

# EPPING FOREST DISTRICT COUNCIL CABINET MINUTES

**Committee:** Cabinet **Date:** 11 June 2012

**Place:** Council Chamber, Civic Offices, High Street, Epping **Time:** 7.00 - 8.05 pm

**Members Present:** C Whitbread (Chairman), Ms S Stavrou (Vice-Chairman), R Bassett, W Breare-Hall, Mrs A Grigg, D Stallan, H Ulkun, G Waller and Mrs E Webster

**Other Councillors:** K Avey, A Boyce, R Cohen, J Knapman, Mrs J Lea, A Mitchell MBE, G Mohindra, J Philip, Ms G Shiell, Mrs L Wagland, Mrs J H Whitehouse, J M Whitehouse and D Wixley

**Apologies:** R Morgan

**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), J Preston (Director of Planning and Economic Development), R Palmer (Director of Finance and ICT), T Carne (Public Relations and Marketing Officer), C Overend (Policy & Research Officer), A Hendry (Democratic Services Officer) and G J Woodhall (Democratic Services Officer)

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## 1. 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.

## 2. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillor W Breare-Hall declared a personal interest in agenda item 8, St John's Road, Epping – Development Brief Procedural Issues, by virtue of being a member of Epping Town Council. The Councillor had determined that his interest was not prejudicial and would remain in the meeting for the consideration of the issue.

(b) Pursuant to the Council's Code of Member Conduct, Councillor J M Whitehouse declared a personal interest in agenda item 8, St John's Road, Epping – Development Brief Procedural Issues, by virtue of living in St John's Road. The Councillor had determined that his interest was not prejudicial and would remain in the meeting for the consideration of the issue.

(c) Pursuant to the Council's Code of Member Conduct, Councillor Ms S-A Stavrou declared a personal interest in agenda item 13, Furniture Exchange Scheme, by virtue of being a Director of the scheme. The Councillor had determined that her interest was prejudicial and would leave the meeting for the consideration of the issue.

(d) Pursuant to the Council's Code of Member Conduct, Councillor Mrs J H Whitehouse declared a personal interest in agenda item 13, Furniture Exchange Scheme, by virtue of being a Director of the Scheme. The Councillor had determined

that her interest was prejudicial and would leave the meeting for the consideration of the issue.

(e) Pursuant to the Council's Code of Member Conduct, Councillor J M Whitehouse declared a personal interest in agenda item 13, Furniture Exchange Scheme, by virtue of being a close relative of a Director of the Scheme. The Councillor had determined that his interest was not prejudicial and would remain in the meeting for the consideration of the issue.

### **3. MINUTES**

#### **Decision:**

(1) That the minutes of the meeting held on 23 April 2012 be taken as read and signed by the Chairman as a correct record.

### **4. REPORTS OF PORTFOLIO HOLDERS**

#### Housing Portfolio Holder

The Cabinet was advised of a fire that had broken out in a first floor flat on the Limes Farm Estate on 29 May 2012. There were no injuries to any residents, and aside from serious damage to the flat itself, there was also smoke and water damage to adjoining flats. Essex Fire and Rescue was thanked for their efforts in dowsing the fire, along with the Assistant Director of Housing (Property), the Principal Building Control Surveyor and the Housing Repairs Service for their efforts both during and after the incident.

The Cabinet was also advised of a Member Information Briefing on 14 June regarding the housing implications of the Localism Act 2011.

#### Environment

The Cabinet was advised that the National Food Hygiene Ratings Scheme had been implemented throughout the District, and scores (ranging from 1 to 5) had been published on the Council's website for all eligible businesses in the scheme.

### **5. PUBLIC QUESTIONS**

There were no public questions for the Cabinet to consider.

### **6. OVERVIEW AND SCRUTINY**

The Acting Chief Executive, on behalf of Chairman of the Overview & Scrutiny Committee who was unable to attend, reported that the following items of business had been considered at its meeting held on 7 June 2012:

- (a) the outturn report on the Council's Key Objectives for 2011/12, which was also being considered at this meeting;
- (b) the Overview & Scrutiny Annual Report for 2011/12; and
- (c) the appointment of the Members, Chairman and Vice-Chairman for each Scrutiny Panel.

The Cabinet's agenda was reviewed but there were no specific issues identified on any of the items being considered. One member of the Committee had expressed their support for the Furniture Exchange Scheme, which the Cabinet would consider later in its meeting.

## **7. ST JOHNS ROAD, EPPING - DEVELOPMENT BRIEF PROCEDURAL ISSUES**

The Portfolio Holder for Asset Management & Economic Development presented a report on procedural issues with the Development Brief for St John's Road in Epping.

The Cabinet was reminded that at its meeting on 10 March 2008, it had been agreed to undertake a Design and Development Brief for the St John's Road area of Epping. Authority was also given to jointly appoint with the County Council, specialist external consultants to undertake the project, at an estimated cost of £50,000. The development of the Design and Development Brief had proven to be more complex than originally envisaged. The situation had been compounded by a shortage of internal capacity within the Council's Forward Planning Team, and as a result the original timescale had been delayed and additional costs had been incurred. The project so far had now cost £130,000, detailed within the table at paragraph 6 in the report, which the Cabinet was requested to note. In June 2011, responsibility for the project was transferred from the Planning & Economic Development Directorate to the Corporate Support Services Directorate to provide new impetus.

The Portfolio Holder reported that in order to complete the Design and Development Brief, there was likely to be some further expenditure incurred, primarily because the consultation period had been extended and there were a greater number of responses to analyse. This had been estimated at £10,000. The results of the consultation would be the subject of a separate report, to be considered at a future meeting of the Cabinet. The funding up to now had been taken from the Local Plan budget, which was under pressure. Therefore, a supplementary estimate in the sum of £115,000 was being sought to cover the expenditure incurred since December 2008 (£105,000), which would be re-instated to the Local Plan budget, and the estimated further expenditure envisaged to complete the project (£10,000). A retrospective waiver of Standing Orders C4, C15 and C16 – failure to use tender procedures rather than quotation procedures to urgently undertake traffic surveys and subsequent work – had also been requested to achieve full compliance with the Council's Financial Regulations and Contract Standing Orders.

With regard to the additional expenditure of £33,000 for traffic surveys in June 2011, the Portfolio Holder explained that the original survey had been conducted during the school summer holidays and the exercise had to be repeated during term-time. Further concerns were raised as to why the contracts were not awarded on a negotiated fixed price basis, and that a traffic and air quality survey for the whole of Epping, not just the St John's Road area, should have been considered. The Cabinet was advised that the Council only owned part of the site, with the rest of the land in the ownership of the County Council. Essex County Council had contributed £25,000 towards the cost of the project, but it had been difficult to persuade the County Council to contribute further funding. A draft of the Design Brief was expected to be completed in July and the Cabinet was reminded that the objective was to improve the area for the benefit of the residents of Epping.

### **Decision:**

(1) That the total expenditure or commitments of £130,000 involved to date in this project from the Local Plan budget be noted;

(2) That a District Development Fund supplementary estimate in the sum of £115,000 be recommended to the Council for approval to cover expenditure from outside the Local Plan budget so as:

(a) to reinstate the sum of £105,000 to the Local Plan budget; and

(b) to provide £10,000 to cover further expenditure to produce the Development Brief for the Council;

(3) That Contract Standing Orders C4, C15 and C16 - failure to use tender procedures rather than quotation procedures in urgently undertaking traffic counts and subsequent work - be waived; and

(4) That the remaining expenditure and budget for this project be placed with the Director of Corporate Support Services.

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

To seek additional funding to complete the Design and Development Brief, to reimburse expenditure within the Local Plan budget and to ensure compliance with the Council's Financial Regulations and Contract Standing Orders.

#### **Other Options Considered and Rejected:**

To not seek supplementary funding and complete the project from existing resources allocated for the development of the Local Plan. However, the current Local Plan budget provision was already predicted to be insufficient and was also itself subject to a request for supplementary funding.

To not obtain the necessary waivers of Contract Standing Orders, which would constitute a breach and poor governance.

### **8. LOCAL PLAN BUDGET REQUIREMENTS 2012/13, 2013/14 AND 2014/15**

The Planning Portfolio Holder presented a report concerning the requirements for the Local Plan Budget during the period 2012-15.

The Cabinet was advised on the financial and other resources necessary to deliver the Local Plan, which was the Council's number one corporate priority for the foreseeable future, and which required additional expenditure to meet the Council's statutory duties and related staffing requirements. It was recognised that expenditure had been drawn from various sources since 2007, including the Continuing Services Budget (CSB) and District Development Fund (DDF), and it was expected that both such sources would continue to be used. Further DDF expenditure was required to complete the Plan, however the figure of £245,000 quoted in the report had been revised down to £160,000 as some monies had been received in relation to the redevelopment of St John's Road in Epping. Appendix I of the report, the LDF Budget Summary, had been revised accordingly and would be re-issued to Members. Authority was also sought to carry forward any unspent monies from the District Development Fund for the Local Plan during this period.

The Portfolio Holder reported that three fixed-term posts with various end dates had been created to boost the Forward Planning Team over the last two years. The objective was for the Plan to be examined by the Planning Inspectorate in the autumn of 2013, and it was clear that these posts would have to be retained if this deadline was to be achieved. Thus, it was proposed to retain the Forward Planning

Assistant and Information & Technology Officer for a further year, and the Senior Planning Officer for a further two years.

In response to questions from the Members present, the Director of Planning & Economic Development explained that a budget of £84,000 for the Examination in Public had been allocated to 2014/15 to cover any outstanding costs, even though the Examination itself was scheduled to be completed by the end of 2013. The Portfolio Holder added that the Senior Planning Officer, who was on secondment from the Council's Development Control department, would be retained for a further six months after the Examination in Public as a contingency measure. It was also highlighted that there would be plenty of other tasks to work on for all the staff on fixed term contracts if the Local Plan was completed ahead of schedule. The Council's Solicitor confirmed that contract staff would have to be in the continuous employ of the Council for a period of four years before they were automatically considered to be permanent members of staff. The Portfolio Holder emphasised that the figures before the Cabinet represented the current best estimates of the funding required to complete the Local Plan and avoid having to request further monies in the future.

**Decision:**

- (1) That the estimated funding requirements in connection with the Local Plan over the next three financial years be noted;
- (2) That the position that most of the sources of funding for this period would be provided from existing budgets be noted;
- (3) That the carry forward of any unspent monies from the District Development Fund in relation to the Local Plan during this three-year period be agreed;
- (4) That the provision of a further District Development Fund budget of £160,000 to ensure sufficient financial resources were available to the project be recommended to the Council for approval; and
- (5) That the contract periods for the following posts within the wider Forward Planning team each be extended by:
  - (a) a further year for the Forward Planning Assistant (post PPC24F);
  - (b) a further year for the Information and Technology Officer (post PPC20F); and
  - (c) a further two years for the Senior Planning Officer (PPC05F).

**Reasons for Decision:**

Following a review of the budget currently required, and taking into account the requirement of Members to accelerate the timetable, the originally agreed funding would not now allow for all expected further expenditure over the next three years.

**Other Options Considered and Rejected:**

To agree an extended schedule whereby the Plan would not be available for examination by the Planning Inspectorate until after the current target date of the Autumn of 2013.

To release the current staff on fixed term contracts, but this would impact adversely on the schedule for the Local Plan.

**9. RETENTION OF ADDITIONAL RIGHT TO BUY RECEIPTS FOR COUNCIL HOMEBUILDING PROGRAMME- STANDARD AGREEMENT WITH CLG**

The Housing Portfolio Holder presented a report on the proposed agreement with the Department of Communities & Local Government (DCLG) to enable the retention of any additional Right to Buy (RTB) receipts received by the Council, above the Government's previous estimates as a result of increases in the RTB discount, for its Housebuilding Programme.

The Portfolio Holder reported that the maximum discount offered to sitting tenants under the RTB scheme had been increased to £75,000 by the Government from the previous maximum of £34,000 for the East of England. It was also announced that any additional RTB receipts generated by this change could be retained by the Council to fund replacement housing stock on a 'one-for-one' basis. In order to retain the additional receipts, the Council had to enter into an agreement with the DCLG, whereby the Council had three years to spend the additional monies received on new housebuilding or it would have to be returned to the DCLG, with interest at a punitive rate. If the Council did not enter into such an agreement with the DCLG then all of the additional monies received under the scheme would have to be returned to the Government.

Therefore, it was proposed that the Director of Housing, on behalf of the Council, should enter into a standard agreement with the DCLG to retain any additional RTB receipts received, as a result of the recent increase in the maximum RTB discount, to help fund the provision of replacement rented affordable homes in the District. This was subject to the retained receipts being used within three years of their receipt, otherwise they had to be returned to the DCLG after 3 years, with interest.

It was also proposed that, should it be subsequently identified that sufficient retained RTB receipts would not be spent - before they would have to be otherwise returned to the DCLG - consideration be given at that time to alternative uses for the receipts allowed under the agreement, such as the purchase of new Council houses on the open market or the provision of additional grants to the Council's Preferred Housing Association Partners to provide additional social housing within the District. The Cabinet noted that if this decision was called in by Members then the Council would lose its entitlement under the scheme for the period 1 April to 30 June 2012.

**Decision:**

(1) That the terms of the Standard Agreement produced by the Department of Communities and Local Government (CLG) under Section 11(6) of the Local Government Act 2003 - to enable local authorities to retain any additional Right to Buy (RTB) receipts generated as a result of the increased maximum RTB discount in order to fund the provision of replacement Council homes in their district - be noted;

(2) That the Director of Housing be authorised to enter into the Standard Agreement with the CLG on behalf of the Council and that, subject to Recommendation (3) below, the additional RTB receipts generated be utilised to help fund the Council's proposed Housebuilding Programme;

(3) That, subsequently, should it be identified that sufficient retained RTB receipts would not be spent before they would have to otherwise be returned to the

CLG, a report be submitted to the Cabinet at the earliest opportunity to consider their alternative use allowed by the agreement, including:

- (a) the acquisition of new Council homes on the open market; or
- (b) social housing provided through local authority grants to one of the Council's Preferred Housing Association Partners; and
- (4) That the financial implications to the Council if the Cabinet's decision was called-in be noted.

**Reasons for Decision:**

The Council had to enter into the agreement with the DCLG by 27 June 2012, otherwise it would not be able to retain any additional RTB receipts generated from 1 April 2012 until the Agreement was signed.

**Other Options Considered and Rejected:**

To not enter into the agreement with the DCLG.

To utilise the additional receipts to fund the provision of replacement affordable homes in other ways than through the Council's Housebuilding Programme.

To not consider alternative uses for the retained additional RTB receipts, if it was subsequently identified that they might not be spent in time.

**10. LOCAL DEVELOPMENT SCHEME (LDS) - LOCAL PLAN**

The Planning Portfolio Holder presented a report concerning the adoption of the Local Development Scheme.

The Portfolio Holder requested the adoption of a revised Local Development Scheme for publication on the Council's website, which would set out the timetable for the production of the Epping Forest Local Plan with a proposed submission date of August 2013. The Localism Act 2011 had amended the provisions set out in the Planning & Compulsory Purchase Act 2004 but had still retained the requirement that a local authority must prepare and maintain a scheme to be known as their Local Development Scheme, and that it should specify the local development documents which were to be development plan documents, the subject matter and geographical area for each development plan document, and the timetable for them.

The Portfolio Holder advised the Cabinet that, essentially, the Local Development Scheme listed and programmed the documents that would be produced by the Council. Although there was no longer a requirement for this to be submitted to the Secretary of State, new provisions in the Act had stated that the local planning authority had to make the Local Development Scheme available to the public. Specifically, the up-to-date text of the scheme, a copy of any amendments made to the scheme and up-to-date information showing the state of the authority's compliance with the timetable set out in the scheme had to be published. It was felt that the easiest method to accomplish this would be to publish the Local Development Scheme on the Council's website.

The Portfolio Holder added that all documents would be available to Members via the Local Plan Cabinet Committee, which would be responsible for the production and management of the Local Development Scheme, although the Portfolio Holder would

also be happy to share any document with any Member upon request. The terms of reference for the Local Plan Cabinet Committee were being revised to make it responsible for agreeing the constituent documents, as it was felt that this would be a better method for progressing the project than bringing the documents to the Cabinet for approval.

**Decision:**

(1) That the Local Development Scheme be adopted and published on the Council's website.

**Reasons for Decision:**

This was a statutory requirement of the Planning and Compulsory Purchase Act as amended by the Localism Act 2011.

**Other Options Considered and Rejected:**

None, as Local Plan would not be legally compliant if it was not prepared in accordance with the Local Development Scheme.

**11. PURCHASE OF FIVE RANSOME MOWERS**

The Environment Portfolio holder presented a report regarding the purchase of five Ransomes Mowers.

The Portfolio Holder reported that the present four-year lease on the 5 Ransomes Highway 2130 mowers used by the Grounds Maintenance section had expired on 7 April 2012 and therefore new machines were required. In accordance with Contract Standing Orders, the new mowing machines had been subjected to a tendering process via the Essex Procurement Hub and machines from Ernest Doe & Sons were the most cost effective purchase. The cost had then been subjected to a capital/lease comparison by the Finance Directorate and this had shown that, on this occasion, capital funding would be more cost effective than leasing. On the previous two occasions new mowers were procured, the operating lease option had been the most cost effective solution and capital commitment had not been added to the 2012/13 capital programme. It was therefore proposed that the Council be requested to approve the additional capital spend of £123,750 being added to the 2012/13 Capital programme.

The Portfolio Holder added that the Directorate's Continuing Service Budget (CSB) currently included lease costs of £23,000 per annum for the mowers, and if the capital purchase was approved then this could be offered as a CSB saving.

**Decision:**

(1) That five Ransomes Highway<sup>3</sup> ride-on mowers be purchased by the Directorate of Environment and Street Scene's Grounds Maintenance Section; and

(2) That, to facilitate the purchase, a supplementary capital estimate in the sum of £123,750 from the 2012/13 capital programme be recommended to the Council for approval.

**Reasons for Decision:**

The capital purchase of the replacement mowers had proven to be the most cost

effective option on this occasion, and would also generate a £23,000 CSB saving from the previous lease costs.

**Other Options Considered and Rejected:**

To not renew the mowers and extend the present lease. However, due to the age and heavy usage of the mowers, the general wear and tear was starting to take its toll with scheduled service costs on the increase. Therefore, an extension of the existing lease was not considered a viable option.

To purchase by a Lease agreement. However, this would increase the budgeted cost in 2012/13 by £4,000 per year (current budget £23,000, lease cost £27,000).

**12. FURNITURE EXCHANGE SCHEME**

The Environment Portfolio Holder presented a report concerning the Furniture Exchange Scheme.

The Portfolio Holder reminded the Cabinet that a Furniture Exchange/Recycling Scheme for the District had been run between February 2007 and July 2008, operating from the Council's Depot in Town Mead, Waltham Abbey. The scheme was run in partnership with the Lighthouse Project, a 'not for profit' organisation which had experience of running a similar scheme.

The Cabinet was advised that the individuals involved in setting up the initial scheme had felt there had been enough impetus and encouragement to look at the establishment of a scheme elsewhere in the District and had formed a Working Group, as part of a project for Voluntary Action Epping Forest (VAEF), to look at the possibilities in supporting the re-establishment of a scheme. A potential site in Waltham Abbey was identified and the Cabinet (On 5 February 2009, Minute 148 refers) had agreed to an allocation from the District Development Fund (DDF) of £20,000, in respect of the annual rent costs of premises. However, no bid for this site was ever made. Nonetheless, the retention of the DDF allocation in the budget for 2011/12 was re-affirmed by the Cabinet on 18 April 2011 (Minute 154 refers) given the ongoing review of options for re-establishing the scheme taking place.

The Portfolio Holder reported that the Working Group had subsequently formed a registered company to progress the scheme. A number of options had subsequently been investigated in depth and a further suitable site identified. Negotiations were at an advanced stage with a view to a scheme being established in the near future. It was therefore recommended that the £20,000 DDF item be retained within the 2012/13 financial year, to be used towards the re-establishment of the scheme within the District.

It was generally felt that this was an initiative that the Council should be supporting, and the precautions within recommendation 2 were welcomed as well. It was confirmed by the Policy & Research Officer that this would be a one-off payment, and was in addition to the further £10,000 agreed for the scheme at the Cabinet's previous meeting.

**Decision:**

(1) That a sum of £20,000 from the District Development Fund be carried forward from the 2011/12 financial year to the 2012/13 financial year to assist with the re-establishment of a Furniture Exchange Scheme within the District; and

- (2) That the funding should not be released until such time as:
- (a) there was surety and sufficient evidence that the Scheme would become operational; and
- (b) the Director of Corporate Services was satisfied that the terms of the lease and the legal and governance arrangements for the new scheme had no potential adverse financial or other implications for the Council.

**Reasons for Decision:**

Through such a scheme, disadvantaged people were able to source good quality essential furniture at minimal cost. A furniture recycling scheme also represented good value for money as the cost of sourcing, collecting, supplying and delivering furniture to each household requesting assistance was, on average, £100. There was a recognised need for a Furniture Recycling Scheme within the District, and schemes had operated successfully in the District, elsewhere in Essex and other parts of the country for many years.

**Other Options Considered and Rejected:**

To refuse to continue setting aside the DDF amount of £20,000 in respect of the potential new scheme. However, this would mean a missed opportunity for the District Council and its partners in terms of their roles for community wellbeing and environmental protection, and for the operation of a much needed and highly regarded scheme.

**13. KEY OBJECTIVES 2011-12 -OUTTURN PROGRESS**

The Leader of the Council presented an outturn report regarding the progress of the Council's Key Objectives for 2011/12.

The Leader reported that the annual identification of Key Objectives provided an opportunity for the Council to focus specific attention on how areas for improvement would be addressed, opportunities exploited and better outcomes delivered over the coming year. The Key Objectives were intended to provide a clear statement of the Council's overall intentions for each year, containing specific actions and desired outcomes. A range of Key Objectives for 2011/12 had been adopted by the Cabinet in January 2011. Progress in relation to the achievement of the Key Objectives was reviewed by the Cabinet and the Overview and Scrutiny Committee on a six-monthly and annual basis. The mid-year progress for 2011/12 had been considered in December 2011, and the Cabinet was now presented with the outturn figures. The new Cabinet were considering the Key Objectives for 2012/13, and these would be reported upon for agreement at the next meeting of the Cabinet scheduled for 23 July 2012.

The Cabinet welcomed the report but felt that it should also highlight, in future, any inter-dependencies between the Key Objectives, as well as the business case for choosing the particular Objective and its associated targets. The Leader responded that these concerns would be included in the reports to be considered by Management Board and the Cabinet in July.

**Decision:**

- (1) That the outturn progress in relation to the Council's Key Objectives for 2011/12 be noted.

**Reasons for Decision:**

It was important that the relevant performance management processes were in place to review and monitor progress against the Key Objectives, to ensure their continued achievability and relevance, and to identify proposals for appropriate corrective action in areas of slippage or under performance.

**Other Options Considered and Rejected:**

None as failure to monitor and review performance against the Council's Key Objectives, and to take corrective action where necessary, could have negative implications for the Council's reputation and for judgements made about the authority.

**14. ANY OTHER BUSINESS**

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

**CHAIRMAN**