



# Epping Forest District Council

## **CABINET** **Monday, 7th March, 2011**

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

**Time:** 7.00 pm

**Democratic Services Officer:** Gary Woodhall (The Office of the Chief Executive)  
Tel: 01992 564470  
Email: gwoodhall@eppingforestdc.gov.uk

**Members:**

Councillors Mrs D Collins (Leader of the Council) (Chairman), C Whitbread (Finance & Economic Development Portfolio Holder) (Vice-Chairman), R Bassett, B Rolfe, Mrs M Sartin, Mrs P Smith, D Stallan, Ms S Stavrou and Mrs L Wagland

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

### **1. WEBCASTING INTRODUCTION**

- (a) This meeting is to be webcast;
- (b) Members are reminded of the need to activate their microphones before speaking; and
- (c) the Chairman will read the following announcement:

“I would like to remind everyone present that this meeting will be broadcast live to the Internet and will be capable of subsequent repeated viewing, with copies of the recording being made available for those that request it.

By being present at this meeting, it is likely that the recording cameras will capture your image and this will result in your image becoming part of the broadcast.

You should be aware that this may infringe your human and data protection rights. If you have any concerns then please speak to the Webcasting Officer.

Please could I also remind Members to activate their microphones before speaking.”

**2. APOLOGIES FOR ABSENCE**

**3. DECLARATIONS OF INTEREST**

(Assistant to the Chief Executive) To declare interests in any item on this agenda.

**4. MINUTES**

To confirm the minutes of the last meeting of the Cabinet held on 31 January 2011 (previously circulated).

**5. REPORTS OF PORTFOLIO HOLDERS**

To receive oral reports from Portfolio Holders on current issues concerning their Portfolios, which are not covered elsewhere on the agenda.

**6. PUBLIC QUESTIONS**

To answer questions asked by members of the public after notice in accordance with the motion passed by the Council at its meeting on 19 February 2008 (minute 102 refers) on any matter in relation to which the Cabinet has powers or duties or which affects the District.

**7. OVERVIEW AND SCRUTINY**

To consider any matters of concern to the Cabinet arising from the Council's Overview and Scrutiny function.

**8. LOCAL DEVELOPMENT FRAMEWORK CABINET COMMITTEE - 7 FEBRUARY 2011**

(Performance Management Portfolio Holder) To consider the minutes from the recent meeting of the Local Development Framework Cabinet Committee held on 7 February 2011 and any recommendations therein (report to follow).

**9. ADOPTION OF THE WEST ESSEX LOCAL INVESTMENT PLAN (Pages 5 - 10)**

(Leader of the Council) To consider the attached report (C-063-2010/11).

**10. ON-STREET DECRIMINALISED PARKING ENFORCEMENT**

(Operational Planning & Transport Portfolio Holder) To consider the attached report (report to follow).

**11. INTRODUCTION OF CREDIT CARD PAYMENTS (Pages 11 - 14)**

(Finance & Economic Development Portfolio Holder) To consider the attached report (C-065-2010/11).

**12. LIMES FARM HALL REDEVELOPMENT - AWARD OF TENDER (Pages 15 - 18)**

(Leisure & Wellbeing Portfolio Holder) To consider the attached report (C-064-

2010/11).

**13. PLANNING FOR REAL EXERCISE - LEADER LODGE, NORTH WEALD (Pages 19 - 26)**

(Housing Portfolio Holder) To consider the attached report (C-066-2010/11).

**14. AFFORDABLE HOUSING DEVELOPMENT - FORMER RED CROSS HALL SITE, WALTHAM ABBEY (Pages 27 - 32)**

(Housing Portfolio Holder) To consider the attached report (C-067-2010/11).

**15. PEST CONTROL CONTRACT (Pages 33 - 38)**

(Environment Portfolio Holder) To consider the attached report (C-068-2010/11).

**16. ANY OTHER URGENT BUSINESS**

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

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

**17. EXCLUSION OF PUBLIC AND PRESS**

Exclusion

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

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

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

Confidential Items Commencement

Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

- (1) All business of the Council requiring to be transacted in the presence of the

press and public to be completed by 10.00 p.m. at the latest.

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

Background Papers

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

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

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

## **Report to the Cabinet**

**Report reference:** C-063-2010/11

**Date of meeting:** 7 March 2011



**Epping Forest  
District Council**

**Report of:** Local Development Framework Cabinet Committee.

**Subject:** Adoption of the West Essex Local Investment Plan.

**Responsible Officer:** Alan Hall (1992 564004).

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

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

(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 gives a commitment that it will not seek to instigate a boundary change in respect of any areas where new housing is developed close to its boundary, other than through mutual agreement, together with the reasons; and

(b) if a boundary change is instigated by a third party, the affected councils will work together to ensure that any proposed changes are 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 it makes a formal resolution itself to give the commitment referred to in Recommendation (1), at the same time as it agrees 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 Proposed Decision:**

At the suggestion of the HCA, and in view of the relationship that is developing between the three local authorities in West Essex, a Joint Local Investment Plan for West Essex has been formulated. The Council is required to submit a Local Investment Plan (LIP) to the Homes and Communities Agency (HCA), if the District is to receive any funding from the HCA in the District. It is the Cabinet Committee's view that the draft LIP should be adopted by the Council, subject to the inclusion of the proposed exchange of letters, and the Acting Chief Executive being authorised to agree the final version.

### Other Options for Action:

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

### Report:

1. At our meeting on 7 February 2011, we received a report from the Director of Housing on the proposed adoption of the West Essex Local Investment Plan. This report covers our views and recommendations to the Cabinet, based on the Director of Housing's report.

2. We were advised that the Homes and Communities Agency (HCA) requires all local authorities to produce a Local Investment Plan (LIP), agreed by the HCA in a form determined by the HCA, setting out its approach to development in its district over a three year period. The HCA will not provide funding for affordable housing and infrastructure in districts where the local authority has not produced a LIP.

3. The intention for LIPs is to provide a framework for future partnership working with the HCA and to set out the investment required for an area to deliver the agreed vision and economic purpose of the place. LIPs, which originated from the HCA's "Single Conversation", will be used as the basis to set out the funding and resources that the HCA will invest in an area over time, as resources become available.

4. The LIP identifies the needs to be addressed, based on robust evidence from local strategies, including the Housing Strategy, the Strategic Housing Market Assessment and the Local Economic Assessment, and includes outputs that are expected from each partner's interventions.

5. At the suggestion of the HCA, in view of the proposed growth of Harlow - which could potentially involve and affect neighbouring districts to Harlow – the three West Essex local authorities, together with Harlow Renaissance, Essex County Council and others have been working together to produce a **Joint** Local Investment Plan for West Essex. This has involved this Council's Acting Chief Executive, Director of Housing, Director of Planning and Economic Development and staff in their directorates. Such joint working has been encouraged by the HCA nationally, but very few areas have been able to deliver joint LIPs. This approach is also in keeping with the recent Memorandum of Understanding between the West Essex Councils.

6. The latest, advanced, draft of the LIP has been published as a supplementary agenda and, subject to any further minor amendments, now needs to be adopted by the three local authorities involved. Hard copies have been provided for members of the Cabinet, and further hard copies will be available on the evening. If other members require their own hard copy, they can obtain one from the Democratic Services Officer listed above, before the meeting.

7. One of the difficulties has been to set out a vision for West Essex, at a time of uncertainty, when there is currently a hiatus in each local authority's thinking on its own development objectives, following the revocation of the East of England Plan (even though this was subsequently re-instated following a legal challenge) and the need for each local authority to now determine, locally, the amount of growth that it considers appropriate for its district, and in which location(s). This view is being progressed through each council's Local Development Framework (LDF). This Council also carried out a Community Visioning

consultation between November 2010 and January 2011, in order to inform its approach to the Issues and Options stage of the LDF. Therefore, there is currently no clear view from any of the three local authorities on future development in each of the districts, let alone West Essex as a whole.

8. It will be seen that one of the key aims of the LIP is to support the growth of Harlow, as a “sub-regional” centre. However, for the reasons given above, there are no statements or commitments given as to the way such support would be provided by the Epping Forest District, or to the extent of such support.

9. Priorities for investment across West Essex have emerged from the evidence that is set out in the LIP, and these have been prioritised in terms of both strategic importance and timescale deliverability. The prioritisation has been made, taking into account the following criteria:

- Existing prioritisation as agreed by individual councils;
- Deliverability and viability;
- Funding availability; and
- Potential contribution to the overall LIP vision.

10. As part of its quality assurance process, the draft West Essex LIP underwent a peer review by the HCA. Feedback following this process was positive and the LIP has been commended by the HCA for its quality, content and as an example of good partnership working across local authority boundaries. There were very few negative comments, which were all of a minor nature, and have been addressed.

11. It was the view of the Council’s Management Board that the most appropriate member body to consider the draft LIP in detail, in the first instance, was the Local Development Framework Cabinet Committee. However, the document will need to be adopted by the full Council on 29 March 2011, on the recommendation of the Cabinet – hence the reason for our report to the Cabinet. Since the LIP must be formally adopted by all three partners by 31 March 2011, this presents a tight timescale. There are risks to the Council and its partners if any of the partners, including this Council, do not sign up to the LIP – which are set out in the Risk Management Section below.

12. We have considered the document in detail and, since the LIP has been formulated with the full involvement of EFDC officers, we feel that the LIP can now be adopted by the Council. However, officers have drawn our attention to concerns that they have if, through the Local Development Framework, EFDC agrees to any development in Epping Forest on the borders of Harlow - in order to support the growth of Harlow - and there is then a subsequent boundary change involving such areas where development has occurred. If this happens, we would want to ensure that EFDC receives the full benefit of:

(a) **Any New Homes Bonus (NHB) that arises for the whole 6 year period of the NHB** - based on the proposals and figures within the Government’s Consultation Document (which are clearly subject to change), the District Council could receive a New Homes Bonus of around £670,000 over a six-year period, for every 100 homes built within the District. If there was a boundary change during the six-year period, it is possible that EFDC would not receive the New Homes Bonus for the whole six-year period; and

(b) **All the nomination rights to the affordable housing provided as part of any developments** - under current HCA guidance, the local authority in whose district affordable properties are built is entitled to have nomination rights to those properties (i.e. the ability to nominate to the developing housing association those housing applicants who should be accommodated in the affordable housing) – if there was a boundary change, the “new” local

authority would receive the nomination rights for any new housing built after the boundary change, and for all subsequent re-lets.

13. We were reminded that the area known as Church Langley in Harlow was previously known as Brenthall Park, situated in the Metropolitan Green Belt within the Epping Forest District, prior to a boundary change that was resisted by this Council. When the land was subsequently developed, which included the provision of affordable housing, this Council was not able to have any nomination rights to the affordable housing.

14. For these reasons, we are recommending that the adoption of the LIP by EFDC is 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 each district council gives a commitment that it will not seek to instigate a boundary change in respect of any areas where new housing is developed close to its boundary, other than through mutual agreement, together with the reasons. Furthermore, we feel that if a boundary change is instigated *by a third party*, the letter should confirm that the affected councils will work together to ensure that any proposed and/or resultant changes are not to the detriment of either council, particularly in relation to the New Homes Bonus and nomination rights to affordable housing.

15. We were advised that, because of their concerns, officers had originally suggested to the other two councils that a statement to this effect should be included within the LIP itself. However, since Harlow DC's members have already adopted the LIP in principle, Harlow DC proposed in response that this issue would be better covered through an exchange of letters. We considered this suggestion and agreed with officers that this approach will probably provide EFDC with a greater safeguard than simply the inclusion of a statement in the LIP. For our Council, we are recommending that the full Council makes such a commitment and resolution itself when it considers and adopts the LIP at its meeting on the 29th March 2011.

16. We did have some comments on the LIP itself, which we asked officers to seek to include within the final version. These were:

(a) The inclusion within the section on Transport and Infrastructure (referring to the fact that the Central Line of the London Underground passes through, and terminates, within the Epping Forest District and that, at peak times, the line operates at full capacity, and there is a real problem with commuter parking around underground stations. There is also insufficient parking at underground stations, resulting in residents of surrounding roads experiencing parking difficulties for themselves. Therefore, any significant development within the Epping Forest District will need to consider the effect on, and may be constrained by, the capacity of the Central Line;

(b) Within the section on the St Johns Road Area, Epping, reference to the fact that the resultant Development Brief for the area could also incorporate some community uses, which will also be explored as part of the consultation exercise; and

(c) Reference should be made to the existence of the West Essex Alliance, and its objectives (to bring together businesses and the public sector across West Essex to promote economic growth and to feed into the Kent, Greater Essex and East Sussex Local Enterprise Partnership).

17. Since there will inevitably be further changes required to the latest draft LIP, we are recommending that the Acting Chief Executive be authorised to agree the final version of the LIP, in consultation with the Leader of the Council.



### **Resource Implications:**

There are no financial commitments given within the LIP.

However, if planning permission for the development of new homes within the District bordering Harlow is given in the future, and there is a subsequent boundary change which takes those properties out of the Epping Forest District prior to, or during, the 6-year period of the Government's proposed New Homes Bonus, this Council could lose a significant amount of New Homes Bonus.

On the basis of the Government's current proposals under consultation, this could amount to around £1,200 per home, per annum, for up to 6 years.

### **Legal and Governance Implications:**

The LIP has no legal status. It is the Management Board's view that, since the LIP is a strategic document, and having regard to the Council's Constitution, it would be appropriate for it to be adopted by the full Council, which is a view we support.

### **Safer, Cleaner and Greener Implications:**

The strategic proposals within the LIP would result in developments that improve the safety, cleanliness and environment of those parts of the district where development takes place.

### **Consultation Undertaken:**

The draft LIP has been produced following consultation between officers of the three West Essex local authorities, Harlow Renaissance, Essex County Council and others.

### **Background Papers:**

Housing Policy File H884.

### **Impact Assessments:**

#### Risk Management

Apart from the perceived benefits of having an agreed Joint Investment Plan covering the three local authority areas in West Essex, there are real risks to the Council and its partners if any of the partners, including this Council, do not sign up to the LIP by 31 March 2011. There would be insufficient time for this Council, or either of the other two councils, to produce their own LIP. Based on the statement of HCA officials, the HCA would then not provide any funding for affordable housing or infrastructure in any of the three local authority areas.

If agreement cannot be reached with the other two councils on the proposed exchange of letters regarding potential future boundary changes, the Cabinet or full Council may decide not to adopt the LIP, which would result in this outcome.

However, if the LIP is adopted without the proposed exchange of letters giving such a public commitment from all three councils, there may be more likelihood that one or more of the three councils may either seek to instigate a boundary review, or support a boundary change if instigated by others. If this happens, there is a real risk that the Council could lose all of part of any New Homes Bonus that would otherwise be received by the Council, as set out under the section above on Resource Implications.

It is emphasised that the proposed exchange of letters would have no legal status, and cannot require any of the three local authorities to adopt the proposed stance in the future, especially if there is a change of membership or administration. However, it is felt that having such an exchange of letters would be better than not having an exchange, since it would demonstrate, publicly, each council's intent, and will make it more difficult for any of the councils to renege on the commitment given.

Equality and Diversity:

*Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications?* No

*Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken?* N/A

*What equality implications were identified through the Equality Impact Assessment process?*  
N/A

*How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?*  
N/A

## **Report to the Cabinet**

**Report reference:** C-065-2010/11

**Date of meeting:** 7 March 2011



**Epping Forest  
District Council**

**Portfolio:** Finance and Economic Development.

**Subject:** Introduction of Credit Card Payments.

**Responsible Officer:** Rob Pavey (01992 564211).

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

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

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

### **Executive Summary:**

Credit card payments are currently not accepted at the Council. This report re-visits this position and asks whether Members would like credit card payments to now be accepted and whether a surcharge of 1.6% should be applied to the 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 surcharge.

### **Reasons for Proposed Decision:**

There is the option of extending card payments to include credit cards. There is also the option of passing on any transaction cost to the customer. To implement a surcharge would require additional work to be applied to the Council's payment systems.

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

Members could decide not to introduce credit cards as a payment method or to introduce them with no surcharge.

### **Report:**

1. The Council accepts debit cards for payment of bills for Council Tax or Housing Rents, and various other payments. Credit card payments to date have not been accepted due to the relatively high transaction costs and doubts over whether those transaction costs could legally be passed onto customers for payments of statutory bills such as Council Tax. Another consideration has been the fact that credit card payments can encourage people

who owe money to the authority to effectively borrow money on their credit card and incur additional high interest charges, and therefore exacerbate their indebtedness. This report revisits the position regarding credit card payments which was originally agreed by Members in 2002, to assess whether credit card payments should now be accepted and whether the transaction cost for the credit card payment be passed onto the customer.

2. The merchant fee cost to the Council for accepting a credit card payment is 1.6% of the value of the transaction. A debit card transaction costs 16p. Therefore, someone paying £1,000 in Council Tax by debit card would cost the Council 16p, whereas that same amount paid by credit card would cost £16.00. The example of Council Tax is used, because not only is it where the highest number of card transactions apply, but the Council would only retain £100.00 of the Council Tax in any case, (as the remainder is passed to other precepting bodies) and £16.00 has already been used to process the payment.

3. Other Councils that accept credit card payments take one of two options with regard to the credit card fee. The first option is to pass the charge onto the debtor, but there are mixed views about whether it is legal to do this, particularly in relation to statutory bills. Authorities have taken Counsel's opinion on this and some have advised it is illegal to do so, whilst other opinion has stated it is legal to do so, providing it is just the cost to the Council that is passed on. The legal position is ambiguous and will ultimately only be settled by a test case. The only point of clarity that has emerged recently was a case involving London General Transport Services Ltd v London Borough of Camden 2009 relating to parking penalty charge notices where it was declared illegal to pass the charge on to the customer. Camden now does not pass the credit card fee onto the customer for any type of payment, not just penalty charge notices. Some other authorities have followed suit whilst others claim it just relates to parking matters. Advice was sought from the Council's own legal team and it was confirmed that this is an uncertain area of law at the moment.

4. The second option that some Councils take is to absorb the cost of the credit card fee, either because they do not want to pass the charge on or they do not consider or are unsure whether it is legal to do so.

5. Some authorities choose not to offer credit cards as a payment method as it can potentially encourage people who owe money to the authority to effectively borrow money on their credit card and incur additional high interest charges, and further exacerbate their overall indebtedness. This view must however be balanced with the right of an individual to choose the payment method they deem most suitable to their situation. It could also be seen that as the Council's own income streams become increasingly vital as Government grant reduces, the overriding need is to maximise the Council's income from whatever payment method is available.

6. Should Members decide to approve credit cards as a payment method, an option, as previously discussed, is to levy a surcharge on the payment equivalent to the 1.6% transaction cost incurred by the Council, notwithstanding the legal uncertainties of this. To do this requires the implementation of a surcharge module across all the channels that accept card payments, including counter, telephone, internet and mobile payments. These channels are supplied by Capita and a quotation of £11,010 has been received for this work to be undertaken. The cost of this work would be met from the ICT capital budget.

7. This report in conclusion re-visits the situation as to whether the Council should now accept credit card payments and also whether any surcharge should be passed onto the customer. With regards to the latter point there is no common legal opinion on this so it is for Members to decide if they would wish to impose this surcharge. However, given the potential cost of each credit card transaction to the Council, it would seem applying a surcharge is the only cost-effective solution. To give Members an idea of the potential cost if a surcharge was

not applied the following estimate can be made. In 2009/10 the Council received around £9 million pound in debit card payments. Should half of that amount have been paid by credit card then the transaction cost to the Council would have been £72,000.

**Resource Implications:**

Cost of £11,010 for implementing the credit card surcharge module across all payment channels.

**Legal and Governance Implications:**

The legal position with regard to passing on a credit card surcharge for statutory debts is as yet unresolved.

**Safer, Cleaner and Greener Implications:**

None.

**Consultation Undertaken:**

Consultation with CIPFA and other authorities has shown a mixed picture. Not all authorities accept payment by credit card and, of those that do, not all pass the transaction cost on to the debtor.

**Background Papers:**

None.

**Impact Assessments:**

Risk Management

There is a risk that to apply a credit card surcharge to payments such as statutory debts could at some stage be declared illegal, and the Council could have to pay any surcharges back to customers and adverse publicity would follow. The counter risk is that by not accepting payments by credit card the Council will fail to maximise income.

Equality and Diversity:

*Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications?* No

*Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken?* No

*What equality implications were identified through the Equality Impact Assessment process?*  
N/A.

*How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?*  
N/A.

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## **Report to the Cabinet**

**Report reference:** C-064-2010/11

**Date of meeting:** 7 March 2011



**Epping Forest  
District Council**

**Portfolio:** Leisure and Well-being

**Subject:** Limes Farm Hall Redevelopment – Award of Tender

**Responsible Officer:** Julie Chandler (01992 564214).

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

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

(1) That Cabinet agrees to waive Contract Standing Order; C18a in respect to a variation of £8,656.00 to the original tender submission price on behalf of Beardwell Construction Ltd in order to progress Recommendation 2; and

(2) That Cabinet gives approval to award the building contract for Limes Farm Community Facility redevelopment and extension to Beardwell Construction Ltd for the sum of £897,065.00 on the basis of this tender providing best value for money.

### **Executive Summary:**

Five Building Contractors were invited to tender for the building contract in respect of the Limes Farm Hall Development. These were selected from the Procurement Agency for Essex Supplier Portal, which requires them to be Constructionline registered. All five companies were based within Essex, with four out of the five from within the Epping Forest District.

All five companies submitted tenders for the Building Construction Contract. These were opened by the Leisure and Well Being Portfolio Holder on 7 February 2011, under the Council's formal tender recording procedures. A thorough initial written assessment of these bids was undertaken by Norfolk Property Services (NPS Group), Chelmsford, who are the consultants Project Managing the development on behalf of the Council.

An evaluation panel including Council Officers, representatives from Essex County Council and the Leisure and Well Being Portfolio Holder subsequently undertook a further detailed evaluation of the assessments which were presented by NPS, on February 18<sup>th</sup>. As part of the presentation the panel was made aware that NPS had identified an omission within the lowest tender submitted, on behalf of Beardwell Construction Ltd, for access road renewal works. NPS 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 and this was submitted after the tender opening date, at a cost of £8,655.00

However even with this additional cost added to the tender, the lowest tender price submitted by in excess of £60,000.00 remained to be Beardwell Construction Ltd. 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, for the value of £897,065.00.

This report therefore seeks Cabinet approval to waive contract standing orders in respect of the variation of £8,655.00 to Beardwells tender subsequent to tender opening, and to award the Limes Farm Building Contract to Beardwell Construction Ltd for the total sum of £897,065.00.

The project plan currently envisages that the completion date will be 24 weeks from the placing of the order. It is anticipated that the project will commence on 21 March 2011 and thus the expected project completion date will be 26 August 2011.

#### **Reasons for Proposed Decision:**

This decision is proposed on the basis that the tender submitted by Beardwell Construction Ltd represents the best value for money and the specified level of quality required as per the tender preliminaries.

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

Not to proceed although all abortive costs would need to be charged to revenue.

#### **Report:**

1. In April 2010, Cabinet agreed to fund the majority of the costs required to re-develop Limes Farm Community Hall, to a total of £802,000. This investment was part match - funded by a sum of £270,000 from Essex County Council, as part of its Extended Schools Capital Funding programme.
2. Following the Cabinet's decision to progress the development of Limes Farm Hall, Norfolk Property Services Group (NPS), based in Chelmsford, were appointed to undertake the professional services and project management of the redevelopment.
3. Over the last 6 months NPS has worked with the Council to undertake a range of surveys and preparatory work, culminating in the production of architectural drawings based on 'Option 2b', previously selected by Cabinet as their preferred scheme. This option includes a complete refurbishment of the existing facility and two new extensions to the front and rear of the building to accommodate a new office for Housing and Benefits services and a new facility to be used for youth activities, replacing the antiquated portakabin.
4. Planning permission was submitted for the project in December 2010 and was approved on Monday 7 February 2011, with a range of conditions relating to the building construction and works. These include protection of tree roots adjacent to the building and confirmation of exterior finishes.
5. During the same period, the detailed Tender Specification for the Building Contract was developed by NPS. Five building contractors were sourced from the Procurement Agency for Essex Supplier Portal, all of which were Constructionline registered. Invitations to tender for the Limes Farm Building Construction works were sent to all of these in early January 2011.
6. On 7 February 2011, a formal 'Tender Opening' was undertaken involving the Portfolio Holder for Leisure and Well Being and bids were received from all five companies. These initial bids were then followed up by NPS, who undertook a more detailed assessment which was presented to an Evaluation Panel on Friday 18 February. The Evaluation Panel consisted of EFDC officers including the Council's Building Control Manager and Procurement Manager, two representatives from Essex County Council and the Leisure &



Well Being Portfolio Holder.

7. Following detailed analysis of the tenders and agreement on the acceptance of a variation to the original tender bid, the evaluation panel reached a consensus agreement to recommend to Cabinet that the tender should be awarded to Beardwell Construction Ltd for the sum of £897,065.00.

8. The project plan currently envisages that the completion date will be 24 weeks from the placing of the order. It is anticipated that the project will commence on 21 March 2011 and thus the expected project completion date will be 26 August 2011.

#### **Resource Implications:**

If Cabinet gives approval to award the Limes Farm Building Contract to Beardwell, this will be at a sum of £897,065.00 including £40,000.00 contingency, which is within the capital budget of £1,062,000.00 for the project.

#### **Legal and Governance Implications:**

The tender and evaluation process undertaken in respect of the building contract for Limes Farm Development was conducted in line with the Council's standing orders and procurement procedures.

#### **Safer, Cleaner and Greener Implications:**

The redevelopment of Limes Farm Hall will result in a wide range of benefits to the immediate local community. It is anticipated that the facility will increase community pride and respect in general and will also build on the excellent engagement work that has been undertaken with young people on the Estate over the last 3 years.

#### **Consultation Undertaken:**

A wide range of consultation has been undertaken with local residents and stakeholders in respect of the development and this will continue throughout the construction phase.

#### **Background Papers:**

Limes Farm Cabinet reports November 2009 & April 2010. Limes Farm Feasibility Study September 2009.

#### **Impact Assessments:**

##### Risk Management

The key risk of entering into a building contract for Limes Farm Hall redevelopment would be that the building works could exceed the stated contract price, due to unforeseen building requirements. However this risk has been minimised by the major surveys (including asbestos) being undertaken prior to award of the main building contract. Risk Management Assessment details are included within the DCE Business Plan 2011/12.

##### Equality and Diversity:

This recommendation has a positive Equality Impact, in that the provision of a new community facility on Limes Farm would enable the Council to widen access to its core services and therefore improve equality of service provision for the elderly and many socio - economically disadvantaged residents. In addition, young people at risk of social exclusion would specifically be supported in terms of their integration within the community and wider

society and people with disabilities would have much improved access to the building through design adjustments to meet with DDA.

*Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications?* No

*Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken?* No

*What equality implications were identified through the Equality Impact Assessment process?*  
N/A.

*How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?*  
N/A.

## **Report to the Cabinet**

**Report reference:** C-066-2010/11

**Date of meeting:** 7 March 2011



**Epping Forest  
District Council**

**Portfolio:** Housing.

**Subject:** Leader Lodge, North Weald – Planning for Real Exercise.

**Responsible Officer:** Alan Hall (01992 564004).

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

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

- (1) That Hastoe Housing Association undertakes a “Planning for Real” exercise in relation to the Council-owned building and associated land at Leader Lodge, 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 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 them undertaking the Planning for Real exercise, that if the outcome of the exercise results in a proposal for the development of the site for affordable housing, the land will be transferred to Hastoe HA - at a sum to be agreed by the Cabinet when it receives its further report – to undertake the proposed development, at its own risk.**

### **Executive Summary:**

Various attempts to convert and/or redevelop the Council-owned building and associated land at Leader Lodge, North Weald have been unsuccessful. The building is in a very poor state of repair and an agreed way forward for the future use of the site needs to be established.

Hastoe Housing Association has offered to undertake a “Planning for Real” Exercise with the local community, at its own cost, in order to consider options for future use of the site, and to help determine an appropriate approach for the future.

The outcome of the Planning for Real exercise will be reported to a future meeting of the Cabinet to determine the future use of the land.

### **Reasons for Proposed Decision:**

The building is in a poor state of repair and an agreed way forward for the future use of the site needs to be established.

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

- Not to undertake a Planning for Real Exercise;
- Not to 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.

### **Background:**

1. Leader Lodge was originally a detached house, within extensive grounds, purchased by the Council under Housing Act powers and converted into 2 two-bedroom flats (on the ground and first floor). The site area is around 0.19 Hectares. Until 2002, the flats provided tied accommodation for the Manager and Deputy Manager of nearby Norway House, the Council's Homeless Persons Hostel, until it was decided, for operational reasons, that it was no longer appropriate for the hostel management staff to live "on-site".

2. Following the vacation of the hostel management staff, a proposal to demolish Leader Lodge and redevelop the site to provide 10 new self-contained flats was formulated. An alternate proposal was also identified, retaining and converting the structure of the existing building to provide four flats and providing a small annexe of two new flats, linked with a communal entrance/stairway. In March 2004, the then Housing Portfolio Holder considered the issue and agreed to the submission of an outline planning application on the basis of the former option.

3. However, in June 2006, despite a planning officer recommendation for approval, the outline planning application was refused by the Area Plans Sub-Committee. This was because the Sub-Committee felt that "the proposals would result in a form of development out of character in this area of predominantly single-family dwellings and detrimental to the street scene" and "would result in an intensification of use out of character with the surrounding properties and likely to result in activity causing disturbance to the occupiers of adjacent properties".

4. It was therefore necessary to consider the future use of the site. Accordingly, in June 2007, the Cabinet agreed to seek the improvement and conversion of Leader Lodge into four self contained flats, together with the development of a new annexe comprising at least two self contained flats within the grounds, in partnership with one of the Council's Preferred Housing Association Partners, with the freehold sold to the selected housing association for its tendered sum. The Cabinet also agreed that all of the new and converted flats should be sold on a shared-ownership basis.

5. A tendering exercise was held in July 2008, resulting in the Housing Portfolio Holder accepting the highest tender, from East Thames, with the tender from London & Quadrant (L&Q) as a reserve. However, East Thames subsequently withdrew its tender due to the falling property market and uncertainty at that time. L&Q, the reserve tenderer, also withdrew its tender for the same reason.

6. In view of these market difficulties, at its meeting on 9<sup>th</sup> March 2009, the Cabinet agreed that a further tendering exercise should be undertaken, allowing the properties to be provided through a "Rent Now – Buy Later Scheme", instead of through conventional shared

ownership, if the selected housing association had difficulties in selling the shared ownership properties. Sometimes referred to as “Rent to Mortgage”, this approach would enable an applicant to fully rent a newly-built or converted property at an “intermediate rent” (with levels set at around 80% of market rents for the local area) on the basis that they are able to purchase an equity in the property at a later date (eg. 20% - 50%).

7. A further tendering exercise was undertaken, which resulted in two housing associations declining to tender, since they were of the view that the proposed development was not viable. The tender from Moat (in the sum of £150,000 without grant from the Homes and Communities Agency, and £210,000 with grant) was accepted by the Housing Portfolio Holder in January 2010. However, since the other two tenders would not result in any capital receipt for the Council, the Housing Portfolio Holder also agreed that, in the event of Moat withdrawing, no housing association be selected as a reserve partner, and that a further tender exercise be undertaken amongst the Council’s Preferred Housing Association Partners, only when the housing market improves.

8. In the event, Moat did withdraw its tender, for three main reasons:

(i) They had concluded that the proposed scheme did not make the best use of the site and restricted the overall income that could be raised, affecting the overall viability of the scheme;

(ii) They were of the view that 1 bedroom flats are no longer sufficiently desirable to the shared ownership market; and

(iii) Since North Weald is now within a Designated Protected Area (DPA), shared owners can only purchase equity up to a maximum of 80%, which could cause problems with their re-sale, which would make it necessary for Moat to provide a guaranteed buy-back arrangement. Moat had made a corporate decision not to develop shared ownership properties in DPAs until it had assessed the impact of this new legislation.

9. A decision therefore needs to be made on the best way forward for the site. The Director of Housing is of the view that the current building does not make the best use of the land and that the site has good development potential, yet the Council’s planning application for the development of 10 flats was refused by the Area Plans Sub Committee against the planning officer’s recommendation. Two tendering exercises have been undertaken to convert the property into four flats and to provide a small annexe, which cannot be taken forward due to the proposal being unviable. In the meantime, Leader Lodge continues to be boarded up, is in a very poor state of repair, and is totally uninhabitable. It would also be uneconomic for the Council to refurbish the two flats.

#### “Planning for Real” Approach

10. In view of the need to find an appropriate way forward, one of the Council’s Preferred Housing Association Partners, Hastoe Housing Association, has offered to undertake a “Planning for Real” exercise in relation to Leader Lodge and the associated land. Planning for Real is an established tool for working with the local community in order to consider options for future uses of sites, and to help determine an appropriate approach for the future. The model is usually adopted for larger areas, but in view of the inability to achieve an appropriate way forward for the site, it is felt that this approach would be good to use for Leader Lodge.

11. The process would use a simple model as a focus for people to put forward and prioritise ideas on how the area can best be developed. It is a visible, hands-on community development and empowerment tool, which people of all abilities and backgrounds find easy

and are able to engage in. The process results in the establishment of an action plan which is then taken forward. It is proposed that residents in the vicinity of Leader Lodge take part in the exercise, as well as ward members and representatives of the Parish Council. Options to be explored would include the retention of the existing building (with or without additional buildings), redevelopment of the site, sale of the site on the open market, or no development at all.

12. It is proposed that the outcome of the Planning for Real exercise is 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 (i.e. any positive difference between the anticipated costs and income, which would be provided to the Council as a capital receipt for the transfer of land), and the use of any resultant capital receipt.

13. In view of the resources that Hastoe will need to put into the exercise at their own cost (including the services of an architect), the fact that they are one of the Council's Preferred Housing Association Partners, and that the other Housing Association Partners have not been able to put forward viable proposals, it is proposed that if the outcome of the exercise results in a proposal for the development of the site for affordable housing, that Hastoe HA undertakes the proposed development. Hastoe has agreed to take all of the risk in relation to any abortive costs it may incur.

**Resource Implications:**

No budget provision required.

**Legal and Governance Implications:**

Housing Act 1085.

**Safer, Cleaner and Greener Implications:**

The existing building has become a local eyesore, and it is hoped that the Planning for Real Exercise would result in an improved local environment.

**Consultation Undertaken:**

Hastoe Housing Association has been consulted, following its proposal.

**Background Papers:**

Housing Policy File H758.

**Impact Assessments:**

Risk Management

Since the Planning for Real exercise would be undertaken by Hastoe Housing Association, at its own cost and risk, the risks to the Council are limited. If a development proposal emerges from the exercise, the main risk would be that the development results in a nil or negative residual value, the latter of which may result in a request from Hastoe for some capital grant from the Council. However, the proposed further report to the Cabinet would set out the detailed arrangements for any scheme.

Equality and Diversity:

*Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications?* No

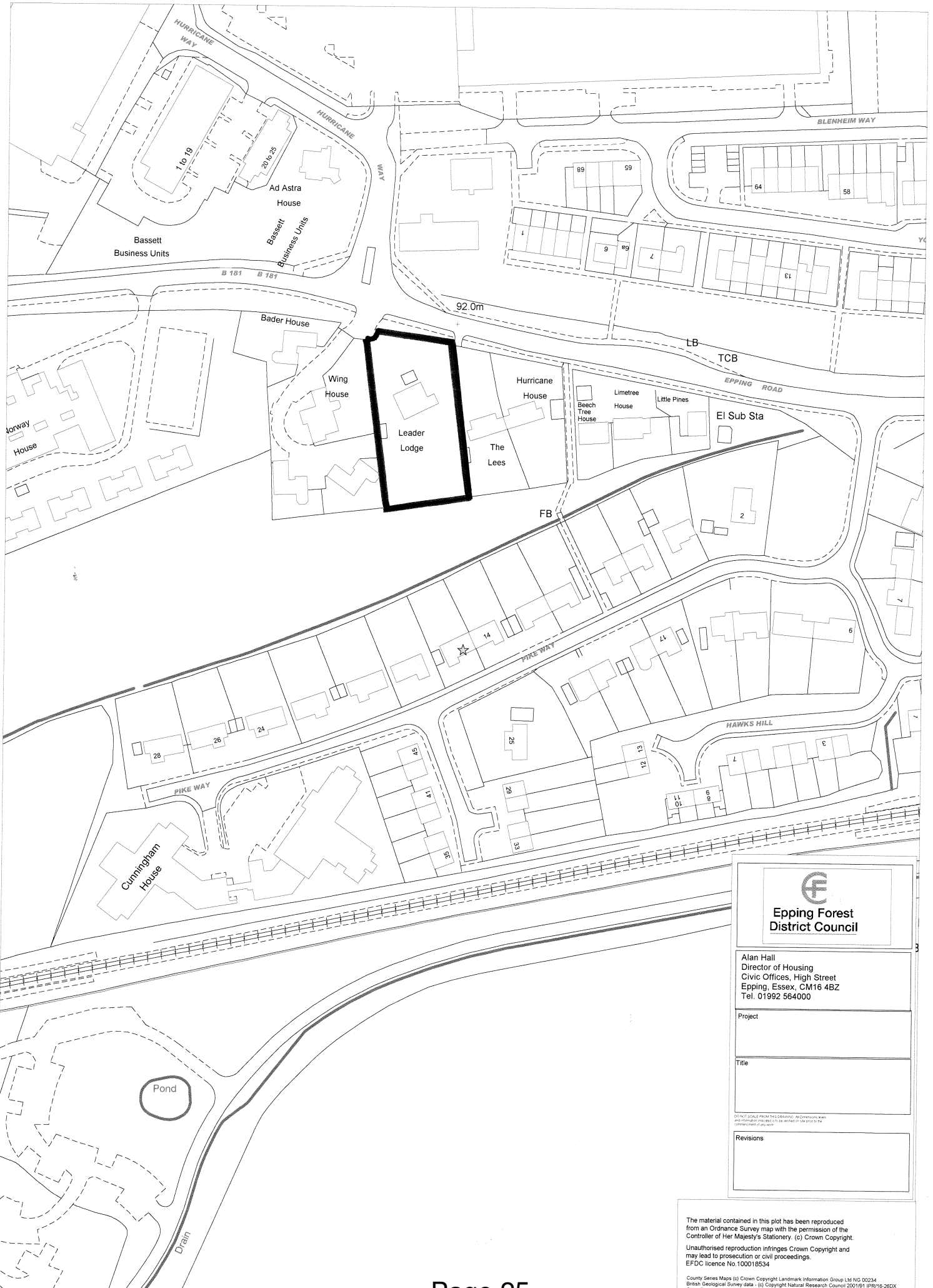
*Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken?* N/A


*What equality implications were identified through the Equality Impact Assessment process?*  
N/A.

*How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?*  
N/A.

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**Epping Forest  
District Council**

Alan Hall  
Director of Housing  
Civic Offices, High Street  
Epping, Essex, CM16 4BZ  
Tel. 01992 564000

Project

Title

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Revisions

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## **Report to the Cabinet**

**Report reference:** C-067-2010/11

**Date of meeting:** 7 March 2011



**Epping Forest  
District Council**

**Portfolio:** Housing

**Subject:** Land to the Rear/Side of Roundhills Shops, Waltham Abbey – Affordable Housing Development

**Responsible Officer:** Alan Hall (01992 564004)

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

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

- (1) That the Council seeks to develop the land to the rear/side of Roundhills Shops, Waltham Abbey (shown delineated in black on the attached Appendix) - comprising the land previously leased to the Red Cross for the provision of a hall, seven Council-owned garages and associated vacant land – 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, if a capital receipt arises from the transfer, it 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 report be submitted to a future meeting of the Cabinet to agree the way forward, including the possible provision of grant by the Council.**

### **Executive Summary:**

The British Red Cross has 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 opens up the possibility of the site being developed. It is proposed that tenders are invited from the Council's Preferred Housing Association Partners for the provision of a long lease from the Council to enable the development of affordable housing for rent.

### **Reasons for Proposed Decision:**

There is a desperate shortage of affordable rented housing in the District and the proposal would result in the provision of additional affordable housing,

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

- Not to develop the land;
- To develop the land for another Council use;
- 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

### **Introduction and Background:**

1. In 1968, the former Urban District Council of Waltham Holy Cross (a predecessor to EFDC) entered into a 99-year lease with the British Red Cross for an area of land (approximately 0.07 Ha) to the rear of the Roundhills Shops, Waltham Abbey to enable the British Red Cross to provide a community centre on the land, which was duly constructed.

2. However, the British Red Cross closed the centre in 2003 and surrendered its lease in 2006. Under the terms of the lease, it also demolished the building. The land has been vacant (fenced) since 2006.

3. Adjacent to the land is a Council-owned garage site, comprising a block of seven garages, let under weekly tenancies. The site previously comprised another block of garages, which was demolished a number of years ago due to structural problems. The locality also includes a service road to the small estate-based Roundhills shops, and a vacant grassed area to the north-west of the shops.

4. A site plan is attached as an Appendix, with the whole area (comprising approximately

0.19 Ha) de-lineated in black.

### Proposed Development of the Site

5. The corporate Asset Management Co-ordination Group has considered the future use of this land and has concluded that, since the land was originally acquired under Housing Act powers and is located within a housing estate with a significant number of rented Council homes, it would be appropriate to work with one of the Council's Preferred Housing Association Partners to seek to develop the site for the provision of affordable rented housing.

6. However, the site is located within a designated Zone 2 Flood Risk Area (due to the close proximity of Cobbins Brook), which means that although residential development is possible, the development would need to include mitigation measures to reduce the risk of flooding to an acceptable level, to the satisfaction of the Environment Agency. Prior to the completion of flood alleviation works to Cobbins Brook, the site was within a designated Zone 3 Flood Risk Area, which would have resulted in residential development being almost impossible.

7. Planning officers have confirmed that, at this stage and subject to public consultation, they have no planning objections in principle to the residential development of the site, subject to the required flood mitigation measures meeting the requirements of the Environment Agency.

8. A brief appraisal by the Council's Senior Architectural Assistant has established that it may be possible for 4 X 3 bedroomed houses and 3 x 1 bedroomed flats to be provided on the site. Therefore, it is proposed that a tender exercise be undertaken amongst the Council's five Preferred Housing Association Partners, with each housing association asked to provide a tender on the amount of premium it could pay the Council for the land, on the basis of this indicative mix for rented housing, with affordable rents – with appropriate flood mitigation measures - in order to ensure a "level playing field". As at January 2011, there were over 5,300 applicants on the Council's Housing Register seeking affordable rented housing from the Council or a housing association.

9. The Government has recently announced that it intends to, effectively, require housing associations to provide fixed term tenancies, with "affordable rents", for all new developments in the future. Affordable rents will be up to 80% of private market rents for the local area (including service charges). One of the drivers for the Government's new affordable rent "product" is for these higher rents to generate additional revenue to either reduce or obviate the need for social housing grant from the HCA.

10. It is further proposed that the Housing Portfolio Holder be authorised to select the housing association to undertake the development, having regard to the proposed amounts to be paid to the Council and any other material considerations considered appropriate.

11. Since the Council's indicative mix has not been formulated following a detailed site appraisal it is proposed that, once a housing association has been selected, the housing association be asked to evaluate the Council's indicative proposal and assess whether or not it considers that more affordable properties could be provided on the site, subject to the capital receipt received by the Council being no lower (and preferably more) than the housing association's tendered sum. The housing association would then be required to submit a detailed planning application for the proposed scheme at its own cost and risk. It should be noted that that the number and mix of properties may need to change through the planning process in any event.

12. If planning permission is received it is proposed that, as usual, 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.

### Issues

13. The Council's Legal Service has undertaken detailed research on the land's title, which has raised a number of issues which could affect the proposed form of development and/or the final amount that the Council receives from the housing association. The main issues are summarised below:

(a) The proposed development site includes seven Council-owned garages let on weekly tenancies, of which 2 are currently vacant. These will need to be vacated before the land is leased to the selected housing association; the garage tenancies can be terminated with just one weeks notice. When it is known that the development can go ahead, the existing garage tenants will be offered alternative Council garages as close as possible to their home. In the meantime, no further lettings will be made.

(b) There is a small area of land adjacent to the proposed development site that is in the ownership of UK Power Networks, which was originally sold to the former Eastern Electricity Board (EEB) by the Urban District Council of Waltham Holy Cross in 1969 on which to locate an electricity sub-station. However, there is no sub-station located on the land, which is just a grassed area. Despite this, the 1969 conveyance provides the EEB with a vehicular right of way through the Council's garage courtyard. If these rights are not removed, it will significantly affect the development potential of the site. The Director of Housing has therefore written to UK Power Networks to ascertain whether or not it requires the land for a sub-station in the future and, if not, whether or not it would be prepared to sell the land to the selected housing association or give up its right of way across the Council's land. Alternatively, if a site may be required for a sub-station in the future, whether or not a land-swap arrangement can be agreed with the Council.

(c) The service road to the rear of the Council-owned parade of shops at Roundhills needs to be retained, not least because the shop leases provide rights of way over the Council's land. It will also need to be kept accessible for the duration of the proposed construction works.

(d) There are a number of "private" sewers situated under the land, some of which will need to be diverted to allow development to go ahead.

(e) There is a small communal refuse area located within the proposed development land. Ideally, this would be re-located elsewhere on the site by the developing housing association as part of the construction works. Although this may be possible, two Council flats in the vicinity have been leased under the right to buy, and the leaseholders have the right to use the refuse facilities in the current location. Experience elsewhere has established that it can be difficult to negotiate deeds of variation with leaseholders, which may result in it being easier for the refuse area to be retained in situ. However, this can be investigated further by the selected housing association as part of its evaluation of the Council's indicative proposal/mix.

14. It is not yet known, in view of the number of site specific costs involved with the development, if the development will result in a capital receipt for the Council. If it does, it is proposed that it be retained for use in the future, and not ring-fenced to facilitate the provision of affordable housing on another site.

15. It is quite possible that the selected tender will result in a negative valuation, with

grant required to make the proposed development viable. If this is the case, it is proposed that the selected housing association be required to seek grant funding from the Homes and Communities Agency (HCA). If the HCA does not provide grant funding, it is suggested that a report be submitted to a future meeting of the Cabinet to agree the way forward, including the possible provision of grant by the Council.

**Resource Implications:**

Proposed lease of land to a housing association.  
Possible capital receipt to the Council for the lease  
The open market value of the land has been assessed by the Council's Estates & Valuations Division at £250,000

**Legal and Governance Implications:**

Housing Act 1985.

**Safer, Cleaner and Greener Implications:**

The land previously leased to the British Red Cross is overgrown and unsightly. The proposed development would improve the appearance of the area.

**Consultation Undertaken:**

The Council's Preferred Housing Association Partners have been consulted on the proposed development and a draft of this report, and their comments have been taken into account.

**Background Papers:**

Housing Policy File H748

**Impact Assessments:**

Risk Management

Since the development would be undertaken by a housing association, at risk, the risk to the Council is minimal. The main risk to the Council would be if the highest tender requires a capital grant from the Council, due to a negative residual land value. However, if this is the case, the Cabinet would need to consider the issues and agree a way forward.

Equality and Diversity:

*Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications?* No

*Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken?* N/A

*What equality implications were identified through the Equality Impact Assessment process?*  
N/A

*How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?*  
N/A





## **Report to the Cabinet**

**Report reference:** C-068-2010/11

**Date of meeting:** 7 March 2011



**Epping Forest  
District Council**

**Portfolio:** Environment

**Subject:** Pest Control Contract

**Responsible Officer:** John Gilbert (01992 564062).

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

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

- (1) To consider the following options for the pest control service when the existing contract ends at the end of June 2011:
  - (a) cease the treatment service in its entirety; or
  - (b) provide a treatment service through 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;
- (2) To impose a charge for all treatments; and
- (3) To receive a further report at a future Cabinet on the outcome of the procurement exercise along with options for the setting of fees and concessions.

### **Executive Summary:**

The current Pest Control Contract expires at the end of June 2011. The contractor is not willing to extend the contract under its present terms and Members are asked to consider options for future pest control provision. At this time a principled decision is sought regarding the provision of service and tendering processes with Cabinet receiving a further report in due course setting out the outcome of that procurement exercise and options for service delivery and approach to concessions.

### **Reasons for Proposed Decision:**

The current pest contract ends in June 2011. If Cabinet wishes to continue to provide some form of treatment service to residents, a service will need to be procured.

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

There are no options other than those to be considered as part of the recommendations.

### **Report:**

1. The current contract for pest control expires in June 2011. The terms of the contract are that the Council pays the contractor £42,000 per year, with the contractor collecting

payment for treatment from residents and returning it to the authority. The fees are set by the Council. The contract allows for the contractor to retain any income from wasp treatments beyond 1,000 treatments per annum.

2. The total number of requests for service varies from year to year and details of treatments over the past four years are set out in the table below:

	06/07	07/08	08/09	09/10	Average	10/11 to date
<b>Rats</b>	989	1,317	1,100	1,003	1,102	892
<b>Mice</b>	82	113	100	90	96	63
<b>Cockroaches</b>	7	24	10	11	13	5
<b>Bedbugs</b>	6	30	22	30	22	10
<b>Wasps</b>	682	1,294	630	1,113	930	1,122
<b>Ants</b>	19	21	17	21	20	15
<b>Fleas</b>	18	25	10	22	19	24
<b>Carpet beetles</b>	9	4	2	1	4	3
	<b>1,812</b>	<b>2,828</b>	<b>1,891</b>	<b>2,291</b>	<b>2,206</b>	<b>2,134</b>
<b>Income</b>	<b>£14,939</b>	<b>£27,631</b>	<b>£15,687</b>	<b>£31,996</b>	<b>£22,563</b>	

It can be seen from the above that the key determinant of fee income is the number of requests for wasp nest and rat treatments throughout the year.

3. The fee structure for 2011/12 is as follows (including VAT):

Pest	Fee	Concession
Rats	£Free	£Free
Mice	£35.00	£18.00
Cockroaches	£Free	£free
Bedbugs	£35.00	£18.00
Wasps	£50.00	£25.00
Ants	£35.00	£25.00
Fleas	£35.00	£25.00
Carpet beetles	£35.00	£25.00

It should be noted that these fees are for the entire treatment process and not for one visit. Whilst pests such as wasps can be dealt with at one visit, rats, mice and insects will frequently require up to three visits to achieve eradication. Data for 2010 suggests that more than 50% of those using the service claimed the concessionary rate. The commercial cost of rat treatment for residential premises ranges from £85 upwards, with an average cost of £120, this allowing for up to three visits to deal with the problem.

4. There are a range of service delivery options available, set out in the following paragraphs.

#### No Service

5. The Council has pursued this path in the past, but has chosen on each occasion to restore the service due to concerns expressed by residents. However, it remains the case that the provision of a pest treatment service is not a statutory requirement, and it would therefore be possible to not provide a service at all. Residents requesting a service would be advised to find their own contractor and pay in full for the treatment. As previously, the

disadvantages lie in the number of complaints which may be received about the lack of service and an inability to monitor the prevalence of rats and other vermin within the district. There may also be some additional officer time dealing with complaints involving the presence of pests where a resident fails to deal with the problem, although this would be offset in part by no calls for treatment being received.

#### Tender the Service

6. There are a range of options available and it is suggested that a number are pursued in order to obtain the best value for the Council and residents. The options include:

- (a) a normal tender process;
- (b) a preferred contractor model whereby either an appointment is made based on the level of discount which a contractor would provide to residents; or
- (c) where the Council sets a fee structure and the contractor bids on the basis of them retaining that fee.

#### Shared Service / Local Authority Provider

7. Despite the wide variation in the scale and nature of services provided and the difficulties which will result in finding a local council partner with whom we could genuinely share a service, enquiries will be made. It would also be possible, as part of the tendering exercises referred to in paragraph 6 above, to invite other councils to tender for the contract.

#### Re-provision of an In-House Service

8. The Council has not provided a pest treatment service in-house for more than 20 years. Endeavouring to do so brings with it a number of difficulties including:

- (a) availability of staff with relevant service provision expertise (although TUPE from an existing contractor may deal with this);
- (b) the need for secure storage for poisons and equipment;
- (c) capital costs of vehicles and equipment etc; and
- (d) the need for an operational base.

However, it is suggested that there may be merit in at least working up a form of 'ghost bid' so that a comparison can be made against external and other bids for the service.

#### Other Issues

9. Due to time constraints it is imperative that the procurement process is commenced as soon as possible and it is suggested that Cabinet considers providing a treatment service through the options outlined above. Once bids / prices are known, Cabinet can decide at a future meeting to what degree it wishes to recoup costs through the imposition of a charging regime.

10. Within the current fee arrangements for pest treatments no charge is made for the treatment of rats and cockroaches and all treatments to those of pensionable age are charged at half rate irrespective of personal circumstances. Cabinet is requested to reconsider these arrangements. As set out in the "Safer, cleaner, greener" implications later

in this report, pest control services were established and maintained by local authorities to control the spread of disease and to ensure that councils were aware of infestation levels. Given that in the main, local authority fees are less than those offered by commercial service providers, the service also encourages residents to report problems and to have treatments carried out. However, given the non statutory nature of the service and the need for the Council to provide services within reducing resources it is suggested that all pest control treatments be charged at the appropriate rate from the commencement of any new arrangements in July 2011. Using current data and levels of concessions, charging for rats and cockroaches would generate an estimated additional £10,000 to £15,000 per annum, although it should be recognised that demand may initially fall.

11. There is currently a 50% concession for residents of a pensionable age irrespective of their particular circumstances. On average, just over half of all treatments are provided under this concession. It is recognised that this concession does not necessarily assist all those on low incomes and nor is it necessary in cases where pensionable recipients are able to meet the full costs. As indicated in the report, it is likely that contractual costs will rise and the fees levied will also have to rise to keep the overall costs of the service within the available budget. It is therefore suggested that when Cabinet considers the outcome of any tendering exercise, it also, as part of that consideration considers the fee and concessions structure.

### **Resource Implications:**

In 2009/10 the budget for the pest control service was £46,000. The budget for 2010/11 is £41,000 and for 2011/12 is as follows:

#### **Expenditure**

Employee costs	£ 7,560	
Transport	£ 340	
Supplies & Services	£ 100	
Contract	£42,000	
Support services	£ 6,870	<b>£56,870</b>

#### **Income**

Fees	£16,540	<b>£16,540</b>
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#### **Net cost of service**

**£40,430**

Discussions with other contractors and local authorities indicate that the terms of the existing contract are unique and are most unlikely to be repeated in the future. It is very probable that any future contract will be significantly more expensive than the existing one although just how expensive will not be clear until a tendering exercise has been undertaken.

If the service is discontinued then the budgeted contractual costs will be saved from July onwards for 2011/12 and then in entirety thereafter. Employee costs are less straightforward in that no particular officers are employed solely on pest control matters and therefore direct savings may not arise.

### **Legal and Governance Implications:**

The management by local authorities of pests in their area generally falls under the auspices of the Prevention of Damage by Pests Act (PDBPA) 1949, although the nuisance provisions of the various public health and environment acts also apply. The PDBPA requires that local authorities keep their areas, as far as is practicable, to keep their areas free from rats and mice, and in particular to:

- carry out inspections from time to time;

- destroy rats and mice on their own land; and
- enforce this same duty on owners and occupiers of private land.

The PDBPA requires that owners and occupiers inform a local authority if their land has “substantial” numbers of rats and/or mice, although this duty does not apply to agricultural land. Once such a notification is received, the local authority has to decide what action is required, and it can, by notice, require an owner or occupier to take steps to eradicate those pests. Subject to an appeal being made, if an owner or occupier does not comply, the local authority can itself undertake the necessary action and seek to recover costs. In addition, and notwithstanding undertaking works in default, a local authority can also take action in the Magistrates’ Court if a notice is not complied with.

The public health and environment acts are less specific, in that they contain powers to deal with statutory nuisance which can include for example, accumulations of refuse etc which may harbour rodents and other vermin. The powers for the local authority to act are however almost entirely the same as for the PDBPA.

It can be seen therefore that there is no requirement placed upon a local authority to actually provide for a treatment service. However, in reality, many local authorities do, because such a service is seen as a pragmatic approach to dealing with pest infestations and also enables a local authority to be aware of the scale of infestations in its area. It is also seen as a public health service, better provided by a local authority. The duty to keep its district free from rats and mice remains, and a local authority is under a duty to act if it forms the view that any infestation is substantial and that an owner/occupier was not prepared to deal with it. Such action would be particularly likely if an infestation was adversely affecting neighbouring premises due to someone else’s inaction. The degree to which such action would be required is unknown, but it is likely that such interventions would not be frequent.

There is no duty to deal with other pests such as bed bugs, fleas and cockroaches or to deal with wasps nests.

#### **Safer, Cleaner and Greener Implications:**

Local authority pest control services are predicated on the basis of preventing the spread of disease through contact with rats and mice etc. In addition, rats and mice can cause damage to properties through, for example, chewing cabling. The Council has in the past formed the view that it would deal with rats and cockroaches because of their ability to harbour disease, but the modern reality is that diseases caused through contact with vermin directly are rare, although there remain cases of and deaths due to leptospirosis, a disease resulting from contact with water contaminated by rat urine. Most cases of reported leptospirosis arise in people whose job brings them into potential contact, such as sewer work, farm work etc and sportspeople such as rowers, canoeists, cavers and anglers. The average number of leptospirosis cases over the past 10 years has been just under 50 per annum, or about 1 case per million of the population per year (data from the Health protection Agency). Around half of all cases are due to leisure pursuits. There are two to three fatalities each year. Whilst rats also have the potential to spread other diseases, these are very rare indeed.

#### **Consultation Undertaken:**

None.

#### **Background Papers:**

None.

## **Impact Assessments:**

### Risk Management

Earlier decisions to cease the pest treatment service in its entirety cause reputational damage for the Council despite it not being a statutory requirement. The risk of continuance rests with achieving a balance between contractual costs and the level of subsidy the Council feels able to provide through supporting fees and charges. Despite there being little or no risk associated with charging for rats/cockroaches, there may be adverse public reaction. The final risk is associated with the chosen approach to concessions and their retention or amendment.

### Equality and Diversity:

*Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications?* No

*Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken?* No

*What equality implications were identified through the Equality Impact Assessment process?*  
N/A.

*How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?*  
N/A.