the setting of fees and concessions and any matters arising from the administration of Santia.

Reasons for Decision:

To continue to provide a pest control service to residents when the current contract expired, as the service had proved to be popular with residents.

To allow Rentokil to provide the service in the short term after the Council's contractor Santia had been placed in administration.

Other Options Considered and Rejected:

To cease the pest control service in its entirety.

136. ANY OTHER URGENT BUSINESS

There was no other urgent business for the Cabinet to consider.

CHAIRMAN