

EPPING FOREST DISTRICT COUNCIL CABINET MINUTES

Committee: Cabinet **Date:** 23 July 2012

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 7.00 - 9.15 pm

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

Other Councillors: K Angold-Stephens, K Avey, A Boyce, K Chana, T Church, P Gode, Mrs S Jones, Ms H Kane, Mrs M McEwen, S Murray, Mrs C Pond, B Rolfe, Mrs M Sartin, Ms G Shiell and J M Whitehouse

Apologies: Ms S Stavrou and 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), R Palmer (Director of Finance and ICT), J Preston (Director of Planning and Economic Development), L Swan (Assistant Director (Private Sector & Resources)), J Twinn (Assistant Director (Benefits)), T Carne (Public Relations and Marketing Officer), C Pasterfield (Principal Valuer/Surveyor), S G Hill (Senior Democratic Services Officer) and G J Woodhall (Democratic Services Officer)

15. WEBCASTING INTRODUCTION

The Leader 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.

16. ELECTION OF CHAIRMAN AND VICE-CHAIRMAN

In the absence of the Vice-Chairman, the Leader requested nominations for the role of Vice-Chairman.

Resolved:

(1) That Councillor G Waller be elected Vice-Chairman for the duration of the meeting.

17. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillor E Webster declared an interest in agenda item 10, Adoption of Standard Caravan Site Licence Conditions for Permanent Residential Sites, by virtue of having family connections with Park Homes sites in the District. The Councillor had determined that her interest was pecuniary and would leave the meeting for the consideration of the issue.

(b) Pursuant to the Council's Code of Member Conduct, Councillors K Avey, W Breare-Hall and T Church declared an interest in agenda item 11, Consultation Update and Timetable – St John's Road (Epping) Area Development and Design

Brief, by virtue of being a member of Epping Town Council. The Councillors had determined that their interest was non-pecuniary and would remain in the meeting for the consideration of the issue.

(c) Pursuant to the Council's Code of Member Conduct, Councillor C Whitbread declared an interest in agenda item 11, Consultation Update and Timetable – St John's Road (Epping) Area Development and Design Brief, by virtue of being a resident of Epping. The Councillor had determined that his interest was non-pecuniary and would remain in the meeting for the consideration of the issue. In addition, the Councillor gave the following personal statement:

"There are a number of questions relating to this site this evening and these refer in part to the question of a supermarket being built there. I wish to state that:

(a) in my own response as a local resident to the public consultation, I stated that I was opposed to the provision of a supermarket;

(b) my view has always been that the approved development brief should achieve the twin goals of revitalising the High Street economy and preserving its essential character;

(c) it has never been my view that maximising the financial return on the Council's landholding in that area should be the only objective of the Authority, community benefits are equally important in my mind; and

(d) the decision as to whether a supermarket or indeed any other form of development will form part of the brief is not mine as Leader of the Council but one for the whole Council."

(d) Pursuant to the Council's Code of Member Conduct, Councillor J M Whitehouse declared an interest in agenda item 11, Consultation Update and Timetable – St John's Road (Epping) Area Development and Design Brief, by virtue of being a resident of St John's Road. The Councillor had determined that his interest was non-pecuniary and would remain in the meeting for the consideration of the issue.

(e) Pursuant to the Council's Code of Member Conduct, Councillor J M Whitehouse declared an interest in agenda item 12, Council Housebuilding Programme – List of Potential Development Sites, by virtue of being a tenant for a Council-owned garage. The Councillor had determined that their interest was non-pecuniary and would remain in the meeting for the consideration of the issue.

(f) Pursuant to the Council's Officer Code of Conduct, I Willett declared an interest in agenda item 12, Council Housebuilding Programme – List of Potential Development Sites, by virtue of being a tenant for a Council-owned garage. The Officer had determined that his interest was non-pecuniary and would remain in the meeting for the consideration of the issue.

18. MINUTES

Resolved:

(1) That the minutes of the meeting held on 11 June 2012 be taken as read and signed by the Chairman as a correct record.

19. REPORTS OF PORTFOLIO HOLDERS

There were no additional reports from the Portfolio Holders present.

20. PUBLIC QUESTIONS

(i) The following public question was asked by Ms L Collier on behalf of Ms K Gilroy:

“What evidence can Epping Forest District Council provide to support the assertion by Allies and Morrison Urban Practitioners that a supermarket will bring increased footfall to Epping, and how this can be reconciled with the traffic survey commissioned by the Council which found that a new supermarket would simply siphon off existing customers from Epping’s current supermarkets and would bring no new trade to the town?”

The Portfolio Holder for Asset Management & Economic Development gave the following response:

“The question refers to the statement which appears in paragraph 5.7 and following paragraphs of the Intermodal traffic modelling report. This is a background technical document to the project rather than a primary consultation document.

This section of the report notes that it is generally accepted that stores siphon off trade from other competing stores in the area. However, it goes on to note that the Roger Tyms Study reports around 50% loss of trade to other centres. The point of this explanation is to demonstrate that, because of the high proportion of outbound shopping experienced by Epping, the conventional orthodoxy is not likely to be directly applicable. A new store may therefore be expected to increase trade in the town by retaining spend in Epping which would otherwise be lost to competing stores elsewhere.

On this basis, the traffic modelling has been conducted on the basis that 40% of trips to the store would represent new trips to Epping rather than trips to existing stores. This equates to more shoppers in the town centre.”

(ii) The following public question was asked by Mr A Long:

“Could the statement by Steve Walker (Allies and Morrison Urban Practitioners) that an anchor store could only be a supermarket and not a department store due to cost, be expanded upon with some financial explanation?”

The Portfolio Holder for Asset Management & Economic Development gave the following response:

“A major supermarket will typically pay upwards of around £20 per square foot gross for space, yields are keen to improve the scheme viability. They do not require any financial premium to be enticed to a store location, and indeed will sometimes pay an additional premium to secure a store. As you know, there has been strong demand from food store operators to locate in Epping for a number of years now. Department stores almost always pay a rent at below market value. This can be as low as £2 per square foot based on the net area, although it is commonly between £6 and £10 per square foot net.

For this form of development to be a viable proposition, then department store led schemes need to be supported by a considerable amount of additional, smaller unit

shopping floor space. As a very rough proxy, this can be in the order of 150,000 to 200,000 square feet of supporting retail floor space, although of course it varies from scheme to scheme. And on top of this, they very often demand hefty premiums running into many millions of pounds based on the argument that without the anchor department store, there would not be a scheme at all.

That is why there are very few department led town centre schemes in the pipeline in the UK. They don't often stack up financially save for in the very largest, strongest retailing centres. To add to this, and critically, there is no identified demand from a department store to locate in Epping. And I cannot see this changing. Epping is too small, and offers a small retail shopper catchment to support a department led scheme. Other department stores are also quite close and accessible, such as at Chelmsford.

Beyond the financial arguments spelt out above, there is also a planning rationale with local authorities tasked with planning appropriately for retail development, and this means having regard to the sequential test to site selection and the town centre's first rule.

This response was given on the basis of previous experience in similar situations. For most locations, supermarkets and housing development are the only profitable forms of development which could reasonably be expected to generate a good capital receipt (land value) for the Councils. This is important for the project given the need to generate a capital receipt for the public sector land owners to help cover the cost of community infrastructure projects. Commercial development could also be expected to help to deliver additional benefits such as public realm improvements through Section 106 payments. By contrast, department stores, recognising that they play an important anchor role and therefore have the whip hand in negotiations, often request rent-free periods or up-front payments to attract them to a location.

Given that this project is based on the need to generate a capital receipt for the public sector, the inclusion of a department store rather than a food store would have a major impact on the value of the sites. It should also be noted that the value of the incentive offered to a department store would probably not be the deciding factor – they are simply unlikely to register Epping as within the range of centres they would consider investing in. Studies such as the English Heritage document 'Retail Development in Historic Areas' point to the increasing polarisation of centres with fewer larger centres gradually attracting more comparison retail at the expense of smaller centres.

It is not possible to offer figures or calculations which illustrate this issue in the context of Epping – it has not featured on the list of options explored by the team as it is regarded as so far beyond what may be possible. As an example, a developer on another project in a town of similar size is understood to have paid £1million to attract a New Look store to anchor a development.

A further point to consider would be the urban design implications of a department store. The consultation process identified that people have concerns about the impact of the scale and massing of a food store and the potential impact of traffic and deliveries. A department store is likely to have all the same problems as a food store. Many department stores now also feature a food hall.

I would add that Epping once had Pynes as a kind of department store, albeit operating on more than one site, but that eventually closed. Chelmsford lost Allders, and that site was vacant for a considerable period before becoming a furniture only

store; Chelmsford aspires to a John Lewis, but it is a challenge even given the scale of Chelmsford.”

(iii) The following public question was asked by Mr A Long:

“(For Councillor Whitbread) Given your election pledge to support the views of the local people, and your public opposition to a supermarket, how do you intend to protect the interests of Epping residents when it would appear that any brief for the St John’s site includes a supermarket, despite overwhelming public response against it?”

The Leader of the Council gave the following response:

“As you heard this evening, I still believe exactly what I put in my consultation response because I, as a resident of Epping, saw what happened the last time we had a major supermarket open in the town, and it had a profound effect on the high street at that time. I have no reason to disbelieve that that would happen again in my personal opinion. However, even though I am the Leader of the Council, I am one of 58 Councillors who will eventually decide upon the Design Statement. But, my personal opinion has not changed and I will argue my corner and argue for what people have told me locally – not just in St John’s Road but across the whole of Epping.”

(iv) The following question was asked by Ms F Long:

“Will EFDC consider purchasing the Essex County Council portions of the St John’s Road site with a view to buying time to consider an appropriate use?”

The Portfolio holder for Asset Management & Economic Development gave the following response:

“No, we won’t consider purchasing it given what we anticipate the cost to be.”

(v) The following question was asked by Mr S Harding:

“What weight does the Cabinet attach to the overwhelming majority of consultation respondents who do not support a supermarket on the St John’s Road site?”

The Portfolio Holder for Asset Management & Economic Development gave the following response:

“It was quite clear that there was a majority of respondents who didn’t support some form of supermarket and clearly Cabinet will take that into consideration when they make their decision.”

(vi) The following question was asked by Mr S Harding:

“Given the rejection by consultation respondents of a supermarket on the St John’s Road site and support for leisure, community and adult education uses, will Epping Forest District Council accelerate the preparation of the Local Plan to allocate land use on the site in accordance with residents’ identified wishes and thereby provide some protection against inappropriate or unwanted development on the site?”

The Portfolio Holder for Asset Management & Economic Development gave the following response:

“On the question about accelerating the Local Plan, given the recent decision regarding the timescale for consultation and all the procedures that such a Local Plan has to go through, the importance of this site was considered to justify the consideration and adaptation of a site-specific brief. The Local Plan will relect on the decisions taken concerning the brief, and will reflect on the evidence from the Roger Tym study, but it cannot be so accelerated to be quicker than this brief.”

(vii) The following question was asked by Ms L Collier:

“At a public meeting organised by residents on 17 March, Colleen O’Boyle assured residents that options 2 and 3 in the St John’s Road consultation were viable. At a briefing held at Epping Town Hall attended by Chris Whitbread, Anne Grigg and other EFDC Councillors on 18 July, Steve Walker from Allies and Morrison Urban Practitioners stated that the only viable options were 1 and 4, and that he had opposed consulting on other options. Given this admission, why was money and time wasted on a consultation that gives the impression of choice to residents when in fact there is none?”

The Portfolio Holder for Asset Management and Economic Development gave the following response:

“The consultation was not predicated on inviting people to choose between options. The team was guided to include the four options which were presented as they had previously been in public circulation and so it was felt appropriate to give people the opportunity to review them. However, it was felt necessary to point out in the consultation material that some of the options were not considered financially viable to ensure that people were offering their comments on an informed basis. Whilst the Councils involved may ultimately choose to follow one of the less viable options, it was felt important to identify that this would come with a significant cost burden and so may prove less deliverable.

Consultation on the four options has been very helpful to the project team and ahs allowed for a broad ranging discussion around the issues. It was made clear at the July meeting that the outputs from the consultation process are having a significant impact on the draft development brief and EFDC regards it as an important and worthwhile process. Consultation on fewer options would not have had an impact on the cost of the process.”

The Director of Corporate Support Services added the following comments:

“I recall the evening of 17 March very well, it was a very feisty meeting and I quite simply did not assure residents that options 2 and 3 were viable; in fact I said quite the opposite and that possibly contributed to why the meeting did become feisty. All the consultation documentation explained the four options were there but that some were more viable than others and some were simply not viable without large sums of money from public bodies – most predominantly EFDC. So I’m sorry if anyone was confused by anything I said on that evening but I absolutely did not indicate that options 2 and 3 were viable, and the advice I have been given by those who are consulting on this project is that they are not without hose injections of money.”

(viii) The following question was asked by Ms A Wheeler:

“What discussions have taken place between supermarket retailers and EFDC Councillors, Officers or Consultants engaged by EFDC regarding the redevelopment of the St John’s Road site in Epping?”

The Portfolio Holder for Asset Management & Economic Development gave the following response:

“Chris Pasterfield, Head of Estates, has met City Grove on 6 July 2012 and Waitrose during the consultation period.”

(ix) The following question was asked by Ms A Wheeler:

“How is it possible to reconcile protecting the historic character and scale of Epping with the proposal for a large supermarket in a residential setting on St John’s Road? If so, with who?”

The Portfolio Holder for Asset Management & Economic Development gave the following response:

“Considering the use of this site (which adjoins not only residential but also commercial uses and community use sites) one issue is how does one keep Epping where it is as a town in the retail hierarchy; if you gradually let it slip down the hierarchy, or let more buildings become vacant, then that is not cherishing its heritage.

This comment applies to consultation with supermarkets etc.

Allies and Morrison Urban Practitioners has not had any contact with supermarket retailers regarding this site. It is likely that CBRE has had contact with supermarkets, but at an early stage of the project to assess potential demand and not in the form of any negotiations about the potential development.

We believe that it is possible to reconcile supermarket design with an historic market town such as Epping. The site in question benefits from a location just off the High Street which helps to limit the impact whilst the topography ensures that the impact of parking can be kept to a minimum whilst managing the cost. An important aspect of the design will be ensuring that the form of the elevation relates to the fine grain nature of the historic building pattern found in the town centre. Also, whereas most town centre supermarket schemes would be expected to have several floors of housing above them we have specifically not included this here to ensure that the scale of the street elevations is kept down.

Here are good examples of supermarket development (and development with other bulky uses) in historic locations. We would recommend the English Heritage publication ‘Retail Development in Historic Areas’ and the CABI study on the design of supermarket-led development as useful good practice guidance.

With regard to the suitability of a food store on St John’s Road, it is not clear if this is to do with architectural character, retail impact or traffic impact. I think the highways impact is most probably behind this which would lead to the following response:

The character of St John’s Road varies along its length. Whilst to the north of Bakers Lane it is a residential street, the southern part of the street relates primarily to the town centre with a number of public, civic and commercial uses. Importantly, it already provides the main access to the town centre car parks and also accommodates a significant amount of large service vehicles. The options explored to date aim to minimise the impact of traffic on St John’s Road. The current option for a food store would provide car park access off the High Street rather than St John’s Road to minimise the impact of new car

trips whilst the servicing is designed to be as safe as possible, with no requirement for reversing onto or off the road.

If the impact is related to architecture and massing, this has already been dealt with above.

If the concern is to do with the spread of commercial uses, this should be highlighted as a key opportunity for the expansion of the town centre as identified in the Roger Tym study."

The Director of Corporate Support Services added the following comment:

"I think that it is important to answer the last question which was has any contract been signed with anybody, and the answer is No; there is no contract signed with anybody, including a supermarket of any size or nature."

(x) The following question was asked by Ms F Long:

"Is it appropriate to build a large superstore on a residential road containing many young families and a primary school at the bottom of the road?"

The Portfolio Holder for Asset Management & Economic Development gave the following response:

"Many supermarkets have been built in District centres surrounded by roads with young and other families, and schools somewhere nearby thus providing services to those residents."

The Leader of the Council thanked the members of the public for attending the meeting and asking their questions.

21. OVERVIEW AND SCRUTINY

In the absence of the Chairman of the Overview & Scrutiny Committee, who had tendered his apologies, the Vice-Chairman reported that the following items of business had been considered at its meeting held on 17 July 2012:

- (a) a call-in regarding the redevelopment of the Pyrles Lane Nursery – the recommendation was for the original decision to stand;
- (b) a call-in regarding the consultation period for the Statement of Community Involvement and the Issues and Options document for the Local Plan – the recommendation was for the consultation period to be extended by two weeks until 12 October 2012;
- (c) an update to the terms of reference for the Finance & Performance Management Scrutiny Panel; and
- (d) minor changes to the membership of the Safer Cleaner Greener Scrutiny Panel.

The Cabinet's agenda was reviewed but there were no specific issues identified on any of the items being considered.

22. CONSULTATION UPDATE AND TIMETABLE - ST JOHN'S ROAD (EPPING) AREA DEVELOPMENT & DESIGN BRIEF

The Portfolio Holder for Asset Management & Economic Development presented an update report on the consultation for the Development and Design Brief for the St John's Road area in Epping.

The Portfolio Holder stated that Allies Morrison Urban Practitioners (AMUP) had analysed over 400 consultation responses submitted in various formats during the period of the consultation between March and April of this year. The area is predominantly in public ownership, with Essex County Council owning the greater proportion of the site and the Town and District Councils owning the remainder. AMUP had summarised the responses from the consultation and this report had been published in the Council Bulletin. The main issues that had arisen from the consultation which people felt it was most important to provide in the town centre were:

- (i) improved sport and leisure facilities;
- (ii) the protection of historic buildings and respect for their scale;
- (iii) space for adult education; and
- (iv) protection of the existing trees.

In addition to these issues concern had also been expressed about a potential new larger supermarket for the site and the negative impact it would have on the existing High Street outlets. Those residents who favoured a new store to provide competition wanted a smaller scale and/or a particular operator.

The Portfolio Holder advised the Cabinet that she wished to reflect further on all of the issues, consider the proposed approach suggested by the consultants as well as the outcome of the meeting held on 16 July 2012 with the Town Council, ward members and the Epping Society. Therefore, it was proposed to report the draft Design & Development Brief to the next meeting of the Cabinet on 10 September. AMUP would be present to assist with both the presentation and answer any questions that Members might have. If agreed, the Brief would then be referred to the full Council meeting on the 27th September.

The Leader of the Council added that it was a difficult task to devise a Design & Development Brief when there were three different partners involved. The County Council wanted to simply maximise the income from their part of the site, whilst the Town Council had yet to decide whether to participate in the scheme or not, therefore further discussions were required. Either of the options involving a Supermarket or Leisure Centre would require to Town Council to participate and dispose of their site. The Principal Valuer & Surveyor informed the Cabinet that the County Council owned approximately 67% of the land under discussion, around two acres, whilst the remaining land was split equally between the Town and District Council, approximately half an acre each.

A member of Epping Town Council informed the meeting that they would consider the options and make the decision that was in the best interests of the Town Council. They were aware of the vested interest of the County Council, and also that the current Town Hall was expensive to run and required alterations to make it suitable for use in the future. The Town Council acknowledged that the redevelopment of St John's Road would be a difficult issue to resolve.

The Cabinet was informed that the land was subject to a covenant covered by the Education Act 1880; This stated that if the land was no longer used for educational purposes then it had to returned to the original owners. The Director of Corporate Support Services, as Monitoring Officer, stated that the County Council had obtained legal advice and they were confident that the land was not constrained in this way. In response to a request from the meeting, the Director of Corporate Support Services agreed to request the County Council to share their legal advice with Members.

The Portfolio Holder for Asset Management & Economic Development agreed that viability was a core issue for any proposed scheme. The Principal Valuer & Surveyor added that, in comparison to other similar sized retail centres, the units in Epping High Street had a very high level of occupancy and was therefore considered vibrant. The Portfolio Holder also stated that no decision had been taken about whether to sell the Council's depot site and interest in the site had been expressed by one supermarket operator. The Leader observed that this was also an opportunity to consider and comment upon the wider area of St John's Road for the future, including those parts currently in private or Church ownership, to provide a vision for the future of Epping. The Leader requested the Town Council to provide their views on the proposals before the next meeting, when the Design & Development Brief from the Consultants would be considered.

Decision:

(1) That the Design & Development Brief for the St John's Road area in Epping be reported to the Cabinet and Council meetings scheduled for 10 September and 27 September 2012 respectively.

Reasons for Decision:

To seek agreement to the process for delivering this important Brief.

Other Options Considered and Rejected:

To seek an alternative timetable or process.

23. FINANCE AND PERFORMANCE MANAGEMENT CABINET COMMITTEE - 25 JUNE 2012

In the absence of the Portfolio Holder for Finance & Economic Development, the Leader presented the minutes from the recent meeting of the Finance & Performance Management Cabinet Committee held on 25 June 2012.

The Cabinet Committee had made recommendations to the Cabinet regarding the: Localisation of Council Tax Support; the Corporate Risk Register; and the Provisional Cabinet Outturn for 2011/12. Other issues considered by the Cabinet Committee had included: the Outturn for 2011/12 of the Council's Key Performance Indicators; an Analysis of the Audit Commission's Value for Money Profiles; and the Provisional Revenue Outturn for 2011/12.

Decision:

Localisation of Council Tax Support

(1) That the report and the key points for decision-making this year be noted;

(2) That work with other Essex local authorities on developing a potential county-wide scheme be continued; and

(3) That the possibility of including a residence qualification in the local scheme be considered;

Corporate Risk Register

(4) That the score for risk 34, Changes to the Benefits System, be increased to Very High Likelihood, Critical Impact (A2);

(5) That the score for risk 3, Potential Difficulty Producing the Local Plan, be increased to High Likelihood, Critical Impact (B2);

(6) That risk 11, Unable to Provide Sufficient Housing for Local People, be amended to reflect the consequence of the New Homes Bonus;

(7) That for risk 29, Gypsy Roma Traveller Provision, the Eviction from Crays Hill vulnerability and associated Trigger and Consequence be removed;

(8) That risk 17, Significant Amount of Capital Receipts, be amended to reflect the fact that the Council was no longer debt free;

(9) That risk 33, Reform of Housing Revenue Account, be amended to reflect the actual debt rather than the anticipated debt;

(10) That further minor wording changes be applied to the Action Plans to ensure the responsible Portfolio Holder was correctly identified;

(11) That the current Tolerance Line on the risk matrix be considered satisfactory and not be amended; and

(12) That, incorporating the above changes, the amended Corporate Risk Register be approved;

Provisional Capital Outturn 2011/12

(13) That the provisional outturn report for 2011/12 be noted;

(14) That retrospective approval for the under and over spends identified for certain capital schemes in 2011/12 be agreed;

(15) That the unspent capital estimates relating to schemes on which slippage had occurred be carried forward into 2012/13; and

(16) That the retrospective changes to the funding of the capital programme in 2011/12 be approved.

Reasons for Decision:

The Cabinet was satisfied that the Cabinet Committee had fully addressed all the relevant issues in relation to the recommendations and that these should be endorsed.

Other Options Considered and Rejected:

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

24. LOCAL PLAN CABINET COMMITTEE - 2 JULY 2012

The Planning Portfolio Holder presented the minutes of the meeting of the Local Plan Cabinet Committee held on 2 July 2012.

The Cabinet noted that decisions had been taken in respect of the Strategic Land Availability Assessment, the Statement of Community Involvement, and the Local Plan Issues and Options Consultation. This last item had been subject to a call-in regarding the length of the consultation period; subsequently it had been decided to extend the consultation period by a further two weeks to noon on Monday 15 October 2012. The Cabinet Committee had also noted that the Leader had revised its terms of reference.

Decision:

(1) That the minutes, and decisions therein, of the Local Plan Cabinet Committee meeting held on 2 July 2012 be noted.

25. ADOPTION OF STANDARD CARAVAN SITE LICENCE CONDITIONS FOR PERMANENT RESIDENTIAL SITES

The Chairman of the Housing Scrutiny Panel presented a report concerning issues relating to the adoption of standard Caravan Site Licence Conditions for permanent residential sites.

The Scrutiny Panel Chairman reminded the Cabinet that it was a statutory requirement for local authorities to issue licences on all the park homes sites in their area and to decide what conditions to attach. In 2008, the Government had produced new standards for permanent residential park homes sites, providing a framework upon which councils could base the conditions that they attached when re-licensing sites. The existing site licence conditions for park home sites in Epping Forest District had not been reviewed for many years. New proposed standard park home site licence conditions for permanent residential sites had been agreed by the Cabinet at its meeting on 18 April 2011 (report C-069-2010/11 refers) to ensure conditions were relevant, consistent and would adequately protect the health and safety of people residing at, or visiting, sites within the District. However, following this process certain matters had come to light which required further clarification before the site licences could be issued. Further consultation was undertaken with site residents, site owners and Essex County Fire and Rescue Service (ECF&RS), whose views had to be taken into account prior to any proposed amendments to site licence conditions affecting fire safety.

At its meeting held on 28 June 2012, the Scrutiny Panel further considered the licence conditions for permanent residential park home sites and recommended that:

(i) with regard to all the relevant circumstances of the sites, there were justifiable reasons for allowing some further contraventions already in place on the date of the new licence; and

(ii) the benefits of adopting new licence conditions, based on the Model Standards were outweighed by the interests of existing residents and site owners in respect of these issues, having regard to the substantial representations made.

In addition, the Scrutiny Panel also recommended that the Cabinet agreed to reserve the right to charge for licensing functions in accordance with the recent Government Consultation document, 'A Better Deal For Mobile Home Owners', as it appeared sensible to do so while the site licence conditions were being reviewed. The Cabinet was also requested to note that this would require primary legislation and, before charges could be introduced, further consultation would be necessary with interested parties and a further report would be submitted to the Cabinet.

The Housing Portfolio Holder thanked the previous Housing Portfolio Holder and previous Leader of the Council, along with the Scrutiny Panel and Officers, for their efforts and expressed his support for the Scrutiny Panel's recommendations. The issue of insurance for the site owners and residents that contravened the advice of Fire Officers was raised, as this could also affect those residents and site owners who did comply. The Assistant Director of Housing (Private Sector & Resources) responded that this issue had not been directly considered by the Scrutiny Panel but site owners and residents had been made aware of the situation. The cabinet felt that this was a justifiable contravention of fire safety advice, due to the strong feelings of the park home residents. The Assistant Director informed that Cabinet that an inspection of each site would be undertaken and a licence issued during the next few months.

Decision:

(1) That, following consultation with park home site owners, residents and statutory consultees, and having regard to the previous decision of the Cabinet (C-069-2010/11 refers), the revised 'Standard Park Home Site Licence Conditions for Permanent Residential Sites in the Epping Forest District' – as attached at Appendix 2 of the report - be adopted, including the following clarifications and variations from the Model Standards 2008 for Caravan Sites in England:

(a) That, with regard to closed porches:

(i) Mains-powered, interlinked smoke detection with integral battery back up should be required in all homes that have a closed porch, within 6 months of the date of the site licence, but where home owners prefer battery powered detection, that they be allowed to install battery powered systems provided that they were interlinked, with one alarm being placed in the porch and one in the home, within no more than 6 months; and

(ii) That funding for the home owner's preferred option be offered, whilst available, through C.A.R.E's Handyperson Service to eligible home owners;

(b) That both Porches and Decking be considered as 'structures' for the purposes of Condition 2(iv)(c) of the 'Standard Park Home Site Licence Conditions for Residential Sites in Epping Forest District'. Accordingly, any such new structures that extend more than 1 metre into the separation space shall be of non-combustible construction and there must be a 4.5m clear distance between any such structure and any adjacent park home. However, any porches and decking that contravene this Condition shall be allowed to remain until the park home was eventually replaced; and

(c) That the following definitions be adopted for the purposes of the Conditions:

- (i) With regard to fences, the same guidelines that were applied under Planning legislation, in terms of adornments and calculation methodology, to assess whether the height of fences met the requirements of the Site Licence Conditions; and
- (ii) With regard to hedges, that a hedge was *'a number of woody plants, whether capable of growing into trees or not, which are so planted as to be intended to be in line and which, when mature, to be so integrated together as to form a screen or a barrier'*;
- (2) That the Director of Housing be authorised to amend the licensing conditions to take account of any alterations to the licensing conditions agreed by the Cabinet on the recommendation of the Housing Scrutiny Panel and any other changes made by the Cabinet itself; and
- (3) That, if local authorities were able to charge for park home licensing functions in the future, the Council reserved the right to charge for such functions in line with the relevant statutory legislation in force.

Reasons for Decision:

To ensure that the Council had agreed a revised set of licence conditions for permanent residential caravan sites within the District, that would adequately protect the health and safety of both residents and visitors to the sites.

To retain the right to charge for licensing such sites in the future if permitted by legislation.

Other Options Considered and Rejected:

To retain the original licence conditions agreed in April 2011, however a number of the original conditions were not considered acceptable by site owners and residents.

26. COUNCIL HOUSEBUILDING PROGRAMME - LIST OF POTENTIAL DEVELOPMENT SITES

The Housing Portfolio Holder presented a report regarding a list of potential development sites for the Council's proposed Housebuilding Programme.

The Portfolio Holder reminded the Cabinet that the Council had already agreed its approach to the introduction and implementation of a new Council Housebuilding Programme, initially based on the construction of around 20 new homes each year for a minimum of 6 years. Good progress had been made with the appointment of the Development Agent to manage the Council's Housebuilding Programme; formal tenders would be invited at the end of July 2012 and it was currently planned that the contract would be signed in January 2013. The next stage was now to agree a list of potential development sites for which the Council's Development Agent, once appointed, would undertake detailed development and financial appraisals.

The Portfolio Holder advised that, potentially, a maximum of 227 new rented Council homes could be developed on the 69 Council-owned difficult to let and small garage sites and other housing land, listed in Appendix 2 of the report. The development potential had been initially assessed by Officers, although many of these sites were very problematical to develop, with the number of properties that could actually be developed likely to be much less. It was proposed to adopt a methodology for

separating the sites into a "Primary List" and "Reserve List", and that detailed development and financial appraisals only be undertaken at this stage of those sites on the Primary List. However, there were also conditions proposed for when sites should be promoted from the Reserve List to the Primary List, and the circumstances when appraisals should be undertaken for sites on the Reserve List in the future.

The Portfolio Holder added that a Development Strategy would be formulated in due course for adoption by the Cabinet, which would include a proposed methodology for determining the order in which the detailed development appraisals should be undertaken, and how the subsequent development of sites should be taken forward. Further initial development assessments would be undertaken over time of other garage sites that might be suitable for development, with further reports submitted to the Cabinet as appropriate to consider whether or not they should be added to either the Primary List or Reserve List. However, it was emphasised that no decisions had yet been taken about which sites to develop.

In response to concerns expressed about the possible displacement of vehicles if a garage site was developed, the Portfolio Holder responded that priority for another garage would be given to those users who would lose their existing garage. However, Officers were of the opinion that many of the garages rented out were not used to store cars. The possible effects of the displacement of any vehicles would be a consideration for the relevant Area Planning Sub-Committee when determining planning applications in the future. The Director of Housing added that if a tenant was not using their garage to store a vehicle then that would be a breach of their tenancy agreement and the Council could take their garage away from them anyway. The Portfolio Holder reassured the Cabinet that the potential number of displaced vehicles would be considered in more detail when the sites were formally assessed, along with the number of properties that could be provided at that site.

The Director of Housing reiterated that all sites on the Primary List had an average vacancy rate of 40%, with a minimum vacancy rate of 20% for each site, and that only a very brief assessment of each site had been made by the Council's Senior Architectural Assistant. The cost of the land would not be a factor when the detailed financial appraisals were undertaken, as the Council already owned the land, and the Council did have the option to sell sites on the list to cross subsidise the development of another site on the list if necessary, but this would be the last option considered by the Council. The Council had also received approximately 40 applications under the Right-to-Buy scheme in the two months following the Government's decision to increase discounts for tenants; previously the average had been around two per month.

The Portfolio Holder assured the Cabinet that the Council would continue to rent garages if the demand was there; garages would not be deliberately left empty so that the site could be developed upon. However, he explained that sites would not now be removed from the list, even if the vacancy rate fell to below 25%. Only sites with a minimum vacancy rate of 20% had been included on the Primary List and the first detailed appraisals were due to be considered in June 2013. The Director of Housing stated that experience of developing small sites had been included in the Pre-Qualification Questionnaire sent to the potential contractors for the Development Agent appointment. Some council-owned land on housing sites considered to be surplus to requirements had been identified, and if any other sites were identified then they would be considered for inclusion in the programme in future. The Chairman of the Housing Scrutiny Panel commended the Scrutiny Panel's recommendations to the Cabinet as the Council had a duty to use the land owned by the Housing Revenue Account effectively.

Decision:

- (1) That the progress made, and the current position, with the appointment of a Development Agent to manage the Council's Housebuilding Programme be noted;
- (2) That the Council-owned garage sites and other housing land with development potential listed at Appendix 2 of the report be separated into a Primary List and a Reserve List according to the following criteria:

Primary List

- (a) all Garage sites with vacancy rates of 20% or more as at 1 July 2012;
- (b) the 5 small areas of Council-owned land identified as having development potential; and
- (c) the 1 (currently) garage site with structural problems which would be expensive to repair;

Reserve List

- (d) small garage sites (i.e. comprising 6 or less garages), with no current vacancies, but that had been difficult to let in the past; and
 - (b) all garage sites with more than 6 garages, vacancy rates of less than 20% as at 1 July 2012 and no waiting list;
- (3) That detailed development and financial appraisals be undertaken by the Development Agent, once appointed, for those sites on the Primary List;
 - (4) That sites on the Reserve List be promoted to the Primary List, and that detailed development and financial appraisals also be undertaken for these sites by the Development Agent, if the percentage of vacant garages within the site increased to 20% or more;
 - (5) That garage sites be retained on the Primary List, even if their vacancy rates fell below 20% in the future;
 - (6) That the proposed methodology for determining the order in which the detailed development appraisals should be undertaken, and the subsequent development of sites to be taken forward, be included within the Development Strategy to be approved by the Cabinet in due course;
 - (7) That, subject to the Cabinet's approval at a later date, detailed development and financial appraisals be undertaken by the Development Agent for any other sites on the Reserve List if:
 - (a) there were insufficient numbers of properties that could be viably developed from the Primary List to deliver a Housebuilding Programme of 120 new homes over a six-year period; or
 - (b) the Cabinet subsequently decided to increase the size of the Housebuilding Programme and there were insufficient numbers of properties that could be viably developed to deliver a larger Programme;

(8) That further initial development assessments be undertaken over time by either Officers or the Development Agent, with further reports submitted to the Cabinet (as appropriate) once a number of such initial assessments had been undertaken to consider whether or not these sites should be added to either the Primary List or Reserve List, of:

- (a) all other garage sites comprising 6 or less garages;
- (b) any further garage sites that started to have vacancies with no waiting list; and
- (c) any Council-owned land on housing sites considered to be surplus to requirements; and

(9) That the Council's garage sites at Vere Road and Burton Road, Loughton be excluded from consideration for inclusion within the Housebuilding Programme for the time being, so that they could be considered as part of the wider regeneration proposals for The Broadway, Loughton, in accordance with the adopted Design and Development Brief for the area.

Reasons for Decision:

The Council needed to identify Council-owned sites for its Housebuilding Programme, that might have development potential, in order to instruct the Council's Development Agent, when appointed, to undertake detailed development and financial appraisals of the sites.

Other Options Considered and Rejected:

To not have Primary and Reserve Lists, or to have different criteria for the 2 Lists.

To add or delete sites from the Primary and/or Reserve Lists, or swap sites between the two lists.

To not have criteria now for subsequently adding to, or promoting from, the Primary or Reserve Lists.

To not undertake any further initial development assessments of garage sites.

27. LOCALISATION OF COUNCIL TAX SUPPORT

The Leader of the Council presented a report concerning the Localisation of Council Tax Support, on behalf of the Portfolio Holder for Finance & Technology who had tendered her apologies for absence.

The Leader reported that the Finance & Performance Management Cabinet Committee had received an overview of the Government's decision to replace Council Tax Benefit with a new system of Local Council Tax Support, at its meeting on 25 June 2012. The timetable for implementing a Local Council Tax Support scheme was very tight, with the final scheme requiring approval by the full Council in December 2012. The draft scheme would be subject to formal consultation with the major precepting authorities (Essex County Council, Essex Police Authority and Essex Fire Authority), as well as the public and voluntary bodies. In order to achieve approval of the final scheme in December 2012, the consultation would need to be undertaken for a six-week period commencing on 1 August 2012, and it was

therefore necessary for a draft Local Council Tax Support scheme to be determined by the Cabinet.

The Leader added that the Council's draft scheme was being prepared within the framework of an Essex-wide scheme that sought to achieve cost neutrality, i.e. the cut in Government funding was to be offset by making reductions in the amount of support that working age households could receive. It was still intended to provide protection for pensions age claimants, such that support under the new scheme would not be less than the Council Tax Benefit currently being received.

The Leader presented a number of measures, based upon the Essex-wide framework and local measures, to be approved for consultation and requested that a number of other potential options in the scheme be considered for inclusion in the consultation process. As the timetable was very short for implementing a new scheme, the Chairman of Council would be requested to waive the call-in arrangements for this item due to its urgency.

Some concern was expressed about the timescales involved and the effect on Local Councils in setting their precepts. The Director of Finance & ICT stated that the Council had no choice over this matter due to the direction from the Government, and that Officers had attended the recent Local Councils Liaison Committee meeting to brief the Town and Parish Councils on the legislation. The Cabinet's attention was also drawn to the advice of Officers to not include residency qualification at the current time, due to the issues involved. The Director added that the likely increase in caseload and effect on Council Tax collection rates had been considered and the intention was to achieve a 12% saving on the amount of Council Tax Benefit currently paid out, depending on the options agreed for inclusion in the final scheme. The Scheme would be reviewed annually. Finally, it was highlighted to the Cabinet that a number of other changes to the welfare system would be introduced in the next two to three years, which would impact upon residents.

Decision:

- (1) That a general principle of Local Council Tax Support being cost neutral for the Council be agreed;
- (2) That the following elements of the scheme be approved for consultation purposes:
 - (a) protection for pension age claimants to ensure their Council Tax support under the new scheme would not be less than the Council Tax Benefit currently being received; and
 - (b) the amount of support to working age households be reduced by the principles of the Essex-wide framework and the following local measures:
 - (i) the calculation of support to be based on 80% of the Council Tax bill rather than 100% as at present;
 - (ii) the calculation of support to be based on a maximum of a band 'D' property;
 - (iii) the inclusion of child maintenance in the calculation with a disregard of £15 per week per family;

- (iv) a reduction in the period of backdating (with good cause) from the current six months to three months; and
 - (v) the introduction of an exceptional hardship scheme to support those people for whom their increased Council tax liability arising from their individual circumstances was causing exceptional difficulty;
- (3) That the following potential options for incorporation in the scheme be included as part of the consultation process:
- (a) a flat rate non-dependent deduction be included in the calculation instead of the varying rates currently used to calculate Council Tax Benefit;
 - (b) the inclusion of Child Benefit in the calculation of support;
 - (c) a minimum award of £1 per week to reduce administration costs; and
 - (d) protection from a reduction in support for certain groups such as the disabled or families with children under five years of age;
- (4) That the Council's participation in the six week county-wide consultation exercise, commencing on 1 August 2012, be agreed; and
- (5) That the Chairman of Council be requested to waive the call in arrangements for this decision due to its urgency as any delay would prejudice the Council's interest.

Reasons for Decision:

The Council was required to undertake consultation prior to agreeing a Local Council Tax Support scheme. The scheme had to be agreed by full Council and be in place by 31 January 2013. If the Council failed to have a scheme in place by this date then the Government's default scheme would be imposed.

In view of the very tight timescales, the consultation had to be undertaken from the beginning of August. If the consultation began any later then it would not be possible to complete the consultation and finalise the scheme in time for a further report to the Cabinet in October. It was currently planned that all the Essex authorities would undertake consultation on the Essex-wide framework during the same period and therefore it was necessary to request that the call-in arrangements be waived.

Other Options Considered and Rejected:

The Council could choose to adopt the default scheme as determined by the Department for Communities and Local Government. It would not then be necessary to devise a scheme specifically for Epping Forest and consultation would not be required. However, the default scheme would be based upon the current national scheme with no restriction as to who could claim or how much could be paid, and expenditure would exceed the grant from the Government.

28. EXTENSION OF INSURANCE CONTRACT

The Leader of the Council presented a report regarding the extension of the Council's Insurance contract with Zurich Municipal.

The Leader reported that the Council was currently insured almost exclusively through Zurich Municipal (ZM), an arrangement that had been in place for many years. In 2010, the Council had participated in a collaborative procurement exercise, sponsored by the Regional Improvement and Efficiency Partnership (RIEP), with eleven other local authorities. The outcome of this process was disappointing as the only insurer to quote for the whole portfolio was Zurich Municipal, and Zurich Municipal was only prepared to enter contracts for the whole portfolio of covers. Therefore the Council had no choice other than to enter into a new agreement with them. The contract was let for three years with an option to extend for a further two. The third year of the contract had now commenced and it was recommended that the two year extension option should be exercised.

Decision:

(1) That the option of a two-year extension on the current three-year agreement with Zurich Municipal for the Council's insurance policies be exercised.

Reason for Decision:

Contract Standing Order C20 required approval from either the Council or the Cabinet before any tender valued in excess of £1million could be accepted.

Other Options Considered and Rejected:

The Council could conduct a fresh tendering exercise but market intelligence suggested this would be unlikely to produce better value for the Council than that currently being offered by Zurich Municipal.

29. FIXED PENALTY NOTICES FOR WASTE RECEPTACLES

The Environment Portfolio Holder presented a report concerning Fixed Penalty Notices for waste receptacles.

The Portfolio Holder reminded the Cabinet that, in February 2010, it had introduced the use of fixed penalty notices to cover a wide range of environmental offences. The offences had included those relating to waste receptacles, such as waste placed in the wrong container or an overflowing receptacle. The Government had recently completed a consultation exercise on waste related matters, the full outcome of which had not yet been published. However, they had made an early decision on the offences relating to waste receptacles, with a reduction in penalties coming into effect on 30 May 2012.

The Portfolio Holder therefore proposed that the fixed penalty for offences relating to domestic waste receptacles should be reduced to £60 from the current £80, and the discounted rate for early payment be reduced to £40 from the current £60. In addition, the fixed penalty for offences relating to trade or commercial waste should remain at £100, with all other policies and procedures relating to fixed penalty notices to remain at the level set by the Cabinet on 1 February 2010. It was intended to advertise these changes both locally and on the Council's website.

The Portfolio Holder added that the Council's approach had always been to encourage, assist and advise in these situations rather than prosecute, hence the Council had only ever issued ten such penalty notices. Thus, residents understood our waste management procedures and these changes would have a minimal financial impact upon the Council.

Decision:

- (1) That the level of fixed penalty for offences relating to domestic waste receptacles be set at the statutory default level of £60;
- (2) That the discounted fixed penalty for early payment be set at the statutory minimum level of £40;
- (3) That the level of fixed penalty for offences relating to trade/commercial waste receptacles be retained at the statutory default level of £100;
- (4) That all other policies and payment processes relating to fixed penalty notices be retained as agreed by Cabinet at its meeting on 1 February 2010 (minute 130 refers); and
- (5) That changes to the fixed penalty notices for domestic waste receptacles be advertised locally and on the Council's website.

Reasons for Decision:

The Council had to either adopt the Government's statutory Fixed Penalty levels or resolve to implement another scheme within the range made available. If no decision was made then the Government defaults would automatically apply.

Other Options Considered and Rejected:

To do nothing and allow the Government default penalties to apply.

30. ANY OTHER BUSINESS

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

CHAIRMAN